

Jenny kitchens Clerk

10-18-16

James Lockemy chief Judge

Office of Court administration

RECEIVED

OCT 20 2016

SC Court of Appeals

Re: case# 2016 - 002024

Sirs,

This letter is to address the numerous letters dated 9-28-2016 and 9-29-2016; these were all received on 10-17-16 here in Texas. I do not know why counsel refused to respond. And I do not know if the delay is normal or due to the rounds of weather you are experiencing in S.C., regardless of reason I immediately called the clerks office, and was giving nothing but pure run around and excuses with everyone refusing to give a straight answer claiming they could not give legal advice, but the deficiency notices by clerks determining the notice is insufficient are defective in some way is a legal determination. If they can make that legal determination, they can give the "advice" to correct that error to their satisfaction.

- 1) The notice of appeal does not include the orders,<<<

I enclosed 1 order and the docket entry from the other, the court has refused to state why the 2<sup>nd</sup> order was never issued. Nor has the docket entry been corrected to even give a ruling or grounds. The case involved 3 parties all which had different hearings and I filed notice immediately after the final hearing. So again I am including them.

- 2) The document has not been timely filed <<<

The document was mailed on 8-29-16 see attached certified receipt along with the post office receipts for the money order for the filing fee and the receipt for all the certified mail to the clerk and the opposing parties, ALL DONE ON 8-29-16 well within the 30 days. The court is supposed to have a copy of the letter and postmark showing the date mailed under the rule.

If the court deems that incorrect somehow please consider this a motion for late filing.

The certified mail was returned as unaccepted by the Courts mailrom at 1220 Senate street, claiming a suite was need. It remained unopened, and I mailed it to the other address given by phone U.S. Mail express mail the same day. The original postmark and mail date was timely and mail delays are not the responsibility of the appellant. *See attached mail records.*

- 3) The notice must contain names of attorneys<<<

That is included in the notice I must assuming your wanting them listed in some other form, the notice of appeal form on the courts website is what I used, I filled it out exactly as it showed. I

do not understand what correction is being asked for so I included the names and attorneys as shown on the notice

Please call and explain what deficiency is referred to if the below is not good enough. 469-323-1751

Case No. 2015CP1002824

David Scot Lynd  
VS  
Isle of Palms Police Department  
South Carolina Law Enforcement Division  
Dawn Caldwell

Timothy Domin  
126 Seven Farms Dr.,  
Ste. 200  
Charleston SC 29492

Dorsel, Christopher Thomas  
3 Wesley Drive  
Charleston SC 29407

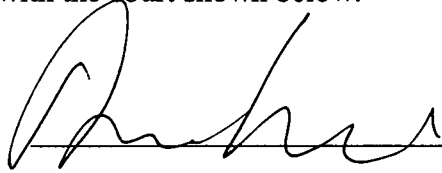
Morrison, David Leon  
7453 Irmo Dr.,  
Ste. B  
Columbia SC 29212

- 4) The attorney of record was paid and refused to return the money or withdraw, even after notice by the court on 9-28-16 when giving 10 days to do so. Either sanction him, order my funds returned, or take some step to make him do his job, or assign counsel, since I am half a continent away.
  
- 5) Transcripts not ordered<<<

There were supposedly 2 10 minute hearing the docket shows no reporter that I can find by using the internet, the calls to the court requesting the names and address have gone unanswered, only a voice mail message option is the only thing giving , all messages have never been returned.

Certificate of Service

I hereby certify that the above named parties were served this letter/motion by U.S. mail on 10-18-2016 to the address on file with the court shown below.

A handwritten signature in black ink, appearing to read "D Lynd", is written over a horizontal line.

David Lynd

Timothy Domin  
126 Seven Farms Dr.,  
Ste. 200  
Charleston SC 29492

Dorsel, Christopher Thomas  
3 Wesley Drive  
Charleston SC 29407

Morrison, David Leon  
7453 Irmo Dr.,  
Ste. B  
Columbia SC 29212



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**2016-08-29**

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**750070**

Amount  
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Clerk  
**99**

08/29/2016 4814760007 (800)275-8777 3:48 PM

Product Description Sale Qty Final Price

First-Class Mail Letter 1 \$0.47

(Domestic)  
(CHARLESTON, SC 29407)  
(Weight: 0 Lb 0.70 Oz)  
(Expected Delivery Day) (Thursday 09/01/2016)  
Certified (USPS Certified Mail #) 1 \$3.30  
First-Class Mail Letter 1 \$0.47

(Domestic)  
(COLUMBIA, SC 29201)  
(Weight: 0 Lb 0.70 Oz)  
(Expected Delivery Day) (Thursday 09/01/2016)  
Certified (USPS Certified Mail #) 1 \$3.30  
First-Class Mail Letter 1 \$0.47

(Domestic)  
(CHARLESTON, SC 29492)  
(Weight: 0 Lb 0.70 Oz)  
(Expected Delivery Day) (Thursday 09/01/2016)  
Certified (USPS Certified Mail #) 1 \$3.30  
First-Class Mail Letter 1 \$0.47

*Asst. Mgr.*

ROSEMEADE  
3755 N JOSEY LN  
CARROLLTON TX

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Dom M.O. Fee \$1.20  
Dom M.O. Value \$11.25  
Dom M.O. Fee (Serial#: 23047957675) \$1.20

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7016 0750 0000 4070 8629

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CARROLLTON TX 75007



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## Clerk of Court

The fifteen-member clerk's office of the Court of Appeals provides services to litigants, media, and members of the general public.

