THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry E. Hyman, Jr., Circuit Court Judge [Recused]
Steven H. John, Circuit Court Judge [Final Order]

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SC Court of Appeals

APPELLATE CASE NO.: 2015-001621

Retha Pierce Sturdivant ..... Appellant

v.

City of Conway ..... Respondent

AMENDED INITIAL BRIEF OF APPELLANT

ORAL ARGUMENT REQUESTED

Retha Pierce Sturdivant 05/08/2016
05/27/2016 RPS

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STATEMENT OF ISSUES ON APPEAL

I. DID THE TRIAL COURT ERR IN ALLOWING THE PROSECUTION TO NEOCHEAT THEREBY HELPING TO CREATE AND SUSTAIN THE WRONGFUL FIRST OFFENSE DRIVING UNDER INFLUENCE (DUI) CONVICTION?

2. DID THE COURT ERR WITH BIAS, PREJUDICE, LACK OF DUE PROCESS, FALSE INFORMATION, MISREPRESENTATION, AND COLLUTION TO MAINTAIN THE SETTING FOR CONDEMNATION TO UPHOLD THE WRONGFUL CONVICTION IN SPITE OF THE .OO% BREATHALIZER VOID OF ANY OTHER CONCRETE DRUG OR CRIMINAL DATA?

3. DID THE COURT ERR BY GIVING PROSECUTION AUTONOMY AND LEEWAY TO UPHOLD THE

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CONVICTION BY RIDICULING THE PRO SE LITIGANT AND ALLOWING EXCESSIVE ABUSE OF DEFENDANT/APPELLANT AND PROCESS?

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5. DID THE COURT ERR IN UPHOLDING THE VERDICT OF JURORS NOT REALLY PEERS WHOSE FINDINGS WERE NOT BASED ON THE FACTS OF THE CASE, WERE PRE-SCREENED IN ABSENCE OF THE APPELLANT, NOT VOID OF BIAS, STEEPED IN MYSTICISM, AND WHO RETURNED THE WRONGFUL FIRST OFFENSE DUI GUILTY VERDICT AFTER ABOUT FIFTEEN MINUTES OF DELIBERATING.

STATEMENT OF THE CASE

On October 1, 2014, a wrongful First Offense Driving Under Influence (DUI) Conviction Appeal for Civil Case No.: 2014-CP-26-03911 was dismissed in the Horry County Court of Common Pleas in Conway, South Carolina by the Honorable Larry B. Hyman, Jr., Circuit Court Judge. The Appellant had not been given sufficient latitude to argue the reasons for her Appeal before he dismissed the Appeal and then directed the prosecuting attorney, O. Terry Beverly, hereinafter referred to as Respondent, to write the Final Order.

The Appellant had been debased by certain remarks from the Bench considered offensive such as Judge Hyman's reference with disdain to her number of appearances before him in court: " ... at least six times ..." He was curt with her and often gave his opinion of what the Respondent, rumored a good friend, meant by certain actions at the Municipal Court level inherent in a lack of due process, an unfair trial, and that led to her wrongful First Offense DUI Conviction. This included Judge Hyman's quick interjection of what the Respondent meant by the $997.00 scenario such as: Each time the Appellant had complied with a summons to the Conway Municipal Court for jury selection and trial, about four times, before the actual trial on May 30, 2014, she was always offered that she pay $997.00 beginning with the first and continued with each summons until Wednesday,

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May 28, 2014, the last day the $997 was mentioned. The Appellant each time would respond that she wanted a jury trial because she expected exoneration through truthfinding due to fairness. Instead she received a wrongful First Offense DUI Conviction because of neocheating, bureaucratic dishonesty, a workable clarity made possible by a genius, the late Dr. Frank R. Wallace.

After the Appellant arrived on or about 1:35 P.M. at the the City of Conway Municipal Court, on Wednesday, October 28, 2014 for a 2:00 P.M. jury selection and trial as stipulated , she again found noone present key to her case --- no arresting officer nor anyone as a possible juror. For the last time, the Respondent (thought the judge) mentioned the $997. For the last time, the Appellant refused.

