

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL

APPEAL FROM OCONEE COUNTY
COURT OF COMMON PLEAS
HONORABLE J. CORDELL, MADDOX

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

DESIGNATION OF MATTER

CC: ATTORNEY RECORDS
JAMES VICTOR MCDADE EQ
P.O. BOX 2125
ANDERSON, SC 29622

PRO, SE
DAN TEMPLE
P.O. BOX 901
FULTONDALE, AL 35068

CC: THE STATE OF SOUTH CAROLINA COURT APPEALS
ATTORNEY: JENNY ABBOTT KITCHINGS
POST OFFICE BOX 11629
COLUMBIA, SC 29211

RECEIVED
OCT 11 2016
SC Court of Appeals

Transcript of the Procedures

The issues on appeal and Designation of the matter are constitutional issues to this Appeal. A Hearing was held on the date of 4/12/2016 before the honorable J Cordell Maddox in the court of common pleas from the Tenth Judicial Circuit of Oconee County.

TT pg. 2 Line 23-25 The courts record will show no Brady Motion has been turned over in the past history of this case. See letter dated 6/30/1999 requesting the video tape also. See letter from South Carolina Appellant Defense, asking for a copy of the Search Warrant. See letter dated 6/5/2000 See letter dated 8/23/1999, SC Office Appellant Defense asking Mr. Day Affidavit on Mr. Temples case file. Mr. Day failed to file any motions to the courts dated 10/20/2000.

TT pg. 3 Line 5-11 The courts record will show tort claim action 15-78-10 was filed on 11/6/2014 at Turbeville CI, it is clearly inside the Two Year Statutory limitation, Under the Tort claim action complaint before the courts under the Statutory Provisions of 15-78-10. South Carolina tort claim act upon a negligence suit in equal in that the defendants of Oconee County Sheriff Department had a way of governmental abuse, conspiracy, bending upon mischief, I in gathering and fabricating tainted evidence which was illegal use in the gaining of an unlawful conviction of the appellant.

In each PCR hearing the appellant has asked the courts to release the Brady Motion, Surveillance Devices, and Serial Numbers of the Audio/Video that the CI had. He had three devices on him at the time of the alleged buy, SLED stated one is only required for protocol.

Designation of Matter

Appellant proposes the following be included in the Record on Appeal.

- 1) Order of April 28, 2016 (2014-CP-37-00675)
- 2) Order of Case No. 2012-208638 (November 1, 2012)
Order of Case No. 2012-208638 (March 30, 2012)
Order of Case No. 2010-CP-37-0005 (January 9, 2012)
Order of Case No. 2014-001142 (May 20, 2014)
Order of Case No. 2014-CP-37-675 (May 18, 2015)
Order of Case No. 2014-CP-37-0675 (January 2, 2015)
Order of Case No. 2016-001124 (June 24, 2016)
Order of Case No. 2016-001124 (September 7, 2016)
Order of Case No. 2014-CP-37-00675 (April 22, 2016)
Order of Case No. 2010-CP-37-00005 (March 30, 2012)
- 3) Complaint Civil Action No. 2014-CP-37-675 (November 10, 2014)
- 4) Answer
- 5) Transcript of Proceedings (Case No. 14-CP-37-000675)
- 6) Defendants Request to Charge
- 7) Defendants Exhibits Depositions and Discovery. Rule 33, Interrogatories to Parties under SCACR Rule 501, Canon-5 (2014-CP-37-0675)

Notice of Affidavit of Witnessing

Exhibit 1: Steven Watkins

Exhibit 2: Letter to Sallie Smith Clerk of Court (September 7, 1999)

Exhibit 3: Filed (January 11, 1999) Motion of discovery Pursuant to SC Rules of Criminal Procedure 5 & 6

Exhibit 4: Scott Robinson (2001-CP-37-290) (February 6, 2003)

Exhibit 5: Scott Robinson PCR Case of Temple vs. State Concerning Preparation (August 10, 2003)

Exhibit 6: Ken Washington Asking for Copy of Tape (November 10, 2004)

Letters from the Court

Letter from Appellant court to Mr. Day Jr. Esq. (August 23, 1999)

Letter from Mr. Robert M. Pachak (March 3, 2000)

Letter from Mr. Robert M. Pachak (March 5, 2000)

Letter from Mr. Dillard E. Medford (May 18, 2000)

Letter from Motion to Compel (June 7, 2004)

Letter from Mr. Scott Robinson (April 5, 2005)

Letter from Mr. Scott Robinson (July 12, 2005)

