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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeal

APPEAL FROM Newberry COUNTY  
Frank R. Addy, Circuit Court Judge

C/A:2014-002532

Anthony Derone Richardson, ..... Appellant,


v.

Jackie Swindler chief of Police

Newberry County Municipal Police, ..... Respondent.

**AMEND** RECORD ON APPEAL

Anthony Derone Richardson Pro. Se  
P.O. Box 221  
Newberry, SC 29108  
Appellant

 Date ~~2-27-16~~  
10-12-16

Morrison Law Firm

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC, 29212

(803)-661-6285

Attorney for Respondent

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STATEMENT OF ISSUES ON APPEAL

1. IN THE CASE BROUGHT PURSUANT TO 42 U.S.C 1983 FOR ALLEGED CIVIL RIGHTS VIOLATIONS THE TRIAL COURT IMPROPERLY GRANTED THE RESPONDENT MOTION FOR SUMMARY PURSUANT TO HECK V. HUMPREY HOWEVER IS NOT GOVERN UNDER HECK BUT UNDER YOUNG V HARRIS u.s 37 (1971)
2. THE TRIAL COURT IMPROPERLY DISMISSED THE APPELLANT 1983 RATHER THAN GRANTING THE APPELLANT REQUEST THAT A STAY SHOULD BE GRANTED PENDING THE POST CONVICTION RELIEF PERTAINING TO THE SAME CASE.....
3. IF THE CASE IS DETERMINE THAT THE TRIAL COURT ERRED IN DISMISSING RATHER THAN STAYING THE APPELLANT CASE THE ERROR WAS HARMFUL SINCE THE JUDGE REFUSE TO STAY THE CASE PENDING THE OUTCOME OF THE POST CONVICTION RELIEF BECAUSE THE SAME JUDGE OVERSEER THE SAME CASE WHICH IS THE POST CONVICTION RELIEF because the Supreme Court denied the case because the state had not reach a verdict at the time.....

STATEMENT OF CASE

The Appellant initiated this action pursuant to 42 U.S.C 1983 against Jackie Swindler, former Chief of police, alleging Chief Swindler did violate my constitution rights under fifth, sixth, and fourteenth amendment. The respondent timely answered. Sometimes shortly before or after the Appellant filed complaint in civil court, he also filed post-conviction relief arising out of the same case alleged procedural due processed violation and subsequent conviction, which is captioned Anthony Richardson v. State South Carolina, case number: 2013-cp-36-0236. On October 14,2014, an evidentiary hearing on the appellant petition for post-conviction relief was heard, during which time the honorable frank r. Addy error in granting judgement in favor of the state of South Carolina. (transcript of hearing, pp. 12-13) The respondent file a Motion for summary judgement on or about May 30, 2014. However, the Judge Addy granted the summary while the post-conviction and civil case was pending and the Judge Addy heard post-conviction relief and

the civil case which was running parallel. October 24, 2014 in which the respondent moved for summary judgement on additional ground that the appellant claim was barred by heck v. Humphrey 512 u.s. 477 (1994) however the Appellant claim is not governing under heck but under young v. Harris because the same case was running parallel. The respondent amended motion for summary judgement was heard on November 5, 2014. The trial court error issued a form 4 order the same day granting summary judgement to respondent ruling the Appellant claim was barred by heck v. Humphrey was and trial court error because the lower court criminal case pertaining to the same case pending during the ruling of Judge Addy. Trial court Judge erred in denying Appellant request to stay the case.