After the Appellant refused the offer that final time, the Respondent told her to come back by 9:00 the next morning for her jury trial. She then shared a conflict because she would be attending her father-in-law's funeral already scheduled for that Thursday. The Respondent adamantly communicated to the Appellant that jurors will be picked in the morning and the trial will be tomorrow " ... whether you're here are not." Subsequently, she reminded him of all the times she'd already come to Court as summoned and nobody else was present, like that very day; reminded him that she'd remained in Horry County to meet for the jury trial at the insisting of her husband to ensure her being present and on time; told him how shed'd been unable to be home during the entire bereavement period, and said she did not think it fair to have her trial during the time it's known that she must be present at the funeral already scheduled for that Thursday, only being told about the new change that day, and she couldn't disappoint her husband who'd put his special solo on program for her to sing.

At some point in the dialogue, the Respondent exclaimed: " I smell alcohol right

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now"! as he began sniffing the Appellant and repeating the accusation as to suggest that she had been drinking to the spectators in the office, which included two policemen, for whom especially he appeared to have been staging a show, as they both laughed and one policeman said: "Well, it's not me ... I 've not had a drink since ..." as the laughing subsided.

The Appellant told the Respondent that he was wrong to try to make the people think that she had been drinking. She thought he was trying to set her up again like the policeman in 2012; to get her arrested for another false DUI to help the other time look true and keep her from leaving town for the funeral. She told him: ' I 've never even had a social drink in my life ... not even during my thirty (30) years as a teacher/administrator'. The Respondent replied: " When I was in high school, I had a math teacher that would always get drunk as a skunk every day right after lunch. " As laughter burst out in office again.

The Appellant then told the Respondent that with all due respect, she would be attending the funeral on Thursday and asked him couldn't the jury trial be put off for another time --- at least, maybe, until next week in order to give her a little time to attend the funeral, recuperate a little, and get back to Horry County for it. He said that the jury trial must be Thursday or Friday.

With his mention of Friday, the Appellant suggested to the Respondent that since the funeral would be Thursday, she could get up about 4:00 A.M. that Friday morning and drive back to Horry County, if the jury trial was set for that day, since he had said it must be Thursday or Friday. At that point, the Respondent telephoned to ask if Officer Josh Scott would be available for court on Friday and when the call was completed, he told the Appellant that her trial was reset for that Friday at 9:00 A.M. The Appellant asked him, whom she still thought the judge, if he would put the re-scheduled trial date in writing and sign it because she didn't want to return Friday and find out differently, which he did.

Feeling immensely violated, battered, and humilated by many remarks that the Respondent had made to her in front of an audience, in what was thought his office, and the lack of due process with the handling of her case initially and throughout, the Appellant

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announced that she wanted to file a motion before leaving the court building that Wednesday for a dismissal of the jury trial considering many of her rights having been seriously violated and compromised. She was pointed to the clerk of court, who'd been one of the spectators, to file the document at the window of the same office of her abuse.

It was when the Appellant was in the process of filing the Motion to Dismiss the jury trial that she learned for the first time whom the Respondent is when Judge Andy Hendrick approached her at the window as she was writing the Motion and said that she would not need to file it now since she got the day she wanted for the trial. She reminded the man, thought a regular employee who had been sitting behind a desk and also witnessed the Respondent's treatment of her: ' You saw and heard what just happened; ... set up and falsely accused. He tried to say he smelled alcohol, ... did not get the day wanted ... forced to take the lesser of the two evils that the judge offered ... can't come Thursday, so was forced to take Friday since the Judge said that's the only other day that the jury trial can be'. The man from behind the desk responded: "He's not the judge ... he's the city attorney ...". As the man was returning to his seat behind the desk, the Appellant inquired: ' Who are you?' and he identified himself as: " ... the judge who will preside over your trial on Friday". Judge Andy Hendrick then told the Appellant to arrive by 8:30 on Friday morning instead of 9:00 for him to hear the Motion " ... before time to pick your jury ..." It was Judge Hendrick's remarks that gave needed clarification to the Appellant who had assumed the Respondent to be the judge because of the lack of due process and the manner in which her case had been handled for over two years.