Letter from Motion to Request to not seek destruction of the Audio/Video Tapes (March 6, 2013)

Letter from Mr. Scott Robinson (Case No. 01-CP-37-00005) (May 17, 2012)

Letter from Mr. Robert M. Pachak (June 5, 2000)

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL

APPEAL FROM OCONEE COUNTY
COURT OF COMMON PLEAS
HONORABLE J. CORDELL, MADDOX

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

CERTIFICATE OF PRO, SE COUNSEL

CC: ATTORNEY JAMES VICTOR MCDADE EQ
P.O. BOX 2125
ANDERSON, SC 29622

PRO, SE
DAN TEMPLE
P.O. BOX 901
FULTONDALE, AL 35068

CC: THE STATE OF SOUTH CAROLINA COURT APPEALS
ATTORNEY: JENNY ABBOTT KITCHINGS
POST OFFICE BOX 11629
COLUMBIA, SC 29211

The South Carolina Court of Appeals

Dan Temple # 254316, Appellant,

v.

Oconee County Sheriff's Department, Respondent.

Appellate Case No. 2016-001124

ORDER

Appellant's motions to file the notice of appeal out of time and to file an amended notice of appeal are granted. The transcript was delivered on September 13, 2016. Accordingly, the appellant's initial brief and designation of matter are due to be served and filed by October 13, 2016.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Dan Temple, Jr.

James Victor McDade, Esquire

FILED

September 28, 2016
AV

September 13, 2016

To whom It May Concern:

Dan Temple received his transcript
from the Court Sept. 13, 2016 from
Deborah Garrison, Court Reporter

Witness
Barbara Clark

§ Dan Temple JR

Proof Service

I, Dan Temple, JR, do Certify that I have served the letter states & received his transcript on date 9/13/16, from the United State Mail, P.O. Box 901, Fullondale Al. also a Copy was send to James V. McDade P.O. Box 2125 Anderson SC 29622.

cc To; South Carolina Court appeals
P.O. Box 11629
Columbia SC 29211

cc To; Dennis W Cross
10th Circuit at Large
P.O. Box 704
Belton, SC 2

S. Dan Temple

cc To James V McDade W. Dan Temple

W

The South Carolina Court of Appeals

Dan Temple # 254316, Appellant,

v.

Oconee County Sheriff's Department, Respondent.

Appellate Case No. 2016-001124

ORDER

Appellant's motion to order the transcript out of time is granted.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Dan Temple, Jr.

James Victor McDade, Esquire

FILED

6/24/2016 AS

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: James Victor McDade, Esquire

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF OCONEE)
)
 Dan Temple # 254316,)
) ORDER
 Plaintiff,)
)
 vs.) 2014-CP-37-00675
)
)
 Oconee County Sheriff's,)
 Department,)
)
 Defendant.)
 _____)

FILED OCONEE COUNTY, SC
 BEVERLY H. WHITEFIELD
 CLERK OF COURT
 2016 APR 28 P 3:14

This matter came before me upon the Motion for Summary Judgment filed by the Defendant. The Defendant submitted the Affidavit of Captain Ken Washington of the Oconee County Sheriff's Department (Washington Aff. ¶ 1). Washington states that in 1997 Oconee County experienced a crack cocaine problem and, as a result, used an informant to attempt to buy drugs in the affected area (Washington Aff. ¶ 2). No specific person was targeted as a part of this investigation (Washington Aff. ¶ 2). Multiple arrests were made through the use of the informant, including the Plaintiff, who sold crack cocaine to the informant (Washington Aff. ¶ 3).

Plaintiff's arrest occurred in 1997 and Plaintiff was tried and convicted of crack cocaine distribution in the proximity of a school and the manufacture and distribution of crack 2nd offense in 1998 (Washington Aff. ¶ 7). Plaintiff received a 15 year sentence for crack distribution in the proximity of a school and a 20 year sentence on the manufacture and distribution of crack 2nd offense (Washington Aff. ¶ 7). The Defendant asserts that all of the events relating to the Plaintiff's arrest and prosecution occurred on or before 1998. The Defendant asserts that the applicable statute of limitations under the South Carolina Tort

Claims Act is two years and that Plaintiff's Complaint was filed well outside that time limit. The Defendants further assert that the prosecution of the case, which the Plaintiff complains of, was not done by the Anderson County Sheriff's Office, but by the 10th Circuit Solicitor's Office. The Defendant asserts that it is entitled to Summary Judgment. I agree.