#### STATEMENT OF FACTS

On or about the Appellant October 15, 2008, the Appellant was involved in an incident that occurred at Quick stop located at 1430 Drayton street in Newberry, sc. (Deposition of Anthony Richardson (plaintiff Dep. Pp-7-8 however I did admit receiving the trespass notice. On page 8 I admit the owner had me under trespass notice, which the Appellant admittedly received. (Plaintiff Dep. P.9 see also trespassing notice.) On or about Feb. 2, 2013 the Appellant appeared before Judge Partridge and pled not guilty to offense of trespass after notice and request a jury trial. Plaintiff Dep 20-21,25) (plaintiff Dep. Pp. 21-33) see also city of Newberry incident report.) The Appellant received a letter to appear at the Public Safety Complex on February 20, 2013, at 2 p.m for jury selection. (Plaintiff dep. 23) see also letter dated February 7, 2013 from cella dodgen to Plaintiff) Plaintiff appeared at Public safety complex and chief swindler. Dep. Pp-35-36) Chief swindler conducted a bench trial in which the Appellant into entering a agreement. ( Dep. Pg.69)

The Appellant did not pay the fine 250 dollar fine for trespass after notice offense because the respondent was not a Judge under the law and the illegally sent Appellant notice advising that his

payment was delinquent and that failure to make payment in ten days will result in a bench warrant against him. (notice of past due payment dated March 22, 2013) The appellant did pay the fine on time because a jury trial was request was in progress and was not waived. May 6, 2013 bench warrant had been issued against him. (Dep. Pg. 62) (Receipt number 48896) The Appellant subsequently brought claiming that his right to a jury trial was violated when he plead guilty before respondent rather than a judge of municipal court. The trial court err in claiming the case was govern under heck however the case was not govern under Heck but young v. Harris because the Post-conviction relief involve the same case was pending. ( see post-conviction relief

#### ARUMENT

IN THIS CASE BROUGHT PURSUANT TO 43 U.S.C 1983 FOR ALLEGED CIVIL RIGHTS VIOLATION THE TRIAL COURT IMPROPERLIY GRANTED THE RESPONDENT MOTION FOR SUMMARY JUDGEMENT PURSUANT TO HECK V HUMPHREY 521 U.S Appellant files his Complaint pursuant 42 U.S.C 1983 alleging respondent did violate his constitution right to jury trial. The trial court improperly granted summary judgement because the post relief was still pending and the case should have stayed until the verdict of the Post-conviction relief. The trial court should dismiss this summary judgement because the case is governing under young v. Harris because the post-conviction relief was pending was pending when the civil case and the post-conviction relief was running parallel with each other. A stay should have been granted. The appellant chose to rather appeal but file post-conviction is a constitution right that the appellant chose, however the post-conviction was still pending the outcome of a lower court decision in which Judge frank Addy heard both cases the civil and the post-conviction relief. ( see post-conviction-relief)

2. THE TRIAL COURT IMPROPRLY DISMISSED THE APPELLANT 1983 RATHER THAN GRANTING THE APPELLANT REQUEST TO STAY CASE PENDING LOWER

## COURT DECISION

The appellant maintains that the trial court erred in denying my request to stay this matter pending the outcome of his post conviction relief pursuant to *Young v. Harris* 401 U.S. 37 (1971). A notice of intent was filed but the mail came late in the mail therefore I could not provide at the hearing but the post conviction relief was pending and the same judge heard the case. (see post conviction relief) Pcr was running parallel with the civil case at the time and *Young v. Harris* has a remedy to two cases running parallel, *Young* abstention suggests the case should be stayed pending the outcome of the post-conviction relief however the judge should have stayed the case or gave the appellant time to produce the notice of appeal but rather he ruled on the outcome of the lower court was affected by the civil judge decision.

### 3. THE TRIAL COURT ERRED IN DISMISSING RATHER THAN STAYING THE APPELLANT CASE THE ERROR WAS VIOLATION BECAUSE APPELLANT IS ENTITLED TO STAY AT HIS REQUEST

Under *Young v. Harris* the Appellant is entitled to a stay if two cases are pending and are running parallel with each other that the abstention is to stay the case until the post-conviction relief could be argued in court, however the Judge erred even after my request the judge denied my stay.

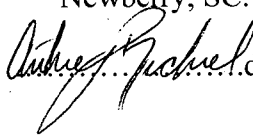
CONCLUSION

The trial court improperly granted summary judgement. The trial court improperly dismissed the appellant 1983 claim pursuant to heck v. Humphrey. Furthermore, trial court improperly dismissed the appellant claim rather than stay the case pending the outcome of Post-Conviction relief. The notice of intent was file and the case is governing under young v. harris. Appellant for these reason, the appellant request that the court dismiss grant of summary judgement from lower court and grant summary judgement in favor of Appellant.