The Appellant returned to the Conway Municipal Court at 8:10 on Friday, May 30, 2014, and reminded the lady at the window that the Judge told her to return by 8:30 for her motion to

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be heard. The lady told her where to sit in the courtroom and " ...the judge will be right in." The jury trial began vers about 9:30 A.M., and that was the first time the Appellant saw the judge that morning. He, the Respondent, and potential jurors came to court alike.

Judge Hendrick began with some preliminaries for the Court proceedings which included letting the Appellant know that she has the right for an attorney, which the Appellant really has always wanted one but defrayed depleted and also knew not whom to trust anymore because of so many wrongful allegations/arrests and neocheating by many who purport to protect and serve with allies covering for each other and seeing an escalation of wrongness against her after the disbarring of her very professional and compassionate former attorney, Irby E. Walker, Jr. whom she had also witnessed first-hand in 2008 and 2009 being set up, blackmailed, jailed, and eventually disbarred. With the haunted memory of what she literally saw and heard that contributed to Mr. Walker's demise, and being too affected due to continual set ups against her, the Appellant gave an unintended high note response to Judge Hendrick about her constitutional right to represent self, which he acknowledged. She was not allowed to give the Motion for which she was instructed to return by 8:30 although she had arrived at 8:10. Jury picking preceded the Motion slated for 8:30. She had been told by the Respondent on Wednesday that the trial must be Thursday or Friday and that the jurors for her trial would be picked Thursday morning whether she attended the funeral or not. It appeared that the prosecution element had maintained its autonomy even in jury selection.

The Appellant shared with Judge Hendrick the essence of a telephone call that she received from a concerned citizen in Horry County on Thursday, May 29, 2014, in the midst of her dressing for the funeral, in which the caller wanted to know if she was aware of a trial for any of her cases on Friday. When she responded in the affirmative and wanted to know why the inquiry, the voice on the other end of the telephone stipulated that some folks were being screened that Thursday morning specifically as a jury pool for the Pierce Case on Friday, and some potential jurors were being dismissed. That news had disturbed the Appellant so much that she called the Associated Press seeking help. The attempt to give information to the Court about the call relative to pre-screened jurors, moreover, was derailed by Judge Hendrick's shift to statements of expected Court behavior. The

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Respondent, moreover, wanted to do some kind of follow-up about who'd been talking, but the judge said there would be no going there.

During jury selection, the Appellant immediately detected that the jury had been made rote. From one side of the courtroom to the other, each stood one after another to introduce self, no pause in between, and gave lots of information about self until the Appellant shared with the judge that it was impossible for

her to remember who said what the way the potential jurors were popping up around the courtroom, nonstop, steady giving so much information since she was used to the presentation of one juror for questioning at a time. Then the method of presentation switched to a less befuddled one subequently to complaint. Other suspect signs of tampering include: the jury took only about fifteen minutes to render a wrongful verdict thus signifying very little scrutiny of data and validating more of what the Appellant had seen during her opening and closing remarks from some blank stares; the lady, appointed by court as lead juror, gave a brief giggle-like smile just before she pronounced the "guilty" verdict; and one juror remarked to the Appellant, after leaving court, while passing her just before crossing the street: "We could see you won't drinking ... must've been on your medicine." The Appellant responded: 'Is this what's called a decision beyond shadow of doubt? ' As she still stood dazed on the street a while longer.

The choosing-the-jury scenario had proper appearance to allow the Defendant's involvement in her "jury picking" but her participation was curtailed by the Respondent's leeway with her case. Although seemed as a stacked deck, however, the Appellant still anticipated fairness and that once each juror heard the truths, viewed the police car video, and the Data Master for SLED that objectivity would rise above any subjectivity. Appellant certainly never envisioned a wrongful First Offense DUI Conviction as a direct result of extensive neocheating.