SC Code Ann. § 15-78-110 provides a two year statute of limitations for claims brought against governmental agencies. That section applies in this case. As Plaintiff did not bring this action until 2014, well after the statute of limitations had run, the Defendant is entitled to summary judgment on this issue.

It is also clear that the trial docket and control of a criminal prosecution rests with the Solicitors Office. "In every criminal prosecution the responsibility for the conduct of the trial is upon the solicitor and he must and does have full control of the State's case." State v. Addis 186 S.E. 2d 415, 417 (1972).

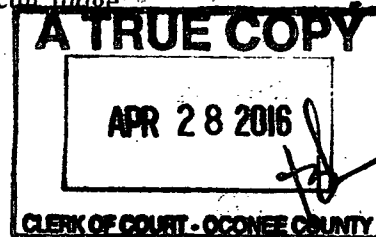
Now therefore, it is ordered, adjudged and decreed that Defendant's Motion for Summary Judgment is granted.

IT IS SO ORDERED.

Dated: 4/22, 2016



J. Cordell Maddox, Jr.
Circuit Judge



2016 APR 28 P 3:14

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-37-00675

Dan Temple, Jr.

Oconee County Sheriff's Department

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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:

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.

S/J CORDELL MADDOX, JR.
 Circuit Court Judge

2131
 Judge Code

04/22/16
 Date

PREPAID

THANK YOU!

DEBORAH GARRISON
Circuit Court Reporter -13thth Judicial Circuit

Post Office Box 27145
Greenville, South Carolina 29616

dGarrison@sccourts.org

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF OCONEE)	
Dan Temple,)	
)	
Plaintiff,)	
)	
v.)	Case No. 14-CP-37-000675
)	
Oconee County Sheriff's Department,)	
)	
Defendant.)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on April 12, 2016, before The Honorable J. Cordell Maddox in the Court of Common Pleas for the Tenth Judicial Circuit; attended by counsel as follows:

APPEARANCES:

M. Dan Temple, Jr.
P O Box 372
Fultondale, AL 35068
Appearing Pro Se

James Victor McDade, Esq.
P O Box 2125
Anderson, SC 29622
Appearing for Defendant

TRANSCRIBED FOR VIVIAN CROSS, COURT REPORTER

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29616
dgarrison@sccourts.org

1 THE COURT: Okay, Dan Temple
2 versus the Oconee County Sheriff's Office.

3 As y'all know, this is the first
4 time that I've seen this as I get here today.
5 What is this?

6 MR. McDADE: It's a summary
7 judgment, Motion, Your Honor. Did he get a
8 copy of my affidavit?

9 THE COURT: I don't know.

10 MR. McDADE: Do you have one, Mr.
11 Temple?

12 MR. TEMPLE: Uh, ---

13 MR. McDADE: I sent you one.

14 MR. TEMPLE: I don't think that I
15 have one of these.

16 THE COURT: They've handed up an
17 affidavit of Captain Ken Washington. What is
18 the -- what was -- again, Mr. McDade, tell me
19 what the lawsuit is about.

20 MR. McDADE: Your Honor, this is --
21 Mr. Temple was arrested, I believe in 1997.
22 He had a jury trial in 1998. He was
23 convicted. What I get from his lawsuit is he
24 alleges that the evidence used against him at
25 the trial was improper. He alleges that the

1 Oconee County Sheriff's Office participated
2 in that. He also alleges that the Sheriff's
3 Office and the Solicitor did not give him
4 *Brady* materials during that trial.

5 The affidavit sets out when the
6 cause of action would have accrued (sic),
7 which would have been in 1997 or 1998. It's
8 clearly outside the two-year statute of
9 limitations under the Tort Claims Act. Even
10 if it were the three-year statute otherwise,
11 it'd be well outside of that.

12 The other point that I would make,
13 Your Honor, is that the sheriff's office
14 doesn't handle the prosecution of a case. So
15 any issue related to *Brady* would not apply to
16 the anyway.

17 So basically it's a statute of
18 limitations case and we believe that we're
19 entitled to summary judgment on that basis.

20 MR. TEMPLE: Your Honor, I object
21 to that.

22 THE COURT: Tell me what you're
23 looking for just so that I can know.

24 MR. TEMPLE: Your Honor, first of
25 all I'd like to say to his honorable court

1 anymore, though?

2 MR. TEMPLE: He's not my lawyer
3 anymore because I kept questioning his
4 ability. I filed paperwork with the
5 disciplinary board concerning that he didn't
6 get this information for me at the time.

7 And, uh, -- there's a number of
8 things here. He's stating that we don't have
9 a claim because of the statute of
10 limitations. But if you go back and look at
11 15-78-810 and you go back and look at the
12 tort action, this claim was in 2014. It's
13 well within the limits.