Anthony Richardson

P.O. Box 221

Newberry, SC. 29108

 date 2-27-16

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Attorney for Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

EIGHTH JUDICIAL CIRCUIT  
IN THE COURT OF COMMON PLEAS

ANTHONY D. RICHARDSON )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 JACKIE SWINDLER )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2013-CP-36-00321  
TRANSCRIPT OF RECORD

NOVEMBER 5, 2014  
NEWBERRY, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR.

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

ATTORNEY FOR PLAINTIFF:  
ANTHONY RICHARDSON, APPEARED PRO SE

ATTORNEY FOR DEFENDANT:

KASSI B. SANDIFER, ESQUIRE

---

TARA T. SCOTT, CVR  
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(No exhibits were presented during this hearing)

1 THE COURT: I think that we are on the record on case  
2 13-CP-36-321. This is Anthony Richardson vs Jackie Swindler  
3 in his capacity as Chief of Police, and the Newberry Police  
4 Department. This is, I believe, the Defendant's Motion for  
5 Summary Judgement. Is it Motion for Summary Judgement or is  
6 it Motion to Dismiss? I've got -

7 MS. SANDIFER: It's a Motion for Summary Judgement, Your  
8 Honor.

9 THE COURT: And it's Ms. Sandifer?

10 MS. SANDIFER: It is.

11 THE COURT: Mr. Richardson is also present pro se. It's  
12 your motion. You have the floor.

13 MS. SANDIFER: Your Honor, I filed an amended motion  
14 after the Plaintiff's PCR hearing went forward. Did you get  
15 a copy of that?

16 THE COURT: It is in the file. I have not seen it until  
17 just now.

18 MS. SANDIFER: I just gave Mr. Richardson a copy of my  
19 amended memo in support of the Motion for Summary Judgement.  
20 Can I hand that up to you?

21 THE COURT: Sure. Go ahead.

22 MS. SANDIFER: Mr. Richardson sued Chief Swindler  
23 alleging that Chief Swindler violated his due process rights  
24 to a jury trial. In October of 2008, Mr. Richardson was  
25 involved in an incident in the Quick Stop in Newberry. As a

1 result of that, the owner issued a Notice of Trespass  
2 against Mr. Richardson. Mr. Richardson received the notice  
3 and it was never lifted or withdrawn. Then in December 2012  
4 Mr. Richardson went back on the property and he was issued a  
5 citation for trespass after notice. He originally pled not  
6 guilty to that and requested a jury trial. The Clerk's  
7 office sent Mr. Richardson a notice informing him that jury  
8 selection would take place on February 20<sup>th</sup>. He showed up  
9 for that jury selection. Instead of selecting a jury, Mr.  
10 Richardson met with Chief Swindler, pled guilty to the  
11 offense, and agreed to pay \$250 by March 15. He signed a  
12 document to that effect. During the meeting, he knew he had  
13 a right to a jury trial. He testified to that in his  
14 deposition. He also testified that Chief Swindler did not  
15 threaten or coerce him in order to get him to abandon that  
16 right. The Plaintiff ultimately paid the fine, the \$250, in  
17 May 2013. He did not directly appeal his conviction.  
18 Instead he filed a petition for PCR, which I've been  
19 informed was denied. We're moving to dismiss his complaint  
20 on two grounds. The first ground is that he waived his  
21 right to a jury trial. He pled guilty knowing that he had  
22 the right to a jury trial. He abandoned his right  
23 voluntarily as there was no coercion or threat, and he paid  
24 the fine. He could have chosen to pursue the jury trial.  
25 He didn't and we believe he waived his right to that and the