In spite of truths evident in the police car video, the Data Master for SLED, the .00% breathalizer with no other drug or chemical data, the jury returned the wrongful verdict after about fifteen minutes of deliberation. During the proceedings, other variables had apparently influenced the outcome such as prosecution

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making point from outset to the jurors that the case they were to decide shouldn't take that much time as well as the prosecutor's interruptiion of the opening remarks of the Defense thereby furthering his status of autonomy while jurors personally screened for the pool were given a more bias and prejudice setting which ensured their spontaneous reception of any information from the Defendant as suspect and unreliable. Even when the Defendant's testimony depicted some of the verbatim data of the police car video and the SLED Data Master, it could not imprint truth on any mind already affected by bias and prejudice --- already conditioned for the desired outcome. It could not penetrate

through the mire of negativism cultivated by media hype and neocheaters. The jury had been fed some distorted data, misrepresentations, and fabrications. Such was the catalyst of an unfair trial that gave birth to the wrongful First Offense DUI conviction as a result of inclusions foreign to justice.

The Respondent also misled the jury by portraying the arresting officer, Josh Scott, as an "expert" able to look into the Appellant's eyes on January 8, 2012 and know that she had swallowed medication never swallowed. He continued to state information contrary to what's medically a fact for her. Contrary to a claim of the Respondent, the Appellant did give an objection at that juncture, but the judge overruled. In addition, Officer Scott refused to take the stand when he was called during the Defense segment of the trial as pre-established by the pro se Appellant. The Respondent objected saying that the Defendant had already examined the officer during his prosecution segment. When Officer Scott was called to the stand, the prosecuting attorney, Beverly, objected and Judge Hendrick sustained.

When the trial began on May 30, 2014 in the Conway Municipal Court, neocheating had already established the climate to falsely convict the Appellant that had begun on January 8, 2012 with the false DUI arrest by Conway police officer, Josh Scott, to help maintain his recognition for 80 DUI related arrests for which he received a new vehicle as reported by the Sun News; Myrtle Beach, South Carolina on April 4, 2012 by Tanya Root. The

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jurors were already pre-conditioned to whatever the Respondent, with his witness, Officer Scott, said or depicted and that their connotations of facts were the only truths that they could hear or accept.

The Appellant had requested a jury trial expecting the truths to exonerate her and not anticipating such a caliber of neocheating that instead caused her wrongful First Offense DUI Conviction when she has never indulged in alcohol or drugs as verified by South Carolina ADSAP at Shoreline in 2013 while working with her as a result of the DUI allegation by Officer Scott in 2012. Although ADSAP did random checking for drugs, which always yielded negative readings, their documention validates their inabilty to work with Appellant on any alcohol or drug objectives and their resort to objectives on interpersonal skills in an effort to circumvent her obvious false encounters/consequences with police. The Appellant is a natural healer who, as a rule, refuses to swallow all chemical drugs and commercialized natural formulas, but she has utilized alternative measures which sometimes name prescription drugs in spiritual rituals whereby, through the guidance and power of God the Creator, she has been able since Age Four to heal self of many earthly maladies continued today mostly through fruit/vegetable/herb remedies that make some cold/flu/allergy symptoms, for example, disappear within 1 to 3 days as well as bladder and other infections within about the same time span. Some rituals have enabled some major scheduled operations to be cancelled throughout her life like cancer, carpal tunnel, and heart. She did

not allow one of the best heart surgeons in the United States the operation to corrrect a 95% blockage of her heart arteries in 2008, while still being forced to stay for a 3-days hospital surveillance as she was told of medical license on the line if she were released before time specified, and after that period of time, the doctor at Grand Strand Regional Medical Center in Myrtle Beach, South Carolina was flabberghasted and said that he knew of " ... nothing like that in my entire medical career ... never seen or heard of such ..." and he advised the Appellant: " ... Whatever it is that you do, keep on doing it ..." as he still wrote some prescriptions. Plus, her overnight recuperation of a stroke in 2009, without the aid of prescription drugs, would be deemed at the most not ordinary but should render no automatic guilt of DUI if a policeman had taken any of those bottles from her purse during that medical ordeal.