14 And the ---

15 THE COURT: When was the buy?
16 When was the alleged buy?

17 MR. TEMPLE: The buy was back in
18 '98. But in this Complaint right here, we're
19 talking about the device that he had on him,
20 because SLED stated to us, sent us a notice,
21 that they don't know nothing about this.
22 That they don't know nothing about these
23 transmitters that he had on. So we asked the
24 Sheriff's Department to turn over the serial
25 number off the back of them. They wouldn't

1 turn them over, they wouldn't give them.

2 And the Sheriff's Department kept --
3 we sent Motion after Motion to this court,
4 Motion after Motion just trying to get this
5 information.

6 I done did the time, Your Honor.
7 I've done did the seventeen years. But the
8 Sheriff's Department failed to turn this
9 stuff over. I'd like to clean my record up,
10 get all of this crap off of me.

11 THE COURT: Well, now, how can you
12 -- let me ask you this, in a civil case that
13 wouldn't happen. Even if I granted
14 everything, your record is still there.

15 MR. TEMPLE: I ---

16 THE COURT: Let's say that I said
17 you're entitled to some kind of amount of
18 money because the -- I mean, I think you've
19 got a problem with the statute.

20 MR. TEMPLE: Not necessarily.

21 THE COURT: Hold on a minute. I
22 think you've got a problem with the statute
23 of limitations but that won't clear your
24 record. The only way to do that would have
25 been a PCR.

Dan Temple v. Oconee County Sheriff's Department

7

Case No. 14-CP-37-00675

Hearing of April 12, 2016

Before The Honorable J. Cordell Maddox

1 MR. TEMPLE: Well, I filed a PCR
2 and I have a PCR pending.

3 THE COURT: You have one pending?

4 MR. TEMPLE: I have one pending in
5 this court.

6 THE COURT: Okay.

7 MR. TEMPLE: But my problem right
8 now is that I need this discovery on this.
9 A summary judgment at this time would, under
10 Penn versus, uh, -- but it can't be done.

11 Let me pass this up to you so that
12 you can take a look at this, (tendering).

13 THE COURT: (Reviewing).

14 MR. TEMPLE: Here, I have a
15 letter, (tendering).

16 THE COURT: (Reviewing).

17 MR. TEMPLE: I consulted Miss
18 Martha Sheen, she's a Federal lawyer and she
19 told me to drop this on your desk.

20 THE COURT: (Reviewing).

21 MR. TEMPLE: There's letter after
22 letter where -- here's one particular letter
23 right here from Scott Robinson stating that I
24 never received the copies.

25 THE COURT: All right, I believe

1 that. Mr. McDade, were you here? I don't
2 remember this case. I mean, there's just too
3 many of them for me to remember and I don't
4 have any notes here. What was the deal with
5 the tape at the time?

6 MR. McDADE: Your Honor, I have no
7 idea what the deal was at the time that he's
8 talking about; whether he's talking about
9 '97, '98 or sometime after that.

10 All I can tell you now is -- is
11 that, uh, the Sheriff's Office represents to
12 me that this is very old technology and they
13 don't have it anymore. This is pretty much
14 akin to an eight-track tape as opposed to a
15 CD. It's old technology. Nobody uses it
16 anymore, so these have long been discarded.

17 MR. TEMPLE: Your Honor, ---

18 THE COURT: Yeah?

19 MR. TEMPLE: --- it is not necessarily
20 tapes. It's the transmitters. The trans-
21 mitters, they still use the transmitters.
22 The transmitter is used to catch the voices.
23 We're asking for the transmitter serial
24 numbers so that we'll be able to see that.
25 See, he had a little Walkman right here on

1 his side and the videotape shows that. But
2 he also had two transmitters, one here and --
3 protocol from SLED is that there is one here
4 and one back here.

5 THE COURT: Right.

6 MR. TEMPLE: So what is the third
7 one doing right here? We could never get
8 that. This is the reason why we're saying it
9 is a conspiracy, because they'd never turn
10 over this.

11 We're not necessarily talking about
12 the videotape. We're talking about the
13 transmitters.

14 THE COURT: I guess I'm -- I'm
15 trying to figure out what you're trying to
16 prove, though, by getting a transmitter's
17 serial number.

