

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

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Appellate Case No. 2016-001239

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RECEIVED

SEP 19 2016

SC Court of Appeals

South Carolina Department of Public Safety,  
Warren Ganjehsani, Mike Oliver, Leroy Smith,  
Kenneth Phelps, Anthony Grice, William Taylor,  
Nicklous King, Willie McCauley, Jr., Ada Schmidt,  
Aaron Canzater and Cherie Young, individually  
and in their official capacities, et al.

Respondent(s)

V.


Biafra Monique Curtis, Pro Se

Appellant

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APPELLANTS INITIAL REPLY BRIEF

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Biafra Monique Curtis, Pro Se  
PO BOX 21294  
Hilton Head Island, SC 29925  
843-684-3118

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2015 Letter from Warren Ganjensani and document signed by Norma Jett,  
dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO  
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## **STATEMENT OF ISSUES ON APPEAL**

1. Whether the trial court's May 16/May 18, 2016 order dismissing the underlying action should stand and be enforced even though there is valid and well documented proof which has been presented to the court, but overlooked or if the case should be allowed to move forward to be heard by a fair and unbiased jury?
  
2. Whether the trial court's order which was signed and dated on May 16, 2016, two days prior to the actual hearing date of May 18, 2016, further questions if the plaintiff ever had a true opportunity for due process and equal protection under the law?

## STATEMENT OF THE CASE

This appeal arises from an order dismissing complaints of misconduct of multiple troopers of the South Carolina Highway Patrol and efforts of supervising officers to conceal these acts and omissions. It has been argued that certain elements of the complaint have surpassed certain statues, however, page 19, item#27 of the original complaint presents the events that occurred in 2015, well within the timeframe of statues and undisputable to this fact and are further supported by (ITEM "I") *See June 5, 2015 Letter from Chief K.D. Phelps, June 10, 2015 Letter from Warren Ganjensani and (ITEM "J") document signed by Norma Jett, dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7.*

By way of brief background, these issues arose after the trooper, Willie McCauley, Jr., assigned to investigate the accident never turned his camera on or activated his front lights which would have activated his camera, then discredited an alleged witness, "discarded" his name, contact information and statement, whom it was later to be determined to be the at fault truck driver.

There was a meeting held with myself, Trooper Willie McCauley, Sgt. Nicklous King, Lt. William Taylor and Captain Anthony Grice in which Trooper Mc Cauley admitted that he discarded this information. There was supposedly an investigation in the effort to retrieve this information and the accident report was revised 3 times, but after a year, it was unsuccessful and the (IRF) Insurance Reserve Fund insurance company for the highway patrol found no liability on the part of their officer even though they never interviewed the key witness from all 4 accident reports(the IRF is not the proper investigative authority when assigned with the task of officer misconduct, this is the sole responsibility of the Office of Professional Responsibility). During this time, I contacted each and every person (Leroy Smith, Mike Oliver & SLED) that I could to get assistance from. I received a response from SLED suggesting that I contact Chief KD Phelps at the Office of Professional Responsibility.

On May 29, 2015, I sent an email containing all 4 Accident Reports, Witness Statements and other correspondence Chief KD Phelps and after a brief phone call, I received a letter in the mail from him, dated June 5, 2015 (See EXHIBIT "I" **Phelps Letter**), informing me that the department would conduct an investigation. However, on June 10, 2015, I received a letter from Warren Ganjehsani (See EXHIBIT "I" **Ganjehsani Letter**), informing me that the IRF found no liability and the department declines to take further investigative efforts SC Code Ann. 15-78-50 and will not be commenting further SC Code Ann. 16-17-410 Conspiracy to defeat enforcement of the laws. Under the Doctrine of Acquiescence as well as the Maxim in Law which states that "silence shows consent" 6 Barb. [N.Y.] 2B, Qui non negat, fatetur and "He who does not deny, agrees," (Trayner, Maxim 503). Preventing officer from performing duties. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof. On or around the end of December 2015, I received a document from Norma Jett , dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" (See EXHIBIT "J") **document signed by Norma Jett , dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7** where she states that "Defendants deny that defendant Ganjehsani can refuse of did refuse to allow an ethics investigation" SC Code Ann. 17-28-350.

The remaining part of the case is the fact that originally, both the front judgement page and the last page of the order both were signed and dated on May 16, 2016 (**See Exhibit "A" Notice to Appear to May 18, 2016 Hearing**) even though my hearings were not

held until May 18, 2016 (*See EXHIBIT "B" Final Order, last page, signed and dated May 16, 2016*). Later, I received a completely new copy of the front, judgement page with the date May 18, 2016, however, the last page of the FINAL ORDER remained as signed and dated on May 16, 2016, two days prior to my hearing.

### ARGUMENT

- I. **The trial court erred by prematurely dismissing the case because had the judge even read the complaint (See complaint, page 19, item#27) itself, there is enough information to support its own merit.**

This court unwaveringly renounced reviewing any documents presented in this case other than those presented by the defense. This court's unwillingness to stop the defense from manipulating all of the elements of the case into one and then claiming statute of limitations about all elements was uncompromising. How can one claim statute of limitations regarding occurrences which happened in May and June of 2015? In all fairness, there are (3) three sheets of paper that support my claim that the trial court's decision was incorrect.