Prescription drugs taken from the Appellant's purse, from any time of her previously being falsely deposited at J. Reuben Long Detention Center in Conway, South Carolina for at

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least eight (8) times were always offered back to the Appellant upon her time for departure from the facility, but she always refused to take back any returned prescriptions once touched by foreign hands. In the same tradition, the very prescriptions for which the Appellant was given a false DUI charge on January 8, 2012 were also left at the J. Reuben facility on January 9, 2012. On May 30, 2014, the Appellant was falsely convicted for DUI in the Conway Municipal Court with the Honorable Andy E. Hendrick, presiding, and Respondent, O. Terry Beverly, the prosecuting attorney for prescription drugs not taken. The wrongful conviction was timely appealed from the Conway Municipal Court to the Horry County Court of Common Pleas in Conway, South Carolina.

The Honorable Steven H. John of the Fifteenth Judicial Circuit signed the Final Order for Civil Case No.: 2014-CP-26-03911, affirming the decision of the Honorable Larry B. Hyman, Jr. after his recusal, and it was filed in the Horry County Court of Common Pleas on June 26, 2015 and received by the Appellant on July 5, 2015 then timely filed to this level.

FACTS

The Conway police officer, Josh Scott, who received a new vehicle for the most DUI the same year, stopped the Appellant on the evening of January 8, 2012 and charged her with Driving Under Influence (DUI) as she was returning to Atlantic Beach, South Carolina from a church service in Ridgeway, South Carolina. The officer alleged receiving a call from an informant that the Defendant was driving erratically and had stopped at a green light.

The Appellant was at the entrance of the "big" bridge in Conway, South Carolina when she first detected flashing lights on what appeared to b a police car that Sunday evening. Not believing that she would be required to stop on the bridge, she proceeded cautiously with the heavy flow of traffic, anticipating a place to stop, perhaps, off the bridge as she wondered why she was being stopped. Officer Scott's vehicle came on the bridge to the left

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across from her vehicle, and with his window down on passenger side, he leaned over in his car to tell her to stop on the bridge after her inquiry to him of what she should do.

When Officer Scott came first to Appellant's stopped vehicle, he asked for her license which she had difficulty locating in her wallet initially and was still searching when he asked her to get out of her car and stand closer to the side of the bridge. At some point, a female officer's car was observed parked near entrance of bridge helping to direct the traffic as Officer Scott drove his car back off the bridge to a nearby parking lot, then he returned afoot to drive the Appellant's car off the bridge to the same place his car was parked as pre-outlined to her.

Once Officer Scott got the Appellant's car to the lot, he talked to her in front of it away from his police car. He had seen her name on her license when given to him by the Appellant after she finally retrieved it from her wallet. He began citing the Miranda Rights to her the first time in front of her car as if he planned to arrest her although no test had yet been given. She wanted to know what she'd done, and he said that he'd received a call that a car fitting the description of hers was driving slow and erratic and had stopped at a green light. He wanted to know if she'd been drinking or had taken any prescription drugs to which she replied 'no' to both. She told him that she'd never even had a social drink in her life, and as a rule, she swallows no medication, and was just on her way home from church. He asked again if she was sure she hadn't been drinking or using some kind of drugs, and she said that she had not drunk anything or taken anything and added that she was happy and thankful to God that she didn't even have to use (meaning for spititual rituals) any of the pills in her purse yet from a dental problem earlier that week. It was shortly after she casually mentioned the pills in her purse that Officer Scott told the Appellant to walk over to his police car for a sobriety test.

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As the sobriety test was about to start, the Appellant asked the officer if she could get her cane from the car, that she always has one somewhere nearby, since the injury to her spine without warning has given her bouts of immobility in her legs since 1994. She also knew it was impossible for her to walk a straight line because of the same injury which had baffled doctors and specialists that she didn't remain permanently paralyzed like others usually did who were victims to same-type injury. Officer Scott, however, would not allow the Appellant the aid of her cane for the sobriety test.

