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MAR 24 2016

SC Court of Appeals

IN THE COURT OF GENERAL SESSIONS  
FOR CHARLESTON COUNTY SOUTH CAROLINA

STATE OF SOUTH CAROLINA

v.

PHILLIP DANIEL JEWELL II  
AHSHAAD MYKIEL OWENS

AFFIDAVIT OF TRUTH – ANSWER  
TO AFFIDAVITS OF SGT R OWEN &  
RICHARD HOLMES  
ANSWER TO ALLEGED ARREST  
WARRANTS ISSUED BY AN  
ALLEGED MAGISTRATE TO  
OTHER EMPLOYEES  
CASE NO. 1417259

COMES NOW, :ahshaad-mykiel :owens, an Asiatic Man, with this Affidavit  
of Truth, to rebut the alleged Affidavit of the employees, (RICHARD HOLMES/  
SGT R OWEN) of the federal municipal corporation CITY OF CHARLESTON  
SOUTH CAROLINA POLICE DEPARTMENT, et seq., before another employee  
(PRISCILLA BRIDGES BALDWIN #5749) of the federal municipal corporation

CITY OF CHARLESTON SOUTH CAROLINA MAGISTRATE COURT, et seq.,  
with no written complaint of a plaintiff (no lawfully injured party, not even the  
federal municipal corporation STATE OF SOUTH CAROLINA, et seq.) on file  
with the federal municipal corporation CITY OF CHARLESTON SOUTH  
CAROLINA POLICE DEPARTMENT et seq., or the federal municipal  
corporation CITY OF CHARLESTON SOUTH CAROLINA CLERK OF  
COURT, et seq., to initiate this claim, I herein rebut with the following;

1. It seems to be the policy and/or custom of the federal municipal  
corporation CITY OF CHARLESTON SOUTH CAROLINA POLICE  
DEPARTMENT, et seq., that the word of a federal municipal corporation CITY  
OF CHARLESTON SOUTH CAROLINA, et seq., employee (revenue/police  
officers) thereof is all that is needed to initiate a claim against anyone. Therein, the

affidavit given by the employees (RICHARD HOLMES/SGT R OWEN) of the  
federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA  
POLICE DEPARTMENT, et seq., to the employee (PRISCILLA BRIDGES

BALDWIN #5749) of the federal municipal corporation CITY OF

CHARLESTON SOUTH CAROLINA MAGISTRATE COURT, et seq., violates  
the Constitution for the State of Carolina at Article One, Section Ten (...and no  
warrant shall issue but upon probable cause, supported by oath or affirmation....).

Because State Certified Peace Officers, certified by the federal municipal  
corporation STATE OF SOUTH CAROLINA, et seq., and alleged magistrates,  
allegedly learned in law, where neither has any idea what is probable cause or what  
is a plaintiff, the explanation of both are provided for their studies.

**Probable cause** is a claim of a right violated, an injury and/or damage caused by a

man/woman, the conduct that caused the injury/damage, and a petition for restitution of the right violated, or injury/damage caused, of which, there is none on file with this case.

**Plaintiff** n the party who initiate a lawsuit by filing a complaint with the clerk of court against the defendant(s) suing for rights violated, demanding restitution (for an injury to person, or for damages to property) performances (the agreement of a contract or agreement), and/or court determination of rights (when one in the performance of his office/duty violates a right guaranteed by a state or federal constitution). There is no lawful plaintiff in this case.

2. There is no one making a claim in this case with 'firsthand' information of a lawful violation of rights, injury to body, damage to property, and no lawful claim for restitution, of which a court of competent jurisdiction MUST make a

determination. Every statement by employees (HOLMES/OWENS) of the federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA POLICE DEPARTMENT, et seq., is "hearsay." Someone told them, and they are telling the court. This policy and custom of circumventing the demands and requirements of the State of South Carolina Constitution, using only the hearsay testimony of fellow employees to initiate a case is a blatant violation of the Constitution, and the rights of the accused to confront his/her accuser and/or witnesses against him/her.