18 MR. TEMPLE: Well, the transmitter
19 -- see, here's the deal. Ken Washington and
20 Lee Williams stated in court "he had nothing
21 on him." But this Walkman right here when we
22 picked it up on the tape, it shows a little
23 Sony right here, a Sony box. That box hold
24 the drugs that he had on him. If we can get
25 that tape, we can blow that up and see

1 exactly what it was. SLED ---

2 THE COURT: Are you talking about
3 the CI?

4 MR. TEMPLE: Yeah, but he stated
5 that -- but Ken Washington stated that it was
6 the transmitter. But there is no transmitter
7 in SLED that comes that way, there's no
8 transmitter that looks like a little Sony
9 Walkman.

10 MR. McDADE: I don't know, Your
11 Honor. All I know is that this action was
12 filed in 2014 dealing with 2007, 2008 when he
13 knew that he had a cause of action. I don't
14 know why he or his attorney didn't follow up
15 if in fact a judge did say 'you're entitled
16 to these Brady materials.' I don't know.
17 That would have been a very simple matter
18 back then to say, 'Judge, you ordered that I
19 get this stuff. I didn't get it.' But that
20 apparently wasn't done. Or if it was done,
21 something else happened. I have no idea.

22 I know he was convicted beyond a
23 reasonable doubt of the charges.

24 I know he served his sentence.

25 I know he filed this in 2014.

1 I know he's way past the statute of
2 limitations, Your Honor.

3 MR. TEMPLE: The statute of
4 limitations doesn't apply to *Brady*. You
5 should know that.

6 THE COURT: Here's the problem.
7 You're confusing the criminal case and the
8 civil case. You've got a PCR that is
9 floating through the system. Right?

10 MR. TEMPLE: Yes, sir. But here's
11 the deal. The videotape -- we're -- that
12 case right there that he's talking about, I'm
13 not talking about that. I'm talking about
14 the devices. It is well within the statute,
15 because it was filed in 2014. He's trying to
16 use the old case to show that it doesn't
17 apply but it does apply because it was filed
18 in 2014 concerning the devices.

19 THE COURT: Well, when did I order
20 that the devices to be given?

21 MR. TEMPLE: You -- in 2005. You
22 told ---

23 THE COURT: See, the problem there
24 is that's nine years later.

25 MR. TEMPLE: Yes. You told ---

1 THE COURT: That's nine years
2 later.

3 MR. TEMPLE: Yeah, that's nine
4 years later. But I'm not after that tape.
5 I'm after the devices now. That's newly-
6 discovered evidence, because I didn't know
7 until later that they had all three of these
8 devices on him.

9 THE COURT: How far through the
10 system is your PCR?

11 MR. TEMPLE: My PCR is scheduled
12 for June of this year.

13 THE COURT: Okay.

14 MR. TEMPLE: So what I need is, I
15 need that particular part to be able to show
16 the PCR, the error that was made in the PCR.

17 THE COURT: Who is your lawyer in
18 the PCR?

19 MR. TEMPLE: I'm going to use
20 Anderson out of -- I've got a card on me. I
21 was going to use Dunaway but Dunaway failed
22 to return my money. I gave him a deposit.

23 THE COURT: All right. Well, here
24 -- come get your stuff because you are going
25 to need this.

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

COUNTY OF OCONEE) IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA) 10th JUDICIAL CIRCUIT

2014 NOV 10 A 10:50

DAN TEMPLE #254316,)
Plaintiff,)
VS.)
OCONEE COUNTY)
SHERIFF DEPARTMENT ...)
Respondents.)

Civil Action No. 2014-CP-97-675

COMPLAINT / CLAIM

The Plaintiff, at all time relevant to the matter at hand, that's being asserted before the Bar, would make a pleading of a claim, / complaint, before this court, under the "statutory provisions", of 15-78-10 "South Carolina", Tort Claims act, of a Negligence Suit, in equity, in that the Defendants [Oconee County Sheriff's Department], have by way of governmental abuse, conspired, bent upon mischief, in gathering and fabricating tainted, evidence, which was illegally used in the gaining of an unlawful conviction of the Plaintiff, (Dan Temple).

The Plaintiff, asserts that the Defendants, (Oconee County Sheriff's Department) utilized a "Confidential Informant", to conduct and/or execute a controlled buy off the persons of the plaintiff, and to use a surveillance device/equipment (Audio/Visual) to record such Buy/Transaction based on reason, and personal belief, plaintiff had reason to believe such, based on, one, the fact of the matter plaintiff never sold the C.I. anything based on suspicion of the C.I., erratic, shifty behavior, and the fact of the matter, that it was later discovered, that there was an additional surveillance device, of an Audio / Visual, that to knowledge, was never approved for use; nor authorized to be used by the Defendants (Oconee County

LDfg



Sheriff's Department); as the defendants could not; or would not produce the make, model, and Serial Numbers; of all Audio Visual; surveillance equipment used by the C.I., in the allegedly "Controlled Buy", off the persons of the Plaintiff.