When the sobriety test was completed, the Conway policeman started citing the Miranda Rights for the second time that night; handcuffed the Appellant's hands behind her back; and put her in the back seat of his police car. Then he walked back to the Appellant's car and started going through her purse to remove the bottles of dental prescriptions that she had casually told him about in front of her car earlier, but in court, he claimed he found..

After Officer Scott got the bottles of prescription drugs from the Appellant's purse and searched in other parts of her vehicle, he took her to administer the Breathalizer for which she scored .00%. Then he was determined to take her to the hospital for a urine test which she was in agreement but requested part for an independent analysis. Initially, he said she could not get a part of her sample; she would not get a part; she could have her own done; later he said she could get a part only if she pays for her part which she indicated she expected to pay and happy to do; he didn't want to give part so then he just didn't take her to the hospital for the sample but to the J. Reuben Long Detention Center in Conway, South Carolina to book her in jail. The Appellant reminded him that her breathalizer was .00% and she hadn't swallowed any medication and wanted to know why he was putting her in jail knowing she's not guilty. He told her that she refused the urine test and he was booking her on "implied consent" --- the first time he'd mentioned that all night and a term with which the Appellant really wasn't familiar or understood since

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hearing it for the first time at the jailhouse. She then offered to go take the urine test even if he didn't give her part. But Officer Scott told the Appellant: "It's too late now ... " He said that she should have gone when he first mentioned it when he was saying she couldn't have a part. He told her that she was in jail now and asked the Appellant to sign the paper for "implied consent". She did not sign the "implied consent" form telling him that he should have told her about this "implied consent" '... before now...'; that no matter how scared she is of what police might do to her that she would just have taken her chance if she knew he was going to put her in jail for some "implied consent" even when she had drunk nothing nor taken any drugs. She told Officer Scott again that he should have told her about "implied consent." He said that's what he'd been " ... trying to do all night". She told him that he should not have been "trying" to tell her about something that caused her to be in jail anyway; that he should have come right out and told her ' ... about this "implied consent" ...' to let her know she could go anyway eventhough '... I have a .00% breathalizer and you, I, and God Almighty know I have no drugs in my system...'.

The Appellant, with the new shock, did refuse to sign the "implied consent" form but never refused to take the urine test. She only wanted part of the sample for independent analysis considering, as she had pointed out to him earlier that night about another wrongful case in 2009 of a DUI, whereby she had received results within three months of proof of her innocence for which the independent testing was done, but the results from SLED took over two years.

The Appellant was made to spend Sunday night, January 8, 2012, in the J. Reuben Long Detention Center in Conway, South Carolina for a false DUI charge. She first requested a jury trial the next morning. The requested jury trial convened in the City of Conway Municipal Court on May 30, 2014 with the Honorable Andy E. Hendrick, presiding, and the prosecuting attorney was O. Terry Beverly. As a result, the Appellant received the wrongful First Offense DUI Conviction which led to the appeal to the Horry County Court of Common Pleas. The wrongful sustaining and dismissal of the Appeal in Circuit Court led to the timely

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Appeal at this level.

The neocheating of neocheaters caused this Appellant to join the ranks of other innocent guilty in the State of South Carolina/ other places with the wrongful First Offense DUI Conviction which led to her timely appeal to the Horry County Court of Common Pleas whose wrongful sustaining and dismissal of Appeal led to the timely appeal at this level.

ARGUMENT

1. THE COURT ERRED IN ALLOWING THE PROSECUTION TO NEOCHEAT THEREBY HELPING TO CREATE AND SUSTAIN THE WRONGFUL FIRST OFFENSE DRIVING UNDER INFLUENCE (DUI) CONVICTION.

2. THE COURT ERRED WITH BIAS, PREJUDICE, LACK OF DUE PROCESS, FALSE INFORMATION, MISREPRESENTATION, AND COLLUTION TO MAINTAIN THE SETTING FOR CONDEMNATION TO UPHOLD THE WRONGFUL DUI CONVICTION IN SPITE OF THE .OO% BREATHALIZER VOID OF ANY OTHER CONCRETE DRUG OR CHEMICAL DATA.

