THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-158 (SC Ct. App. filed April 6, 2016)

Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, (AKA: Tammy Scrogham) Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Respondents,

v.

Raymond W. Carter,

Petitioner.

APPENDIX

David L. Morrison
7453 Irmo Drive
Columbia, SC 29212
Attorney for Buck, Franklin

William H. Davidson
1611 Devonshire Drive
PO Box 8568
Columbia, SC 29209-8568

Attorney for Myers

Timothy E. Stephenson
c/o Behavioral Disorders
709 Trolley Road
Summerville, SC 29485
Appellee

The Estate of George D. White
1249 Highway 44 W.
Shepherdsville, KY 40164-8056
Appellee

Tammy A. Kidd
1246 Blue Lick Road
Shepherdsville, KY 40165

September 14, 2016

Raymond W. Carter
2219 Leesburg Road
Columbia, SC 29209

Petitioner Pro Se

Cc: File

APPENDIX

ORDER OF FEBRUARY 7, 2013

Order to Dismiss, Honorable Judge Frank Addy, Jr. February 7, 2013

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-32-03208

ORIGINAL

Raymond Carter

FILED

Solicitor Donnie Myers, et al.

PLAINTIFF(S)

2013 FEB -8 P 5:15

DEFENDANT(S)

Submitted by: COURT	Attorney for: ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☒ **ACTION DISMISSED** (*CHECK REASON*): ☒ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☒ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Defendants' Motions to Dismiss are **GRANTED**. Defendants employed by the 11th Circuit Solicitor's Office are entitled to absolute immunity. All other claims against all other defendants are also dismissed because the statute of limitations on all claims expired before this suit was filed. The court also finds some Defendants were not properly served, and therefore are not in default.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge | 2159 Judge Code | 2/8/2013 Date

For Clerk of Court Office Use Only

This judgment was entered on the N/A day of ~~, 20~~ and a copy mailed first class or placed in the appropriate attorney's box on this 22 day of FEB, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

pro se CARTER

ATTORNEY(S) FOR THE PLAINTIFF(S)

~~Stephen E. Darling~~
~~H. Bernard Tisdale, III~~ MORRISON DAVIDSON

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Stacy Sheppard

ORDER OF JUNE 30, 2011

Order of Release; Honorable Judge William Keesley, June 30, 2011

FORM 4

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

FILED
2011 JUN 30 P 1:02
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

JUDGMENT IN A CIVIL CASE

CASE NO. 2007 -CP- 32 - 1370

State

In Matter of Care and Treatment of Raymond W. Carter

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

[ ] **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

[✓] **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

[ ] **ACTION DISMISSED** (*CHECK REASON*): [ ] Rule 12(b), SCRCP; [ ] Rule 41(a), SCRCP (Vol. Nonsuit); [ ] Rule 43(k), SCRCP (Settled); [ ] Other _____.

[ ] **ACTION STRICKEN** (*CHECK REASON*): [ ] Rule 40(j) SCRCP; [ ] Bankruptcy; [ ] Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; [ ] Other _____.

IT IS ORDERED AND ADJUDGED: [ ] See attached order; [✓] Statement of Judgment by the Court:

THE COURT GRANTED THE MOTION FOR DIRECTED VERDICT MADE BY THE RESPONDENT AT THE CLOSE OF THE STATE'S CASE. THE STATE HAS FAILED TO PRESENT EVIDENCE THAT WOULD ALLOW THE JURY TO CONCLUDE THAT THE DEPARTMENT OF MENTAL HEALTH'S DECISION TO RELEASE MR. CARTER WAS ERRONEOUS UNDER § 44-48-120. THE JURY WOULD BE REQUIRED TO SPECULATE INAPPROPRIATELY AS TO ESSENTIAL FINDINGS NECESSARY TO FIND FOR THE STATE. MR. CARTER IS RELEASED FROM SVP UNIT INVOLUNTARY COMMITMENT

Dated at LEXINGTON, South Carolina, this 30th day of JUNE, 2011.

Will P. Hayes
PRESIDING JUDGE

This judgment was entered on the 30th day of June, 2011, and a copy mailed first class this ____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

James Boyle, Jr

ATTORNEY(S) FOR THE PLAINTIFF(S)

Charles J. Brooks

ATTORNEY(S) FOR THE DEFENDANT(S)

LCF 583 (11/00)

CLERK OF COURT

SCRCP APP-24

SCRCP FORM 4 (Revised 5/00)

COMPLAINT

Complaint filed in the Lexington County Circuit Court – June 22, 2012

In The Court of Common Pleas
State of South Carolina
County of Lexington

Raymond Carter PLAINTIFF,	
V	Malicious Prosecution, 1-False Imprisonment Wrongful Conviction, Criminal Conspiracy Wrongful Adjudication to To Civilly Commit To The South Carolina Department of Mental Health 2-False Imprisonment
Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division (SLED), George White, Ex father-in-law, Tammy Carter, (AKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator LDSS, Francis Ross, LDSS, Paulette Jolly, Guardian Ad Litem, In their official and individual capacities, DEFENDANTS.	(Jury Trial Demanded) Case No._____ June 22, 2012

INTRODUCTION

NOW COMES THE PLAINTIFF, swearing that all information and documentation provided, herewithin, have been verified or testified as being true. All dates, entries into journals, logs and blotter reports have been actual documentation either obtained at discovery, during incarceration or after the completion of the criminal sentence served by the Plaintiff. Plaintiff is filing within the statutory confines of the law. Plaintiff suffers a continuing wrong. The Plaintiff will show the Defendants did willfully, wantonly and with malice wrongfully prosecute, convict, imprison and were acting in conspiracy against the Plaintiff.

PROCEDURAL HISTORY

Plaintiff pled guilty to 1-count of Attempting or Committing a Lewd or Lascivious Act on a Minor on May 13, 2003. He received the maximum sentence of 15 years. He was originally charged on October 29, 1999 by Irmo Police Department with 1-count of Criminal Sexual Conduct w/minors 1st degree and 2-counts of Attempting or Committing a Lewd or Lascivious Act on a Minor. The Lexington County Solicitors office dropped these charges and direct indicted the Plaintiff with 7-counts of Criminal Sexual Conduct w/minors 1st degree, exposing the Plaintiff to a maximum of 210 years. All charges were dropped for the exchange of the aforementioned plea of the 1-count of Lewd Act. Plaintiff, upon advice of his attorney, was compelled into taking the plea.

On May 8, 2003, Plaintiff filed a Post Conviction Relief application (PCR) in Lexington County claiming ineffective assistance of counsel.

On June 18, 2004, a hearing is called before Honorable Judge William P. Keesley. After learning the consequences of a successful PCR application, Plaintiff voluntarily withdrew his application and the case was denied relief. By winning, Plaintiff would be exposed to the same charges that were dismissed in the plea bargain which consisted of the 7-counts of CSC 1st for a maximum exposure of 210 years.

On July 31, 2007, Plaintiff completed his sentence only to find himself remanded to the custody of Lexington County Sheriff's Department with no new criminal charges, where he was forced against his will to be evaluated whether or not he met the state's criteria of the Sexually Violent Predator Act 44-48-(10-170). Based on the evidence from the plea agreement and the dropped charges, the plaintiff is evaluated under the assumption of the evidence to be true and factual. This Act the Plaintiff is subjected to was a consequence of accepting a plea, however, the consequence was not identified by the judge or any of the Plaintiff's attorneys. He had no knowledge that by taking the plea, he would be exposed to the Act.

On November 3-4, 2008, after sitting in county jail for one year and three months, having committed no crime, Plaintiff was forced into a jury trial to determine if he was a sexually violent predator under the act.

On November 4, 2008, after the judge allowed the jury to go stand in line for hours to vote on the presidential election, the jury found for the state, that based on the evidence provided the Plaintiff met the criteria as a sexually violent predator and was committed to the South Carolina Department of Mental Health (SCDMH) for long-term care, control and treatment.

On June 30. 2011, Plaintiff is again taken to a jury trial per request of the Assistant Attorney General [redacted]le, where Honorable Judge [redacted] stopped the trial, granted the directed verdict motion by the Plaintiff's attorney, proving the state had not met it's burden in the continued commitment of the Plaintiff. The judged then ordered Plaintiff's immediate release.

COUNT I. MALICIOUS PROSECUTION

As to the Defendants [redacted] Solicitor Lexington County and [redacted]l, Deputy Solicitor, Lexington County:

As to the Defendant, [redacted], Solicitor of Lexington Co., SC, and [redacted] Assistant Solicitor of Lexington Co., SC, both Defendant's acted with wanton and willful misconduct which resulted in the wrongful conviction of the Plaintiff.

It is the solicitor's duty to seek justice, not only for any alleged victim, but also the Plaintiff. Willful and wanton misconduct occurs when; "conduct committed with an intentional or reckless disregard of the safety of others, as by failing to exercise ordinary care to prevent a known danger or to *discover* a danger." (Black's Law Dictionary, 2nd Pocket Ed. pg. 450, 2001).

After the case has been submitted from the Irmo Police Department to the Lexington County Solicitor's Office for prosecution, they neither attempted to seek justice, or investigate the claims of the Plaintiff, thus resulting in unfairness and wrongful conviction of the Plaintiff.

Due to the unfairness, the Defendant's acted with improper purpose and without probable cause, and the action resulted from the institution of such a proceeding.

Plaintiff was to belief that his professed innocence would be taken into consideration of the solicitor's office mainly that of the Defendants. However, the Defendants never inquired into the validity of evidence, questioned the material involved or provide a means in which the innocence of the Plaintiff was allowed to be known.

Defendants increased the charges against the Plaintiff, dropping the lesser charges to more serious charges which exposed the Plaintiff to more time which made the attempts of obtaining a jury trial by the Plaintiff more burdensome. The Defendant's concentrated solely on plea bargaining techniques, which ultimately led to the wrongful conviction of the Plaintiff.

The Plaintiff remained in custody at the Lexington County Detention Center (LCDC) from October 29, 1999 until he ultimately plead guilty in May 13, 2002. A jury would never hear this trial.

Specifically, on April 25, 2001, the Defendant [redacted] in the presence of Defendant [redacted]s, her boss, and Honorable Judge [redacted]per B. attended a hearing for the Plaintiff to have a public defender relieved from the case (apparently the public defender was too busy to associate himself with the case) and have new counsel appointed. At that time the Plaintiff had been in the county jail for a year and seven months. This was the Plaintiff's first court appearance. The Defendant's introduced the reason why they believe this would end in a plea deal.

At that hearing the Plaintiff is finally allowed by the judge to enter testimony on the fact that he had not been allowed to make any pleadings and that Plaintiff had been pleading his innocence to anyone who would hear him, but as of yet not on the record.

Plaintiff also entered into record on that date

Case No: 2000-GS-32-490-496
TOR//p.5,ll 8-16

And I was pushed into a statement. At six hours I finally made up a statement and told them, Sir, look, I don't know what to tell you. I've never touched my kids. I don't even know what you're going at.

I told Mr. Young (public defender) if he looks at the statement, he will know that it's been made up because it doesn't even line up with what I've alleged against me.

Plaintiff requested a jury trial to prove his innocence. The Defendant [redacted] while under the direct control of Defendant [redacted] her hearing testimony inserted by the plaintiff that 1) he was not receiving proper legal representation, 2) was entering a plea of not guilty, 3)professing innocence before the judge, 4) identifying that he was indigent had spent over 1 1/2 years in county jail to date without proper legal representation, ignored all issues and went on record directly after Plaintiff made his insertions that:

TOR//p. 8, ll 18 - 25; TOR//p 9, ll 1 - 7

The Court: Solicitor, what's the status of this case? It's a '99 case.

Ms. Carroll: We're prepared to try it. It was our understanding we were going to negotiate a plea. This is a confession case involving three girls under the age of six years old. The defendant has given a full confession admitting to digital penetration. So we were under the understanding that it was going to be a plea, not a trial, but we're prepared to try it.

Plaintiff then received draconian type plea offers for a crime he never committed instead of the solicitor inquiring into the validity of the alleged confession, the totality of circumstances

surrounding how it was obtained or the exculpatory evidence she had in her possession and did not release under Brady, FRCP Rule 5 to the Plaintiff or his attorney.

Defendant [redacted] also refused to read the DSS log entries to verify the evidence in comparison to the alleged confession or what the only one of the alleged victims said. Instead read the alleged confession and did direct indict the Plaintiff with more charges implementing the rest of the Plaintiff's daughters as victims and increasing the charge count, from 1 to 7. Originally, the Irmo Police Department charged Plaintiff with 1-count of CSC 1st and two lewd acts, Defendant [redacted] dropped the two lewd acts and increased the CSC 1st charge count to seven.

The Plaintiff continued with a new attorney who never took the matter of his innocence into full value. To date Plaintiff has professed his innocence in multiple letters to all 4 attorneys he has during this imprisonment. They have all acted only as a listening ear. At one point, the Defendant [redacted] was phoned by the mother of the alleged victims (Defendant [redacted] (AKA [redacted]m) claiming she wanted the charges dropped, wanted nothing more to do with the case, and wanted the Plaintiff released from custody, even after the Defendant Carroll allowed the mother of the alleged victim(s), her mother and father, her brother to flee the state of South Carolina. This phone call was made shortly after the first hearing in which the Plaintiff's mother received a similar call telling her that the Plaintiff would be released soon, as Defendant [redacted] alleged that "if he doesn't take the plea deal, I'll have to release him". Defendant [redacted] ([redacted] had told the solicitor what was mentioned above, and that she finally admitted the truth to the Plaintiff's mother in saying "he's [Plaintiff] never done anything to hurt the girls, all he ever done was give them baths and change their diapers like a father does" and "I don't know what (Defendant [redacted]) got him to say" and "he (Plaintiff) should have never went to DSS on me or about my dad's trailer in the first place, or else he wouldn't be having to deal with this now".

While at a visit with a family friend at the Lexington County Detention Center (LCDC) that same day as these phone calls were made, the Plaintiff's mother came straight to LCDC and told the Plaintiff of the phone call. After the visitation session, Plaintiff then contacts his attorney, [redacted](since disbarred), and told her of the visit and requested the attorney come to LCDC for an attorney visit. This was the first part of May 2001. He never heard back from the attorney again until November 2001 (almost seven months). When the attorney comes to visit Plaintiff, she admits the phones calls were made, however, the one to my mother was only hearsay, but the solicitor's call from the Defendant [redacted] (AKA [redacted]) was factual, however, the attorney told Plaintiff that the "[Defendant] Carroll said it didn't matter what the Defendant [redacted] (AKA [redacted]) told her on the phone, she isn't dropping the charge and is still seeking the maxim sentence on the Lewd Act plea deal".

After these two events, the Plaintiff's nerves are racked, he has been held in LCDC for two years at this point and he continued to sit telling his attorney that "I'm not pleading to something I didn't do", while his attorney kept telling him "you'll just have to admit to what you did was wrong". Plaintiff told his attorney and others that if giving your child a bath or changing their diapers is a crime, then you better get some free space in prison because you'll probably over crowd them to overflowing if you go out and arrest all the other father's who've done the same.

The Defendant [redacted] withheld exculpatory evidence showing that the alleged confession was the product of a 1) custodial interrogation, who 2) the Defendant's [redacted] and [redacted] were aquatinted with the Defendant [redacted] (AKA [redacted]), which involved false arrest/imprisonment with the rotation of these three officer Defendants over a period of almost 5 hours, which the time spent in this custodial interrogation should have been looked into as with the Plaintiff making this insertion that he was coerced into making the alleged confession on the record.

The Defendant Carroll also withheld exculpatory evidence in the fact that she did not disclose in discovery all files pertaining to the gathering of evidence which would have at the least given light to questions concerning the time, date and actual offense alleged. She did not once check to see if the information was valid, accurate or true.

After the Plaintiff was released from custody, Plaintiff was able to secure all DSS records and after three attempts to prove the duration of the time spend in the said custodial interrogation was able to secure documentation from South Carolina Law Enforcement Division (SLED) giving a time, date and place of the polygraph exam turned interrogation session. (See Attachments 1-8).

There was clear and convincing evidence that the Defendants [redacted] and [redacted] should have considered when the marriage of Defendant [redacted] (AKA [redacted]) and Plaintiff separated in May of 1999. As documented, by Lexington County Sheriff's Investigator, quoted by one of the Defendants making the allegations, that there were only two visits (See Attachment 9) with the alleged victim(s) made out to that Gilbert, SC residence, in that time period, where the Defendant [redacted] (AKA [redacted]) separated and move to with her parents, between May of 1999 and October 14 when DSS alleges that the offenses charged allegedly occurred. These visits have been documented as well. Defendant [redacted] ([redacted] sought separation, while Plaintiff was trying to keep the family together. Where is the motive for committing such an act when the time nor the dates alleged are not factual due to the times that Plaintiff was allowed to see his daughters. It's just not conclusive. Defendant [redacted] tried to invoke in her report, that the alleged "doll play" occurred the day after the DSS case changed hands from RCDSS to LDSS.

There was a case worker from Richland County DSS who was working with the children from an earlier incident where the oldest daughter had worn her younger sister's shoes to school causing an abrasion. When this case worker went out to the Irmo, SC residence the first time, the home had not been in order and a treatment plan was designed to get it where it needs to be to

house the children. Plaintiff bought paint, steam cleaner and cleaning supplies to get the house up to standards. Defendant ([redacted]r ([redacted] claims she did all the cleaning but inserts she was working up to 12 hours a day. The case worker, [redacted] now deceased) indicated as documented that the children had been part of her case load since November 1998 until September 1999. Ms[redacted] came out to the Irmo residence where all the family once resided on a home visit in May 1999, one of her last home visits to the Irmo Residence and discovered that the wife, Defendant [redacted] (AKA [redacted]), had in fact separated and indicated on the RDSS log that "Only [Plaintiff] was at home. He said the mother had filed for divorce against him and has taken the children with her to her parents home at Gilbert,...she (is court ordered) lets him visit the children on the weekends. (See Attachment 10). However, there were only the two visits. Plaintiff never found the Defendant [redacted] (AKA [redacted] at home to answer his call to set up visits or either she had something to do or somewhere to go. The Plaintiff only had the two visits.

Due to the conditions of where Defendant [redacted] (AKA [redacted]) had placed the children in, Plaintiff contacted Ms. [redacted]r to let her know he was very concerned about the safety of his children. Ms. [redacted]ade many attempts to visit with the children at that Gilbert, SC location however, as documented, she could not get anyone to answer the phone and when she went out to the residence no was home. This was the exact method Plaintiff was dealing with. Defendant [redacted] AKA [redacted]) was uncooperative with the Plaintiff as well as the caseworker Ms. Dunbar finally had to call the Lexington County Sheriff's Department (LCSD) for them to check on the children.

On August 10, 1999, caseworker Dunbar from RCDSS is finally allowed to participate in a homevisit with the children. She documents that the environment is identical as what the Plaintiff had told her. She indicates on her notes "Case manager participated in home visit with (not alleged at this time[children].....[Defendant [redacted] AKA [redacted]'s brother John White was staying with the girls. He said [Defendant [redacted] was at work; he had no way of

calling her, the girls are staying in the living room of the trailer, they are sleeping on the couches...they are dirty and demanding my attention". (See Attachment 11).