Further, in addition plaintiff, has attempted recently, and has made several, honest and diligent attempts to obtain, not only the Tapes, but the Information, as well as, with no response from the Defendants, which gave rise to Plaintiff to be able to infer such, as the defendants only have circumvented, and failed to refute and/or rebut such.

Thusly, showing by their behavior of omissions that such as to the Plaintiff's allegation(s) must be true, further such is a statutory violation that is not "moot", and further it cannot be said with a surety, that such violation will not reoccur, or has not reoccurred. See: DAVIS v. NEW YORK, 316 F. 3d 93 (Fed. Crt. Key 12.1). Further, among other things also since Statutory provision of South Carolina as well as policies and protocol creates and/or define such right or duty, and imposes such on the defendants in which the defendants negated; See: 15-78-10.

SUMMERS v. HARRISON CONSTRUCTION, 381 S.E. 2d. 493 and TANNERS v. FLORENCE CITY COUNTY BUILDING COMMISSION, 511 S.E. 2d. 369; It was well settled; and stated as to the elements of requirement; as to establish negligence.

First, there must be a duty of care owed to the plaintiff;
second; a breach of duty or care by negligent act, or omission, and last, that damage to the plaintiff, proximately resulting from the breach.

Plaintiff, in the herein action, states that the defendants, had a duty, to protect, and serve the public in their capacities as officers, that was owed to the plaintiff, within the scope of their duties, and that they breached such, because they had the authority to do such.

Therefore, the defendants are all being sued under the South Carolina Tort Claims Act, for monetary, nominal, punitive, compensatory damages claims in their official capacity of (\$650,000.00) six hundred fifty thousand dollars each as incorporated, reasons enumerated below:

- A.) The plaintiff being illegally incarcerated.
- B.) The irreparable damages of the Plaintiff's life.
- C.) The duress of Plaintiff.
- D.) The irreparable damage of Plaintiff's family life.

The Plaintiff is in requisition for a Jury Trial; on all issues triable by a Jury, and that the defendant pay all court cost and attorney fees, and in conclusion, the Plaintiff earnestly prays that the disposition herein be sustained in his favor.

Notary Public for South Carolina
Paul J. [Signature] (LS.)
Notary Public for South Carolina

My Commission Expires: 4-27-2016

Dan Temple, Jr.
Pro, Se. #254316.

FILED OCONEE SC
COUNTY OF OCONEE BEVERLY H. WHITFIELD THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA CLERK OF COURT 10th JUDICIAL CIRCUIT

DAN TEMPLE #254316 2014 NOV 10 PO A 10:50 Action No. 2014-C.P. 91-675
Plaintiff,)

VS.)

OCONEE COUNTY)
SHERIFF DEPARTMENT ...)
Respondents.)

CERTIFICATE OF SERVICE

That I, Dan Temple JR Certify and declare under the penalty of Perjury, that I have served on the following parties as addressed below, on this _____ day of November, 2014; a TORT CLAIM ACTION, consisting of a TEMPORARY RESTRAINING ORDER, A NOTICE, and SUMMONS, COMPLAINT, Motion w/affidavit to proceed In Forma Pauperis upon leave of the Court, and a CERTIFICATE OF SERVICE, by depositing such in the TURBEVILLE CORRECTIONAL INSTITUTION Mail Room.

DATED: 11/6/14

S/ Dan Temple JR
DAN TEMPLE #254316, Pro Se, Plaintiff,
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

SWORN to and Subscribed before
me this 6th day of November, 2014.

Earlene H. Huf
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

Orig: Hon. Beverly Whitfield, Clerk of Court,
Post Office Box 678, Walhalla, South Carolina 29691-0678.

CC: Oconee County Sheriff Department, 415 S. Pine Street,
Walhalla, South Carolina 29691-2149.

CC: State Budget and Control Board, 612 Wade Hampton Building,
Post Office Box 12444, Columbia, South Carolina 29211.



THE HONORABLE BEVERLY WHITFIELD,
CLERK OF COURT,
POST OFFICE BOX 678,
WALHALLA, SOUTH CAROLINA 29691-0678.

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2014 NOV 10 A 10:50

RE: DAN TEMPLE, Pro Se, Plaintiff, v.
OCONEE COUNTY SHERIFF DEPARTMENT, RESPONDENTS.

