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BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
9th Circuit Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2013-CP-00-1331

Medical University of South Carolina — Respondent,

v.

Jack Powell, — Appellant,

[INITIAL] BRIEF OF APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

1. Circuit Court erred when not recognizing the ruling by Judge J.C. Nicholson Jr. and denied Appellants Motion to Amend Reconsideration.

2. Circuit Court erred by repeatedly chastising the Appellant during the hearing that was just a few minutes before this hearing.

3. Circuit Court erred when allowing Respondent Attorney to make multiple inflammatory and untruth statements.

4. Circuit Court erred when not allowing proper procedures for Discovery to continue.

5. Circuit Court erred when overloading the Pro se with to many Motions

6. Circuit Court erred when not knowing the legal procedures for a state entity to follow.

7. Circuit Court erred when not ruling on False Arrest.

8. Circuit Court erred when failing to state why Summary Judgment was granted.

STATEMENT OF CASE

On 9-16-2013 Jack Powell brought this action against the Medical University of South Carolina in the Charleston Court of Common Pleas for the Ninth Judicial Circuit for False Arrest, False Imprisonment, Assault & Battery, Gross Negligence, Intentional Infliction of Emotional Distress, Slander & Libel and was heard by the Honorable Judge R. Markley Dennis who granted Summary Judgment after Appellant had stated he had zero discovery so far in this case.

On July 30th, 2014 this Motion for Summary Judgment hearing was held.

On Sep. 22nd 2014 the Order for Granting Summary Judgment was signed.

On Nov. 12th Plaintiffs Response to Defendants Supplemental Memorandum

On May 6th 2014 Motion to Recuse was filed before Appellants Motion to Amend Reconsideration but was filed improperly and Judge Dennis never ruled on the recuse.

On June, 19th 2015 Appellant's Notice of Appeal was filed.

On Sept. 24, 2015 Appellant mailed a Motion for Relief of Judgment to the

South Carolina Court of Appeals and was misplaced and was never filed.

ARGUMENTS

Reversed ruling by Judge J.C. Nicholson Jr.

1. Appellants Motion to Amend the Reconsideration which verifies Appellants complaint of False Arrest, False Imprisonment, Intentional Infliction of Emotional Health and Gross Negligence because Judge Nicholson requested Respondent to prove they had the right to arrest the Appellant for Trespassing at a public place with a Supplemental Memorandum in Support of Motion during Appellants appealed Trespassing charge. Appellant submitted his Response to Defendants Supplemental Memorandum and was filed on 11-12-2014.

The newly discovered evidence from the reversal during Appellants Appeal of Trespassing was improperly ruled against by Judge Dennis and therefore the Judgment is void Pursuant Rule 60(b)(2)(5), Rule 56 (e) & ref. Exhibit A & B, & p.1, no. 1 and P.8, no. 9 in Appellants Motion to Amend Reconsideration.

Personal attack by Judge Dennis

2. Judge Markley Dennis engaged biased conduct by repeatedly chastising Pro se in a public setting, displayed prejudice when making rulings and made many errors with his opinions that weren't supported by fact during the Motion for Summary Judgment hearing that prevented the Appellant from receiving fair and impartial administration of justice because Appellant became very apprehensive, embarrassed, confused and still had to try and continue with the next case which was this Appeal. Therefore, ref. Transcript p.5, L. 19-25 & p.6, L. 1-10 and also submitted in Appellants Motion to Amend Reconsideration p.15, no. 19. & Rule 60 (b)(1)(3)(4) and citing Mictronics, Inc. v. South

Carolina Dep't Revenue, 345 S.C. 506, 510-11, 548 S.E. 2D 223, 226 (Ct. App. 201)3).