In this policy/custom of the federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA POLICE DEPARTMENT, et seq., there is no accuser (injured party) and there is no witness with firsthand knowledge of the case.

Answer to Arrest Warrant Numbers 2014A1010205443,

20144A1010205444, and 20144A1010205445. The alleged affidavits submitted by employees HOLMES/OWENS are unsupported by an affidavit of an injured party stating to the conduct of the accused with witness statements confirming same.

All parties interviewed, states 'I heard the shot,' not one stated 'I saw the shooting as it took place.' There seems to be no 'firsthand' witnesses to confirm the alleged allegations made by the revenue agents. The testimony made by the third party (Hunter) seems to be of one clearing his name, of the possibility of being involved in the shooting, and pointing the blame. This claim is where a revenue agent of the federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA, et seq., made a statement of fact and a conclusion of law prior to the decision of a trial jury.

Nowhere on the affidavit of employees (HOLMES/OWENS) is there the words "under penalty of perjury," therefore, the accusation against this man is without foundation of law and the accuser has not complied with law, procedure and form in bringing this charge. There is no 'affirmantis est probare' (he who affirms, must prove it), and there is no proof, only hearsay testimony. **"IT IS**

**THE DUTY OF THE COURT TO DECLARE THE MEANING OF WHAT IS WRITTEN, AND NOT WHAT WAS INTENDED TO BE WRITTEN.**<sup>(1)</sup>

The federal municipal corporation STATE OF SOUTH CAROLINA, et seq., can only bring a claim against a living soul within the Rule of Communism. Only within the rule of Communism can the State bring a claim that is not true, cannot be proven, **where there is no plaintiff to testify of an injury**, and to connect the

man accused to the claim. This is 'Fraud on the Court by an Officer of the Court.'

In this Case there is Extrinsic fraud on the Court by the Solicitor and alleged

Prosecuting Officer. Extrinsic fraud is collateral or external to the trial of the case.

Stated another way, the fraud may be extrinsic if the defrauded party did not have

access to the disputed information and did not have knowledge of the inaccuracies

at the time of trial.

The federal municipal corporation STATE OF SOUTH CAROLINA, et seq., is a fictitious plaintiff, 'a person (legal term) appearing in the writ, complaint, or record as the plaintiff in a suit, but who in reality does not exist, or who is ignorant of the suit and of the use of his name in it. It is a contempt of court to sue in the name of a fictitious party.' (Black's Law Dictionary, 6<sup>th</sup> Ed., pg. 624) As a legal

fiction, the federal municipal corporation STATE OF SOUTH CAROLINA, et seq., is not a living thing, it is without a soul and without honor. The federal municipal corporation STATE OF SOUTH CAROLINA, et seq., cannot be touched or seen, it cannot act, and thus, it certainly cannot act morally, or with honor. The federal municipal corporation STATE OF SOUTH CAROLINA, et seq., does not have a mind, thus cannot understand or consent. Something which cannot act with honor, which lacks understanding or the ability to consent is, by definition, Non Sui Juris, and thus not fit to engage in contracts, or bring an honorable claim in law. There is no constitutional amendment of the State of South Carolina, republic or attachment of the federal municipal corporation STATE OF SOUTH CAROLINA LEGISLATURE, et seq., that grants authority and/or permission for an employee of either the federal municipal corporation

CITY OF CHARLESTON SOUTH CAROLINA, et seq., or the federal municipal corporation CHARLESTON COUNTY SOUTH CAROLINA, et seq., to use the term STATE OF SOUTH CAROLINA as a Plaintiff in a criminal or civil suit. If there is such an amendment and/or attachment available, it should have been in the record of the court at the initiation of this claim. Without it, this case is a fraud.