On or around August 12, 1999, Ms [redacted] receives confirmation that a visit from the LCSD had been made to the Gilbert residence. After making new contact with the Defendant [redacted] (AKA [redacted]m) at the Gilbert residence, Ms. [redacted] was able to follow up on the concerns about the children's safety." As documented, she was following up on the Plaintiff's complaint about the conditions at the Gilbert residence, which was included but not limited to excessive junk cars in the yard, welding rods of various lengths, power tools plugged in, no hot water heater, no oven or stove to prepare meals for the children, clothes lying all over the floor and a bathtub full of dirty clothes and unclean due in fact the Defendant [redacted]r (AKA [redacted] [redacted])'s family rarely bathed and did not bathe the children or clean them. These were the conditions through out this 1970's model trailer, all three children sleeping in a bed the size of a cot ant other conditions not suitable for these children ages 6, 3, and 2.

Ms. [redacted]r indicated three times over a period of 10 months that the three children had never been physically, sexually or mentally abused by either parent. (See Attachment 12)

She indicates to the Plaintiff that because of the children moving out there to Gilbert that she will try to transfer the case to Lexington County DSS.(See Attachment 13 - 16)

Also on this visit to the Gilbert residence where Defendant [redacted] AKA [redacted] [redacted] had taken the children, Ms. [redacted] made complete notes of the place. She has indicated that Defendant [redacted] (AKA [redacted]) would not sign a treatment plan, would not find time to let case worker visit and would not cooperate with case worker. Ms. [redacted] RCDSS indicates in her report that she had to get the LCSD to go to the location to check on the children. What she soon discovered was that the Defendant [redacted] (AKA [redacted]) had done is in fact left the three children in a camper with only a mattress and no water all day. The Defendant [redacted]s brother tells case worker he has no way to reach the mother (Defendant

[redacted]) and no way to call her, in case of an emergency involving the children. (See also Attachments 13 - 16)

Sometime around a month later, with no visitations with the children, Plaintiff is told that Ms. [redacted] is working on getting the Plaintiff's visits set up. She indicates a treatment plan on September 22, 1999 and will try to transfer the case from RCDSS to LCDSS for the residence out in Gilbert, which Plaintiff had no control over and was in fact told later by the LCDSS that Plaintiff "should not be concerned with your children" (Defendant [redacted] AKA [redacted] had originally asked the LDSS to contact the RDSS to verify the complaint, which was founded and a treatment plan drafted by Ms. [redacted] which was signed by the Plaintiff and however the Defendant [redacted] refused to sign until the case is transferred.

Defendant ([redacted]) refused to work with Ms. [redacted] as documented and the case was transferred to LDSS on or around September 27, 1999. Also, this was the last home visit with the children indicating in her log "the girls are staying in the living room of the trailer, they are sleeping on the couch, they are dirty and demanding my attention."

On September 22, 1999, case worker Ms. [redacted] mails copies of the treatment plan that Plaintiff had already agreed to and signed. (See Attachments 17 - 18).

The Defendant [redacted] and [redacted] had all this information in their case file and failed to respond to it or take it into consideration.

On September 23, 1999, case worker [redacted] RCDSS was making effort to have the case transferred to LCDSS and told Plaintiff to follow up with treatment plan and transfer with them. The Plaintiff physically went to LCDSS to complain that he was not getting his visits with the children, the conditions of the environment Defendant [redacted] (AKA [redacted] had placed the children in which was a dangerous environment. Sometime during that visit to LCDSS, S. Walker identified that Plaintiff was at the office. However, she indicated that she was trying to set up a conference call with Ms. [redacted] of RCDSS and that Plaintiff left the office. Plaintiff did leave the office after almost 3 hours of waiting to speak with someone and no

one in the waiting room. A call was eventually made and was transferred to the Plaintiff's home with [redacted] and RCDSS case worker [redacted].

Plaintiff had spoke to Defendant [redacted]r (AKA [redacted]) on the phone between the visit to LCDSS and the phone call from RCDSS/LCDSS. Ms. [redacted] indicated that Plaintiff had told her that Defendant [redacted] (AKA [redacted]) would not cooperate with caseworkers", " would not sign a treatment plan" and "no one is going to tell me or my family what the hell I have to do". (See Attachment 19 - 21). So on or about September 23, 1999, Ms. Dunbar from RCDSS and a case worker from LCDSS schedule a home visit to talk with Defendant [redacted].

October 5, 1999, Defendant Caseworker from LDSS [redacted] makes an initial home visit and indicates the case has been transferred. (See Attachment 22 - 23), and now indicates, but doesn't complete this form that there is "allegations of .....(blank)" in the first part of this form noted as "Current Situation".

This first visit to the Gilbert residence continuing on a typed document from LCDSS observes there is "no odor observed, ...children looked neat and out going".....however she indicates "there is not hot water heater and the numerous junk cars in the yard" owned by Mr. [redacted] of [redacted] of [redacted], a family member of Defendant [redacted]. Pretty much a rehash of what was already known and indicated by RCDSS Ms. [redacted] However, now indicates allegations of abuse. (See Attachment 22).

On October 22, 1999, out of desperation to have a continuing relationship with his daughters, Plaintiff called LCDSS complaining about his visitation privileges with the children which LCDSS indicates as the last time was "2 months" prior, which lasted for 2 1/2 hours. (See Attachment 24).

In another official summary by Defendant [redacted]PD, he indicates on "10/20/99 that there has been no verification of neglect. (See Attachment 25). He continues specifying that the alleged victim had disclosed three times. Once to the maternal grandparent Defendant [redacted]

[redacted] once to Defendant [redacted] deceased) (2nd) then to a Ms. [redacted]ll at the Children's Center. Defendant [redacted] (AKA [redacted]) now tells investigator that the Plaintiff and her split up in May through June.1999 (also Attachment 22). While referring back to LCSD Inv. [redacted] report directly from Defendant [redacted] (AKA [redacted]) they separated in July. (See again Attachment 9).

The truth of the case is that the Plaintiff never sexually, physically or mentally abused his daughters, or any body's daughter. The Defendants allow either the alleged victim's advocates to just support the Defendant [redacted] and chose to retell her lies without adequately checking the facts of the case.

On the count of Malicious Prosecution by the Defendant's [redacted] nd [redacted] both did give to deliberate intent without justification or excuse and therefore committed a wrongful act. They acted individually and under color of the state in their official capacity. They acted with willful and wanton misconduct as such incurred ; "conduct committed with an intentional or reckless disregard of the safety of others, as by failing to exercise ordinary care to prevent a known danger or to *discover* a danger." (Black's Law Dictionary, 2nd Pocket Ed. pg. 450, 2001). When Defendant's acted by stepping out of their role as prosecutors and begin running the criminal investigation, immunity is therefore dissolved and Defendants should be held liable both in their official and individual capacities.

COUNT II. FALSE IMPRISONMENT

As to the DEFENDANTS: [redacted] and [redacted] both of Irmo Police Department (IPD) and [redacted] Polygraph Examiner, South Carolina Law Enforcement Division (SLED)

As to the Defendants [redacted] both of the IPD and [redacted] of SLED, acted with wanton and willful misconduct and did of their own free will falsely arrest and imprison the Plaintiff.

On Monday, October 25, 1999, Defendants [redacted]k and [redacted] both of the IPD approached the Plaintiff who at that time was residing at Jake's Landing in Lexington County, out of their jurisdiction and offered Plaintiff to commit to take a polygraph test to "clear your name" from the allegations transferred to them from the LCSD Investigator [redacted] and Lexington County Department of Social Services (LDSS), Defendant [redacted] AKA [redacted]

After the plaintiff conveyed this information to his father, he agreed with the Plaintiff wanting to clear his name and agreed it was a good idea to do so if they are offering the opportunity to take the polygraph.

With confidence of clearing his name, on Wednesday, October 27, 1999, Plaintiff is met by officer [redacted] IPD at 08:00 am and leads with Plaintiff behind in his vehicle to SLED. Upon arrival, Defendant [redacted] escorts Plaintiff in a building located on the left side facing SLED on Broad River Rd, Columbia, SC, enters the door, and takes an immediate right to a "bank teller type window, with green/clear tinted glass and a push-out drawer with a log in journal of sorts in it". Defendant [redacted]s both himself and Plaintiff in. As soon as he finishes, he directs Plaintiff to a door adjacent to this large window. This door is locked and he has to press a button to get it unlocked. Once opened, Defendant [redacted] and Plaintiff go down this hallway. Then, go to another door, press another button, and Plaintiff and Defendant [redacted] re confronted with another "bank teller type window". Again, Defendant [redacted] "signs in" with Plaintiff listed as suspect or the likes. Surely there had to be a reason why Defendant [redacted] was there in order to sign in.

Both these sign-in/sign-out sheets have not been allowed to be obtained, only the testing results with time and date. It is now approximately 08:40 am. The Defendant [redacted] and Plaintiff then approach another door in this doctor's office type waiting area with chairs, and again the button has to be pushed to unlock the door. Defendant [redacted] and Plaintiff then go down a long hall way with an estimate of 10 doors, 5 on each side to the last door at the end on the left hand side.

Plaintiff at this time is confused at where he is, or how to get out, or where to go if he wanted out. When in this room, Plaintiff notices a computer, while all the other rooms have a polygraph machine as those seen on TV. Plaintiff is now introduced to Defendants [redacted] and [redacted]. Defendant [redacted] is identified as the "Polygraph Examiner".

The Polygraph examination begins around 09:00 am after Plaintiff is strapped in with multiple wires across the chest and another few wires linked to the fingers attached to this computer, and some sample questions are asked. Plaintiff is then told to look forward and don't move. Plaintiff didn't move his head, but constantly shifted his eyes to see what Defendant [redacted]n was doing. While this test is being administered, Defendant[redacted] and [redacted]o to the attaching room where there is a two-way mirror and are looking at Plaintiff. After the questions are finished, and Plaintiff is told once more to stay still, Defendant [redacted]ets up and says "remember when we started this test that if you pass you'll be free to go?" , Plaintiff answers in the affirmative, then Defendant says "do you also remember that I said if you didn't pass it things would go down hill"? Plaintiff again response in the affirmative. The Defendant [redacted]n says "well, things are going to go down hill from this point". Plaintiff asked if he passed the polygraph with confidence it would clear his name, instead Defendant [redacted] responds "you failed worst than I've seen my whole 16 years of administering the polygraph test".

At that time, Defendants [redacted]steps out of the room and about 5 minutes later re-enters with Defendants[redacted]and [redacted] Defendant [redacted]ells Plaintiff that he "knows [Plaintiff] is trying to beat the system". My question assumed later was "why did he say that if Plaintiff allegedly failed the test"?

Defendant [redacted]and [redacted] begin a back in forth routine confusing the Plaintiff stating, "you might as well tell us what you done, we know your wife (Plaintiff's ex-wife Defendant [redacted]) worked at the then; [redacted] in Irmo, approximately 0.29 miles from the IPD roughly a block and a half as indicated on (Attachment 26)) and she doesn't

lie", and " it's ok to tell us, we won't think no different of you", and "you aren't the first one that's ever done this, go ahead and tell us what you did".

Over the course of the polygraph exam turned interrogation, Plaintiff asked for attorney numerous of times, and was denied numerous time by all three Defendants. On one attempt to obtain an attorney, Plaintiff is told by Defendant [redacted] harshly that "you don't need an attorney" and "this is a family court case you won't be facing any time." Defendant [redacted] told [redacted] "this is a family court issue and you'll probably get some counseling".

So was the first hour. Around 10:35 am, Plaintiff again ask for an attorney and is refused. Plaintiff asked for a trip to the bathroom, numerous times and was denied. Plaintiff asked to use the phone as he had a dinner date with his mother, father and sister who resided with the Plaintiff's family until they separated and was there to care for the children when the Plaintiff and Defendant [redacted] were working, the phone call was denied.

All three Defendants continued drilling the Plaintiff without stop. Calling him all sorts of names, now changing the story that "if you don't tell us what you did, you're looking at least 30 years in prison". "You better tell us what you did, now!" The Plaintiff continued inserting that he had "did nothing to [his] children" and "I don't know what you're talking about".

Plaintiff at the time of the alleged confession, Plaintiff had just worked from 23:00 p.m. to 03:00 am 5 days a week at the Pantry on US 76 in Irmo, SC. He also worked part-time at the BiLo grocer chain about 4 miles further down the road. He carried a newspaper route 7 days a week and delivered the Carolina Trader once a week. When Plaintiff came to meet Defendant [redacted] he had believed he would clear his name and would be able to go home and get some sleep until it was time for his dinner engagement. Plaintiff had been drinking heavily during this time and had alcohol in his system. When Plaintiff met with Defendant [redacted] go to SLED to take the polygraph test, he only had, had a short 2 hour nap, and had drank 3 beers beforehand. as also indicated in (Attachments 1 - 8)

Proceeding with the polygraph turned interrogation session, the Plaintiff became over whelmed by the stress and the denial of an attorney, a break to smoke (in which Plaintiff was a heavy smoker at that time), anything to eat or drink, the use of the telephone, or use of the restroom to relieve himself.

Around 11:00 am, the Defendants turned on the heat and started yelling at Plaintiff. Finally, Plaintiff referred to the only times he had ever had any contact with his children and that was when he gave them baths or changed their diapers. Then, once revealing this, all three Defendants started implicating that the Plaintiff must have done something to the alleged victim then. "What did you do when you washed your children"? Plaintiff then tells them that while washing his daughter he had to wash them between the legs. Plaintiff also inserted that when he changed the alleged victims diapers, he had to use a "wet-one" to wipe in-between her legs too. Defendant [redacted] pushes further, making up some version of what Plaintiff later finds out to be the allegations, "well, when you give them a bath, did you touch them down there while bathing them say about the tip of your finger". Plaintiff responded with "I guess". Defendant Stephenson ask Plaintiff "did you ever get into the bath tub with your daughter", I told him once when she was an infant, the same way they show in the "Lever 2000" commercial on TV where the father is in the bathtub with his infant daughter. Defendant [redacted] shouts "that's not what you know you did, no tell us or you'll be going to prison the rest of your life!"

From that point on, the Plaintiff feels helpless, tired frustrated. The Plaintiff feels that every effort to claim he didn't commit this offense against his daughter and at one point told the officers to give him the trash can because he was going to throw up from what the Defendants were trying to implicate the Plaintiff did towards his own daughter. He is continuously called a liar and many references are made to them "knowing your wife ([redacted]h) and she doesn't lie".

Plaintiff becomes paralyzed by shock and disbelief that the woman (Defendant [redacted] AKA [redacted]m) he once loved and tried so desperately to save his marriage too, could

perpetrate such a horrible lie. It is known that women who are in a divorce/child custody battle, who perpetrates false allegations against a spouse are malicious and disturbed. She had motive and she acted on vendetta because the Plaintiff called DSS to complain about the safety and well being of his children as Defendant [redacted](AKA [redacted]) believed she was going to loose the children to the Plaintiff which was not the Plaintiff's intention at all.

Around 12:15 p.m., Plaintiff is now being told about what has allegedly been said that the Plaintiff was supposed to have done and making up other statements. "Did you stick your finger down there", "was it fun" , "did you enjoy it", and on and on. Plaintiff was hungry, tired, sleepy, exhausted, humiliated, frustrated and in need of a restroom and smoke break. Plaintiff had never been in a situation ever in his life that was so intense. Plaintiff was naive to his rights at the time, and wanted to say anything to get out of the situation he was in.

Around 13:00 p.m., Plaintiff finally agrees to tell them what they believed happened in the course of giving his daughter a bath. The Defendants at one point asked Plaintiff if he had done the same to the other two alleged victims which had not even been mentioned at this point and would Plaintiff give a written statement based on this information?

After 4hours restricted to a chair to take a polygraph, Defendant [redacted] finally removes the chest belts and finger couplings that were on the Plaintiff from the polygraph computer. (Example; See Attachment 31) they move into a room adjacent to the one they were in. This room had the type of polygraph machine you see on TV with the graph pens and paper. Defendant [redacted] ushes a piece of paper in front of the Plaintiff and tell him to "put your initial by each of those and sign it at the bottom indicating you've been read your rights". Plaintiff later finds out this was a "Waiver of Rights" form. (See Attachment 27, signed at 13:00 pm)

Around 13:10 p.m., after once again getting confirmation from the Plaintiff that he will make a statement, Defendant [redacted] goes out of the room and returns with some other papers. These turn out to be the papers the alleged confession would be made on. Defendant [redacted] puts them in front of the Plaintiff, and as anyone can see with the various styles of writing, Plaintiff

had to be stopped several times to ask Defendant [redacted] what do write down next. Grossly perverting the Plaintiff's once parental duties. He is told to also include the other two [redacted] children and if he did the same. Defendant [redacted] asks questions like, "when your daughter was in the bath tub with you, did she ever come in contact with your penis"? Also, he asked "what about anywhere else in the house, did you possibly touch them there too"? "Put that down on there too".

Around 13:30 p.m., Plaintiff slides the statement over to Defendant [redacted] Defendant [redacted] reads the statement and tells Plaintiff to indicate that Plaintiff "didn't know what made him do these things". As the Plaintiff completed this sentence and instructed to add that he never "meant to harm the children", Defendant [redacted] snatches the papers away from the Plaintiff and says "that isn't enough, now I'm going to ask you some more questions and you'd better tell me what I want to hear". In his own writing Defendant [redacted] adds Q & A type questions. (See Attachment 28 - 30) The Plaintiff can't see what he is writing, and later discovers that all the NO answered questions are just that, while all the others which he also answered in the negative, had YES answers followed by explanations of the answers by Defendant [redacted] When Defendant [redacted] finished, he told the Plaintiff to initial and sign each page.

At 13:45pm, Plaintiff signs the pages and is told he can leave. Plaintiff is relieved that he can go to the bathroom more than anything. When exiting the building, escorted back out by Defendant [redacted] through this "maze", Plaintiff is asked where he will be at 3pm on Friday, October 29, 1999. Plaintiff tells Defendant [redacted] that he will be a the SCDOT taking his Hazardous Material endorsement for his CDL license. He said, "well as soon as you're done, we need you to come to the IPD and turn yourself in". Plaintiff asked Defendant [redacted] "why, I thought you said this would be a family court matter and I'd only get some counseling if I gave that statement". [redacted] replied, "you know what you did and you're going to get some serious time for molesting your children. They don't take lightly to your kind in prison either" "you'll probably get killed while you're in there too".

If the court would address it's attention to the Attachments 1-8 and Attachments 24 -27, you can clearly see where once they got the statement coerced out of Plaintiff, they tried to make it look as if the polygraph was given one day and the statement on another day. You'll also see where they tried to make it look like I gave a statement to them over the course of 45 minutes. The court can see where the dates were scratched out, and then changed back to the original date. Some actually have the day before's date and were changed to correspond with the date of the polygraph exam, making the statement to have been given on a different day. Let the Court be advised the polygraph exam and the interrogation were on the same day from 9:00 am - about 2:30 pm when Plaintiff is finally allowed to leave.. You'll see this evidence tampering on both the polygraph paper work and the Waiver of Rights.

There were 2 readings of Miranda. One before the polygraph, which Plaintiff acknowledged he had been read his rights and would answer the questions on the polygraph, and one at 13:00 p.m.. After all the coercive techniques applied to the Plaintiff, it appears as if the alleged confession was made in a matter of 45 minutes as the Statement is signed at 13:45 p.m.. This was the amount of time to rehash what Defendants had told Plaintiff to say, how to write it down, then taken over by Defendant [redacted] who amended it.