3. THE COURT ERRED IN GIVING THE PROSECUTION AUTONOMY AND LEEWAY FOR EXCESSIVE ABUSE OF PROCESS/APPELLANT WHICH SUPPRESSED AND THWARTED JUSTICE FOR THE DEFENSE.

4. THE COURT ERRED BY UPHOLDING THE WRONGFUL FIRST OFFENSE DUI CONVICTION AND FOR NOT GRANTING A DE NOVO TRIAL.

5. THE COURT ERRED IN UPHOLDING THE VERDICT OF A JURY WHOSE FINDINGS WERE NOT REPRESENTATIVE OF THE GENUINE FACTS OF THS CASE, WHO WERE NOT REALLY PEERS, PRE-SCREENED IN THE ABSENCE OF THE APPELLANT, NOT VOID OF BIAS, STEEPED IN MYSTICISM, AND WHO RETURNED THE WRONGFUL FIRST OFFENSE DUI GUILTY VERDICT AFTER ABOUT FIFTEEN MINUTES OF DELIBERATION.

(Numbers 1, 2, 3, 4, and 5 will be argued together.)

The rights of every man are sustained in the Universal Laws but, on Earth, exist under constitutional and statutory provisions. The procedure, moreover, proscribed by statue must be strictly construed. [Taylor v. Roche, 271 S.C. 505, 248 S.E. 2d, 580 (1978). In construing a statue, the legislature's intent must prevail if it can be reasonably discovered in the language and that language must be construed in the light of the intended purpose of the statue. Neocheating, bureaucratic dishonesty, can therefore not be used to circumvent the intent of statues in order to gain or maintain a desired outcome.

Statues are an embodiment for the provisions of the Bill of Rights, applicable to states, that contain the basic guarantees of a fair trial. The absence of fairness fatally infects a trial "...

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Lisenba v. California, 314 U.S. 219, 236 (1941) and "Denial of due process is the failure to observe a fundamental fairness essential to the very concept of justice". Snyder v. Massachusetts, 291 U.S. 97, 116,117 (1934).

The statues provide that everyone should have a fair trial void of bias and prejudice. Bias or prejudice either inherent in the structure of the trial system or as imposed by external events will deny one's right to a fair trial. " A fair trial in a fair tribunal is a basic requirement of due process. ... our system of law has always endeavored to prevent even the probability of unfairness". Murchinson, 349 U.S. 133. 136 (1955)

The Appellant's case was tainted by the aforementioned variables of bias and prejudice inherent in the structure and imposed by neocheating. Prosecution was given autonomy and leeway to abuse the process and the Appellant. The quest for truthfinding was abandoned by the neocheaters who were in collution to convict the Appellant by employing dishonest tactics to falsely arrest and then utilize strategies for cover up right into the Court which compromised adversely the fair trial component of due process.

The Court erred by accepting the verdict of a jury who made a decision without a preponderance of the evidence revealed in the police car video and the Data Master video for SLED. Failure to consider certain facts in those resources as well as totally disregarding all facts from Defense led to only about fifteen (15) minutes of deliberation before pronouncing the wrongful guilty verdict. "Due process is violated by the participation of a bias or otherwise partial juror". Moreover," ... bias or prejudice of an appellate judge can also deprive a litigant of due process". Aetna Life Ins. Co. v. LaVoie, 475 U.S. 813 (1986)

The arresting Conway police officer, Josh Scott, created and built a wrongful DUI case on a false allegation maintained from the receipt of a "call" from a person(s) never named who supposedly described the Appellant's " ... stop at a green light ... driving erratic ..." The Appellant blew .00% on the breathalizer test , and Officer Scott alleged DUI by "implied consent". He claimed her refusal for a urine test when she only wanted part for an independent analysis. His decision to not take her, for the test he had insisted she must have, was concealed in the fact that he was adamant from the outset for the Appellant not to receive part of her sample for independent testing; yet, in court he claimed her distrusting the hospital staff and making statements about the hospital that were never made about them. Her anxiety had stemmed soley from prior false charges/arrests by police who would always arrest her after approaching her nearly ten(10) years with " ... received a call...". That include at least twelve 12) false charges of which she was falsely put in jail for at least eight (8) of them.