Inflammatory Untruth

3. Attorney John "Jay" Jones was allowed by Judge Dennis to misrepresent and even recreate the actual event concerning when Appellant was to receive his first pain shot that resulted in the Appellant stating "that's the stupidest question a Doctor has ever asked me" which was to create the same inflammatory opinion towards the Appellant during the Motion for Summary Judgment hearing as the night of 6-21-12 when the Appellant/patient was forced to endure for about 2 hours in the MUSC ER, during his discharge from the hospital, transport to Public Safety parking lot and was left alone. Ref. Complaint p.6, 7 & 8. and Motion to Amend Reconsideration p. 3,4 & 5, also Tran. p.7 L. 18-25 and Pursuant 56 (g)

Improper ruling about false statements by Judge Dennis

4. Judge Dennis stated, Trans. p.15, "and other matters which have been part of the record" and "I don't know about false statements" "for you to say it's false, that's your position. I don't have anything that contradicts it by way of affidavit" Appellant submits part of the record, ref. Complaint p.4, par. 2 & Appellant stated on Transcript p.15, L. 11-19 "I can prove it right here" and Appellant wasn't allowed to submit the Respondents documented statements from their Memorandum for Summary Judgment. Ref. evidence on p. 3 no. 2 of Appellants Motion to Amend Reconsideration and p. 18, 19 & 20 and citing Rule 56 (2), 15-78-60 (5) & 15-78-60 (25). Also Pursuant Rule 56 (g)(f) Subdivision (c)(1)(A)(2) and 28 U.S.C. 1746 a statement subscribed in proper form as true under penalty of perjury to substitute for an affidavit and Rule 60 (b)(3) and Rule 56 subdivision (c)(1)(a)(4).

Judge Dennis erred because he should have known this untruth since he is required to read the Complaint and Appellants Motion to Amend Reconsideration that Judge Dennis denied. The truth is part of the record and Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence.

Untruth about hostile discharge

5.Attorney Jay Jones specifically stated on p.9, L. 8-11 "that is essentially that the medical staff at MUSC didn't properly discharge him." Judge Dennis has made the error of over looking relevant evidence submitted into the record.Ref. Motion to Amend Reconsideration p. 18, Q & A pulling my arm out of the socket. P.19, no. 3 why did you stop trying to pull Mr. Powell from the top of the bed and Trans. p.11, L. 25 "Answer, yes. After they yanked and pulled on me two different times, trying to force me off the bed and I'm screaming and hollering, yes" and Motion to Amend Reconsideration Exhibits E, G, H, I, J, K, L

Untruth about pending medication

6. Attorney Jay Jones stated "There are some issues with whether or not he should have been discharged with pain medication pending. Those are all questions of medical negligence. There's been no expert affidavit." Appellant submits there wasn't any pending medication and this entrance of an affidavit from an expert was improperly submitted with an untruth. Judge Dennis should have known this because of all the facts that were already submitted into the record and he made the mistake of granting summary judgment and signing the order. Ref. Tran. p.9, No. 8-16 and Rule 56 Subdivision (c)(4) (c)(1)(a) (c)(2)

Untruth by omitting Security Guards & Public Safety

7. Ref. Resp. Memorandum p. 6 and top of p.7 from Dep. Jack Powell. p. 152-154 is where Respondent submits an untruth; Therefore, Plaintiff's cause of action and gross negligence must be dismissed to the extent that he asserts that the negligence resulted from the actions of the physician and other medical personnel working in the Emergency Department during his admission. Ref. Resp. Memorandum p. 6 Q & A no. 4 which proves these individuals were not just medical personnel and the Court erred when not recognizing this. Motion to Amend Reconsideration p.18 & 19 and Exhibit I, J, K, L, when Appellant handcuffed in front because of his medical issues. Therefore this was an attempt to confuse the court about the actual facts of the case, Pursuant Rule 56 (g).

Untruth concerning Security Guards & Public Safety

8. Also Respondent stated on p.7 of their Memorandum in Support for Summary Judgment that Plaintiff alleged a cause of action for medical negligence due to the actions of the emergency department physicians but failed to offer testimony establishing a deviation from the standard of care. Appellant submitted on p.16 L. 7-12 of Tran. "I couldn't get any expert to say they could testify under oath why these officers kept trying to pull me off the bed when I was screaming in pain" which is a deviation from the standard of care and Appellant did not need the testimony to establish his claim because jurors can easily evaluate the facts and law by exercising common knowledge and understand that the second attempt to pull the Appellant who was not under arrest a second time after he was already yelling in pain was not a medical decision but purely gross negligence, intentional infliction of emotional distress and assault & battery. Pursuant S.C. Tort Claims Act 15-78-60(25), Jinks v Richland County (2d Dep't. 1987),