By using a fictitious plaintiff, (STATE OF SOUTH CAROLINA SCRCP 4(d)(4)(A) – state party to the claim) as the plaintiff in this case, denies the man accused of the right guaranteed by the South Carolina State Constitution, Article One, Section 14, Clause 4, “to be confronted with the witnesses against him,” because the fictitious plaintiff (STATE OF SOUTH CAROLINA) will not be in court to testify of an injury, therein not being able to testify, and to possibly

connect the man accused to an injury, therein denying the man accused a lawful defense (to cross-examine witnesses against him) to the claim before the Court.

By using the fictitious plaintiff, federal municipal corporation STATE OF SOUTH CAROLINA, et seq., as plaintiff in this case also violates the accused man's right to know who is bringing the claim. This action violates the South Carolina Rule of Civil Procedure, Rule 17(a) Real Party in Interest, by not naming a living soul against a living soul, there is suspicion as to what and/or who is actually saying that the incident occurred. This action questions the alleged claim by the federal municipal corporation STATE OF SOUTH CAROLINA, et seq., and also the ability of the federal municipal corporation STATE OF SOUTH CAROLINA, et seq., to prove 'standing to sue' (South Carolina Rule of Civil

Procedure 17(b) in this case. To prove standing to sue, the federal municipal corporation STATE OF SOUTH CAROLINA, et seq., MUST be able to prove an

**Injury-in-fact:** The plaintiff must have suffered or imminently will suffer injury—

an invasion of a legally protected interest that is (a) concrete and particularized,

and (b) actual or imminent (that is, neither conjectural nor hypothetical; not

abstract), and **Causation:** There must be a causal connection between the injury

and the conduct complained of, so that the injury is fairly traceable to the

challenged action of the defendant and not the result of the independent action of

some third party who is not before the court, of which the federal municipal

corporation STATE OF SOUTH CAROLINA, et seq., can't do.

There is no complaint on the record of the COURT of GENERAL SESSIONS

for CHARLESTON COUNTY SOUTH CAROLINA et seq., with forensic evidence that it was signed by the federal municipal corporation STATE OF SOUTH CAROLINA, et seq.

There is only the affidavits signed in perjury by SGT R OWENS/RICHARD HOLMES, employees of the federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA, et seq.,. Without a written complaint, sworn under penalty of perjury, by the federal municipal corporation STATE OF SOUTH CAROLINA, et seq., on the record of the COURT of GENERAL SESSIONS for CHARLESTON COUNTY SOUTH CAROLINA, et seq., the affidavits of OWENS/HOLMES, as employees of the federal municipal corporation CITY OF CHARLESTON SOUTH CAROLINA, et seq., is a nullity, and the arrest warrant is void ab initio. There is no lawful 'complaining party' to

this alleged crime. There is no honorable adversary in this Case. To date, there is no subject matter jurisdiction (verifiable Complaint of a lawful Plaintiff) identified in this case. "Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action."<sup>(2)</sup>

The statute 16-3-10, do not identify a living soul (man/woman), as being subject to its jurisdiction, does not describe in detail what or who commits the act of murder (i.e. That the accused engaged in murder (the killing of any person with malice aforethought) anyone (police, judge, solicitor, etc.) is left to fill in anything that they may want to put there. There is nothing in the Affidavit of employees OWENS/HOLMES that describes 'malice aforethought' on the part of the accused.

This statute is very vague in structure, and leaves much to the whim of anyone looking at it with prejudice and bias.

The statute 16-11-330, do not identify a living soul (man/woman), as being subject to its jurisdiction, does not describe in detail what is 'armed robbery' and who violates it, anyone (police, judge, solicitor, etc.) is left to fill in anything that they may want to put there. This statute is very vague in structure, and leaves much to the whim of anyone looking at it with prejudice and bias. The first part of the statute begins with 'a person' (In general usage, person - a human being; by statute, However, the term can include firms, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in Bankruptcy, or receivers. There is no clear definition as to which of these entities are being described in this statute as a violator thereof.