False Imprisonment is "a restraint of a person in a bounded area without justification or consent" (Black's Law Dictionary, 2nd Pocket Ed. 2001). When Defendant's held Plaintiff incommunicado for over an 4 hours, restrained to a polygraph examiner's chair by the belts around Plaintiff's chest, told not to move, that he could not have a lawyer, nothing to eat, nothing to drink, no phone calls, no contact with the outside by phone or in person, threatening lengthy prison sentences, promises of leniency and disregard for the Plaintiff's safety or concern of danger the Defendant's were able to coerce the Plaintiff into giving this false statement. While the Plaintiff was in their custody against his will, without warrant or under arrest, this implicated false imprisonment. This atmosphere created the signing of a Waiver of Rights which was not

willingly or knowingly signed, and produced an alleged confession which was involuntary by coercion and false.

On the Polygraph paper work, it is dated correctly. On the Statement the date has been written over. On the Waiver of Rights, the date has also been written over.

On the count of False Imprisonment by the Defendant's [redacted] and [redacted] all three Defendants did give to deliberate intent without justification or excuse and therefore committed a wrongful act. They acted with willful and wanton misconduct as such incurred ; "conduct committed with an intentional or reckless disregard of the safety of others, as by failing to exercise ordinary care to prevent a known danger or to *discover* a danger." (Black's Law Dictionary, 2nd Pocket Ed. pg. 450, 2001). All three Defendants acted without regard for the Plaintiff's inserted rights, did coerce a confession from the Plaintiff that was false, and did knowingly turn this known false, coerced confession over to the Lexington County Solicitor's office as evidence in which to prosecute the Plaintiff. After this evidence was submitted, the LDSS concluded it's case, and every effort was made by the Lexington County Solicitor's office to get a conviction based solely on this coerced, false confession.

COUNT III. WRONGFUL CONVICTION

As to the DEFENDANTS, [redacted] Solicitor, Lexington County, [redacted] Asst. Solicitor, Lexington County, [redacted] and [redacted] both of Irmo Police Department (IPD) [redacted]n, Polygraph Examiner, South Carolina Law Enforcement Division (SLED), [redacted]lle ([redacted]) and [redacted] both of the Lexington County DSS.

As to these Defendants, all acted with wanton and willful misconduct and did of their own free will Wrongfully Convict or provided evidence which procured a Wrongful Conviction of the Plaintiff.

The Plaintiff files for a remedy in this case and is free to attack a conviction after serving the sentence Defendant's so vehemently persued. Plaintiff is no longer in custody and seeks a remedy for the continued suffering of lingering collateral consequences of the unlawful and or

unconstitutional conviction based on errors of fact and egregious legal areas. There is a great need for justice in this case.

The Defendants did deprive Plaintiff of due process of law in which his conviction was founded in whole or in part upon an involuntary confession, without regard to truth or falsity of confession even though there may have been other false evidence aside from the confession that may have shed light on a conviction.

The Defendant's acted under color of the state and acted individually, maliciously to gain a conviction against the Plaintiff. The connections, associations, family ties and acquaintances influenced the Defendants [redacted] and [redacted] to act to procure a wrongful conviction.

The Defendant's must obey the laws while enforcing law, that, in the end, life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals from criminals themself.

The Plaintiff who had requested the presence of counsel cannot be questioned concerning any crime, not just the one that has him in custody. There is the Edward's Presumption that is applicable to this case "that the subsequent waiver of counsel following [Plaintiff's] prior, multiple request for assistance of counsel is involuntary focuses on [Plaintiff's] state of mind not that of the Defendants. Once the Plaintiff asked for assistance of counsel, it is presumed that any subsequent waiver that has come at the Defendant's behest, and not of the Plaintiff's own instigation is itself product of inherently compelling pressures of custodial interrogation and not purely voluntary choice of Plaintiff. Defendant's [redacted] and [redacted], never allowed the Plaintiff a chance to believe, although Plaintiff inserted numerous times, what he was trying to tell them when confronted with the allegation and that was the Plaintiff never did any of those things alleged to his children or anybody's children.

If at anytime the Defendant's seek to introduce the Plaintiff's alleged confession into evidence, the court is charged with making an initial determination as to it's validity. The Defendant's [redacted] and [redacted] failed to inform Plaintiff or Plaintiff's counsel that Plaintiff's

statement may have been involuntary by the Edward's Presumption and if so would render any statement inadmissible at trial was deficient performance by the Defendant's and Defendant was prejudiced before the judge. If Plaintiff knew about this or Plaintiff's attorney knew, he would have insisted on going to trial to challenge the allegations and would not have pled guilty. This was the insertion listed above in the record of transcript in which Defendant [redacted] in front of Defendant [redacted] stated "..this is a confession case"..."[Plaintiff] made a full confession".

According to the Fifth Amendment to the constitution, a right to have an attorney present does not attach until person is in custody and subjected to interrogation. Plaintiff was in custody and subjected to interrogation and between the hours of 09:30 am - 13:45, (actual time in direct contact with defendants was from 08:30 am - 14:25 pm) October 29, 1999 and did ask for assistance of attorney numerous times, and was denied. This incustodial interrogation produced an involuntary statement. One that was also false and the Plaintiff's alleged confession contained the only evidence from which his guilty knowledge could be inferred in a trial.

Plaintiff denied having committed the alleged offense to Defendants [redacted] (AKA [redacted] and [redacted] both of Lexington County Department of Social Services multiple times.

Plaintiff denied the allegations during the polygraph administered by Defendant [redacted]

Plaintiff denied the allegations to Defendant's [redacted] and [redacted]n, both of Irmo Police Department multiple times.

Plaintiff denied the allegations to Defendant [redacted]n of South Carolina Law Enforcement Division multiple times.

Plaintiff made a pleading in front of Honorable Judge [redacted]n the record denying all the charges against Plaintiff.

Plaintiff denied allegations to Honorable Judge [redacted] a debauched attempt to plea guilty on March 22, 2002.

Plaintiff denied the allegations to Honorable [redacted].

Plaintiff denied the allegations to the [redacted].

Plaintiff denied the allegations to then [redacted]

Plaintiff, in numerous letters, to four different attorneys associated with the case, denied the allegations against him and professed his innocence as well as he had been forced by coercive techniques to make a false statement, coached by and at the behest of Defendants [redacted] and [redacted]

The Defendant's did violate laws by-passing state procedures in which they failed to protect the rights of the Plaintiff to be free of a conviction for a crime that was never committed. The Defendant's failed the Plaintiff at all stages of the proceedings and did maliciously move forward to convict on the whole or part of an alleged confession, one of which had 5 of the Defendants aquatinted with the persons who made false allegation [redacted] AKA [redacted], while the entire time Plaintiff maintained his innocence. Because of this knowledge, the Plaintiff was doomed from the moment he stepped into the polygraph room, located deep inside of SLED.

As to the count of Wrongful Conviction by the Defendants [redacted] all seven Defendants did give to deliberate intent without justification or excuse and therefore committed an unlawful act by proceeding to wrongfully convict the Plaintiff. They acted with willful and wanton misconduct as such incurred ; "conduct committed with an intentional or reckless disregard of the safety of others, as by failing to exercise ordinary care to prevent a known danger or to *discover* a danger." (Black's Law Dictionary, 2nd Pocket Ed. pg. 450, 2001).

COUNT IV CRIMINAL CONSPIRACY

As to the Defendants [redacted]

As to these Defendants, did, with malicious intent to cause great bodily harm, acted conspiratorially, by accusing the Plaintiff falsely.

Conspiracy is defined as "an agreement by two or more persons to commit an unlawful act; a combination for an unlawful purpose". (Black's Law Dictionary, 2nd Pocket Ed, 2001).

During the time the allegations were presented, it is known by Richland County caseworker Josie Dunbar that the Plaintiff's ex-wife, Defendant [redacted] had moved out from the family residence where all resided until the first week of May 1999.

The allegations were presented on October 5, 1999 to a [redacted] and October 7, 1999 to [redacted] both of LDSS. However, it is also in documentation that the allegations first were told to Defendant [redacted] a Guardian Ad Litem and a direct link to the LCDSS as indicated in record as a "friend of the family".

Ms. [redacted] with RDSS, had been working with the children from November of 1998 on a regular home visit basis until the case is transferred to LCDSS September 22, 1999.

All three of the alleged victims were questioned privately and observed as whether or not they were physically, sexually or mentally abused. On all three instances, on all three of the alleged victims, the result was the same; there were no signs or observation indicating they were ever physically, sexually or mentally abused.

Around the month of April of 1999, Plaintiff made several calls to the IPD complaining that his was argumentative, uncooperative and neglective of her husband (the Plaintiff) and the alleged victims. Some time later in the month of April, Defendant [redacted] decided she wasn't coming home from work at the Texaco Pit Stop in Irmo, just a block and a half from the IPD. When finally arrived after mid-night, she starts an argument with Plaintiff, and after information pertaining to his wife's infidelity, Plaintiff began putting Defendant [redacted] belongings on the porch. Defendant [redacted] called the IPD and complained that her husband was arguing with her because she was not spending time with him or the alleged victim and that Plaintiff's sister was having to play the role of the mother to them.

Plaintiff's sister (now deceased) live with the Plaintiff and his family until the wife separated as she knew the Plaintiff would have to move out of the family home as being unable to financially afford the dwelling. The Plaintiff's sister watched the girls often times all day when he had to work the multiple jobs he did. Many times when the Plaintiff and his sister went grocery shopping the Plaintiff was confronted if his sister was his new wife and inquired if the Plaintiff had divorced his wife, Defendant [redacted]. So up until Defendant [redacted] issued her complaint for separation, there was no time that Plaintiff was ever along totally with his three children. Ever. Testimony is expected of the Plaintiff's sister's daughter to about the residence her mother was staying until Plaintiff moved out of the Irmo residence. Further investigation of records at [redacted] will also prove her address during that time period as well as when the Defendant [redacted] worked at the Pit Stop within a block of IPD.

It is apparent now to the Plaintiff, that a person can not be afforded or appointed counsel in legal proceeding in Divorce if there are no complaints of abuse. While the police were at the Plaintiff's residence that night Defendant [redacted] called, the told the Plaintiff to get to the house, they wanted to speak with the Defendant [redacted] personally. When Plaintiff tried to move in, officers drew their service pistol and threatened the Plaintiff to go in the house or they would arrest Plaintiff. This while holding a 18 month old baby in his arms comforting her because her mother was yelling at all of the family. Plaintiff believes these IPD officers we're telling her she knows what to do, because without saying anything else to Plaintiff, while he waited on the porch, they all laughed got into their crusiers and drove off. It's as if they were waiting for the call to begin with as when she called, the officers were there by the time the Plaintiff went to the front door of the home to light a cigarette. Seemed like Something was already in the makings.

After they left, the next morning the Defendant [redacted] took the alleged victims and her belonging and moved in with her parents, Defendant [redacted] and [redacted]

[redacted] her brother [redacted] who is mildly retarded, (age association) and sexually aggressive toward children stating once that "[Plaintiff's daughter] will never marry anyone else but me, she's mine". Further gathering of records could prove the night of the officer's visit and with the Defendant [redacted] (AKA [redacted]) leaving the next morning would pin point exactly when she moved and separated from Plaintiff.

After Defendant [redacted] AKA [redacted]) moved out to her mother, Plaintiff, even after an order was signed by the judge granting weekly weekend visits had to go out to the Gilbert residence to see his children, the alleged victims. This from May 1999 - until his arrested for the alleged offenses against his daughter in October of 1999. Both visits which are documented. Plaintiff was making phone calls, driving almost 60 miles round trip and trying to catch the mother at her work place to set up a time to see the children. Phone calls were unanswered when Plaintiff drove out to the Defendan[redacted]'s parents residence, no one was home. Just before the allegations were made, the Plaintiff was going to go to the judge and ask about the enforcement of his visitation privileges. Plaintiff later contacted Judge [redacted] with this same request based on the visitation allowed after he was accused of this telling the judge that he couldn't have committed this offense as he hasn't had a chance to visit with the girls but twice. The certified return receipt requested letter, shows that the judges office received the letter and will be presented at trial.

Because the Plaintiff had tried to reconciliate the marriage while visiting with Defendant [redacted] (AKA [redacted]), she had told her family and her IPD acquaintances that the Plaintiff was bothering her and wouldn't leave her alone. A simple 5 - 15 minute visit with the Defendant [redacted] (AKA [redacted] loved a failure and the Plaintiff was denied visiting with the alleged victims.

Defendant [redacted] AKA [redacted] am), had a family friend that was a Guardian Ad Litem who lived in the Gilbert area where her parents and brother lived where she now lived with the alleged victims. the family friend Defendant [redacted] (now deceased) was a direct

familial link with a Mr. [redacted]f an auto salvage on Augusta Highway in Gilbert. The same Mr. [redacted]ad several junked cars that were at the Gilbert residence where Defendant [redacted] [redacted]as suppose to try to repair them for him. These junk cars are noted several times in the documents of both RCDSS and LCDSS's findings of negligence at that residence along with many other items making this dwelling, an old run down trailer unfit for the alleged victims to live. Eventually, the Defendant [redacted]) was given a directive from LCDSS to find another location to take the girls that was more suitable for their safety, what in which the complaintive first identified to RCDSS, months before any abuse allegations were made.

The Defendant [redacted]y is listed as the first person of authority to be informed about the sex abuse allegations of just one of the alleged of three victims. However, this is incorrect. When Defendant [redacted](AKA [redacted]h) was asked was there any other abuse that she knew of, she stated in the negative. On the contrary. Defendant [redacted] representative of the court, should have reported the alleged abuse herself, and instead instructs the Defendant [redacted](AKA [redacted]m) on how and where she needs to report the alleged abuse. (See Attachment 32), where it is also added that there was hesitation on the part of Defendant [redacted] (AKA [redacted]m) as she noted her car was tore up, when in fact the family had over 5 vehicles that would work.

Also, referring to the Defendant [redacted]AKA [redacted]ontacting the IPD as earlier mentioned, Plaintiff finds that she has been appointed an attorney. This attorney in May of 1999, drafts a separation order (See Attachment 33) stating that the Plaintiff had been harassing, sexually abusing and interfering toward her and the children and that she would get everything in the marital assets and that the Plaintiff would get nothing. The Plaintiff contacts the attorney shortly after this motion (Notice of Motion and Motion 99-DR-32-1244, also identified here as Attachment 33) had been filed, the first week of June 1999, and tells him that he had not been abusive to anyone and if anyone was being abused it was [the Plaintiff] and the alleged victims by not having a wife or mother around and being forced to not having their father

around.. Instead the Defendant [redacted] (AKA [redacted] m) was "at work" from 5am - 1am the next morning, while Plaintiff's sister played mother to these innocent children.

Sometime in June, the Plaintiff is served with a revised separation order, one that the attorney states is a more "truer picture", that the Defendant [redacted] (AKA [redacted]) "had to claim abuse in order to get me appointed to help her with the divorce". In this second order there is no mention of abuse of any kind. Marital assets are to go to the Plaintiff, and that they would only split the medical cost of the children. So, it is now known that the Defendant [redacted] (AKA [redacted] m) plan was to set the Plaintiff up for sexual abuse all along. This proves malice aforethought. She claims there was no other time that this instance occurred with the doll play or had any other abuse to the victims ever been noted, documented or observed.

Plaintiff believes that the Defendant [redacted] KA [redacted]) would eventually get everything in the marital assests back anyway after she planned to set him up for the sex abuse allegations with her friends and acquaintances already in place to make everything work out perfectly as planned.

After Plaintiff continues to inquire into the safety and well being of his children, the alleged victims, and the opportunity to get to visit them from RCDSS. Plaintiff tells about the conditions that the Defendant [redacted] KA [redacted]) places the children in. Plaintiff goes into details about the junk cars, power tools plugged in, no stove or oven to prepare balanced meals with, no hot water heater, 7 people living in a trailer where the smallest of 2 bedrooms are smaller than a prison cell, and the clothes all over the floor, the bath tub over flowing with dirty clothes, the stench of the place, bugs, rats, feces and urine, with roach egg casings, family not bathing or wearing clean clothes, Ms. [redacted] RCDSS concluded that these conditions initiating a treatment plan identifying the items exactly as the Plaintiff had complained of and "needing [her] assistance".

Defendant [redacted] was the first one to allege that the alleged victim (1) had made any comment or action toward anything that had to do with anything the Plaintiff had done

to his children. The Defendant [redacted] told Plaintiff, after learning that Plaintiff had told RCDSS of the conditions at the Gilbert residence, that he would kill him for going to DSS on him in one of two of the visits the Plaintiff finally was allowed to visit his children out there. Plaintiff had never seen Defendant [redacted] furious. At one point his wife [redacted] was restraining him holding him back from wanting to jump on the Plaintiff and the Plaintiff yelled to his girls that he loved them and would see them later, being compelled to leave.

Shortly after this incident, Plaintiff is informed that the RCDSS was calling the sheriff to the residence to check on the girls. Finally, Ms. [redacted] visits and finds the condition as Plaintiff mentions.

Plaintiff is informed by RCDSS's Ms. [redacted] that she is getting the case transferred to LDSS. Within a day or two the case is transferred and on the first home visit, the caseworker is handed the allegations. Documentation would indicate RCDSS caseworker Ms. [redacted] h the children just days before. Now we have this new caseworker, who I believe is involved and listed as Defendant [redacted] (AKA [redacted]) of DSS. Plaintiff is quite sure there was an acquaintance with her and [redacted] a familial tie. As Defendant [redacted] gins her first home visit, every thing seems in place and not at all as RCDSS case worker [redacted] d reported previously, no negligence, the house is clean, and now we have allegations that the Plaintiff has touch his daughter sexually.

The originality of the allegations came from Defendant [redacted], claiming that the alleged victim had touch a doll with a [writing} pen in the mid-section saying "daddy does this all the time". Some time later the original story changes to daddy touch me with his finger. The story keeps evolving with different clothes, a three year old operating a child-proof lighters or some ignition devise to set the home on fire to burn her father up, etc.

Plaintiff indicates the allegations were the design of the Defendants [redacted] and the Defendant [redacted] AKA [redacted], with Defendant [redacted] assisting the

maneuvering, as everything went strategically in place. Paulette Jolly again indicated in (See Attachment 34

On October 7, 1999 when LCDSS case manager steps in, she over does the allegations and just does everything she can to belittle, slander, and bewilder the Plaintiff. Even after the Plaintiff has been in jail, the Plaintiff's mother called to find out what exactly was her son charged with and when was it suppose to happen. Instead, all Defendant [redacted](AKA [redacted]) can do is tell Plaintiff's mom she raised a monster, and that Keadle told Plaintiff's mom that she "hopes he is killed when he goes to prison.". Later, it is documented that the phone called pretty much proves that Defendant [redacted](AKA [redacted]) is a very unstable individual as she stated the Plaintiff's mother "called her "everything but a child of God: and will never believe her son did this". (See Attachment 35)

Defendant [redacted](AKA [redacted] also tried coercing a statement out of the Plaintiff when he was originally confronted with the allegations. Plaintiff was called into LCDSS from [redacted]AKA [redacted]. Plaintiff met with [redacted]nd she presented the allegations. After being told over and over that the Plaintiff had "molested" his children, the Plaintiff becomes somewhat upset. He bangs his fist on the table and tells Defendant [redacted]o that if she were a man she would get popped in the jaw for saying something like that. However, in her account of the situation, she indicates that "he threatened this case worker beating his head on the table ..very hostile and .....emotionally handicapped". She then exhibits that Plaintiff had no "concern for the children" when in fact the Plaintiff's whole point of being there was to check on the safety and well being of them, nothing else. Keadle also inserts in documentation that Plaintiff "has a very poor concept of reality".(See Attachment 336)

Because they couldn't identify the abuse had occurred out at the Gilbert residence, Defendant [redacted]AKA [redacted], along with Defendant's [redacted] Defendant [redacted] and [redacted]n, then arranged the time and date of the alleged offense so it would back date everything to when the Defendant [redacted]AKA [redacted]) and children were still

living together in the Irmo residence which made for the quite convenience of Defendant [redacted] (AKA, [redacted]'s acquaintances/buddies at the IPD to step in. Now, the Defendant [redacted] (AKA [redacted] couldn't loose. The alleged offense became offenses, and had now occurred in Irmo, SC during the time they were living together. At that time, the oldest daughter was 5, middle daughter just turned three and the youngest, just over 24 months.