Sarah Dawkins v Union Hospital District (2012), Papa v Brunswick Gen. Hosp. (2d Dep't 1987) and Appellants Motion to Amend Reconsideration p.18 Q & A & p.19 no. 3. Appellant submits the Court erred when failing to n recognize all of the evidence submitted from the first MUSC case and other evidence on record along with the Compelled Evasive Discovery Responses that was heard the very same day and Judge Dennis who instructed Appellant to continue with discovery because he had not called the Respondent about responding properly before he filed his 10 day notice to respond. Ref. Appellant stated on p.16 & L. 7-12

Untruth to confuse the court

9. Attorney Jay Jones states "When he was discharged he quite simply refused to leave. He said he was in pain, he couldn't move, he couldn't get up off the bed in the ER. Not public safety but the hospital staff person came over to try and assist him. He screamed out. He tried to assist him again. He yelled again he was in pain, so they stopped. Public Safety was called. At this time Mr. Powell admits in his complaint that he asked them to help him off the bed. They did."

Appellant submits he did not simply refuse to leave and Respondent proved this with his own statements, but attempts to confuse the Court by describing the assist was made by one hospital staff, but was actually the attempt was by two security guards who attempted to pull Appellant from the bed both times when he was not under arrest and is proven when Respondent stated " they stopped." and then Appellant had to be given more pain medication because of the Assault & Battery, Intentional Infliction of Emotional Distress and Reckless Gross Negligence. Ref. Trans. p. 8, L. 3-8, and Pursuant South Carolina Tort Claims Act 15-78-60 (25) except when the responsibility or

duty is exercised in a grossly negligent manner. Also, ref. Motion to Amend Reconsideration p.10, 14 & 19, Dep. J. Powell 101-103, p.6 no. 6, Resp. Memorandum p.6 & Appellants Complaint p. 9, 12, 13,18, 27.

Gross Negligence in the context of liability by a government entity is the intentional conscious failure to do something which is incumbent upon one to do or the doing of a thing intentionally that one ought not to do it is the failure to exercise slight care. Jinks v Richland County, 335 S.C. 341, 581 S.E.2d 281 (S.C. 2003) and this act was an unlawful act because Appellant was in to much pain to remove himself from his ER bed and it is unnecessary that the contact be by a blow, as any for see able contact is sufficient.

There must be just and reasonable ground for fear; hence a vain or idle threat is not sufficient. It must be of such nature and made under such circumstances as to affect the mind of a person of ordinary reason and firmness, so as to influence his conduct; or it must appear that the person against whom [the threat] is made was peculiarly susceptible to fear and that the person making the threat knew or took advantage of the fact that he could not stand as much as an ordinary person. See Brooker v Silverthorne, 111 S.C. 553, 558-559, 99 S.E.350, 352 (1919) and Jones v Winn-Dixie Greenville, Inc., 318 S.C. 171, 456 S.E.2d 429 (Ct. App. 1995)

Untruth about pain medication

10. Also the Respondent stated "Very briefly the negligence and gross negligence, the basis of this is essentially that the medical staff and the staff at MUSC didn't properly discharge him. There were some issues with whether or not he should have been discharged with pain medication pending." Those are all questions of medical negligence.

There's been no expert affidavit.

Appellant submits this issue was an untruth because there wasn't any pain medication pending when he was taken from the bed and discharged. ref. Trans. p.9, L. 8-16 and therefore there wasn't any need for an expert affidavit. Appellant wasn't allowed to follow his Doctor Instructions because of the security, public safety, nurses and Doctors didn't enforce their own Instructions which is an issue that could have only been determined with the proper responses of to Discovery concerning the state entity's legal procedures for them to follow, Ref. Motion to Amend Reconsideration p.15, no. 20 and p.16 & 17 and Rule 56 Subdivision (c)(1)(a)(2)

Untruth about Plaintiff admitting to leave hospital

11. Attorney stated "He admitted he refused to leave" Appellant submits Respondent hasn't submitted any evidence where Appellant admitted he refused to leave leave, Tran. p.13, L 14-19 and again he has submitted an untruth purely for the purpose to continue trying to create a biased opinion towards the Appellant to divert the fact that the MUSC staff and Public Safety were angry and it is common knowledge they did not follow proper procedures, but Respondent attempts to convince the Court that it was necessary and justified and the "reasonable victim should have anticipated that they may be escorted into a police car to be arrested."