For appeals brought to the Court, the Clerk's Office provides the medium for transferring the legal issues from the litigants to the Judges of the Court, including any motions that may be filed. The South Carolina Appellate Court Rules constitute the chief tool for this activity. In applying these Rules, the Clerk's office has frequent and regular contact with the litigants, whether attorneys or individuals representing themselves. The FAQ of the Court of Appeals contains guidance on preparing an appeal. By assisting litigants in understanding the Rules, the Clerk's office ensures that the appeal reaches the Court in the form most accessible to the Judges, thus securing to the litigants a full and fair hearing.

The Clerk's Office further serves as the scheduling hub of the Court, working with both judges and litigants to set the hearing and submission of cases. Decisions rendered by the Judges come to the Clerk's office for filing and for transmission to the interested parties.

The Clerk's Office keeps the records of the Court and makes these records available for inspection and copying. These records remain open to the public during regular work hours of the Court.

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### Jenny Abbott Kitchings

Clerk of Court

#### Office Location:

1220 Senate Street  
Columbia, South Carolina 29201

#### Office Hours:

Monday through Friday  
8:30 a.m. to 5:00 p.m.  
Excluding state holidays

Voice: (803) 734-1890

FAX: (803) 734-1839

Switch View

### David Scot Lynd VS Isle of Palms Police Department

Case Number:	2015CPI002824	Court Agency:	Common Pleas	Filed Date:	05/18/2015
Case Type:	Common Pleas	Case Sub. Type:	Conversion 310	File Type:	Jury
Status:	Pending/ADR Sanctions	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

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Click the icon to show associated parties.

Name	Address	Race Sex	Year Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Caldwell, Dawn				Defendant		03/03/2016
<input checked="" type="checkbox"/> Domin, Timothy Alan	126 Seven Farms Dr., Ste. 200 Charleston SC 29492			Defendant Attorney		07/15/2015
<input checked="" type="checkbox"/> Dorsel, Christopher Thomas	3 Wesley Drive Charleston SC 29407			Defendant Attorney		08/26/2015
<input checked="" type="checkbox"/> Gammons, Debra J.	PO Box 535 Charleston SC 29402			Mediator		12/14/2015
<input checked="" type="checkbox"/> Greenberg, Brent Biagio	PO Box 2061 Charleston SC 29465			Plaintiff Attorney		05/18/2015
<input checked="" type="checkbox"/> Isle of Palms				Defendant		07/30/2015
<input checked="" type="checkbox"/> Isle of Palms Police Department				Defendant		05/18/2015
<input checked="" type="checkbox"/> Johnson, James Jordan	7453 Irmio Drive #B Columbia SC 29212			Defendant Attorney		03/03/2016
<input checked="" type="checkbox"/> Kahn, Ellis I.	PO Box 31397 Charleston SC 294171397			Alternate Mediator		12/14/2015
<input checked="" type="checkbox"/> Lynd, David Scot				Plaintiff		08/02/2016
<input checked="" type="checkbox"/> Morrison, David Leon	7453 Irmio Dr., Ste. B Columbia SC 29212			Defendant Attorney		07/28/2015
<input checked="" type="checkbox"/> Senn, Sandra J.	PO Box 12279 Charleston SC 29422			Defendant Attorney		07/28/2015
<input checked="" type="checkbox"/> South Carolina Law Enforcement Division				Defendant		03/07/2016

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

David Scot Lynd,

Plaintiff,

vs.

ISLE OF PALMS, DAWN CALDWELL,  
individually and in her capacity as an  
officer of the Isle of Palm Police  
Department, and SOUTH CAROLINA LAW  
ENFORCEMENT DIVISION,

Defendants.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2015-CP-10-2824

ORDER GRANTING DEFENDANT  
ISLE OF PALMS'  
MOTION FOR SUMMARY JUDGMENT

FILED  
SEP 29 PM 12:01  
JULE J. ARMSTRONG  
CLERK OF COURT

This matter came before the Court on September 2, 2015 on Defendant Isle of Palms' motion for summary judgment on the grounds of the statute of limitations. This action against the Isle of Palms is governed by the South Carolina Tort Claims Act. S.C. Code § 15-78-10 *et seq.* All torts committed by a government employee while acting within the scope of an employee's official duties must be brought against the government entity. S.C. Code § 15-78-200. The Tort Claims Act provides a two year statute of limitations, unless a verified claim is filed within one year. S.C. Code § 15-78-110. No verified claim was filed in this case within one year, thus a two year statute applies. "[T]he statute of limitations begins to run when a person of common knowledge and experience would be on notice a claim might exist, not when the plaintiff discovers a witness to support or prove the case." Bayle v. SC DOT, 344 S.C. 115, 542 S.E. 2d 736 (Ct. App. 2001).