As to the count of Criminal Conspiracy by the Defendants Tammy [redacted] AKA [redacted]), [redacted] nd [redacted] and [redacted] AKA [redacted] LCDSS, all three Defendants did give to deliberate intent without justification to act in a criminal, wanton and willful act by conspiring against the Plaintiff with malice aforethought. They acted with willfully and wantonly with intent to cause sever harm to the Plaintiff which could have resulted in death. The charge of conspiracy involves "an agreement between two or more persons to commit an unlawful act that causes damage to a 'person' or property. (Black's Law Dictionary, 2nd Pocket Ed. pg. 450, 2001).

Plaintiff charges that his lost of livelihood, liberty, freedoms and 12 1/2 years of his life due to false imprisonment are damages that these defendant's caused and are most sever.

COUNT V WRONGFUL ADJUDICATION TO COMMIT TO THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH, AND CONTINUING CONSEQUENCES

As to all the Defendants role in this injustice.

All of the Defendants in this injustice played a major part in determining whether or not the Plaintiff was to be considered under the states Sexually Violent Predator Act. All the Defendants acted with willful and wanton action, misconduct and enforcement to assure that a conviction was made with out regard to the Plaintiff's safety, constitutional rights or protect him from the threat of danger, or find such a danger which may risk the Plaintiff's right to be free from prosecution of a crime he did not commit.

The Defendant's actions, misconduct and enforcement, secured a conviction which, without the knowledge of the Plaintiff, where he would, after 2 years 7 months and 19 days in

county detention would have continued to insist on a trial to prove his innocence. The state's Sexually Violent Predator Act was enacted because a group of "dangerously violent sex offenders" exist that the need to be civilly committed to indefinite "control, care and treatment" in a secure facility.

The actions, misconduct and enforcement of all the Defendant's induced a conviction that became under scrutiny of the Act. On August 1, 2007, Plaintiff had completed a 15 year non-violent (parolable) sentence in the SC Department of Corrections. He had believed he was going to be released until 30 days prior to his release until Correction's officials told him that there would be a hold placed on him by the [redacted]'s office because the offense the Plaintiff plead to, 1-Count of Lewd or Lascivious Act on a minor, was a qualifying charge.

The state appointed psychiatrist, and court appointed psychiatrist for the Plaintiff, both concluded that since the Plaintiff could not address the allegations the way they had them on paper, that he was in denial and was in fact a candidate under the Sexually Violent Predator Act.

The Plaintiff is released from the Dept. of Corrections into the custody of the Lexington County Sheriff's Department, detained in a "secure" area until such a time a trial can be held to determine if he was a Sexually Violent Predator under the Act.

After 1 year and 3 months, 3 days, the Plaintiff only seeing his attorney one time, is forced into a trial to determine if he met the criteria under state law. Based on the state's psychiatrist, she testified as to the charges that were expunged by order of Honorable [redacted] and Solicitor Defendant [redacted]s. The statute states clearly that the person 1) must be charged with a qualify offense, and that 2) there exist a personality or mental abnormality in order to be civilly committed.

The evidenced used to convince the jury that the Plaintiff met the state's criteria under the Act was that of the dismissed charges, and the Plaintiff's false, coerced statement. When asked of the state's psychiatrist by the [redacted] she felt that the Plaintiff met the criteria as a Sexually Violent Predator, she stated that [the Plaintiff] should have had more insight to the

weight of his offense and since he didn't admit at first to what I had [the alleged confession] that the Plaintiff was in denial and in need of the Act's "long-term, control, care and treatment".

With no physical evidence in this case, the psychiatrists were left solely to make their determination of what sexual act had actually transpired, by the use of the Plaintiff's false coerced statement.

On November 3-4, 2008, this trial was conducted. After the judge released the jury on recess to go vote for the presidential election, the jury came back and one again heard the testimony of the state's psychiatrist as she itemized for the [redacted] the false coerced statement. Shortly thereafter, the jury was released to deliberate and returned for the state that the Plaintiff met the criteria for commitment.

From November 6, 2008 until June 30, 2011, the plaintiff is remanded to the South Carolina Department of Mental Health to be treated as a Sexually Violent Predator. This exposed to Plaintiff to real sexually violent predators and was at constant risk for threat of harm and death!

The actions of all the Defendant's, the false allegations, the false polygraph, the false coerced statement and the ultimate conviction for an act or acts that never occurred placed the Plaintiff in grave danger. He was not allowed to deny any charges against him, both the one dropped at the plea deal or the one he actually pled guilty to. He had to admit to 8 different charges in the Sexually Violent Treatment Program, while at the same time having had the state's psychiatrist state that if [the Plaintiff] only had some supervision after his release from prison, she "would have recommended outpatient treatment" for this Sexually Violent offense[s].

The court appointed psychiatrist for the Plaintiff testified that the Plaintiff was an "opportunistic offender" and that civil commitment was "overkill in [Plaintiff's] case". The Act shows that plaintiff pled guilty to the 1- count of Lewd Act on a minor. However, the Plaintiff, even if he had committed the offense[s] , which he attest again he did not, did not meet

the criteria under the act because the Act did not meet the criteria for "long-term, control, care and treatment" of the Plaintiff.

The civil commitment into the SC Department of Mental Health was based solely on the presentment of the same evidence the Defendant's maliciously, willfully and wantonly used against the Plaintiff to compel a plea from him and that of the testimony of the Defendant's.

Plaintiff asserts, by all the Defendant's act[s] did conspiratorially, maliciously, willfully and wantonly, to cause great harm, did produce a conviction which led to the Plaintiff being considered under the Act.

COUNT VI 2. FALSE IMPRISONMENT

To All the Defendants listed in this complaint.

To all the Defendants listed in this Complaint, did maliciously, willfully, wantonly acting in conspiracy did cause directly the wrongful adjudication of the Plaintiff into the state Sexually Violent Predator Treatment Program, a place located deep inside the SC Department of Corrections, which exposed the Plaintiff to great bodily harm and a disregard from the Plaintiff's rights to be free of a conviction for a crime that was never committed.

On November 6, 2008, the Plaintiff was found by a jury, that by the actions of the Defendants to render a conviction against the Plaintiff, that the Plaintiff met the criteria of the Sexually Violent Predator Act.

The Act specifies, that 1) the [Plaintiff] must have a qualifying offense and that 2) the [Plaintiff] must have a personality or mental abnormality that causes great difficulties controlling his sexual urges.

Pursuant to the Diagnostic and Statistics Manual (DSM IV, 2007), the Plaintiff fell under scrutiny of the Act and based on the diagnostic criteria of the Act was committed to the SC Department of Mental Health for "long-term, control, care and treatment".

The DSM IV was used by the state's psychiatrist in using the evidence gathered, entered into documentation, charges that were made and dismissed, and if any testimony from alleged victims to make a diagnosis of the Plaintiff.

Based on the Defendant's actions, the state's psychiatrist testified that her findings in the trial court were conclusive with the mental abnormality of "paraphilia" she deemed, "not other wise specified (NOS)".

In order for the diagnostic criteria to have been met, based solely on the allegation, charge, false statement and conviction of the Plaintiff, the DSM IV identified these traits similar to those who molest children.

After the Plaintiff was civilly committed to the SC Dept. of Mental Health, he later discovers that the statue along with the diagnostic criteria and the DSM IV shed light on his case based on if the offense[s] ever occurred. 1) they were deemed "opportunistic" in nature, 2) within a familial setting and 3) only to allegedly occur once during the course of one day.

According to the DSM IV, as quoted by chief psychiatrist, after two evaluations of the Plaintiff, that

> "despite these previously assigned diagnoses [of the trial court] it is the opinion of the undersigned that [the Plaintiff] does not meet criteria for any paraphilia. According to the 7 criminal indictments the sexual crimes are alleged to have happened between May 1, 1999 and October 1, 1999. From available police and legal documents, it appears the offenses comprising the seven charges occurred in the course of one day. This time period does not meet the six-moth diagnostic criterion for paraphilias, including pedophilia. [the state's psychiatrist] diagnosed [the Plaintiff] with Paraphilia NOS because he "denied[d] these thoughts and behaviors [regarding his daughters] persisted for more than six months". However, as indicated in the DSM-IV-TR, "the essential features of a Paraphilia are recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving 1) nonhuman objects, 2) the suffering or humiliation of oneself or one's partner or 3) children or other nonconsenting persons, *that occur over a period of at least 6 months [italics added by psychiatrist]*. This description indicates the six-month criterion applies to any paraphilia, including Paraphilia NOS."

Note the psychiatrist is only able to use the charges, the charge pled to, and police and legal documentation. No other information is used, and the case has long since been closed. There were no further charges, there were no new charges, there were no new allegations, and three different authorities concluded their case.

Even with testing, that should have been conducted by the Defendant's [redacted] and [redacted] later subjected to the Plaintiff, showed that 1) he did not show deviant sexual arousal on the Penile Plethmysograph, and on a RRASOR which is an actuarial risk assessment instrument comprised of item statistically associated with sexual recidivism, to estimate the probability that a convicted sex offender will commit a future sex offense as indexed by official records "{i.e., arrest, convictions, and admissions)", the Plaintiff's score was 0.

This was conclusive in the SCDMH's chief psychiatrist findings that the Plaintiff does not possess the "emotional or volitional capacity that predisposes the person to commit sexually violent offenses" (SCCA §44-48-30). "As explicated by the SC Sexually Vi9lent Predator Act and by the US Supreme Court in Kansas v. Crane (2002), such a lack of volitional control is required for a respondent to be civilly committed as a Sexually Violent Predator.." She continues in conclusion that "from *available* documentation [that procured by all Defendant's] describing t[the Plaintiff's] [alleged] offense[s], there is little to suggest that he had serious difficulty controlling his behavior at that time".

Additionally, and closing this SCDMH psychiatrist was to assess by the DSM IV, and the evidence given by all the Defendants, that "it does not appear that [the Plaintiff's] risk level for reoffending at this time is such that he could be considered likely to engage in acts of sexual violence. An actuarial risk assessment instrument places [the Plaintiff] in the lowest possible risk category for sexual recidivism, one that is lower than the typical sex offender."

All psychiatrist based their evaluation on the allegations, an alleged failed polygraph, a false, coerced statement, and the charge pled to and those dismissed along with the DSM IV to

accurately conclude that the offender was not a Sexually Violent Predator. Based on this evaluation, the SCDMH Sexually Violent Predator Treatment Program's director granted permission for the Plaintiff to petition the court for his release.

Based on the information provided by all the Defendants, they produced a wrongful conviction, which caused damage to the Plaintiff in which they wrongfully imprisoned him, without regard to his safety, disregard for his rights, or the threat of great bodily injury.

The Defendant's were all notified that a trial would be held to determine if the Plaintiff was a sexually violent predator. They refused to intervene. They were notified that the Plaintiff had been civilly committed and yet, stood by and did not object to the use of their evidence to stop this trial from occurring in which the Plaintiff lost another 2 years and 8 months stolen from his life by the sole acts of the Defendants.

The Defendants did willfully, wantonly, maliciously, conspiratorially with intent to cause great bodily harm, were a causation link in having the Plaintiff illegally civilly committed and it is their allegations, misconduct and conviction that were a direct casual link in the consideration under the state's sexually violent predator Act.

CONCLUSION

For the foregoing reasons, Plaintiff prays that this Court grant relief to him in the fact that he was factually and actually innocent of all charges against him. That the judgment of conviction entered in State of South Carolina v. [redacted] (02-GS-32-589) be vacated and his entire record expunged of any and all incidents, charges both prosecuted or dismissed related to this case permanently as though they never occurred, thus vindicating the Plaintiff wholly and completely.

The Plaintiff also prays that this Court find conclusively the acts herein be true and that the attachments are all official documentation and that all the Defendants be found guilty of all Counts in this Complaint.

That the Plaintiff be completely and entirely, both at state and federal levels, removed from any and all sex offender registry data bases.

That the Plaintiff be completely and entirely, both state and federal levels, removed from any and all sex offender registries mentioning that he is a sexually violent predator.

That the Plaintiff be compensated to the highest allowed by the state of South Carolina's wrongful conviction allotted funds to compensate him for his life he lost because of the actions of all the Defendants.

That this Court award the Plaintiff $112,800,000.00 (one hundred-twelve million -eight hundred thousand dollars) for the amount of time taken away from a growing, nurturing relationship with his children, and all the life events involved had the Plaintiff not been taken from his children, as compensation for all the life events they would have enjoyed together that can never be replaced.

That this Court find in favor of the Plaintiff and award the amount of $12,800,000.00 (twelve-million-eight hundred thousand dollars), to restore the life, liberty and pursuit of happiness stole of him by the Defendants for the years of incarceration the Plaintiff endured.

That this Court find in favor of the Plaintiff and award the amount of $750,000,000.00 (seven hundred and fifty million dollars)for the intentional infliction of emotional, psychological and physical damages endured by the Plaintiff by having him treated for a mental abnormality or personality disorder that he never had.

That this Court find in favor of the Plaintiff and award the amount of $3,800,000.00 (three million - eight hundred thousand dollars) for the emotional, psychological and economic damages incurred by the Plaintiff while being listed on the sex offender registry from November 8, 2008 until the present.

That this Court find in favor of the Plaintiff and award the amount of 380,000,000.00 (three hundred and eighty million dollars) for the emotional, psychological and economic

damages incurred by the Plaintiff while being listed on the sex offender registry from November 8, 2008 until the present as a Sexually Violent Predator.

That this Court find in favor of the Plaintiff and hold all Defendants sued in their individual and official capacity be held liable for the actions complained herewithin.

That this Court find in favor of the Plaintiff and hold Defendants [redacted] (AKA [redacted] AKA [redacted]), [redacted] and [redacted]le (AKA [redacted])criminally liable as to the charge of perjury to this honorable court, directed psychological abuse in coaching the one alleged victim into believing that something actually happened to her and then, only after the alleged statement is coerced out of the Plaintiff by Defendant[redacted] acquaintances with the Irmo Police Department, Defendant [redacted] and [redacted] made the other two victims out to be the same. Hold each and issue warrants for the arrest for all three Defendants with a total exposure of up to 25 years in prison and to stand trial for each count, with malicious intent and the fullest extent of the law in South Carolina. May these three Defendants also be charged criminally for the emotional and psychological damages they inflicted on the children of the Plaintiff to achieve custody of the children and monetary gain.

That this Court find the Defendant's civilly liable for false allegations and find in favor of the Plaintiff awarding him $12,800,000.00 (twelve million eight hundred thousand dollars) each Defendant for the intentional, malicious aforethought of placing the Plaintiff in threat of great bodily harm to include the risk of death at the hands of prisoners, mental health patients and police officers on a daily basis for 12.8 years.

That this Court find in favor of the Plaintiff and award a judgment against the South Carolina Department of Mental Health charging Plaintiff for the amount of time he was wrongfully imprisoned in their facility from 11/06/2008 - 06/29/2011in the amount of $261,885.12, and that all threats, letterhead, billing statements, collection notices cease and desist with a balance of $0.00 owed to them as a result of this miscarriage of justice against the Plaintiff.

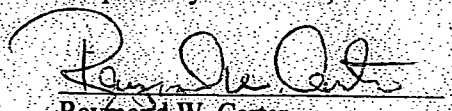
That ALL Defendants be ordered to have no contact with the Plaintiff, seek to harm, initiate further complaint from and be noted as vendetta, and that ALL Defendants be held criminally liable for a violation of such order to protect the Plaintiff from future harm at the hands of these Defendants, noting so after this action is file as being just that.

and

That this Court find in favor of the Plaintiff any other relief or reward deem justifiable and proper for this type of case.

June 22, 2012
Columbia, SC

Respectfully Submitted,



Raymond W. Carter
2219 Leesburg Road
Columbia, SC 29209-3055

ANSWER

Answer to the Complaint by Appellee Myers

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF LEXINGTON	)	
Raymond Carter,	)	
	)	Civil Action No. 12-CP-32-3208
Plaintiff,	)	
	)	
v.	)	**NOTICE OF MOTION AND MOTION TO DISMISS AS TO DONNIE MYERS**
	)	
Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement (SLED); George White, Ex father-in-law; Tammy Carter, (AKA Tammy Scrogham), Ex wife; Barbara Keadle (AKA Diane Hinkle) Investigator LDSS; Francis Ross, LDSS; Paulette Jolly, Guardian ad Litem, in their official and individual capacities,	)	
	)	
Defendants.	)	
	)	

TO: RAYMOND CARTER, PRO SE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for Defendant Myers will move before the Presiding Judge of the Eleventh Judicial Circuit at the Lexington County Courthouse, Lexington, South Carolina, on the tenth (10th) day after service hereof at 10:00 a.m. or as soon thereafter as counsel may be heard, or at such time and place as may be set by the Court, for an Order:

1. Dismissing the Complaint on the grounds that Solicitor Myers enjoys absolute immunity for his involvement in this matter as Solicitor of the Eleventh Judicial Circuit;

2. Dismissing the Complaint on the grounds that this action is barred by the applicable statute of limitations under the South Carolina Tort Claims Act, §15-78-10 et seq. of the Code of Laws of the State of South Carolina, in that on the face of the Complaint it appears that the matter is involving Solicitor Myers occurred during the prosecution of the Plaintiff and that the statute of limitations has since expired;

3. Dismissing the Complaint on the grounds that Solicitor Myers, in his official and individual capacity, is immune from suit pursuant to the terms, conditions, and limitations of the South Carolina Tort Claims Act §15-78-10 et seq. of the Code of Laws of the State of South Carolina;

4. Dismissing the Complaint on the grounds that the conviction of the Plaintiff has not been vacated and therefore no viable cause of action exist against Solicitor Myers under any theory of law; and

5. Dismissing the Complaint on the grounds that the Plaintiff has failed to properly plead their Complaint pursuant to Rule 10 of the SCRCP.

Said Motion is based upon the pleadings filed in this case, rules of Court, and such other matters as may be properly presented to the Court at the time of the hearing.

DAVIDSON & LINDEMANN, P.A.