Appellant respectfully reminds the Court that while on the ER bed after given a second dose of pain medication after Security Guards tried to pull Appellant from the bed a second time and stopping because of the yelling from pain with the Appellant pleading multiple times he was still in pain and needed help into the wheelchair after the Public Safety stated they would take him to Roper Hospital for his second opinion, that

Appellant admits he said he was getting pissed after being harmed and was threatening to sue MUSC and that is why he wasn't taken to Roper hospital for his second opinion because of their anger and they did not want to explain to Roper what had happened. Ref. Motion to Amend Reconsideration p. 6 & 7, p.13 no. 12 A, B, C & D also Tran. p. 8, no.1-21.

Untruth concerning Appellant refused to leave

12. Attorney states "Very briefly, the negligence and gross negligence, the basis of that is essentially that the medical staff at MUSC didn't properly discharge him." Trans. p.9, no 9-11 is where Respondent attempts to convince Judge Dennis that the initial complaint wasn't when the medical staff allowed the not under arrest Appellant to be assaulted & battered twice after he was discharged and then give more medication for pain. Trans. p. 8. L. 2-8 then L. 9 & 10 is where Appellant agreed to try and get off the bed because he stated he wanted a second opinion and was then told by the Public Safety that they would take him to Roper Hospital. Also L.11-14 another untruth because stating "He said he could not get out of the wheelchair because he was in too much pain" is not refusing to leave. Rule 56 Subdivision (c)(2) (c)(4) (1)(a).

Untruth concerning a statement by an EMT

13. Attorney stated "After Mr. Powell fell on the night of June 21st, 2012 he was transported by EMS to MUSC. EMS noted he was verbally abusive en route. It was also documented in medical records he was verbally abusive to the staff at MUSC. This is another untruth to create more bias towards Appellant by Mr. Jones when he describes case 2013-CP-10-6566 which was settled. Mr. Jones said "EMS noted he was verbally abusive en route." Then Mr. Jones states "It was also documented in medical records he

was verbally abusive to staff at MUSC."

Abusive en route wasn't documented because it was an untruth, because there never was a noted statement about cursing while being taken to MUSC. Respondent attorney knows there was only a complaint about Appellant stating one curse word when he was on the side of the road face down in the dirt and had complained he was there for an unreasonable amount of time in pain because he couldn't tell the EMT which hospital he wanted to go to. Therefore, again the Respondent recreated the facts to influence the court to have a biased opinion towards Appellant. Ref. Trans. p.7, L. 14-18 Trans. p.6, L. 12-14 & Trans. p.11, L.12-25 and Rule 56 (f)(g) Subdivision (c)(1) (a)(2)

Untruth by trying to convince the Court the touching was only defensive

14. Trans. p.13, L. 1-4 & 9-11 is where Mr. Jones attempts to state the all alleged touching was privileged if done in defense of others. Ref. Trans. p.8, L. 1-8 where Mr. Jones has already proven to the court that there was in fact harmful touching, no evidence of fearful employees with about 6 or 7 officers in the room who needed defending from a patient that couldn't get off the bed without the help from two officers. Respondents Memorandum in Support of MSJ, p.17, para. 2; "There is no evidence of hostile confrontations." Ref. Rule 56 Subdivision (c)(1)(a)(2(e)

Untruth about when Appellant was touched

15. Trans. p. 13, L. 6-10 where attorney Jay Jones submits stating; "The times he was touched, he asked to be helped up not only from the hospital bed but from the wheelchair. Appellant was grasped with four hands by two security guards and they attempted to pull Appellant from the bed while he was yelling in pain. Appellant was told he would be taken to Roper Hospital by the MUSC Public Safety and they stated " he had

to go" he then Appellant asked for help off of the bed. Ref. Motion to Amend Reconsideration, Exhibit I, 1st para., Exhibit E, no. 2, 3, 7, p. 19, Q & A no. 2, and Exhibit p. 8, no. 1-11

Untruth pattern by Respondent.