The South Carolinaa Code Annotated 56-52950 sets forth: " ... the person must first be offered a breath test ... if the person is physically unable ... may request a blood sample ... If reasonable suspicion ... influence of a combination of alcohol and drugs,

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the officer may order that a urine sample be taken for testing ..."

The Appellant does not negate the possibility of an alleged call giving false information about her driving since that has been a norm for her for nearly ten years that first began about a month, December 25, 2007, after she defeated the over three-term mayor of Horry County's Atlantic Beach, South Carolina, the first time of three for the same November 2007 election. Several state troopers in the last decade have validated, in their dialogue with the Appellant, (as many as three stops in a single night in the Conway area in 2012), as she traveled to and from a church engagement once, when she traveled alone (never stopped once in the decade if driving with passenger). In 2013, a state trooper was waiting to stop her on Interstate Highway 22, and after asking to see license told the Appellant that he'd " ... received a call about her " ... erratic driving, ... no seat belt ... and DUI ... " then proceeded to say as if dumbfound: " ... but it's obvious your seat belt is fastened ... and you're not DUI ... " as she heard him say underbreath something about " ... don't want to get involved in nothing."

This is a precedential case and the Court erred by not giving a de novo trial as well as when it gave autonomy and leeway to prosecution and allowed a lower expectation of the professional when the pro se litigant was expected to operate by more stringent standards. More rigid expectations of the pro se litigant during her own defense was in violation of Haines v. Kerner, 404 U.S. 50 (1971) that stipulates that pro se " ... pleadings should be held to less stringent standards ..." Jenkins v. McKeithan, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240.

Officer Scott provided a false search as well as a false arrest on January 8, 2012. The Fourth Amendment Right was compromised when he searched Appellant's purse without permission to remove the prescriptions about which the Appellant had already told him and he claimed in Court that he found. He also searched other areas of her car without probable cause and found nothing then returned to his vehicle where he'd already put her in handcuffs, before taking her for the breathalizer, with nothing more than what she'd already enlightened him during his interrogation in front of her car.

South Carolina Annotated 56-52950 sets forth as follows: "... the person first must be of fer offered a breath test ... if the person is physically unable ... may request a blood sample ...if t If the officer has reasonable suspicion... influence of a combination of alcohol and drugsdrugs, the officer may order that a urine sample be taken for testing ..."

The Appellant had a .00% breathalizer. She had no medicine in her on January 8, 2012 and prosecution had nothing but the .OO% breathalizer results on May 30, 2014 which convicted her with no chemical/scientifc data to erase reasonable doubt. She was wrongfully

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arrested, tried, and pronounced "guilty" by the neocheating of neocheaters. The jury was told by prosecution how long it should take to basically decide the case in his opening remarks, but it is the responsibility of a juror to at least carefully srutinize the data when one's life, freedom, or innocence can so easily be taken wrongly.

CONCLUSION

Because of all the aforementioned reasons, the judgment of the prior Court to maintain the wrongful First Offense DUI Conviction and dismiss the Appeal should be reversed and a de novo trial ordered. The Appellant, therefore, reiterates the motion to this Honorable Court for a reversal of the decision of the lower court and for a de novo trial with a change of venue.

Respectfully submitted,

Retha Pierce Sturdivant 05/08/2016

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPELLATE CASE NO: 2015-001621

Retha Pierce Sturdivant ..... Appellant

v.

City of Conway ..... Respondent

PROOF OF SERVICE

I, Retha Pierce Sturdivant, Appellant for Case No.: 2015-001621, certify that I have mailed on the ~~24th~~ 27th day of May 2016 a copy of the **AMENDED INITIAL BRIEF OF APPELLANT** to each of the following listed below with prepaid first class postage affixed thereto:

05/27/2016

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