1 complaint should be dismissed. Also, the second ground is  
2 that his complaint is not cognizable under Heck v Humphrey.  
3 According to Heck, when a Plaintiff seeks money damages for  
4 a Constitutional violation pursuant to 1983, the Court must  
5 consider whether the judgement in favor of the Plaintiff  
6 would necessarily imply the invalidity of the conviction or  
7 the sentence. He is seeking damages. He is seeking four  
8 million dollars pursuant to 1983. If the judgement in the  
9 Plaintiff's favor -- then the complaint must be dismissed if  
10 the judgement in the Plaintiff's favor would necessarily  
11 imply the invalidity of the conviction unless he can show  
12 that the conviction has already been invalidated. Okay.  
13 Well, first a judgement in his favor here would necessarily  
14 imply the invalidity of his conviction because he's  
15 challenging the process by which the conviction was  
16 obtained. He's saying he didn't get a right to a jury  
17 trial. A judgement in his favor here is agreeing with that  
18 and that does imply the invalidity of the conviction. He  
19 can't show that his conviction has already been invalidated.  
20 He didn't appeal it. He filed a PCR and that was denied, so  
21 I've been informed. The time for him to direct --

22 THE COURT: I think I may have been the judge on that  
23 PCR. Was I the judge on that PCR?

24 MR. RICHARDSON: Yes, Your Honor.

25 THE COURT: Okay. You looked a little familiar. Go

1 ahead.

2 MS. SANDIFER: Okay. So anyway the time for him to  
3 appeal the conviction directly has expired so therefore  
4 under Heck his complaint is not cognizable and under these  
5 circumstances it should be dismissed.

6 THE COURT: Mr. Richardson, I'm happy to hear anything  
7 that you want to tell me about your motion, please.

8 MR. RICHARDSON: Greetings, Your Honor. Something I  
9 think that opposing counsel and I agree on that to compel a  
10 motion for summary judgement one should be granted. I don't  
11 think that either one should be granted which one should be  
12 disposed. I may be talking out of turn, but I think we both  
13 think they should be granted. I'm trying to get to the  
14 point where one of them should be granted. Thank you, Your  
15 Honor. May it please the court. I represent myself pro se.  
16 I am Anthony Richardson. I know the court has had an  
17 opportunity to read the motions already in progress. As a  
18 little bit of factual background in the case, Your Honor,  
19 this matter come before the court when I, Mr. Richardson,  
20 sued Mr. Swindler for violation of the Seventh Amendment  
21 need for monetary damage as part of a Constitutional  
22 Amendment Six and Seventh Amendment guarantee to a right to  
23 a trial by jury. Mr. Swindler, the Defendant, waived the  
24 Plaintiff's right to have a jury trial and resulted in a  
25 constitutional violation and the right to question the

1 facts, the right to confront a witness, the right to  
2 question my witness, and be tried by an impartial jury for  
3 violating the Plaintiff's request in writing and then later  
4 on tried by Mr. Swindler, which is Chief of Police, violated  
5 the Plaintiff's rights under the Seventh Amendment and the  
6 code of SC Code of Laws 14-25-45 and imposed a sentence upon  
7 the Plaintiff within these limits according to Exhibit 1.  
8 An imposed sentence upon a Plaintiff after a jury trial was  
9 requested resulted in being waived by the Defendant rights  
10 in criminal courts and all courts. The Defendant will  
11 agree, according to Exhibit one, to sign my name that is Mr.  
12 Swindler's initials and that I pled guilty to in front of  
13 Mr. Swindler constituting a bench trial being conducted by  
14 Mr. Swindler without the presence of a judge, court  
15 reporter. State courts are bound by the second amendment  
16 that a jury trial is to be sentenced by a judge. I will  
17 prove that the Plaintiff pled guilty before Mr. Swindler,  
18 the Chief of Police, in his office, and imposed a sentence  
19 at bench trial agreed by the Defendant in 2013. I will  
20 prove that Mr. Swindler prepared the sentencing sheet and  
21 when Mr. Swindler's initialed beside the Plaintiff's name  
22 constitutes imposed bench trial which is fact finding  
23 because he found me guilty. Mr. Swindler waived the  
24 Plaintiff's rights, and as soon as we had the bench trial  
25 according to Exhibit E. The Plaintiff, which I will prove