BY: _____

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Post Office Box 8568
Columbia, South Carolina 29202
wdavidson@dml-law.com
(803) 806-8222
(803) 806-8855

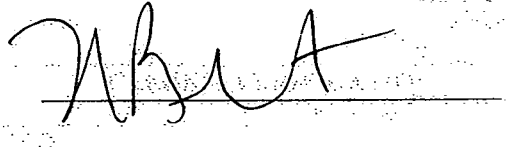
ATTORNEY FOR DEFENDANT MYERS

COLUMBIA, SOUTH CAROLINA
OCTOBER 18, 2012

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF LEXINGTON	)	
Raymond Carter,	)	
	)	Civil Action No. 12-CP-32-3208
Plaintiff,	)	
	)	
v.	)	**CERTIFICATE OF SERVICE**
	)	
Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement (SLED); George White, Ex father-in-law; Tammy Carter, (AKA Tammy Scrogham), Ex wife; Barbara Keadle (AKA Diane Hinkle) Investigator LDSS; Francis Ross, LDSS; Paulette Jolly, Guardian ad Litem, in their official and individual capacities,	)	
	)	
Defendants.	)	
	)	

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Defendant Myers, does hereby certify that service of the MOTION TO DISMISS DEFENDANT MYERS in the above-captioned action was made upon all counsel of record by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 18th day of October, 2012, addressed as follows:

Raymond W. Carter
2219 Leesburg Road
Columbia, South Carolina 29209-3055



RESPONSE

Response to Answer to Appellee Myers

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF LEXINGTON	)	
Raymond Carter,	)	
	)	C/A No. 12-CP-32-3208
Plaintiff,	)	
	)	
V.	)	**RESPONSE to CO-DEFENDANTS DONNIE MYERS and TRACEY CARROLL MOTION to DISMISS**
	)	
	)	
Donnie Myers, Solicitor, et al.,	)	
Defendants.	)	

TO: DEFENDANTS AND THEIR ATTORNEY OF RECORD:

You are hereby notified that on November 30, 2012, at 2:30 p. m. or as soon as this honorable Court will hear this motion, in the Court of Common Pleas of the Lexington County Judicial Center, Plaintiff Raymond Carter will bring this Motion to deny relief sought by Defendants Donnie Myers and Tracey Carroll's Motion to Dismiss.

Plaintiff request all provisions in this article be denied as Plaintiff has filed within the proper constraints of the statute of limitation, Defendants knew or should have know the consequences following their action and participated individually and official under color of state law.

As to the aforementioned defendant's Motions, dated October 18, 2012, move that the court hear this motion to deny relief sought of the Defendants.

This motion is based on all papers filed to date and actions or evidence received at the hearing.

November 7, 2012
Columbia, SC

Raymond Carter, Plaintiff Pro Se
2219 Leesburg Road
Columbia, SC 29209-3055

Cc: File

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Raymond Carter,	)	
	)	C/A No. 12-CP-32-3208
Plaintiff,	)	
	)	
V.	)	
	)	CERTIFICATE OF SERVICE
	)	
Donnie Myers, Solicitor, et al.,	)	
	)	
Defendants.	)	

I, Raymond Carter, hereby certify under penalty of perjury that a true and correct copy of this Motion to Deny has been provided to the below listed Attorney for Defendants Myers and Carroll by depositing it in the United States Mails on this 8th day of November, 2012.

Davidson & Linddemann, P.A.
William H. Davidson, II
1611 Devonshire Drive, 2nd Floor
Columbia, SC
29202-8568

Columbia, SC
November 8, 2012

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209-3055

PLAINTIFF PRO SE

Cc: File
Clerk of Court, Lexington County

ANSWER

Answer to the Complaint by Appellees' Buck and Franklin

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	)	IN THE COURT OF COMMON PLEAS
Raymond Carter, Plaintiff, v. Donnie Myers, Solicitor Lexington County, Tracey Carroll, Asst Solicitor Lexington County, Brian Buck, Irmo Police Dept., Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division (SLED), George White, Ex-Father-in-Law, Tammy Carter, (aka Tammy Scrogham), Ex-wife, Barbara Keadle (aka Diane Hinkle), Investigator LDSS, Francis Ross, LDSS, Paulette Jolly, Guardian ad Litem, in their official and individual capacities, Defendants.	)	C/A #: 12-CP-32-03208 **ANSWER ON BEHALF OF DEFENDANTS BRIAN BUCK, IRMO POLICE DEPARTMENT AND SCOTT FRANKLIN IRMO POLICE DEPARTMENT** **(Jury Trial Requested)**

These Defendants, Brian Buck, Irmo Police Department and Scott Franklin, Irmo Police Department, not waiving but expressly preserving all defenses raised in the Motion for Judgment on the Pleadings and to Dismiss served and filed contemporaneously herewith, answer the Complaint of the Plaintiff as follows:

FOR A FIRST DEFENSE

1. The Summons and Complaint fails to state facts sufficient to state a cause of action. These Defendants reserve the right to file a motion pursuant to Rule 12(b)(6), SCRCP.

FOR A SECOND DEFENSE

2. These Defendants are entitled to judgment on the pleadings pursuant to SCRCP 12(c) in that it is apparent upon the face of the Complaint that Plaintiff's claims are barred by the statute of limitations.

FOR A THIRD DEFENSE

3. These Defendants are entitled to judgment on the pleadings pursuant to SCRCP 12(c) in that it is apparent upon the face of the Complaint that Plaintiff's claims are barred by the Plaintiff's previous conviction upon these charges and therefore the claims are barred by the doctrines of collateral estoppel and/or res judicata.

FOR A FOURTH DEFENSE

4. These Defendants deny each and every allegation of the Plaintiff's Complaint not hereinafter specifically admitted.

5. The material allegations of the Complaint that assert claims against these Defendants are denied in their entirety.

6. The allegations asserted against other Defendants require no response from these Defendants. To the extent any response is required, these Defendants would not have sufficient knowledge of the matters asserted in order to form a belief as to the truth and veracity of those claims and therefore those allegations are denied.

7. These Defendants admit that Plaintiff was pled guilty and was convicted of crimes against the State many years ago, specifically more than three years prior to the filing of this Summons and Complaint. These Defendants further admit that matters that occurred prior to his conviction form the basis for the claims alleged against these Defendants.

8. These Defendants further admit that Plaintiff has not had that conviction reversed or overturned.

FOR A FIFTH DEFENSE

9. Plaintiff's claims are barred by the appropriate statute of limitations, including South Carolina Code, Section 15-78-110, which provides for a two year statute of limitations for actions under the South Carolina Tort Claims Act.

FOR A SIXTH DEFENSE

10. Plaintiff's claims are barred by the appropriate statute of limitations, including the three year statute of limitations that would apply to any federal claims brought under federal law, if any.

FOR A SEVENTH DEFENSE

11. The Summons and Complaint has not been properly served and therefore this action must be dismissed.

FOR AN EIGHTH DEFENSE

12. Plaintiff's claims are barred by the doctrine of collateral estoppel in that he has pled guilty and been convicted of crimes against the State and therefore cannot challenge the legitimacy of matters alleged in the Complaint.

FOR A NINTH DEFENSE

13. Plaintiff's claims are barred by the doctrine of res judicata in that he has pled guilty and been convicted of crimes against the State and therefore cannot challenge the legitimacy of matters alleged in the Complaint.

FOR A TENTH DEFENSE

14. Plaintiff's claims are barred by the doctrine of sovereign immunity.

FOR AN ELEVENTH DEFENSE

15. Plaintiff's claims are barred by the South Carolina Tort Claims Act.

FOR A TWELFTH DEFENSE

16. Plaintiff's claims are barred by South Carolina Code Section, 15-78-70 in that these individual defendants are immune from suit.

FOR A THIRTEENTH DEFENSE

17. Plaintiff's claims are barred by sovereign immunity under the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60 (1), (2), (3), (4), (5), (6), (23) and (25).

WHEREFORE, having fully answered the Complaint of the Plaintiff, these Defendants pray that the Complaint be dismissed with prejudice, for the costs of this action, and for such other and further relief as the Court deems just and proper.

MORRISON LAW FIRM, LLC

By: /s/

David L. Morrison, (Fed. #3581)
Kassi B. Sandifer, (Fed. #7439)
7453 Irmo Drive, Suite B
Columbia, South Carolina 29212
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ATTORNEYS FOR THE DEFENDANTS
BRIAN BUCK, SCOTT FRANKLIN AND
THE IRMO POLICE DEPARTMENT

Columbia, South Carolina

October 19, 2012

RESPONSE

Response to Answer to Appellee Buck, Franklin

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)

Raymond Carter,)
Plaintiff,)
V.)
Donnie Myers, Solicitor, et al.,)
Defendants.)

C/A No. 12-CP-32-3208

RESPONSE CO-DEFENDANTS SCOTT FRANKLIN and BRIAN BUCK MOTION to DENY RELIEF

TO: DEFENDANTS AND THEIR ATTORNEY OF RECORD:

You are hereby notified that on November 30, 2012, at 2:30 p. m. or as soon as this honorable Court will hear this motion, in the Court of Common Pleas of the Lexington County Judicial Center, Plaintiff Raymond Carter will bring this Motion to Deny Relief sought by Defendants Scott Franklin and Brian Buck and to respond to Defendant's Franklin and Buck's Motion for the Judgment of the Pleading.

As to the aforementioned defendant's Motions, dated October 19, 2012, move that the court hear this motion to deny relief sought of the Defendants.

This motion is based on all papers filed to date and actions or evidence received at the hearing.

November 7, 2012
Columbia, SC

Raymond Carter, Plaintiff Pro Se
2219 Leesburg Road
Columbia, SC 29209-3055

Cc: File

STATE OF SOUTH CAROLINA)		FILED
)	**IN THE COURT OF COMMON PLEAS**	
COUNTY OF LEXINGTON)		2012 NOV 16 A 9:36
Raymond Carter,)		
)	C/A No. 12-CP-32-3208	BETH A. CARRIGG CLERK OF COURT LEXINGTON SC
Plaintiff,)		
)		
V.)	**MEMORANDUM IN SUPPORT**	
)	**OF MOTION to DENY RELIEF**	
)		
Donnie Myers, Solicitor, et al.,)		
Defendants.)		

Plaintiff respectfully requests, pursuant to SCCA § 15-78-110, 15-3-550,an order denying relief to Defendant's Motions for Dismissal, denial of allegations and Judgment on the Pleadings at a Motion's hearing on or before November 30, 2012, or at the earliest time the court can hear this Motion.

This motion is made on the grounds that:

1. The Defendant's Third Defense, Defendant's claim that Plaintiff's actions are barred by a previous conviction. However, under Corum Nobis, it is acceptable for the Court to enter a correction in a judgment it already gave.

2. While under the continuing consequences of said previous conviction, as a patient in the SC Department of Mental Health, Plaintiff was in active appeal with the court system. However, on June 30, 2011, (See Exhibit 1) the Plaintiff was released from custody and had not other means to continue the appeal process. Plaintiff could not use final appellate remedies or pursue the issuance of Habeas Corpus in his pursuit to exhaust.

3. The Writ of Habeas Corpus *shall not* extend to a prisoner *unless*:

> 1) He is *in custody* under or by color of this authority of the state of South Carolina or is committed for trial before some court thereof; *or*

2) He is *in custody* for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judgment of the State of South Carolina; *or*

3) He is *in custody* in violation of the Constitution or laws or treaties of the State of South Carolina or the United States; *or*

4) He, being a citizen of a foreign state and domiciled therein is *in custody* for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; *or*

5) It is necessary to bring him into court to testify or for trial (Federal Habeas Corpus Handbook, 2nd Ed.)

4. So, as for the Defendant's Motion to Judgment on the Pleadings, that motion should be denied.

5. As for the Defendant's Fourth Defense, Defendant's deny all allegations against them without providing the court with any tangible, exonerable or physical evidence. Wherefore, the Plaintiff has shown with evidence that these Defendants were in fact involved, participated, signed documentation and written testimony to their actions but deny the circumstances surrounding how they were to arrive at their action to proceed in a manner in violation of the law and the Plaintiff's constitutional rights.

6. As to the veracity of the claims against the Defendant's in their Fourth Defense, because the Defendant's memories have been clouded by what means known of the Plaintiff, they knew and should have know at that time and any time after police training that you do not get an arrest leading to a conviction by these means, and therefore, Plaintiff request this hearing to refresh their memory of the truth and how it effected the Plaintiff's life.

7. As to the Defendant' Fifth Defense, under SCCA § 15-78-110, the Defendant's seem to believe that the statute of limitations has expired on this matter before the Court. However, it is because of the Defendant's actions that have had a continuing consequence on the Plaintiff. The Plaintiff according to this statute has correctly filed a Complaint in this matter within the statutes time allotment. Plaintiff reinserts that there are no remedies available under any other appellate or Habeas corpus court that can be brought before this Court to seek the relief in which the Plaintiff has sought.

8. As for the Defendant's Seventh Defense, the Defendant's were properly served with a Summons and Complaint via the United States Mail on September 27th and 29th accordingly, specifically through the use of the United States Mail Return Receipt Requested (PS Form 3811, Feb. 2004) signed by Defendants,(See Exhibit 2). Therefore, the motion to dismiss under this response must also be denied.

9. As for the Defendant's Eighth and Ninth Defenses, the Defendants bring forth that the Complaint file by Plaintiff should be barred by the doctrine of collateral estoppel and res judicata because it is Court record the Plaintiff pled guilty, under which circumstances as the evidence submitted by the Defendant's were render in order to secure this plea. The evidence is tainted and had the Defendant's not violated the Plaintiff's rights by entering this evidence, would have been free from conviction. The Plaintiff inserts the proper doctrine of this case and that is of the doctrine of collateral-order.

A definitive meaning of collateral-order doctrine:

A doctrine *allowing appeal* from an interlocutory order that conclusively determines an issue wholly separate from the merits of the action and effectively unreviewable on appeal from a final judgment. (Black's Law Dictionary, 2nd Ed., 2001).

As to the defense of res judicata, we have to look only at the collateral-order doctrine to confirm that the case is that of residuum being that the Defendant's actions have violated the Plaintiff's rights, an initial act, then it's continuing collateral consequences of

their actions are residual in nature.Therefore the request based on collateral-esstoppel and res judicata should denied.

10. As for the Defendant's Tenth through Thirteenth Defense, claiming that Plaintiff's claims are barred by Sovereign immunity and the SC Tort Claims Act, Plaintiff respectfully request these actions be denied. Sovereign immunity is only granted when the Defense was not a part of the action and had no knowledge of the actions. However, in this case the Defendants knew and should have known that they were violating the Plaintiff's rights and failed to do anything about it.

Because of the Defendant's actions they knew about, it resulted in the Plaintiff being committed to the SC Department of Mental Health for treatment of a mental disorder he never had. In a sense you can say that the Defendant's actions said for example that the Plaintiff has cancer, although there be, no scientific, medical or physical proof of such and he is treated for a cancer he never had. In that example, there would be collateral consequences of hair falling out, upset stomach, diarrhea. Where in the case at hand the Defendant's actions said that the Plaintiff had sexually abused one daughter and because the Defendant's coerced and compelled Plaintiff's involuntary statement, change it from one alleged victim to three, and basically coerced the plea bargain. Because of the actions of the Defendant's using the example, they said that this was truth as with the cancer. Because of the Defendant's telling the Court, the Plaintiff is sent first for punishment, then through yet a following trial is committed to the SC Dept. of Mental Health for an offense or mental abnormality that the Plaintiff never had. Plaintiff continues to suffer from collateral consequences of what the Defendant's said, and request that the Defendant's immunity claim be denied.

CONCLUSION

WHEREFORE, having completely answering the Answer on Behalf of Defendant's Franklin and Buck, formally of the Irmo, Police Department, pray that this court grant a hearing on the matters listed herewithin, and that all Defenses be therefore, denied.

Columbia, SC

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209-3055

PLAINTIFF PRO SE

Cc: File
Clerk of Court, Lexington County

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON)

FILED

Raymond Carter,)
)
Plaintiff,) C/A No. 12-CP-32-3208
)
V.)
)
Donnie Myers, Solicitor, et al.,)
)
Defendants.)

2012 NOV 16 A 9:31

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

CERTIFICATE OF SERVICE

I, Raymond Carter, hereby certify under penalty of perjury that a true and correct copy of this Motion to Deny and its two attachments, have been provided to the below listed Attorney for Defendants Franklin and Buck by depositing it in the United States Mails on this 8th day of November, 2012.

MORRISON LAW FIRM, LLC
David L. Morrison, (Fed. #3581)
Kassi B. Sandifer, (Fed. #7439)
7453 Irmo Drive, Suite B
Columbia, SC 29212

Columbia, SC
November 8, 2012

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209-3055

PLAINTIFF PRO SE

Cc: File
Clerk of Court, Lexington County

TESTIMONY (TRANSCRIPT OF HEARING)

1-14

State of South Carolina

Court of Common Pleas

County of Lexington

Raymond W. Carter)
)
Plaintiff,) Transcript of Record
v.) 12-CP-32-3208
)
Donnie Myers, et al.)
)
Defendant.)

February 7, 2013
Lexington, South Carolina

B E F O R E:

The Honorable Frank R. Addy, Jr., Judge.

A P P E A R A N C E S:

Raymond W. Carter, Pro Se

William H. Davidson, II, Esquire
Attorney for Defendant Donnie Myers

Kassi B. Sandifer, Esquire
Attorney for Defendants Buck and Franklin

Stacy L. Sheppard, RPR
Circuit Court Reporter

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS

(There were no witnesses.)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.

(There were no exhibits.)

(The following proceedings were held on February 7, 2013.)

THE COURT: All right. We're on the record of 12-CP-32-3208, [redacted] plaintiff, versus [redacted], Solicitor, et al. And, apparently, [redacted] is not present. I'm looking through the file trying to find where some notification was provided to [redacted] Can anyone speak to that?

Madame Clerk, is it the practice of the clerk's office to notify him or --

THE CLERK: We do. I sent notice out to him on January 11th.

THE COURT: Okay. Of this hearing today?

THE CLERK: Yes. Do you want me to put that --

THE COURT: If you could print that out, that would be perhaps helpful. I can add that to the file.

Apparently, he did receive notice. What the clerk is telling me is that he did receive notice of this hearing and, apparently, he has chosen not to come. So, at this point in time, I'm happy to hear from y'all concerning your motions.

MR. DAVIDSON: Your Honor, I represent [redacted] in this suit. [redacted] has filed in this action basically a 41-page complaint on --

alleging a multitude of sins by a multitude of people.

This all stems out of a criminal investigation that [redacted] was involved in that started, I believe, in Irmo. And it started in 1999 as a result of him being accused of sexual misconduct with minors. And I believe it was three or four counts with children under, I think, it's six years of age, little girls.

He ultimately pled guilty to one count on May 13th, 2003, on the -- and this is all taking it from his complaint. I'm not going outside the confines of his complaint. As a result of that plea, the other charges were dropped. And he ultimately did file a PCR, which he ultimately dropped, which was held before [redacted] when he realized that if, in fact, he was successful on his PCR and got that plea overturned, then he would be facing the other charges also.

[redacted] office was involved in the prosecution of that matter and the individual by the name of [redacted] is now a magistrate judge in Aiken and has been so since about 2003, I believe, Your Honor.

As a result of the facts in this case, he was

released ultimately from the department of corrections in '07. There was some question about whether or not he was a sexually violent predator. As a result of that, he went through the process. The [redacted]'s office actually tried one of the cases, according to his own pleadings. He was found to be a sexually violent predator.

It must have been overturned and retried in front of [redacted] who actually DV'd that charge and now [redacted] living on [redacted] in [redacted] and is a registered sex offender and is actually on the web site. And I checked, the address he has on the web site is the same address he used for the complaint and I assume it's the 22...

THE CLERK: [redacted]

MR. DAVIDSON: [redacted]. Yeah, that's the same address.