In the present case, Mr. Lynd asserts that Defendants' acts and omissions resulted in the loss of two jet skis which the Isle of Palms took into its possession in

ARMSTRONG

2004. Lynd contends he was not provided with proper notice to pick up the jet skis and the destruction or disposition of the jet skis was improper and resulted in a loss to him. He alleges he made a request for records in 2012 and obtained records relating to their alleged destruction. He also alleges police officer Dawn Caldwell made threats to intimidate him from pursuing any matter related to the jet skis. He further alleges false information was put into reports to discredit him and injure his reputation. Mr. Lynd's Complaint was originally filed May 18, 2015. It named the Isle of Palms Police Department instead of the Isle of Palms. The Plaintiff amended his Complaint June 10, 2015 to name the Isle of Palms.

However, the general facts Lynd alleges in his Complaint are the same issues and are based on the same operative facts he raised in e-mails to the Chief of Police of Isle of Palms more than two years prior. In September 2012, Lynd wrote:

"Lynd's Jet skis and Trailer were purportedly destroyed incorrectly, and without supporting documentation, or any form of notice and documentation to Lynd on their destruction as the law requires. . . .

Lynd's rights were ignored, and Lynd's property was destroyed at a great loss to Lynd, without his consent or knowledge." (p. 4)

"I must have run across something that was not handled correctly, I recorded detective Caldwell's voice mail and played it for my attorneys, all of which say that it is clear threat of false and manufactured prosecution." (p. 1)

"The supplemental report dated 6-6-12 is not even close to accurate. .

. 1. Nobody contacted Lynd that the skies had been dropped off . . . 2.

RNOJ/2

The insurance fraud charged is an attempt to try to discredit Lynd . . . .”

(p. 2)

The Isle of Palms turned Lynd's September 2012 e-mail over to SLED for investigation which ultimately found no evidence of wrongdoing. The Isle of Palms mailed Lynd a letter notifying Lynd that SLED had completed an investigation, that no wrongdoing had been found, and the Isle of Palms considered the matter closed. Lynd wrote back to the Chief of Police on May 16th. Lynd questioned any purported SLED investigation and stated: "I have contacted a dozen or so Charleston attorneys . . . . They pretty much all say the same thing that it is a very easy case to win . . . . Be sure you inform the City Council, I tried to handle this without a suit, you choose to have one, and threaten and attempt to intimidate me."

It is clear based on the e-mails of Mr. Lynd that he not only had sufficient information to be on notice a claim might exist before May 18, 2013; he threatened to bring suit for these very matters more than two years before the lawsuit was filed.

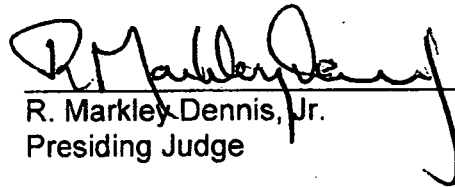
For the reasons stated, the motion for summary judgment of the Isle of Palms on the issue of the statute of limitations is granted.

Furthermore, the Tort Claims Act provides that if an employee is acting within the scope of his or her official duties, the action can only be brought against the government entity. Thus, as to any claims against Dawn Caldwell, co-defendant, those acts or omissions within the scope of her official duties can only be brought against the Isle of Palms and those claims are time-barred and dismissed.

However, reading the Complaint liberally, it is also alleged in the Complaint that Caldwell acted for her own benefit with respect to converting the jet skis to her own use

and allegedly trying to cover this conversion with false police reports and/or threats. If any of those allegations could be proven, they would be outside the scope of her official duties per the affidavit of the Chief of Police. Any claims outside the scope of Caldwell's official duties can be brought against her individually. Thus, it is not proper to dismiss Dawn Caldwell at this time (and no motion has been filed at this time), but it is proper to dismiss as time-barred those claims within the scope of her official duties which must be brought against the Isle of Palms. Plaintiff may proceed against Caldwell only as to claims that are outside the scope of her official duties.

No motion was filed and I have not made any ruling with respect the statute of limitations as to any claims against the South Carolina Law Enforcement Division (SLED) or Dawn Caldwell individually for allegations of conduct outside the scope of her official duties.

  
R. Markley Dennis, Jr.  
Presiding Judge

Charleston, South Carolina  
September 28, 2015

RMD/4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-10-2824

David Scot Lynd,

Dawn Caldwell, Individually and in her capacity as an  
officer of the Isle of Palms Police Department, and

PLAINTIFF(S)

South Carolina Law Enforcement Division  
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

FILED  
 2016 AUG -  
 JULIE STRONG  
 CLERK OF COURT  
 PM 4:36

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: The Plaintiffs' Motion for Relief from Orders Granting Summary Judgment to Defendants South Carolina Law Enforcement and Dawn Caldwell is denied as untimely filed.

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)
n/a		\$
		\$
		\$
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.

*David Scot Lynd*  
 Circuit Court Judge

2151  
Judge Code

July 28, 2016  
Date