1 by evidence which I intend to show the jury. At a later  
2 point the Defendant sought a bench warrant to have me, the  
3 Plaintiff, arrested and impose sentence as a result of  
4 arrest. Mr. Swindler argued that there was no jury trial  
5 taking place and jury selection is not a trial. However, it  
6 is imposed sentence of a bench trial conducted by Mr.  
7 Swindler rather than the judge. The request for the jury  
8 trial was in writing by the Plaintiff, which I intend to  
9 show the jury. When the Plaintiff requested a jury only one  
10 person that can waive his rights is only the Plaintiff in  
11 this case. I will prove to the court that the Defendant  
12 undisputed evidence that the Defendant has not shown proof  
13 that the Plaintiff had the right to a jury trial and will  
14 prove why the Plaintiff did not get a jury trial after  
15 requesting a jury trial in writing and being sentenced by  
16 the Defendant in a bench trial. A bench trial consists of a  
17 judge, court reporter, clerk of court. However, in this  
18 case, it was the Chief of Police conducting a bench trial.  
19 After he admitted he initialed his name beside me at the  
20 bench trial. Monetary relief for ordinary compensatory  
21 damages is fundamental to legal relief subject to the right  
22 to a jury trial. Indeed, the text of the Seventh Amendment  
23 reflects the need for monetary damages as part of the  
24 controversy. U.S. Constitution Amendment VII and the  
25 Seventh Amendment guarantees the right to a trial by jury.

1 State courts are bound by the Seventh Amendment. This is  
2 when Mr. Swindler decided to impose sentence and conduct a  
3 bench trial upon the Plaintiff and waive the rights to  
4 confront witnesses and accusers without the consent of the  
5 Plaintiff of which I will prove according to Exhibit C there  
6 was no trial and initials at bench trial and imposed  
7 sentence. Bench trial and clearly a waiver of the  
8 Plaintiff's rights under the Seventh Amendment, which all  
9 state courts are governed by. Mr. Swindler waived my rights  
10 according to the exhibits after he initialed his name beside  
11 my name. Clearly a bench trial was being conducted by Mr.  
12 Swindler. Plaintiff suffered because Mr. Swindler had  
13 violated the Plaintiff's right to a jury trial. The  
14 Defendant imposed sentencing upon the Plaintiff. Mr.  
15 Swindler sought a bench trial to have the Plaintiff arrested  
16 in front of the Honorable Judge and without the Plaintiff  
17 being present and without the Plaintiff's consent.  
18 According to Exhibits A, B, and C, Your Honor, that Mr.  
19 Swindler admitted to signing his initials and not signature  
20 on the plea agreement. If the court finds some way to  
21 defend a motion that the Defendant lacks standing, then  
22 certainly there will be a summary judgement. That will be a  
23 motion to dismiss or civil procedure Rule 56(f). The  
24 Plaintiff the Defendant's motion denied and the issue  
25 continued so to conduct discovery to oppose. Federal Rules

1 of Civil Procedure 56© the defendant's motion for summary  
2 judgement which have been filed simultaneously. The  
3 Plaintiff was arrested on December 11. However, because  
4 the plaintiff's appeal is still pending, there was no final  
5 dissent as to whether the Plaintiff was entitled to a jury  
6 trial. However, the Post Conviction Relief has actually  
7 been appealed at this point in time. However, according to  
8 Exhibits A, B, and C I am entitled to a jury trial as  
9 requested in writing. Mr. Swindler waived his jury trial  
10 request. That it was undisputed that Mr. Swindler initialed  
11 beside my name at a bench trial being conducted by Mr.  
12 Swindler, the Chief of Police, rather than a Municipal  
13 Judge. According to the civil cause of action, the Plaintiff  
14 argues that summary judgement is not appropriate without  
15 inquiring into the facts of the case. And should not be  
16 granted even when there is no dispute. Plaintiff argues  
17 that he needs entire video transcript and discovery in order  
18 to demonstrate the party's true intentions. The Plaintiff  
19 argues that the transcript video evidence is admissible in  
20 this case, so discovery is relevant. In determining the  
21 Chief of Police conducted a bench trial is not appropriate.  
22 Plaintiff argues, number two, under a rule 56 requesting an  
23 affidavit that tells what is being sought. Special reasons  
24 why this evidence is presently unavailable. This evidence  
25 is reasonable and expected to create triable issues under