The allegations against [redacted] -- in looking at this case also, let me make sure you understand, only [redacted] has been served as far as any of the governmental officials are concerned from my understanding. [redacted] has not been served.

I know he has filed a affidavit of fault as to

[redacted]. He was not a SLED agent. He actually was a Dorchester deputy at the time who was on assignment at SLED to do polygraph work.

My conversation with [redacted] is he has not received a copy of the complaint, but that's for another day probably in another hearing because I don't represent [redacted] who I have -- we filed a motion on his behalf for prosecutorial immunity under the case law, as well as under the Tort Claims Act, subsection, I believe, is 23, Your Honor, of 15-78-60. We also filed saying that he had not had, and quite honestly cannot have, his convictions overturned because quite honestly he's served his time.

He has brought against [redacted] charges of malicious prosecution, which is his first count. And he has brought charges in regard to [redacted] in his fifth and fourth and sixth count, dealing with the matters surrounding his prosecution civilly for his sexually violent predator case.

As the Court is aware in the malicious prosecution case, number one, he would have to show that lack of probable cause and the fact that the conviction was successfully terminated in his favor,

neither of which he can do.

Number two, all of the allegations taking them in the light most favorable to the plaintiff based on his own pleadings, shows that everything he talks about [redacted] deals with [redacted] or [redacted] office handling the prosecution of this matter. And even to the point that he talks about [redacted] who worked for Solicitor Myers, not providing exculpatory information, all of which would have been information that would have dealt with the prosecution.

Based on [redacted] versus [redacted] a South Carolina Supreme Court case, I believe -- no, South Carolina Court of Appeals that was decided 2001, solicitors in the prosecution of matters in the State of South Carolina have absolute immunity. So we believe this action on all counts, the malicious prosecution count, what, if any, role, even though the SVP allegations in subsection five and six have no mention of [redacted], even if they did and he was involved in the prosecution of those matters, would enjoy absolute prosecutorial immunity. And, actually, those allegations deal with the [redacted] office prosecuting those matters.

So we believe in this case, Your Honor, taking the evidence in the light most favorable to [redacted] the action should be dismissed because he enjoys absolute prosecutorial immunity.

THE COURT: All right. Thank you.

MS. SANDIFER: Your Honor, [redacted] for [redacted] and [redacted], both with the Irmo Police Department.

The plaintiff has alleged four causes of action against [redacted] and [redacted]. He's alleged false imprisonment and a wrongful conviction claim stemming from the charge back in 1999. He says that we coerced a confession from him. And he's also alleged a false imprisonment claim and a wrongful conviction claim based out of the charge under the Sexually Violent Predators Act that the [redacted] brought forth against him in 2008.

As to the 19 -- the claims that occurred arising out of the 1999 charge, we believe that we are entitled to have those dismissed because based on pleadings, the statute has run. This happened in 1999. It's been 13 years.

THE COURT: I agree.

MS. SANDIFER: Based on the claims arising out of the 2008 charge, we had nothing to do with that,

that was the [redacted] bringing those charges.

He has no allegations, he's alleged no allegations in his complaint against us. And, again, the statute has run. So we believe that there's been a failure to state a claim against [redacted] and [redacted] And even if there is a claim against them, the statute has run.

THE COURT: All right. Very good.

All right. I will certainly be dismissing against [redacted] as well as any other prosecutor based upon prosecutorial immunity. I will be dismissing as against the other defendants based upon the statute of limitations having run.

I have noticed in the file where apparently [redacted] requested an entry of default against [redacted] and [redacted] Attached to the request for entry of default are the returned receipt cards. None of those cards are marked restricted delivery to the addressee, nor are any of the cards signed by the actual individuals being sued. So service has not been effected upon those individuals as well.

I find the case should be dismissed due to the statute of limitations. Thank you very much.

MS. SANDIFER: Thank you, Your Honor.

(A recess transpired.)

THE COURT: We're back on the record sort of in case 12-CP-32-3208. The attorney for [redacted] and some of the other parties involved in that case are not present, but I was just completing the last hearing that I had and I noticed the gentleman in the audience who apparently is [redacted]. And I'm explaining -- or I had explained a moment ago to [redacted] that about 40 minutes ago, I dismissed his case on the grounds of prosecutorial immunity, as well as it being beyond the statute of limitations. Obviously, [redacted] was not present, but he is now.

You understand that's kind of where we are, Mr. Carter?

MR. CARTER: Yes, sir.

THE COURT: All right. Obviously, if you want to appeal my decision on those grounds or on that basis, you'll need to file a notice of intent to appeal within 30 days and proceed to the Court of Appeals, all right.

MR. CARTER: Can I ask one question about the statute of limitations?

THE COURT: Sure, please, by all means.

MR. CARTER: There was a continuing consequence that was based on my taking the initial plea at the beginning of this thing. The continuing consequences put me in the department of mental health and I was released on June 30th of 2011. It was my understanding under the law that I had a year to file from the time I was released.

THE COURT: That is not my understanding, [redacted]. The acts that you complained about in your complaint -- what was presented to me was that essentially the acts complained about in your complaint took place in 1999 or something. And, you know, if you were going to bring suit against them, obviously there are certain requirements. And I can't really go -- because the other parties aren't here, so I'm not supposed to discuss with you since you weren't here, but I'm trying to fill you in on what I'm ruling or what I had ruled, that the statute of limitations on your cause of action would have run, at the very least, three years after you received a beneficial result, assuming that you had gotten the charges dismissed or what have you.

In your case, you tendered a plea of guilty, apparently, on those charges. If you had had them dismissed, then obviously you would have been in a

much better position to pursue a malicious prosecution type of action or a negligence action, gross negligence, whatever the case may be. So that's sort of where you are, sir.

And, obviously, if you want the Court to reconsider that decision, you'll need to file a Rule 59 motion, if you choose to appeal. You'll also need to do that within 30 days, file that notice of intent, okay.

MR. CARTER: Thank you, Your Honor.

THE COURT: Thank you, sir.

END OF PROCEEDINGS

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, [redacted], Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Lexington County, South Carolina, on the 7th of February, 2013.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 18, 2013

Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

FINAL BRIEF OF RESPONDENT MYERS

[illegible] CAROLINA

[illegible]

[illegible] Judge

Raymond Carter, [illegible] Appellant,

[illegible]

[illegible]nnie Myers, Solicitor [illegible]
[illegible]ssistant Solicitor, Lexing[illegible]
[illegible] and Police Departmen[illegible] [illegible] Department
[illegible] E. Stephenso[illegible] [illegible] (SLED)
[illegible]orge White, Ex-father[illegible]
[illegible]KA Tammy Scroggin[illegible]
[illegible]KA Diane Hinkle, [illegible] DSS,
[illegible] Jolly, [illegible] individual capacities, Defendants,

[illegible] whom, Donnie [illegible]
[illegible] Buck, Irmo Police [illegible]
[illegible]epartment are [illegible] Respondents.

[illegible]

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TABLE OF AUTHORITIES

Cases

Statutes and Rules

STATEMENT OF THE CASE

This action for prospective relief and money damages was brought by the Appellant Raymond W. Carter pursuant to the South Carolina Tort Claims Act. Carter named numerous Defendants, including the Respondent Donald V. Myers, who has been the Eleventh Circuit Solicitor during all periods of time relevant to this action.

Based on the allegations of his complaint, the Appellant Carter was accused of criminal sexual conduct committed against one or more of his minor daughters. The criminal charges were prosecuted by the Eleventh Circuit Solicitor's Office including Solicitor Myers and former Assistant Solicitor Tracey Carroll. On May 13, 2002, Carter pled guilty to one count of Committing or Attempting a Lewd or Lascivious Act on a Minor. He was sentenced to fifteen years in prison by the late Circuit Judge Marc Westbrook. No direct appeal was filed. In 2003, Carter filed a petition for post-conviction relief, but he voluntarily dismissed that petition with prejudice.

Carter completed his sentence and was released from the South Carolina Department of Corrections on or about August 1, 2007. He alleges that he was transferred to Lexington County Detention Center to stand trial pursuant to Section 44-48-90 to determine whether he qualified as a "sexually violent predator." A trial was conducted on November 3-4, 2008, at which time he was adjudicated a sexually violent predator, and he was civilly committed to the South Carolina Department of Mental Health for treatment. Carter has not alleged any further involvement by Solicitor Myers in any proceedings held under the Sexually Violent Predator Act. That civil action was handled by the Attorney General on behalf of the State of South Carolina. Carter alleges that he was released from the Sexually Violent Predator Program on June 30, 2011.

On August 22, 2012, the Appellant Carter filed this civil action in the Lexington County Court of Common Pleas. In a voluminous, 41-page complaint, Carter has alleged four causes of action against Solicitor Myers: (1) malicious prosecution, (2) wrongful conviction arising from his guilty plea on May 13, 2002, (3) wrongful adjudication under the Sexually Violent Predator Act, and (4) false imprisonment resulting from his civil commitment under the Sexually Violent Predator Act.

Solicitor Myers filed a Rule 12(b)(6) motion to dismiss. That motion was heard by Circuit Judge Frank R. Addy, Jr. on February 7, 2013. The Appellant Carter received notice of the hearing but did not appear at the call of the case. Judge Addy heard and granted Solicitor Myers' motion as well as the dispositive motion filed by the Irmo Respondents (Brian Buck and Scott Franklin) from the bench. Carter did appear after the motion hearing was completed and defense counsel had been dismissed.

Judge Addy issued a Form Order filed February 8, 2003, granting the motions to dismiss filed by the Respondents. Specifically, he ruled that the employees of the Eleventh Circuit Solicitor's Office, including Solicitor Myers, were entitled to absolute prosecutorial immunity. He also ruled that the all claims were barred by the statute of limitations. Finally, Judge Addy denied Carter's attempt to hold other Defendants in default, finding that they had not been properly served. (R. 2-3).[1]

Carter did not file a Rule 59(e) motion to reconsider, and instead he filed this appeal to the South Carolina Court of Appeals.

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[1] The Defendant Tracey Carroll, the former Assistant Solicitor and current Magistrate Judge, was never served with the complaint and thus never entered a formal appearance. Judge Addy's order, however, granted absolute prosecutorial immunity to all employees of the Solicitor's Office, which included Carroll.

ARGUMENTS

I. The Circuit Court correctly ruled that all claims against the Respondent Myers are barred by absolute prosecutorial immunity.

The Appellant Raymond Carter alleged in his complaint that the Respondent Donald V. Myers, the Eleventh Circuit Solicitor, engaged in prosecutorial misconduct which resulted initially in his guilty plea to one count of Committing or Attempting a Lewd or Lascivious Act on a Minor and later in his civil commitment to the South Carolina Department of Mental Health under the Sexually Violent Predator Act. Specifically, Carter alleges that Solicitor Myers and his office committed misconduct by increasing the charges against him, failing to consider his professed innocence, failing to evaluate the voluntariness of his confession, procuring false testimony, concentrating on a plea bargain strategy, and failing to disclose exculpatory evidence. On appeal, in his brief to this Court, Carter focuses on his allegation that the Solicitor failed to disclose unspecified exculpatory evidence.

Circuit Judge Frank Addy granted summary judgment in favor of Solicitor Myers on the basis of absolute prosecutorial immunity. Carter sued Solicitor Myers solely in his capacity as the Eleventh Circuit Solicitor. In *Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001), the South Carolina Court of Appeals held that "a prosecutor in the employ of this state is immune from personal liability under § 1983 or the South Carolina Tort Claims Act for actions relating to the prosecution of an individual as a criminal defendant -- regardless of the prosecutor's motivation -- provided the actions complained of were committed while the prosecutor was acting as an 'advocate,' as defined by *Imbler v. Pachtman* and its progeny." 553 S.E.2d at 509. The Court of Appeals in *Williams* cited extensively to the seminal case of the

United States Supreme Court in *Imbler v. Pachtman*, 424 U.S. 409 (1976), wherein the Supreme Court recognized the defense of absolute prosecutorial immunity in Section 1983 litigation against state prosecutors. The Court concluded that absolute immunity applies to all prosecutorial acts that are intimately associated with the judicial phase of the criminal process. The functions included the initiation of the prosecution and the presenting of the state's case at trial as well as pre-trial and post-trial matters. 424 U.S. at 431.

The scope of absolute prosecutorial immunity extends to the very conduct as alleged by Carter against Solicitor Myers in the present case. These allegations are substantially similar, if not identical, to the allegations made by the plaintiff in *Williams* against a solicitor and the Attorney General. In that case, the plaintiff alleged prosecutorial misconduct including the failure to properly investigate the charges, collusion with defense counsel, withholding of pre-trial discovery and failure to respond to Rule 5 requests for discovery, abuse of power in scheduling, and reliance on insufficient and untruthful evidence to obtain an indictment. After the filing of a Rule 12(b)(6) motion, the Circuit Court dismissed claims for false arrest, malicious prosecution, negligence, and violations of federal constitutional rights under Section 1983. The summary dismissal of those claims was based on absolute prosecutorial immunity.

The decision in *Williams* is controlling in the present case. As in *Williams*, Solicitor Myers filed a Rule 12(b)(6) motion to dismiss and argued that Carter's claims of prosecutorial misconduct were all barred by absolute prosecutorial immunity. Judge Addy agreed and dismissed Carter's complaint and all claims alleged against Solicitor Myers on that basis.[2] It is

[2] The Fourth Circuit is also in agreement that absolute prosecutorial immunity bars a civil action seeking relief for the alleged withholding of exculpatory evidence by a prosecutor. *See, Carter v. Burch*, 34 F.3d 257, 262-263 (4th Cir. 1994), *cert. denied*, 513 U.S. 1150 (1995). *See also, Smith v. McCarthy*, 349 Fed.Appx. 851, 859 (4th Cir. 2009) ("as to his alleged actions

clear on this record that Carter's allegations of prosecutorial misconduct are alleged to have occurred during Solicitor Myers' prosecution of the charges against Carter. In accordance with *Imbler* and *Williams*, Solicitor Myers enjoys absolute immunity under the common law and under the Tort Claims Act for all such allegations of misconduct, and for that reason, Judge Addy's dismissal of all claims against Solicitor Myers should be affirmed.[3]

II. The Circuit Court correctly ruled that all claims are barred by operation of the two-year statute of limitations under the South Carolina Tort Claims Act.

As an alternative basis for dismissal, Judge Addy also concluded that all claims are barred by the two-year statute of limitations under the South Carolina Tort Claims Act. The Appellant Carter's action is brought pursuant to the Tort Claims Act, which provides that "an action for damages under this chapter may be instituted at any time within two years after the loss was or should have been discovered." *See*, S.C. Code Ann. § 15-78-100(a).

"[T]he statutory period of limitations begins to run when a person could or should have known, through the exercise of reasonable diligence, that a cause of action might exist in his or her favor, rather than when a person obtains actual knowledge of either the potential claim or of

---

in conspiring with police officers to present false testimony and for withholding exculpatory evidence prior to trial, [defendant prosecutor] was entitled to absolute immunity").

[3] Unlike the present case, in *Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001), the plaintiff had obtained an acquittal by directed verdict at the criminal trial. There was no conviction. In contrast, in the case at bar, Raymond Carter admittedly pled guilty to one count of Committing or Attempting a Lewd or Lascivious Act on a Minor, and later voluntarily dismissed with prejudice his post-conviction relief application. In effect, Carter is seeking to pursue claims for prospective relief and money damages arising from a criminal conviction by guilty plea that was never overturned on direct appeal or by post-conviction relief or by writ of habeas corpus. Carter is attempting to collaterally attack a criminal judgment for which he served his entire sentence. This is not permissible and may serve as an additional sustaining ground.

the facts giving rise thereto." *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235, 239 (Ct. App. 1999). "The rule requires an injured party to act promptly when the facts and circumstances of the injury would place a reasonable person on notice that a claim against another party might exist." *Id.* "The test is whether a person should have known the operative facts is objective, rather than subjective." *Republic Contracting Corp. v. South Carolina Dept. of Highways and Public Transportation*, 332 S.C. 197, 503 S.E.2d 761, 767 (1998). "The statute of limitations begins to run when a plaintiff knows or should know of a potential claim against another party, not when the plaintiff develops a full-blown theory of recovery." *Id.*

Raymond Carter's complaint was filed on August 22, 2012. (R. 7). Consequently, if Carter knew or should have known that a claim might exist prior to August 22, 2010, then his claims are statutorily barred.

Carter has alleged four causes of action against Solicitor Myers: (1) malicious prosecution, (2) wrongful conviction arising from his guilty plea on May 13, 2002, (3) wrongful adjudication under the Sexually Violent Predator Act, and (4) false imprisonment resulting from his civil commitment under the Sexually Violent Predator Act. Each of those claims are barred by the two-year statute of limitations.

Carter pled in his complaint that the prosecution ended on May 13, 2002, which is the date of his guilty plea. (R. 8). It was by that date that any claims arising out of any alleged misconduct by Solicitor Myers or his office must have accrued. The alleged wrongful conviction occurred on that date, and all prosecutorial acts alleged by Carter in his complaint occurred prior to that date. Hence, the first two causes of action alleged against the Solicitor were clearly barred by the statute of limitations which expired by May 13, 2004, and certainly long before the filing date of August 22, 2012.

Carter has also pled additional claims arising from his civil commitment under the Sexually Violent Predator Act, S.C. Code Ann. § 44-48-10, *et seq*. He alleges that he completed his criminal sentence on or about August 1, 2007, and was transferred to Lexington County Detention Center to stand trial pursuant to Section 44-48-90 to determine whether he qualified as a "sexually violent predator." (R. 39). A trial was conducted on November 3-4, 2008, at which time he was adjudicated a sexually violent predator and he was civilly committed to the South Carolina Department of Mental Health for treatment. (R. 40). Carter has not alleged any further involvement by Solicitor Myers in any proceedings held under the Sexually Violent Predator Act. That civil action was handled by the Attorney General on behalf of the State of South Carolina. Consequently, there is no further alleged misconduct by Solicitor Myers occurring between August 1, 2007 and November 4, 2008. Instead, Carter relies on the prior acts of prosecutorial misconduct occurring prior to May 13, 2002, which he contends resulted in the guilty plea which in turn contributed to his being adjudicated a sexually violent predator. Yet, even if that is true and a new "injury" triggers a new cause of action, which is denied, Carter's sexually violent predator-related claims would have accrued by November 4, 2008, but he did not commence his state law tort claims under the Tort Claims Act within two years of that date. Instead, the complaint was filed close to four years later on August 22, 2012.

In sum, as Judge Addy ruled, Carter's four causes of action as pled against Solicitor Myers are all barred by the applicable two-year statute of limitations. That ruling should be affirmed.

III. The Appellant cannot rely on Rule 60(b) nor any tolling statute to withstand the statute of limitations defense.

In an effort to avoid the statute of limitations bar, Carter appears to characterize his complaint as, in essence, a motion brought pursuant to Rule 60(b), SCRCP, for relief from an existing judgment. He then claims that he had one year to pursue this litigation from June 30, 2011, which is represented to be the filing date for an order issued by Circuit Judge William Keesley that released him from the custody of the Department of Mental Health and ended his civil commitment under the Sexually Violent Predator Act. Carter's argument is meritless for several reasons.

First, he confuses a Rule 60(b) motion and a complaint. Second, he fails to explain how or why his current lawsuit seeks relief *from* Judge Keesley's order – which would be the intent or purpose of a Rule 60(b) motion. He obviously does not take issue with the very order which released him from civil custody. Third, the order is dated June 30, 2011, and Carter did not file within one year. (R. 5).