### THE STATE OF SOUTH CAROLINA

#### In The Court of Appeals FACTS and Procedural Backgrounds

**Fleming v. Rose, et al :** In this tort action, Lt. J. A. Fleming, Jr., formerly of the South Carolina Highway Patrol, appeals from the trial court's order granting summary judgment to Boykin Rose of the South Carolina Department of Public Safety and James Caulder of the South Carolina Highway Patrol. *At the conclusion of the investigation, Ivey submitted a summary report to Rose. A few days later, Ivey presented a memo to Rose which contained recommendations for disciplinary actions against the troopers involved in the accident. This memo included a recommendation that Lt. James Fleming, who was not involved in either the accident or any of the subsequent investigations, be suspended for five days for allegedly failing to thoroughly interview Trooper Jerry Cobb. Additionally, the memo contained the allegation that Fleming failed to pass on crucial details regarding the accident.*

**Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 776 (1981)** *as to his cause of action for intentional infliction of emotional distress.*

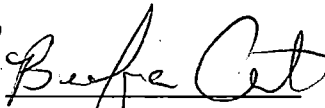
II. The fact that my hearing wasn't until May 18, 2016, yet both the first page of the judgement and final page of the order were both signed and dated May 16, 2016 and then later, I received only the front page of the judgement May 18, 2016 seems very suspicious considering all that I have endured.

Rule 43 (K), provides in relevant part, no agreement between cousin affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered into the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel. This application presents the standard on review that Courts in this State will not enforce and order pursuant to Rule (43)k unless the terms of the settlement are set forth within the order.

#### CONCLUSION

For the foregoing reasons, appellant request that that this Court finds that the May 16/May 18, 2016 order as dictated by the trial court unenforceable. Further, appellant respectfully requests that this court review the three documents which the appellant has submitted previously, which have been overlooked by the trial court (EXHIBIT "I") *See June 5, 2015 Letter from Chief K.D. Phelps, June 10, 2015 Letter from Warren Ganjensani and (ITEM "J") document signed by Norma Jett, dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7.* Finally, the appellant requests of this Court to move to Oral Argument since simply submitting documents and exhibits have proven to be fatal to this appellant.

Respectfully submitted this 16<sup>th</sup> day of September, 2016

  
Biafra Monique Curtis  
PO BOX 21294  
Hilton Head Island, SC  
29925

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Respondent(s)

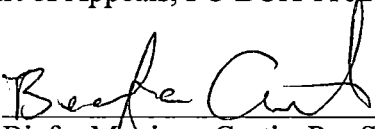
V.

Biafra Monique Curtis, Pro Se

Appellant

CERTIFICATE OF SERVICE

I certify that I have served the Appellants Initial Reply Brief to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on September 16, 2016, addressed to: Jenny Abbott Kitchings Clerk of Court, South Carolina Court of Appeals, PO BOX 11629, Columbia, SC 29211

  
Biafra Monique Curtis, Pro Se  
PO BOX 21294  
Hilton Head Island, SC 29925  
843-684-3118

September 16, 2016

Attn: Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
PO BOX 11629  
Columbia, SC 29211

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SC Court of Appeals

RE: Curtis vs. South Carolina Department of Public Safety, et al  
Appellate Case No. 2016-001239

Greetings Ms. Kitchings,

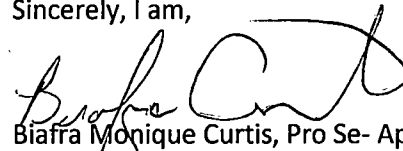
Enclosed for filing please find two (2) copies of Appellants' Initial Reply Brief and Designation of Matter to be Included in the Record on Appeal, as well as a Certificate of Service. Please clock one copy of each as my proof of filing and return a copy to me in the enclosed envelope.

Also enclosed, please find two copies of Appellants' Response to Respondents' Motion to Exclude Matter From the Record on Appeal, Notice of Fraud on the Court and Offenses Against Public Justice.

Thank you in advance.

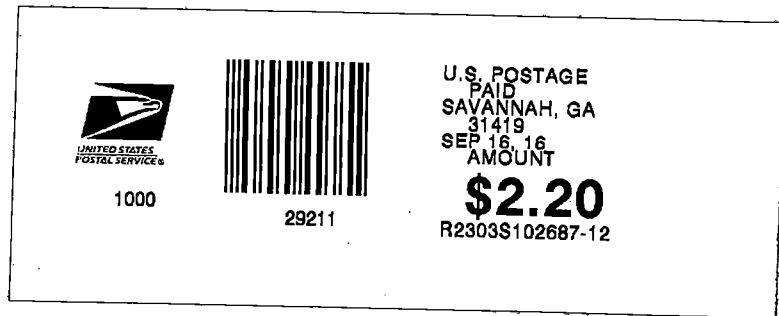
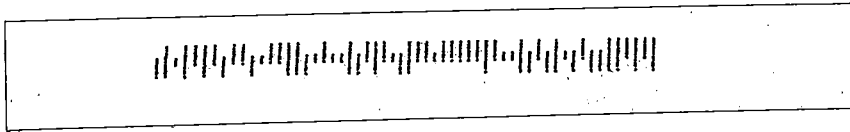
ENCLOSURES

Sincerely, I am,



Biafra Monique Curtis, Pro Se- Appellant  
PO BOX 21294  
Hilton Head Island, SC 29925

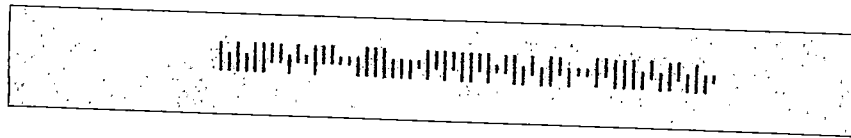
BIAFRA MONIQUE CHAVIS  
PO BOX 21294  
WILTON HEAD, SC 29925



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SC Court of Appeals



THE HONORABLE JENNY ABBOTT KITCHINGS  
CLERK OF COURT  
SC COURT OF APPEALS  
PO BOX 11629  
COLUMBIA, SC 29211