The statute 16-23-490, do not identify a living soul (man/woman), as being subject to its jurisdiction, does not describe in detail what is 'Possession of a firearm during the commission of a violent crime,' anyone (police, judge, solicitor, etc.) is left to fill in anything that they may want to put there. This statute is very vague in structure, and leaves much to the whim of anyone looking at it with prejudice and bias. The first part of the statute begins with 'if a person' (In general usage, person - a human being; by statute, However, the term can include firms, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in Bankruptcy, or receivers. There is no clear definition as to which of these entities are being described in this statute as a violator thereof.

These statutes – (16-3-10; 16-11-330; and 16-23-490) are very vague, and

does not identify a living soul, man/woman as being subject to its jurisdiction.

There is no clear definition as to who or what is subject to the jurisdiction thereof, and the words of the affidavit/arrest warrant provides no definition of how it's used and to whom it apply. The statute in and of itself does not clarify the components needed to violate it. The statute does not prescribe how one violate its component, there is no stated method explaining how a man can be charged therein. This statute is void for vagueness.

“Void for vagueness” adj., referring to a statute defining a crime, which is also so vague that a reasonable (living) person of at least average intelligence could not determine what elements constitute the crime. Such a vague statute is unconstitutional on the basis that a defendant could not defend against a charge of a crime which he/she could not understand, and thus would be denied ‘due

process' mandated by the 5<sup>th</sup> Amendment, applied to the states by the 14<sup>th</sup>

Amendment. The People's Law Dictionary Void for vagueness. A law which is so obscure in its promulgation that a reasonable person could not determine from a reading what the law purports to command or prohibit is void as violative of due process. Black's Law Dictionary 5<sup>th</sup> Edition

Per the understanding of the South Carolina Rule of Civil Procedure

4(d)(4)(B), the man accused in this case, herein challenge the Constitutionality of this statute for vagueness in construction, due to the reading of the Elements of the Offense. It is not clear what activity is prohibited, who violates the statute, and what type of activity constitutes a violation of the statute. Void for Vagueness - A constitutional rule that requires criminal laws to state explicitly and definitely what conduct is punishable. Criminal laws that violate this requirement are said to be

void for vagueness. Vagueness doctrine rests on the due process clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution. By requiring fair notice of what is punishable and what is not, vagueness doctrine also helps prevent arbitrary enforcement of the laws. This statute leaves a lot to be desired in what is a violation, and what is not. This statute is so vague that a jury MUST receive coaching (what part of the statute applies to this case) of the court administrator (judge) as to what is law. It is because of such vague writings of the federal municipal corporation STATE OF SOUTH CAROLINA LEGISLATURE, et seq., that a prudent man of learning would get different meanings than what the court expected.

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."<sup>(3)</sup> Per the above challenge to the Constitutionality of the construction of the statute, this Court lacks subject matter jurisdiction to proceed further.

Submitted this \_\_\_ day of \_\_\_\_\_, 2016

By the hands of \_\_\_\_\_

STATE OF SOUTH CAROLINA, .ss)

) **ACKNOWLEDGEMENT**

COUNTY OF CHARLESTON )

Subscribed and affirmed before me, \_\_\_\_\_, Notary Public for said county of Charleston, state of South Carolina.

\_\_\_\_\_ personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016. In proper persona, suri juris, not a person as defined in any United States or State codes, statutes, ordinances, etc., and that she executed the within instrument of her own knowledge and belief.

CERTIFICATE OF SERVICE

I, Ahshaad Mykial Owens herein certify that a copy of this Affidavit of Truth – Answer to Arrest Warrants, was stamped into the Court of General Sessions for Charleston County Clerk’s Office, and copies were placed into the care of an Associate of the United States Postal Services for delivery to the Parties and Entities named at the addresses shown, and with proper postage paid.

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## REFERENCES USED IN THIS BRIEF

- 1) J.W. Seavey Hop Corp. v. Pollock, 20 Wn. 2d 337, 348-49, 147 P 2d 310 (1944) cited with approval in Berg v. Hudesman, 115 Wn. 2d at 669.
- 2) Melo v. U.S. 505 F. 2d 1026
- 3) Hagans v. Lavine, 415 U.S. 533

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