Furthermore, there was no "tolling" of any statute of limitations after Judge Keesley issued his order. It is fairly clear that Carter misunderstands the concept of "tolling." Certainly, he has offered no statutory basis for the tolling of any statute of limitations. In short, Judge Addy's dismissal of all claims based on the expiration of the two-year statute of limitations was a correct ruling and should be affirmed on appeal.

IV. As an additional sustaining ground, the Respondent Myers is entitled to absolute employee immunity under the South Carolina Tort Claims Act.

Finally, as an additional sustaining ground,[4] the Respondent Myers also asserts absolute employee immunity under the South Carolina Tort Claims Act. Carter's complaint is governed by the Tort Claims Act, which "constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). It is well settled that an employee of a governmental entity is immune from liability for tortious acts committed within the scope of his official duties. *See, Flateau v. Harrelson*, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003). Carter has alleged that Solicitor Myers was acting within the scope of his official duties in prosecuting the charges against him. Consequently, Solicitor Myers is also entitled to absolute immunity under the Tort Claims Act.

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[4] In the case of *I'On v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000), the Supreme Court explained that a respondent "may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court." 526 S.E.2d at 723. "The appellate court may review respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment." *Id.* *See also*, Rule 220(c), SCACR ("[t]he appellate court may affirm any ruling, order, or judgment upon any ground(s) appearing in the record"); Rule 207(b)(2), SCACR ("[r]espondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c)").

CONCLUSION

Based on the foregoing discussion and analysis, the Respondent Donald V. Myers respectfully requests that this Court affirm the order of Circuit Court Judge Frank Addy granting Solicitor Myers' motion to dismiss.

Respectfully submitted,

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The undersigned employee of Davidson & Lindemann, P.A., counsel for the Respondent Donnie Myers, does hereby certify that service of the **Brief of Respondent Myers** was made upon all *pro se* parties and all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 17th day of February 2015:

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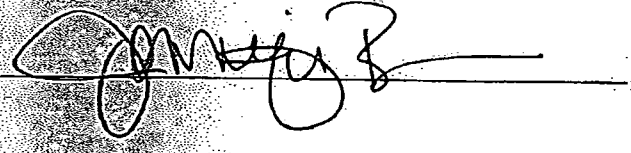

FINAL BRIEF OF BUCK, FRANKLIN

IN THE COURT OF APPEALS

OF SOUTH CAROLINA

RE: [illegible] ON COUNTY

[illegible] Circuit Court Judge

[illegible] 2015-UP-208

[illegible] Appellant,

[illegible] Carroll,

[illegible] Defendant,

[illegible] Respondents.

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[illegible], South Carolina

[illegible] 3, 2015

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STATEMENT OF ISSUES ON APPEAL

1. Whether or not the trial court properly granted Respondents' Motion for Judgment on the Pleadings and to Dismiss on the basis that the statute of limitations expired before the Appellant filed suit;

2. Whether or not the trial court properly determined that the statute of limitations for bringing the claims against these Respondents was not tolled until the Appellant's release from the care and control of the South Carolina Department of Mental Health; and,

3. Whether or not the trial court properly dismissed the Complaint as to Defendants Myers and Carrol on the basis of prosecutorial immunity.

STATEMENT OF THE CASE

This Appeal arises in part out of the trial court's Order granting Respondents' Motion for Judgment on the Pleadings and to Dismiss and dismissing the Plaintiff's Complaint against them pursuant to Rule 12(b) of the South Carolina Rules of Civil Procedure. (R. 70-82). The trial court determined that the statute of limitations on all claims expired before the suit was filed. (R. 78-79).

The Appellant's Complaint alleges four causes of action against these Respondents: two causes of action for false imprisonment based on two separate instances in which he claims he was falsely imprisoned; a claim the appellant entitled "wrongful conviction;" and a claim the Appellant entitled "wrongful adjudication to commit to the South Carolina Department of Mental Health and continuing consequences." (R. 19-30, 38-44). As the matter was before the Court upon the Respondent's Motion to Dismiss and for Judgment on the Pleadings, the facts set forth here are taken primarily from the Appellant's Complaint. According to the Appellant's Complaint, on October 25, 1999, Respondents Buck and Franklin, both with the Irmo Police Department, went to the Appellant's home and asked him to submit himself to a polygraph examination regarding the molestation of several young girls, one of whom was the Appellant's daughter. (R. 20). Subsequently, on October 27, 1999, the Appellant met Respondent Buck at

the South Carolina Law Enforcement Division to submit to the polygraph examination, which was conducted by SLED Agent Stephenson. (R. 20-21). At the conclusion of the examination, Agent Stephenson allegedly informed the Appellant that he had failed the polygraph examination, at which point, Respondents Buck and Franklin as well as Agent Stephenson allegedly began interrogating the Appellant about the molestations for a little over four hours. (R. 21-22). During this time, the Appellant alleged he was forced to sign a waiver of rights. (R. 24). Also during this time, the Appellant alleges that Respondent Buck forced the Appellant to write a statement confessing to the molestations, which the Appellant maintains was false and scripted by Respondent Buck. (R. 24-25). Respondent Buck allegedly instructed the Appellant to turn himself in on October 19, 1999. (R. 25). However, the basis of the Appellant's first false imprisonment claim is the time he spent at the headquarters of the South Carolina Law Enforcement Division during the alleged interrogation and forced confession. (R. 27).

The Appellant maintains that Respondents Buck and Franklin gave the allegedly coerced and false confession to the Lexington County Solicitor's Office. (R. 27). He further maintains that the coerced and false confession was used as evidence to prosecute the Appellant for the molestations. (R. 27). On May 13, 2003, the Appellant pled guilty to one count of attempting or committing a lewd or lascivious act on a minor. (Appellant's Brief, p. 2). The Appellant completed his sentence on July 31, 2007. (R. 8).[1] However, he was sent back to the Lexington County Detention Center to be evaluated to determine whether he met the criteria under the South Carolina Sexually Violent Predator Act. (R. 8). The Appellant remained in the custody of the Lexington County Detention Center until November 4, 2008, at which time a jury determined

[1] Despite Appellant's now asserted claim of a false and coerced confession, Appellant pled guilty in 2003 and completed his sentence in 2007. These Respondents also moved before the lower court for dismissal on grounds of estoppel in that Appellant cannot now contest the validity of the confession when he pled guilty to the crime. The Court did not reach that ground and estoppel is asserted here as an additional sustaining ground.

he was a sexually violent predator as defined by the statute, and he was committed to the South Carolina Department of Mental Health for long-term care and control. (R. 9).

On October 25, 2010, the Director of the South Carolina Department of Mental Health authorized the Appellant's attorney to file a motion with the Court for the Appellant's release. (Appellant's p. 3). On June 22, 2011, a trial was held regarding the Appellant's continued commitment at the South Carolina Department of Mental Health, and the trial court determined the State had not met its burden to continue the Appellant's commitment, granted Appellant's motion for directed verdict and ordered the Appellant's immediate release. (R. 9).

Aside from Respondents Buck and Franklin's dealings with the Appellant in late October, 1999, the Complaint alleges no further involvement by the Respondents in any of the Appellant's subsequent convictions, imprisonments or confinements. The Complaint merely alleges that the alleged false and coerced confession was used as evidence to prosecute the Appellant, which resulted in the Appellant' pleading guilty in 2003 and as evidence in the trial in 2008 to determine whether the Appellant qualified as a sexually violent predator. (R. 27-30, 40).

On October 22, 2012, the Respondents filed a Motion for Judgment on the Pleadings and to Dismiss in part on the basis that the statute of limitations had expired before the Appellant filed his Complaint. (R. 55-56). A hearing on the Respondent's Motion was held on February 7, 2013. The Respondent was not present at the time of the hearing. Instead, he showed up sometime after the motion was argued and the Court had granted the Respondents' motion. This Appeal followed.

ARGUMENT

A. WHETHER OR NOT THE TRIAL COURT PROPERLY GRANTED RESPONDENTS' MOTION FOR JUDGMENT ON THE PLEADINGS AND TO DISMISS ON THE BASIS THAT THE STATUTE OF LIMITATIONS EXPIRED BEFORE THE APPELLANT FILED SUIT.

Granting Respondents' Motion, the trial court dismissed the claims against these Respondents because the statute of limitations expired on all claims before the Appellant filed his lawsuit. (R. 2-3). In considering a motion to dismiss a complaint based on Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, the trial court must base its ruling solely on the allegations set forth in the complaint. Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (S.C. 2007). In considering a Motion for Judgment on the Pleadings, the trial court can also consider the defenses raised in the answer. It is indisputable from the allegations in the Complaint and the stamped filing date of the Complaint, that the statute of limitations for the claims asserted against these Respondents expired long before the Complaint was filed on August 22, 2012 and that the Respondents' raised the statute of limitations as a defense. The four claims that the Appellant asserted against these Respondents are governed by the South Carolina Tort Claims Act, which clearly sets forth a limitation period of two years after the loss was or should have been discovered. S.C. Code Ann. § 15-78-110 (2005).

The first claim asserted against these Respondents in the Complaint is a claim for false imprisonment. (R. 19-27). According to the supporting allegations stated in the Complaint, the first false imprisonment claim is based solely on the alleged five-hour encounter between the Appellant and the Respondents on October 27, 1999 during which time the Respondents allegedly forced a confession out of the Appellant after mercilessly interrogating him for four hours. (R. 19-27). If that encounter constituted false imprisonment, which is denied, the Appellant clearly knew or should have known he was being falsely imprisoned at the moment he

was imprisoned. The Complaint was filed on August 22, 2012, two months shy of ***thirteen*** years after the encounter. The statute of limitations for the false imprisonment claim had clearly run by the filing date of this Complaint, August 22, 2012. Accordingly, the trial court properly granted the Respondents' motion for judgment on the pleadings and to dismiss as to that claim.

The second cause of action asserted in the Complaint against these Respondents is a claim for "wrongful conviction." (R. 27). The allegations set forth in support of that cause of action make no mention of any further involvement by these Respondents in his conviction. (R. 27-30). The Complaint simply reiterates certain aspects of the encounter between the Appellant and these Respondents that took place on October 27, 1999. It further alleges that the Appellant's wrongful conviction was based on the false and coerced confession that these Respondents obtained on October 27, 1999. (R. 27-30). The Plaintiff pled guilty to one count of attempting or committing a lewd or lascivious act against a minor on May 13, 2003. The Complaint does not state any facts that constitute a cause of action against these Defendants. Even if it did, the Plaintiff pled guilty or was otherwise "wrongfully convicted" on May 13, 2003, ***nine*** years before the Appellant filed his Complaint. The statute of limitations had clearly run by the date the Complaint was filed. Additionally, the conviction has not been overturned. Instead, the Appellant has now completed his sentence. The trial court was proper in granting these Respondents' Motion for Judgment on the Pleadings and to Dismiss.

The third claim alleged in the Complaint against these Respondents is a claim entitled "wrongful adjudication to commit to the South Carolina Department of Mental Health and continuing consequences." (R. 38). Assuming there is such a claim, the Complaint alleges absolutely no facts against these Respondents. (R. 38-41). The only allegation alleged in the Complaint that remotely implicates these Respondents is the allegation that "the actions of all of the Defendant's, the false accusations, the false polygraph, the false coerced statement and the

ultimate conviction for an act or acts that never occurred placed the Plaintiff in grave danger." (R. 40). He implies that these things lead to the jury's determination that he met the criteria of a sexually violent predator under the Sexually Violent Predator Act, which caused him to be committed to the South Carolina Department of Mental Health for long-term care. (R. 38-41).

However, the Appellant alleges no new allegations against these Respondents about their participation in the trial and instead relies on evidence that was discovered in 1999. The Complaint does not state facts sufficient to constitute a cause of action against these Respondents. Even if it did, the Appellant was determined to meet the criteria on November 4, 2008. Accordingly, he had until on November 4, 2010 to file a complaint. It is clear from the Complaint that the statute of limitations had expired when the Complaint was filed on August 22, 2012. The trial court properly granted the Respondents' Motion for Judgment on the Pleadings and to Dismiss.

The last cause of action alleged in the Complaint against these Respondents is a second claim for false imprisonment, which is based on the time the Appellant was committed to the South Carolina Department of Mental Health after being determined to have met the criteria under the Sexually Violent predator Act. (R. 41-44). Again, the allegations asserted in support of that cause of action do not mention these Respondents whatsoever. He simply states that the Defendants were notified that a trial was going to take place to determine if he was a sexually violent predator and they refused to intervene. (R. 44). He further alleges that the Defendants were notified that the Appellant had been civilly committed but did not object to the use of their evidence to stop the trial, which resulted in his commitment. (R. 44). He alleges no actions by these Respondent's after 1999. Thus, his claims are barred by the two year statute of limitations contained in the South Carolina Tort Claims Act.

Even if the Plaintiff's allegations constitute a cause of action against these Respondents, which is vehemently denied, the statute on any such claim expired before the Appellant filed his Complaint. The Appellant was committed on or around the fourth or sixth of November, 2008. The Appellant knew or should have known that he was imprisoned on the date he was committed. He filed the Complaint on August 22, 2012, long after the statute of limitations had expired. The trial court properly granted these Respondents' Motion for Judgment on the Pleadings and to Dismiss.

In support of this issue on appeal, the Appellant argues that the statute of limitations for his claims was tolled until a judgment or order is issued from the Court and that an Order was issued on June 30, 2011 by the Honorable William P. Keesley directing a verdict in his favor as to the issue of his continued commitment by the South Carolina Department of Mental Health. (Appellant's Brief, p. 4). He appears to cite Rule 60(b) of the South Carolina Rules of Civil Procedure as authority for his proposition that he had one year after a judgment, order or proceeding was entered in which to bring his claims. (Appellant's Brief, p. 4). He further maintains that he should be allowed three years in which to file an action pursuant to S.C. Code Ann. § 15-3-530 after Judge Keesley issued the Order granting his motion for directed verdict. (Plaintiff's Brief, p. 4). Either way, the Appellant argues that the statute of limitations did not begin to run until Judge Keesley issued the order granting his motion for directed verdict on June 30, 2011. (Appellant's Brief, p. 4).

The Appellant has not cited any authority for the proposition that the statute of limitations was tolled until his release and/or until Judge Keesley issued the Order granting his motion for directed verdict. S.C. Code Ann. § 15-3-40 sets forth the circumstances under which the statute of limitations is tolled and provides a tolling of the time period in which to bring an action for people considered to be under a disability, which is defined by the statute as those people who

are either under the age of eighteen years or insane. S.C. Code Ann. § 15-3-40 (2005). Furthermore, the disability has to exist at the time of the right of action accrued. S.C. Code Ann. § 15-3-50 (2005). Neither of these disabilities applies to the Appellant. The Appellant was not under eighteen years of age when his causes of action accrued, and he has never provided any documentation evidencing that a determination by a professional that he was insane at the time his claims accrued.

The Appellant's causes of action for false imprisonment accrued at the time he was allegedly falsely imprisoned. The first time he was allegedly falsely imprisoned was on October 27, 1999; the second time was on or about November 4, 2008. There was no circumstance allowing the statute of limitations to be tolled at those points. The statute of limitations for the Appellant's wrongful conviction claim began to run when he was convicted on May 13, 2003. No circumstance existed to toll the statute of limitations for that claim. Lastly, if there is a claim for wrongful adjudication to commit to the South Carolina Department of Mental Health and continuing circumstances, it stands to reason that the claim began to run when the jury determined he met the criteria under the Sexually Violent Predators Act. No circumstances existed to toll the statute of limitations for that claim, either.

The Appellant has offered no authority for his argument that the statute of limitations was tolled until he was released and/or until he received Judge Keesley's order granting his motion for directed verdict. The Appellant cites to Rule 60 of the South Carolina Rules of Civil Procedure apparently for the proposition that he had one year from the date of Judge Keesley's Order in which to bring his claims against the respondents. However, Rule 60 of the South Carolina Rules of Civil Procedure does not govern the time period in which to file a Complaint. It states the circumstances under which and the time period for filing a motion to seek relief from final judgment, order or proceeding. South Carolina Rules of Civil Procedure, Rule 60, SCRCP.

Additionally, the three-year statute of limitations set forth in S.C. Code Ann. § 15-3-530 does not apply to lawsuits, like the current lawsuit, that are brought against governmental entities. The period of time in which to bring a lawsuit against a governmental entity is governed by the South Carolina Tort Claims Act. S.C. Code Ann. § 15-78-110 (2005). None of the authority cited by the Appellant supports his argument that the statute of limitations was tolled until he was released and/or received Judge Keesley's Order.

The Appellant also argues that there was a continuing consequence of his agreeing to plead guilty to the charge of attempting or committing a lewd or lascivious act against a minor, which ultimately resulted in his being committed to the South Carolina Department of Mental Health. (R. 81). He claims that he was committed to the Mental Health Department solely because of the Respondents' actions. However, the only actions taken by these Respondents as alleged in the Appellant's Complaint were done in October, 1999. Accordingly, the statute of limitations as to any claim arising out of those actions had long since expired when he filed his Complaint in 2012. The trial court properly granted these Respondents' Motion for Judgment on the Pleadings and to Dismiss. These Respondents are entitled to have the grant of their Motion for Judgment on the Pleadings and to Dismiss affirmed.

B. WHETHER OR NOT THE TRIAL COURT PROPERLY DETERMINED THAT THE STATUTE OF LIMITATIONS FOR BRINGING THE CLAIMS AGAINST THESE RESPONDENTS WAS NOT TOLLED UNTIL THE APPELLANT'S RELEASE FROM THE CARE AND CONTROL OF THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH DEPARTMENT.

Again, the Appellant argues that Rule 60(b) of the South Carolina Rules of Civil Procedure allows him one year from the date of his release from the care and control of the South Carolina Department of Mental Health in which to file his complaint. (Appellant's Brief, p. 5). The Appellant has misinterpreted the meaning of Rule 60. Rule 60 sets forth the practice for seeking relief from a final judgment or order. It does not set forth the time period in which a

litigant has to file an action. Since this case was filed against employees of a governmental entity, the statute of limitations is governed by the South Carolina Tort Claims Act, which specifically provides:

> Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.

S.C. Code Ann. § 15-78-110 (2005). As discussed in the foregoing section, none of the circumstances permitting the statute to be tolled pursuant to Section 15-3-40 are applicable in this case. Accordingly, the trial court properly determined that the time period in which the Appellant could bring his claims was tolled until his release from the South Carolina Department of Mental Health. These Respondents are entitled to have the grant of their Motion for Judgment on the Pleadings and to Dismiss affirmed.

The Appellant further maintains that his administrative remedies had not been completely exhausted at the time of his release. (Appellant's Brief, p. 5). Whether or not the Appellant exhausted his administrative remedies has absolutely no bearing on the issue of whether the statute of limitations should have been tolled until his release. Additionally, the Appellant raised the issue of his failure to exhaust his administrative remedies for the first time on appeal. The only issue he raised in response to the Respondent's Motion for Judgment on the Pleadings and to Dismiss was his belief argument that there were continuing consequences that resulted in his being placed in the control of the Department of Mental Health and that he had until one year from the date of his release to file his complaint. (R. 81). It is well settled law that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled on by the court in order to be preserved on appeal. Pye v. Estate of Fox, 269 S.C. 555, 633 S.E.2d 505

(S.C. 2006). Accordingly, to the extent there is any relevance to the Appellant's newly raised issue, it should not be considered.