1 The State Permissibility Services, Incorporated vs Bank of  
2 America National Trust, 23F211-66. The parties may not rely  
3 on vague assertions of specific facts. Video transcripts  
4 will create a triable issue. I will tell you that I, Mr.  
5 Richardson, have the burden here to prove and ability to  
6 determine that to the terminology in this situation. Under  
7 Rule 56 it is proper for the Court to make a summary  
8 judgement because there are no facts in dispute. The judge  
9 did not sentence me, is one issue. The Defendant did, which  
10 is the Chief of Police, Mr. Swindler. Now, when everything  
11 is determined, the right to a speedy trial --

12 THE COURT: Let me ask you this, Mr. Richardson.. Not to  
13 interrupt you, sir. I do understand the law that you're  
14 citing to me and I am very familiar with that.

15 MR. RICHARDSON: Yes, Your Honor.

16 THE COURT: The matter stands though that you did not  
17 file a direct appeal for the conviction for trespassing;  
18 correct?

19 MR. RICHARDSON: Yes, Your Honor. That's what you ruled  
20 on.

21 THE COURT: The PCR was previously dismissed; correct?

22 MR. RICHARDSON: Actually, the sentence itself is being  
23 challenged through an appeal.

24 THE COURT: At this stage of the proceedings then, Mr.  
25 Richardson, I'm going to tell you quite honestly that it

1 appears it is appropriate under Heck v Humphrey to grant the  
2 Defendant's Motion for Summary Judgement. Obviously you  
3 would be able to appeal this decision as well.

4 MR. RICHARDSON: Your Honor?

5 THE COURT: Yes.

6 MR. RICHARDSON: Your Honor, I please the Court under  
7 Young v Harris I think if an appeal is pending the case will  
8 be governed by Young v Harris. The actual appeal of the PCR  
9 is pending under the state court right now. It's actually  
10 being appealed by the Carson Law Firm. Young v Heck  
11 wouldn't apply under Heck because the appeal is still  
12 pending. The appeal is of the decision that you imposed.  
13 It's actually in the appeal process right now.

14 THE COURT: This will be dismissed without prejudice.  
15 Obviously, if the appeal process were to be reversed and you  
16 were to be granted a new PCR then at that time -- but what I  
17 want to avoid, quite honestly Mr. Richardson, it appears to  
18 me that Heck does apply. I am struggling -- I was the judge  
19 at the PCR. I don't see where there is any possible way  
20 that this action would be going forward or would be able to  
21 go forward, the one we're here on today, under Heck. So I  
22 will be dismissing this action without prejudice. That's  
23 kind of what I am inclined to do, because obviously no  
24 direct appeal was taken at the time of the conviction. You  
25 should've appealed the trespassing at the time that you were

1 convicted of trespassing.

2 MR. RICHARDSON: Well, Your Honor, Young v Heck states  
3 that the appeal is pending the case is governed under Young  
4 v Harris which the State intervening it will allow that the  
5 case be stayed until the decision is made under PCR appeal.  
6 I think this case is governed under Young v Harris because  
7 appeal is pending your decision you impose in Greenwood so  
8 that's what I am arguing that this case is totally governed  
9 by Young v Harris because this case is pending the decision  
10 you imposed in Greenwood.

11 THE COURT: Very good.

12 MR. RICHARDSON: That's what I'm arguing.

13 THE COURT: I appreciate your position. Thank you, sir.  
14 Very good. Y'all have a good day. Thank you.

15 \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD\*\*\*

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth 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 evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Newberry County, South Carolina, on the 5th day November of 2014.

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

August 25, 2015

S/ Tara T. Scott

Circuit Court Reporter



Southern Reporting, Inc.

Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

**COPY**

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: [Depos@southernreporting.net](mailto:Depos@southernreporting.net)

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APPEARANCES

For the Plaintiff:	Plaintiff Appearing Pro Se
For the Defendant:	Kassi B. Sandifer, Esq. Morrison Law Firm, LLC 7453 Irmo Drive, Suite B Columbia, South Carolina 29212
Also present:	Delinda Turner

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1	State of South Carolina	)	
		)	
2	County of Newberry	)	
		)	
3		)	13-CP-36-00321
	Anthony Derone Richardson,	)	
4		)	
	Plaintiff,	)	
5		)	Deposition
	vs.	)	
6		)	of
	Jackie Swindler, Chief of	)	
7	Police, Newberry County	)	Anthony Richardson
	Municipal Police,	)	
8	Defendant.	)	

9

10 Deposition of Anthony Richardson, taken before

11 Vickie M. Hester, a notary public in and for the State

12 of South Carolina, commencing at the hour of 10:07 a.m.,

13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,

14 1325 Main Street, Newberry, South Carolina.

15

16 Reported by

17 Vickie M. Hester

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# **EXHIBIT #1**

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER		NCIC	
2 0 0 8 - 1 0 1 6 7		INQ.	ENTD.

OBSERVING THAT TYPE OF CONDUCT."

RICHARDSON THEN STARTED SAYING "THAT DON'T MATTER YOU CAN'T BE CHASING PEOPLE...SOMEBODY'S GONNA END UP DEALING WITH YOU." SHEFCHICK THE HANDED RICHARDSON HIS MONEY BACK AND ADVISED HIM TO TAKE HIS BUSINESS ELSEWHERE THAT HE WAS NOT WELCOME IN HIS STORE. RICHARDSON THEN STATED "I AIN'T GOTTA GO NOWHERE... YOU CAN'T MAKE ME LEAVE...I AIN'T ON NO TRESPASS." SHEFCHICK THEN ADVISED R/O THAT HE WOULD LIKE TO PUT RICHARDSON ON TRESPASS NOTICE BECAUSE HE IS TRYING TO RUN A BUSINESS AND ALL THESE PEOPLE CAUSING DISTURBANCES ARE RUNNING OFF HIS GOOD CUSTOMERS.

R/O PLACED RICHARDSON ON TRESPASS FOR THE QUICK STOP AT SHEFCHICK'S REQUEST. WHILE R/O WAS LEAVING, R/O WAS STOPPED BY DENISE H LEVI AND SHIRLEY WERTS WHO STATED THAT SHEFCHICK WAS IN THE RIGHT. THEY STATED "THAT BOY (JOHNSON) WAS SHOWING OUT...BEING REAL NASTY...AND WE FELT REAL UNCOMFORTABLE BEING IN HERE...I AM GLAD HE RUN HIM OFF...AND THAT BOY (RICHARDSON) NEEDS TO SHUT HIS MOUTH...ACTING LIKE THAT...HE'S JUST A FOOL TOO...I AM GLAD SHEFCHICK WAS LOOKING OUT FOR US...AIN'T NOBODY ELSE AROUND THIS NEIGHBORHOOD WILL."

R/O CLEARED.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
						TOTAL VALUE	
P R O P E R T Y	TYPE (GROUP)						
	Burned						
	Count/Forged						
	Dest./Damaged						
	Recovered						
A D M I N I S T	Seized						
	Stolen						
Unknown							
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input checked="" type="checkbox"/> ACTIVE	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER		DATE
MIKE HAWKINS			10/15/2008	323	JASON KYLE STUHR		10/15/2008
					FOLLOW-UP INVESTIGATION OFFICER		
					<input type="checkbox"/> YES <input type="checkbox"/> NO		

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER

2,012-10708

NCIC

INQ. **X** ENTD.