16. The Circuit Court failed to recognize the pattern of untruths including the retraction by nurse Pentz on P. 6 no. 7 of Appellants Motion to Amend Reconsideration who also documented on Exhibit F, Interrogatory no. 20 Exhibit H and she also stated Appellant was arrested because of his condition, next question no. 24 discovered from first MUSC case. This was part of the untruth that was discovered and also created more unanswered issues of the procedures the state entity was supposed to follow.

Untruth about Appellant who was still in pain

17. Public Safety was called. At this time Mr. Powell admits in his complaint that he asked them to help him get off the bed. They did. They put him in a wheelchair and took him outside, where again he refused to leave the premises after being medically discharged. He said he was in to much pain. They told him he had to leave. They offered to take him home, take him somewhere else, take him to Roper Hospital. They offered to take him anywhere he wanted to go. He wouldn't leave.

Appellant submits Respondents statements prove they did not properly discharge Appellant when they did not push him to the side of their car and take him to Roper Hospital. Then they angrily harassed Appellant repeatedly to get up and walk from the premises and Appellant won his Appeal for Trespassing:Failure to Leave. Therefore Respondent is guilty of False Arrest, False Imprisonment, Gross Negligence and Intentional Infliction of Emotional Distress when Appellant was taken to their parking

lot and was intentionally left alone in the back seat lying down and handcuffed for 34 minutes and was still complaining of pain. Ref. Tran. p. 8, L. 9-24.

Judge Dennis erred during the hearing because of the overlooked evidence that was submitted as part of the record in Appellants Complaint and also when denying the Motion to Amend the Reconsideration. Ref. S.C. Tort Claims Act 15-78-60(25) except when the responsibility or duty is exercised in a grossly negligent manner. Judge Dennis doesn't know what the actual legal procedures are for the state entity and Judge J.C. Nicholson Jr. postponed Appellants appeal of Trespassing until Attorney Jay Jones could retrieve some procedures MUSC was legally expected to follow and the MUSC Medical Center Policy Manuel was submitted and with proper discovery the case was reversed. So far Appellant has zero Discovery. Rule 56 (3) Subdivision (c)(1)(a) (c)(2) (e) (e)(4) (f) (g)

Circuit Court does not know the proper procedures

18. Officer Radford stated "handcuffed the patient in front because of his medical issues" Motion to Amend Reconsideration p.12, F. and Exhibit K when outside & L Court Records of; Public Safety v Jack Powell and Officer Radford stated he was "not a Doctor" bottom right no. 18-24 and p. 13 A, B, C, D. and then Appellant was forced to lay in the back seat of their patrol car for 34 minutes in a parking lot alone, just minutes after they stated they handcuffed him. Exhibit J and the Public Safety had the Doctors medical Instructions in their possession which they ignored and were never legally followed. Ref. Exhibit C the Video when Appellant was wheeled into the Al Cannon Detention Center and the Doctor Instructions given to the Carolina Center for Occupational Health male nurse.

Judge Dennis failed to understand the evidence on file because the officer was negligent when making a medical decision, ignoring the MUSC Doctor Instructions and allowing the Appellant to painfully suffer by recklessly committing Intentional Infliction of Emotional Distress & Gross Negligence when taking Appellant to their parking lot and forcing him to lay alone in pain in their back seat for 34 minutes after they had agreed to take Appellant to Roper Hospital. Jinks v Richland County (S.C. 2003)

Improper ruling because of Evasive Discovery

19. Tran. p. 14, L. 4-25 Appellant tells Judge Dennis that there is an upcoming Appeal of Trespassing charge and Pro se Appellant has cooperated with a 4 hour Deposition and the proper return of answered Admissions and Appellant had to Compel Evasive Admissions, Interrogatories and Production after Respondent was given a 10 day notice to properly respond. Then L. 10-19 Appellant states "I've got some things I'd like to point out right here that I need and after this back and forth Appellant wasn't allowed to submit what he needed and then Judge Dennis for some reason changes the subject and asked Appellant "Did you file any affidavits in response to the motion for summary judgment" Judge Dennis behaved unfocused and ignored the relevant subject of Discovery.