C. WHETHER OR NOT THE TRIAL COURT PROPERLY DISMISSED THE COMPLAINT AS TO DEFENDANTS MYERS AND CARROL ON THE BASIS OF PROSECUTORIAL IMMUNITY.

None of the claims against these Respondents were dismissed on the basis of prosecutorial immunity. Accordingly, this issue on appeal is not applicable to these Respondents. However, for the reasons stated in the foregoing sections, these Respondents are entitled to have the grant of their Motion for Judgment on the Pleadings and to Dismiss affirmed.

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Columbia, South Carolina

March 3, 2015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Frank R. Addy, Jr., Circuit Court Judge

Case No. 2012-CP-32-3208

Raymond Carter, ... Appellant,

v.

Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement (SLED); George White, Ex father-in-law; Tammy Carter, (AKA Tammy Scrogham), Ex-wife; Barbara Keadle (AKA Diane Hinkle) Investigator LDSS; Francis Ross, LDSS; Paulette Jolly, Guardian ad Litem, in their official and individual capacities, ... Defendants,

Of whom, Brian Buck, Irmo Police Department and Scott Franklin, Irmo Police Department, are, ... Respondents.

CERTIFICATE OF SERVICE

The undersigned employee of Morrison Law Firm, LLC, attorney for the Defendants, Chief Brian Buck and Scott Franklin, does hereby certify that service of the **Brief of Respondents Brian Buck and Scott Franklin** in the above-captioned action was made upon Plaintiff and all counsel of record by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 3rd day of March, 2015, addressed as follows:

Mr. Raymond W. Carter
2219 Leesburg Road
Columbia, SC 29209

Andrew F. Lindemann, Esquire
Post Office Box 8568
Columbia, SC 29202

Callie M. Morrison

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter,

Appellant,

v.

Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex-father in law, Tammy Carter (AKA, Tammy Kidd, AKKA, Tammy Scrogham, Ex Wife, Barbara Keadle (AKA, Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees.

FINAL BRIEF OF APPELLANT

Raymond Carter
2212 Leesburg Road
Columbia, SC 29209

APPELLATE PRO SE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter

Appellant,

v.

Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees,

FINAL BRIEF OF APPELLANT

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209

APPELLATE PRO SE

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR BY DISMISSING ALL OR PART OF THE COMPLAINT DUE TO THE STATUTE OF LIMITATIONS HAD EXPIRED?

2. DID THE TRIAL COURT ERR IN FAILING TO PROPERLY RECOGNIZE THE STATUTE OF LIMITATIONS TOLLED AFTER JUDGMENT OR ORDER ISSUED?

STATEMENT OF THE CASE

On May 13, 2003, Appellant pleads guilty to 1-Count of Attempting or Committing a Lewd or Lascivious Act on a Minor, S.C. Code. Ann. § 16-15-140 in Lexington County and was sentenced before the late Honorable Judge Marc Westbrooks to a maximum of 15 years in the Department of Correction.

After service of seven (7) years and eight (8) months and three (3) days, the Appellant, without notice or having previous knowledge of the fact, was transferred back to Lexington County Detention Center with a charge from the Attorney General's Office stating the State of South Carolina had reason to believe that the Appellant was by means of statute a sexually violent predator, S.C. Code Ann. § 44-48-(10-170). Appellant was compelled beyond his control to face a jury trial to make this determination.

Appellant remained in the custody of the Lexington County Detention Center another year and two (2) months and eight (8) days where he was forced to a jury trial to determine if he met the statutory criteria of the statute at the behest of the S.C. Attorney General's Office.

On November 2-3, 2008, a trial was conducted and because the Appellant had denied allegations that were transferred from the criminal court that brought him before this civil commitment trial, he was found to meet the states criteria and therefore the jury's verdict fount that based solely on the evidence of the criminal court that the Appellant met the criterial to be committed to the S.C. Department of Mental Health for long-term control, care and treatment.

During the civil commitment of Appellant, he had appealed the decision of the civil commitment trial court and was attempting to exhaust his internal remedies. However, on January 8, 2010 and again on September 23, 2010, chief psychologist for the S.C. Department

of Mental Health determined on both occasions that Appellant "did not currently meet diagnostic criteria for a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence". Further adding Appellant is "in the lowest possible risk category for sexual recidivism, one that is lower than the typical sexual offender".

On October 25, 2010, the Director for the S.C. Department of Mental Health officially notified Appellant and authorized his attorney of record to motion the court for his release.

A trial was conducted on June 30, 2011, where the court concluded that the State had not met its burden to the continued confinement of Appellant in the S.C. Department of Mental Health. Before the jury was allowed to deliberate, the judge dismissed the jury and granted the directed verdict motion of the Appellant's attorney and granted by order, the immediate release of Appellant.

On June 22, 2012, Appellant filed (unknown to the Appellant at that time) what amounts to a claim for relief pursuant to S.C.R.C.P Rule 60(b) seeking relief from a judgment or order.

On February 7, 2013, a motions hearing was conducted before the Honorable Frank Addy, Jr. in Lexington County Court of Common Please, where the judge dismissed the case due to the statute of limitations had expired.

ARGUMENT

1. DID THE TRIAL COURT ERR BY DISMISSING ALL OR PART OF THE COMPLAINT DUE TO THE STATUTE OF LIMITATIONS HAD EXPIRED?

Pursuant to SCRCP Rule 60(b), the Appellant may seek relief from judgment or order based on "mistakes, inadvertence, excusable neglect, newly discovered evidence" etc., and specifically lays out a reasonable time for subsection "(1), (2) and (3) of not more than one year after the judgment, order or proceeding was entered or taken".

However, there are multiple parts and charges to the Complaint filed by the Appellant. All actions complained about and all charges related to the original case on record should be filed pursuant to S.C. Code Ann. § 15-3-530 giving the Appellant three (3) years in which to commence an action based on the Appellee's actions.

2. DID THE TRIAL COURT ERR IN FAILING TO PROPERLY RECOGNIZE THE STATUTE OF LIMITATIONS TOLLED AFTER JUDGMENT OR ORDER ISSUED?

Due to the fact that because the Writ of Coram Nobis has been abolished under South Carolina Law, SCRCP 60(b) and because Appellant was released and not able to further his attempt in exhaustion of administrative remedies or right to Habeas Corpus decision, Appellant filed the complaint within the one (1) year statute as prescribed by SCRCP 60(b) and therefore renders Honorable Judge Addy's decision invalid.

The Appellant believes the Honorable Judge Addy did not take into consideration in light of the most recent decision in the case or the facts based on the judgment and imminent order

to release the Appellant from custody. Nor, did the judge take into consideration what the complaint had clearly identified that the administrative remedies had not been completely exhausted upon the trial court's decision to release Appellant.

CONCLUSION

For the above stated reasons and pursuant to the law and rues of court, this Honorable Appellant Court should reverse the judgment of the Court of Common Please.

Respectfully Submitted,

March 26, 2015
Columbia, SC

Raymond W Carter
2219 Leesburg Road
Columbia, SC 29209-3055

APPELLANT PRO SE

CERTIFICATE OF COMPLAINCE

I, Raymond W Carter, certify that the Final Brief of Appellant complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings issued April 15, 2014.

March 26, 2015
Columbia, SC

Raymond W Carter
2219 Leesburg Road
Columbia, SC 29209-3055

APPELLANT PRO SE

PROOF OF SERVICE

I, Raymond W Carter, certify that I have served the Final Brief of Appellant on March 26th 2015 by depositing a copy of same in the United State Mail, postage Paid addressed to:

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Kassi B. Sandifer
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William H. Davidson
Andrew F. Lindemann
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Columbia, SC 29209-8568

Timothy E. Stephenson
Behavior Disorders
709 Trolley Road
Summerville, SC 29485

The Estate of George White
1249 Highway 44 W.
Shepherdsville, KY 40165-8056

Jenny A. Kitchings, Clerk
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Tammy A. Kidd
1246 Blue Lick Road
Shepherdsville, KY 40165

March 26, 2015
Columbia, SC

Raymond W Carter
2219 Leesburg Road
Columbia, SC 29209-3055

APPELLANT PRO SE

ORDER OF COURT OF APPEALS AFFIRMING

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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April 06, 2016

Raymond W. Carter
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Mr. David Leon Morrison, Esquire
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Ms. Kassi B. Sandifer, Esquire
7453 Irmo Dr., Ste.B
Columbia SC 29212

Re: Raymond Carter v. Donnie Myers
Appellate Case No. 2013-000449

Dear Counsel and Mr. Carter:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: The Honorable Frank R. Addy, Jr.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Raymond Carter, Appellant,

v.

Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement Division; George White; Tammy Carter (AKA: Tammy Scrogham); Barbara Keadle (AKA: Diane Hinkle), Lexington County DSS; Francis Ross, Lexington County DSS; and Paulette Jolly, Guardian ad Litem, in their official and individual capacities, Defendants,

Of whom Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement Division; and The Estate of George White are the Respondents.

Appellate Case No. 2013-000449

Appeal From Lexington County
Frank R. Addy, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-158
Submitted December 1, 2015 – Filed April 6, 2016

AFFIRMED

Raymond Carter, of Columbia, pro se.

Andrew F. Lindemann and William H. Davidson, II, both of Davidson & Lindemann, PA, of Columbia, for Respondent Donnie Myers.

David Leon Morrison and Kassi B. Sandifer, both of Morrison Law Firm, LLC, of Columbia, for Respondents Brian Buck and Scott Franklin.

PER CURIAM: Raymond Carter appeals a circuit court's order dismissing Carter's claims against Respondents. Carter argues the circuit court erred by (1) determining the South Carolina Tort Claims Act's (the Act's) statute of limitations barred his claims, (2) failing to toll the statute of limitations, and (3) finding Solicitor Donnie Myers and Assistant Solicitor Tracey Carroll were entitled to prosecutorial immunity. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. We find the Act's statute of limitations barred Carter's claims. *See Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007) ("In reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP, the appellate court applies the same standard of review as the [circuit] court."); *id.* at 395, 645 S.E.2d at 247-48 ("The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." (quoting *Gentry v. Yonce*, 337 S.C. 1, 5, 522 S.E.2d 137, 139 (1999))); S.C. Code Ann. § 15-78-70(a) (2005) ("[The Act] constitutes the exclusive remedy for any tort committed by an employee of a governmental entity."); S.C. Code Ann. § 15-78-30(c) (Supp. 2015) ("'[E]mployee' means any officer, employee, agent, or court appointed representative of the State or its political subdivisions . . . ."); S.C. Code Ann. § 15-78-110 (2005) ("[A]ny action brought pursuant to [the Act] is forever barred unless an action is commenced within two years after the date the

loss was or should have been discovered . . . .").[1]

2. We find Carter's second issue is abandoned. *See Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001) ("[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not presented for review.").

3. We need not address Carter's prosecutorial immunity argument. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (finding it unnecessary to address remaining issues on appeal when the disposition of a preceding issue is dispositive).

AFFIRMED.[2]

HUFF, A.C.J., and WILLIAMS, and THOMAS, JJ., concur.

---

[1] We also note the circuit court properly dismissed Carter's criminal conspiracy claim against the Estate of George White. *See* S.C. Code Ann. § 17-1-10 (2014) (providing that the State prosecutes criminal actions); S.C. Code Ann. § 16-17-410 (2015) (codifying the crime of criminal conspiracy); *Marion*, 373 S.C. at 395, 645 S.E.2d at 247-48 ("The question is whether . . . the complaint states any valid claim for relief." (quoting *Gentry*, 337 S.C. at 5, 522 S.E.2d at 139)).

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

PETITION FOR REHEARING

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter

Appellant,

v.

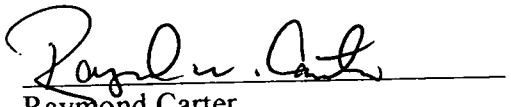
Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees,

PETITION FOR REHEARING AND MEMORANDUM IN SUPPORT FROM ORDER AFFIRMING APPEAL

Let it be known:

Appellate Raymond Carter, now moves for a Petition for Rehearing of the order Affirming the Appeal in this case on April 6, 2016.



Raymond Carter
2219 Leesburg Road
Columbia, SC 29209

APPELLATE PRO SE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter

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Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees,

MEMORANDUMIN SUPPORT FOR PETITION FOR REHEARING FROM ORDER AFFIRMING APPEAL

Raymond Carter, being duly sworn, deposes and says:

1. I hereby move for a rehearing of the order dated April 6, 2016 by Honorable Judge(s): Huff, Williams and Thomas, affirming this appeal. This judgment is null and void, and parts of the appeal where not even addressed. The whole of the matter in this appeal was handled just at it has in all stages of this case for the last 15 years of its existence.

2. The appeal's subject matter was based on the denial at the circuit court deeming that I had not timely filed my complaint and that my complaint for wrongful conviction and other evils committed by the accusers, the police involved and the court officials, had tolled the statute of limitations.

3. My appeal directly addressed the SCRCP Rule 60(b) which in effect supersedes any Writ of Coram Nobis, which I sought relief after the discovery of information that had been falsified and withheld at time of discovery. It wasn't until after I was released and able to pursue this information that it was brought to light. Coram Nobis has been abolished in the state of South Carolina and the Writ of Habeas Corpus was no longer available to me to proceed.

4. At the time of release from the SC Dept. of Mental Health, I had a current appeal on that decision as well. This same evidence that placed me in a compelling situation to accept a plea to I had been told was a "non-violent" offence of attempting to commit a lewd act on a minor with no registration requirements, forced into a civil trial to determine if I were a sexually violent predator all used the same evidence to adjudicate those findings.

5. The issues address by this honorable court conclude that their findings were that SCTCA (The Act) under Doe v. Marion, 373 S.C. 390, 395, 645 S.E. 2d 245, 247 (2007) barring the appeal on the grounds of statute of limitations. This makes the entire judgment null and void because the issues on appeal did not use the rules under SCRCP 60(b).

6. I attest again for the record, pursuant to SCRCP 60(b) newly discovered evidence has been proffered and a timely complaint was made under this rule. The statute of limitations, once such newly discovered evidence is discovered, then I have one year from the date of discovery to file a complaint. Appellate filed such a complaint within the time limits of that rule.

7. Under State v. South, 310 S.C. 504, 507, 427 S.E.2d 666, 668 (1993) (noting that to obtain a new trial based on newly discovered evidence, the evidence must be material to the issue of guilt or innocence). Not only does this material show the issue of innocence, it has also newly discovered evidence in which the alleged minor(s) in question and her two sisters have now totally recanted saying "we were told that's what happened when we know nothing did", "I was lied too and made to believe you were a bad person", "you should know that if something is told to a child multiple times that eventually it will place a false memory tricking a human into believing something actually happened and it gives a false memory in there head" and "my mother does steal and lie a lot." All three have accepted an invitation to appear in court to testify they have never been touched in any inappropriate manner by me. Genuine issues of material fact exist as to my claim of innocence, and should not be considered successive or time-barred, nor relief be granted to the appellees as such. For 16 years now I've had to deal with this injustice, and for 13 years I've been fighting on my own seeking that justice, which with this appeal, continues in the process. Stop protecting these criminals, bring this case to trial and bring justice to the Appellate that he has long sought after.

8. When it comes to newly discovered evidence, the State of South Carolina has a 5 prong test to determine if such claimed newly discovered evidence is viable for a trial. Under Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). Clark provides: "To obtain a new trial based on after discovered evidence, the party must show that the evidence:

(1) would probably change the result if a new trial is had;

(2) has been discovered since trial;

(3) could not have been discovered before trial;

(4) is material to the issue of guilt or innocence; and

(5) is not merely cumulative or impeaching.

9. All 5 of these prongs have been met. Until SCRCP 60(b) is properly addressed before this court, any previous decisions are void. I am innocent of this crime; I did not commit this crime. I investigated myself due to my impoverished situation as soon as I possibly could after I was released. I cannot afford legal counsel or private investigator, and the law is supposed to protect me, my rights and my ability to not be convicted or if newly discovered evidence arises, any previous conviction not allowed to stand when a person is factually, legally and justifiably innocent.

WHEREFORE, for all of the reasons set forth above, this Petition For Rehearing should be granted and, upon rehearing, the Affirmation of this appeal should be DENIED.

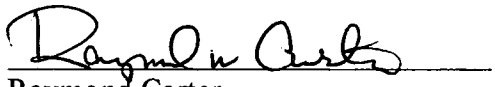
Raymond Carter
2219 Leesburg Road
Columbia, SC 29209

APPELLATE PRO SE

CERTIFICATE

The undersigned Appellant hereby certifies that the PETITION FOR REHEARING AND MEMORANDUM IN SUPPORT FROM ORDER AFFIRMING APPEAL contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,



April 10, 2016
Columbia, SC

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209-3055

APPELLANT PRO SE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter

Appellant,

v.

Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees,

PROOF OF SERVICE

I, Raymond W. Carter, the Appellant, hereby certify that I have served a copy of my PETITION FOR REHEARING AND MEMORANDUM IN SUPPORT FROM ORDER AFFIRMING APPEAL on this 11th day of April, 2016, by depositing a copy of it in the United States Mail, postage paid, addressed to:

Jenny A. Kitchings, Clerk
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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Attorney for Appellees' Myers
1611 Devonshire Drive, PO Box 8568
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David L. Morrison, ESQ
Attorney for Appellees' Buck, Franklin
7453 Irmo Drive, Ste. B
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Tammy A. Kidd
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Timothy E. Stephenson
709 Old Trolley Road
Summerville, SC 29485

The Estate of George D. White
1249 Highway 44 W.
Shepherdsville, KY 40165-8056

April 10, 2016
Columbia, SC

Raymond Carter
2219 Leesburg Road
Columbia, SC 29209-3055

APPELLANT PRO SE

Cc: File

ORDER OF COURT OF APPEALS DENYING REHEARING

The South Carolina Court of Appeals

Raymond Carter, Appellant,

v.

Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement Division; George White; Tammy Carter (AKA: Tammy Scrogham); Barbara Keadle (AKA: Diane Hinkle), Lexington County DSS; Francis Ross, Lexington County DSS; and Paulette Jolly, Guardian ad Litem, in their official and individual capacities, Defendants,

Of whom Donnie Myers, Solicitor, Lexington County; Tracey Carroll, Assistant Solicitor, Lexington County; Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police Department; Timothy E. Stephenson, South Carolina Law Enforcement Division; and The Estate of George White are the Respondents.

Appellate Case No. 2013-000449

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

J.

J.

J.

Columbia, South Carolina

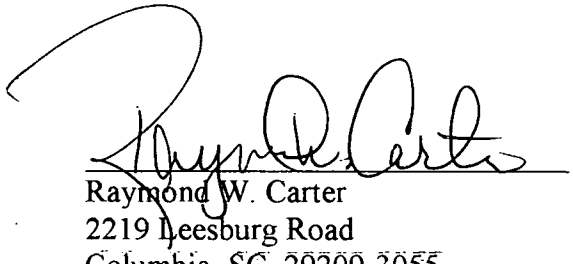
cc: Raymond W. Carter
William H. Davidson, II, Esquire
Andrew F. Lindemann, Esquire
David Leon Morrison, Esquire
Kassi B. Sandifer, Esquire
The Honorable Frank R. Addy, Jr.

FILED
August 18, 2016

CERTIFICATE

The undersigned Petitioner hereby certifies that the Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,



September 14, 2016
Columbia, SC

Raymond W. Carter
2219 Leesburg Road
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APPELLANT PRO SE