Case No. 2014 CP. 37. 615

Dear Ms. Whitfield:

Enclosed for filing is a TORT CLAIM ACTION, (15-78-10), in the above case. Also enclosed are the following:

- (1) Cover sheet.
- (2) An original copy of TORT CLAIM and one (1) copy.
- (3) Temporary Restraining Order.
- (4) A NOTICE and SUMMONS.
- (5) A COMPLAINT.
- (6) A MOTION TO PROCEED IN FORMA PAUPERIS upon leave of the Court.
- (7) A CERTIFICATE OF SERVICE.

Dan Temple, Plaintiff, kindly request the Court to provide the Plaintiff with a CLOCKED-STAMPED COPY of the documents filed in the Court as soon as possible.

With the kindest regards,

DATED: 11/6/14

s/ Dan Temple

DAN TEMPLE #254316, Pro Se, Plaintiff,
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

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(1) Page.

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

COUNTY OF OCONEE)
STATE OF SOUTH CAROLINA)
2014 NOV 10 A 10:49

COURT OF COMMON PLEAS
10th JUDICIAL CIRCUIT

DAN TEMPLE #254316,
Plaintiff,
VS.
OCONEE COUNTY
SHERIFF DEPARTMENT ... ,
Respondents.)

Civil Action No. 2014 . CP . 97 . 675
Motion w/affidavit in support to
proceed In Forma Pauperis
upon leave of Court.

That I, Dan Temple JR being duly sworn, first state that I do not have the funds to secure the said cost of filing, in this legal action, and do hereby offer up an affidavit in support to proceed without cost.

DATED: 11/4/14

s/ Dan Temple JR

DAN TEMPLE #254316, Pro Se, Plaintiff,
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

SWORN to and Subscribed before
me this 6th day of November, 2014.

Carolyn Hope
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

ORDER

Leave (Granted)(Denied) to proceed In Forma Pauperis

_____ 2014
_____ S.C. _____
CIRCUIT COURT JUDGE.

Note: Am a Ward of the State.

Ex parte: John W. Rice, 415 S.E. 2d. 819.



FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

COUNTY OF OCONEE)
STATE OF SOUTH CAROLINA)

THE COURT OF COMMON PLEAS
10th JUDICIAL CIRCUIT

2014 NOV 10 A 10:49

DAN TEMPLE #254316,)
Plaintiff,)

Civil Action No. 2014 . CP . 97 . 675

VS.)

Motion w/affidavit in support to

OCONEE COUNTY)
SHERIFF DEPARTMENT ...)
Respondents.)

proceed In Forma Pauperis

upon leave of Court.

That I, Dan Temple JR being duly sworn, first state that I do not have the funds to secure the said cost of filing, in this legal action, and do hereby offer up an affidavit in support to proceed without cost.

DATED: 11/4/14

s/ Dan Temple JR

DAN TEMPLE #254316, Pro Se, Plaintiff,
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

SWORN to and Subscribed before
me this 6th day of November, 2014.

Emily Hoff
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

ORDER

Leave (Granted)(Denied) to proceed In Forma Pauperis

12-11- 2014
Wahaller S.C.

[Signature]
CIRCUIT COURT JUDGE

Note: Am a Ward of the State.

Ex parte: John W. Rice, :415 S.E. 2d. 819.

L7) Pg

A TRUE COPY
DEC 22 2014
CLERK OF COURT - OCONEE COUNTY

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2014 DEC 12 P 2:02

STATE OF SOUTH CAROLINA

COUNTY OF Orange

IN THE COURT OF COMMON PLEAS

Dan Temple, Jr.

FILED - ORANGE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
Plaintiff(s)

CIVIL ACTION COVERSHEET

2014 NOV 10 A 10:49

2014 - CP - 37 - 675

vs.

Orange County Sheriff Dept.
Defendant(s)

(Please Print)

Submitted By: _____

Address: _____

SC Bar #: _____

Telephone #: _____

Fax #: _____

Other: _____

E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
- Constructions (100)
 - Debt Collection (110)
 - Employment (120)
 - General (130)
 - Breach of Contract (140)
 - Other (199)

- Torts - Professional Malpractice**
- Dental Malpractice (200)
 - Legal Malpractice (210)
 - Medical Malpractice (220)
 - Previous Notice of Intent Case #
20 _____-CP-_____
 - Notice/ File Med Mal (230)
 - Other (299)