Improper explanation of why Summary Judgment was granted

20. Judge Dennis stated right after Appellant submitted he had received zero discovery so far in this case that Summary Judgment is granted because Mr. Powell had not responded the Memorandum, which was omitted from the transcript. Appellant has filed a complaint concerning this problem since Judge Dennis discussed and pointed out multiple times throughout the hearing about the Appellants responsibility to respond.

Judge Dennis did not state the proper reason on the Judgment to grant Summary Judgment. Ref. Motion to Amend Reconsideration p.15, No. 18, Pursuant 56 Subdivision (a) the Court should state on record the reasons for granting Summary Judgment therefore this judgment is improper and void.

Improper scheduling by Clerks Office

21. Appellant submits evidence of why there wasn't a Response to Respondents Memorandum in Support of Motion for Summary Judgment in Appellants Motion to Amend Reconsideration p.14, no.14, 15, 16, Pursuant 56 (b)(d)(f) and no. 17, also p.21 para. 2 & 3 where Judge Dennis was notified and aware the Pro se was overwhelmed. Noting 56 (e) some Courts take extra care of the Pro se to let them know they need to respond, but the Clerks Office did not and they were also careless when shot gunning the Appellants schedule and then at the last Respondent filed their Motion for Summary Judgment on 7-14-14 and then they filed their Memorandum in Support of the MSJ on 7-17-14 and then was allowed to get on the roster on 7-23-14 after a request from Attorney Jay Jones to do so via e-mail, which it was nice of the Clerk Caroline Leonard to state to him " I know Mr. Powell has numerous cases filed." and then filed it.

Appellant did not receive their Memorandum notice until the afternoon of 7-24-14 to appear basically 5 days later and Pro se Appellant was unaware he had to respond because of his overwhelming and stressful weeks of preparation by one person to prepare for already. Pro se Appellant was never notified by Caroline Leonard about any concern or scheduling situation that may occur for an inexperienced litigant, therefore Appellant wasn't given proper time to respond. Reference the following cases;

On 7-28-14 MUSC Appeal of Trespassing

On 7-30-14 Appellants Motions to Compel Interrogatories, Production and Admit

On 7-30-14 Case 2013-CP-10-6019 Appellants Motion to Compel Production & Admit

On 7-30-14 Case 2013-CP-10-6566 Appellants Motion to Compel Admit

On 7-30-14 Case 2013-CP-10-5876 Defendants Motion to Dismiss

Then added on 7-23-14
On 7-30-14 Respondents Motion for Summary Judgment

On 7-31-14 Case 2013-CP-10-6566 Defendants Motion for More Definite Statement

Improper opinion about statements

22. Tran. p. 15, L. 5-8 Is Judge Dennis explaining again Appellant not responding to the Memorandum and L. 9 Judge Dennis states "Your statements are not sufficient" Pursuant Rule 56 (f)(g) subdivision (c)(2) (c)(1)(a) and (e) is where Judge Dennis made the mistake of not allowing Appellant to plead with relevant evidence from previous MUSC case and Judge Dennis signed the Order and did not state he dismissed the case because Appellant failed to Respond.

Inconsistent Memorandum rulings

23. Motion to Amend Reconsideration P. 5 no 3, 4, 5 is evidence of either inconsistent rulings concerning the Memorandum for Summary Judgment or bias exercised towards Appellant during this MSJ. Appellant was just told outside of Judge Dennis's office by Attorney in another case that he had just put the Memorandum in Support for Summary Judgment in the mail that morning. Appellant asked a few minutes later in a meeting in his office on April 1st 2015 how was he supposed to Respond to the Memorandum when the case was the next day. Judge Dennis responded that it's no big deal because it was just the same issues. The next day Appellant was blind sided with information that was necessary to have from the Memorandum that the Appellant never

received in the mail.