- Torts - Personal Injury**
- Assault/Slander/Label (300)
 - Conversion (310)
 - Motor Vehicle Accident (320)
 - Premises Liability (330)
 - Products Liability (340)
 - Personal Injury (350)
 - Wrongful Death (360)
 - Other (399)

- Real Property**
- Claim & Delivery (400)
 - Condemnation (410)
 - Foreclosure (420)
 - Mechanic's Lien (430)
 - Partition (440)
 - Possession (450)
 - Building Code Violation (460)
 - Other (499)

- Inmate Petitions**
- PCR (500)
 - Mandamus (520)
 - Habeas Corpus (530)
 - Other (599)

- Administrative Law/Relief**
- Reinstate Dry License (800)
 - Judicial Review (810)
 - Relief (820)
 - Permanent Injunction (830)
 - Forfeiture-Petition (840)
 - Forfeiture-Consent Order (850)
 - Other (899)

- Judgments/Settlements**
- Death Settlement (700)
 - Foreign Judgment (710)
 - Magistrate's Judgment (720)
 - Minor Settlement (730)
 - Transcript of Judgment (740)
 - Lis Pendens (750)
 - Transfer of Structured Settlement Payment Rights Application (760)
 - Confession of Judgment (770)
 - Petition for Workers Compensation Settlement Approval (780)
 - Other (799)

- Appeals**
- Arbitration (900)
 - Magistrate-Civil (910)
 - Magistrate-Criminal (920)
 - Municipal (930)
 - Probate Court (940)
 - SCDOT (950)
 - Worker's Comp (960)
 - Zoning Board (970)
 - Public Service Commission (990)
 - Employment Security Commission (991)
 - Other (999)

Special/Complex /Other

- Environmental (600)
- Automobile Arb. (610)
- Medical (620)
- Other (699)
- Sexual Predator (510)
- Pharmaceuticals (630)
- Unfair Trade Practices (640)
- Foreign Subpoenas (650)
- Motion to Quash Subpoena in Out-of-County Action (660)

Submitting Party Signature: Dan Temple, Jr.

Date: 11/14/14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

REC'D
JUN 11 6 2014
D

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

2014 NOV 10 A 10:49

2014. 11. 07. 415

I, Dan Temple Jr, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Dan Temple
Applicant

SWORN or affirmed to and subscribed before me this
6th day of November, 2014.

Evelyn J. Hylleberg
Notary Public

My Commission Expires: 4-27-2016

Revised 3/2003



FILED OCONEE, SC
BEVERLY H. WHITFIELD
COUNTY OF OCONEE CLERK OF COURT IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA) 10th JUDICIAL CIRCUIT
2014 NOV 10 A 10:50

DAN TEMPLE #254316,)
Plaintiff,)

Civil Action No. 2014.CP.97.675

VS.)

OCONEE COUNTY)
SHERIFF DEPARTMENT ...)
Respondents.)

NOTICE and SUMMONS

The Plaintiff, in the herein, before this Honorable Court, would so move pursuant to the rule(s), that governs filing legal action, for a Notice, and Summons, against the Defendant(s) in this action, and to respond to such Summons and Complaint, to the Courts, and Plaintiff, by service at the address of Turbeville Correctional Institution, Seloc A-123, Post Office Box 252, Turbeville, South Carolina 29162, and to respond within exclusively thirty (30) days of such service.

NOTICE: In the event a timely response is not made in pursuance of the rule(s), Judgement by Default will be requested.

DATED: 11/4/14

s/ Dan Temple JR
DAN TEMPLE #254316, Pro Se, Plaintiff
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY
COURT OF COMMON PLEAS

HONORABLE J. CORDELL, MADDOX

RECEIVED
OCT 11 2016
SC Court of Appeals

CASE NO: 2016-001124

DAN TEMPLE, JR

APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT

RESPONDENT

PROOF OF SERVICE

I, CERTIFY THAT I HAVE SERVED THE APPELLANTS INTIAL BRIEFS AND DESIGNATION OF MATTER: BY DEPOSITING A COPY OF IT IN THE UNITED STATE MAIL POSTAGE PAID ON OCTOBER 6, 2016. ADDRESS TO HIS ATTORNEY JAMES VICTOR McDADE, ESQ. P.O. BOX 2125, ANDERSON, SC 29622.

OCTOBER 6, 2016

Dan Temple Jr
Pro, Se. Dan Temple.

CC: THE STATE OF SOUTH CAROLINA COURT APPEALS
ATTORNEY: JENNY ABBOTT KITCHINGS
POST OFFICE BOX 11629
COLUMBIA, SC 29211

Marilyn J. Grice
MCE : 9-4-2015