Before that hearing Appellant met with same case & same Attorney in Appellants 2nd Motion for Summary Judgment and stated that in the previous case that the Judge didn't rule on the Appellants submission that the Defendant didn't respond to the Appellants Memorandum and Judge Dennis denied Appellants Motion for Summary Judgment. Therefore Judge Dennis has either erred in his rulings or he biased against the Pro se.

Improper Rulings

24. Tran. p.17, no. 11-23 is where Judge Dennis will not let Appellant submit any evidence even though he could earlier and then makes the mistake of granting dismissal because of positions stated in Respondents memorandum when he has already granted summary judgment because of the non response and he also made the mistake of not considering the only evidence Appellant had which was from the first MUSC case which was relevant evidence and then Judge Dennis states all other motions are moot which is also a mistake concerning the subject of zero. Of course the Trespassing charge was reversed because Judge J.C. Nicholson Jr. requested and used actual legal procedures for MUSC to follow.

Clerk Mistake

25. On 5-6-15 at 3:07 pm Appellant filed a Motion to Recuse Judge Dennis from entering any biased ruling concerning the Appellants Motion to Amend the Motion to Reconsider that was filed 2 minutes later. Appellant received notice that Judge Dennis had denied the Plaintiff's Motion to Amend Reconsideration before he ruled on the Appellants Motion to Recuse. Appellant called and asked why had they filed the Motion

to Amend before the Recuse. Plaintiff questioned the clerk's office back and forth many times and was never given a reason for their mistake and then the Clerk's office told Appellant Pro se he should get an attorney. Pursuant 60 (b)(1) the Clerks office made the mistake which allowed Judge Dennis to not rule on the Recusal of himself because of his bias manner displayed multiple times towards the Plaintiff. Exhibit

Failure to properly state the Record

26. Pursuant 56 subdivision (a) the court should state on record the reasons for granting the Motion. Judge Dennis failed to state the original reason he Granted Summary Judgment and signing the Order to Grant Medical University Of South Carolina Summary Judgment which was when he stated he grants Summary Judgment because Appellant failed to respond to the Memorandum. Ref. Trans. p.14, L. 12-25, Trans. p.15 L. 1-11 and p.17, L. 11-23 is where Judge Dennis expresses his completely different opinion concerning Response to Memorandum.

Overlooked Issue

27. Ref. Respondents Memorandum for Summary Judgment p.5, para. 2 down to Q &A where Respondent admits in there own question the Appellant was not properly discharged, is an issue the Court did not recognize.

CONCLUSION

Appellant had compelled Evasive Admissions, Production and Interrogatories that were on the docket the very same day and Pursuant Rule 56 (c)(2) objection that a fact is not supported by admissible evidence and is contrary to law which includes the multiple untruths submitted in the Respondents Memorandum and during the hearing on

7-30-14. Ref. Motion to Amend Reconsideration p.1 para. 3, p.5 para. 3, 4, 5, p.13 no. 13 & p.14 no. 14 &16, p.15. no. 20, 21 & 22, p.16 &17, p 20 para. 3 & last para. Ref. Appellants pulling from bed in the Motion for Reconsideration p. 6, L. , p. 18 bottom Q &A yanking and pulling came first and MUSC Security stated Mr. Powell still complained pain was unbearable.

Therefore, Judge Dennis made the mistake of not realizing the Doctors and nurses were not following their own directions and Appellant wasn't unable to find an expert who could explain the unusual circumstances and the mind set that caused these actions by the ER staff, security guards, public safety. Also, because of the preponderance of unanswered discovery and the unanswered relevant issues concerning the state entity procedures, the Appellant request the Honorable Court to reverse the ruling by the Charleston County 9th Circuit Court of Common Pleas.

Signed and mailed on 4-16-16

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Pro Se; Jack Powell

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cc. V. Claire Allan
Attorney John Jay Jones

FORM 7
PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001~~331~~ 5351

Medical University of South Carolina, Respondent,

v.

Jack Powell, Appellant.

PROOF OF SERVICE

I certify that I have served my Initial Brief on the Medical University of South Carolina by depositing a copy in the United States Mail, postage prepaid on April 16th, 2016 and addressed to their attorney of record, Barnwell & Whaley located at 288 Meeting Street Ste. 200, Charleston S.C. 29401.

April 16th, 2016

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