E V E N T	INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM					
	1. 90J - TRESPASS OF REAL PROPERTY				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	07		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.					
	2.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO								
V I C T I M	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)							ZIP CODE	WEAPON TYPE					
	1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC							29108						
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.						
12/11/2012	1656		12/11/2012	1715	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME						
					12/11/2012	1656	1656	1715	4					
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE		
LOYNES, MAJOR LESLIE			#1	#2	#3	<input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	B	M	00	N				
ADDRESS				CITY		STATE		ZIP CODE	LOCATION NO.					
1607 NANCE ST				NEWBERRY		SC		29108	99					
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE		
SHEFCHICK, MICHAEL J			#1	#2	#3	<input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	W	M	46	N	(803) 321-0105H			
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
6-1	201	BLK	BRO											
ADDRESS				CITY		STATE		ZIP CODE	LOCATION NO.					
380 WYSES FERRY RD				PROSPERITY		SC		29127	99					
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN -														
#1 VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK														
<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown														
S U B J E C T	<input checked="" type="checkbox"/> SUSPECT	SUBJECT NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	<input type="checkbox"/> RUNAWAY	RICHARDSON, ANTHONY DEROME				B	M	39	N	07/24/1973	5-10	235	BLK	BRO
	<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.												
<input type="checkbox"/> WARRANT	POSSIBLY AT 510 BOUNDARY ST				CITY		STATE		ZIP CODE	LOCATION NO.				
<input type="checkbox"/> ARREST	914 GRAY ST				NEWBERRY		SC		29108	99				
<input type="checkbox"/> JAIL	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK				ARRESTED NEAR OFFENSE SCENE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
<input type="checkbox"/> SUMMONS	DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK TYPE:				TOTAL # ARRESTED		12/11/2012		1656		12/11/2012		1702	

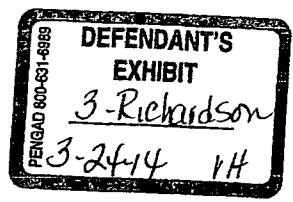
Offenses:  
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.

I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).

I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).

I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.



P R O P E R T Y	TYPE (GROUP)	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		TOTAL VALUE
	Burned					
	Count/Forged					
M I N I S T	REASON FOR EXCEPTIONAL CLEARANCE:	SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
	1. <input type="checkbox"/> OFFENDER DEATH	2. <input type="checkbox"/> NO PROSECUTION	3. <input type="checkbox"/> EXTRADITION DENIED	4. <input type="checkbox"/> VICTIM DECLINES COOPERATION	5. <input type="checkbox"/> JUVENILE - NO CUSTODY	
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
MAJOR LOYNES	12/11/2012	332	MIKE WOOD	12/11/2012	319	
			FOLLOW-UP INVESTIGATION OFFICER			
			<input type="checkbox"/> YES <input type="checkbox"/> NO			

# EXHIBIT #2

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

TRESPASSING NOTICE

TO: Anthony Richardson

ADDRESS: 521 Brantley st  
Newberry SC 29105

FROM: 1430 Drayton St.

DATE: 10-15-08

This letter is to advise you, Anthony Richardson,  
that you are no longer allowed on my property located at 1430 Drayton  
(Quick Stop), in the City of Newberry.

Should you violate this notice and visit this property, you will be prosecuted  
for Trespassing After Notice.

Mindy Stetson

Sworn to and subscribed before more  
this 15<sup>th</sup> day of October, 2008.

Ruth Harker  
Notary Public for South Carolina  
My Commission Expires: 5-23-2018

SERVED BY: Ruth Harker

DATE SERVED: 10-15-08

# EXHIBIT #3

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
**2,008-10167**

NCIC  
INO. ENTD.

ORIGINAL REPORT     
  SUPPLEMENTAL REPORT     
  ADDITIONAL VICTIMS     
  ADDITIONAL STOLEN PROPERTY  
 MODIFIES ORIGINAL     
  CASE STATUS CHANGE     
  ADDITIONAL OFFENDERS     
  ADDITIONAL RECOVERED PROPERTY

PAGE 1

V I C T I M  S U B J  O V E R F L	<input type="checkbox"/> COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	<input type="checkbox"/> VICTIM #	RICHARDSON, ANTHONY DEROME			#1	#2	#3	J S O U	B	M	35	07/24/1973	N
	<input checked="" type="checkbox"/> SUBJECT # 02	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	<input type="checkbox"/> RUNAWAY	5-10	160	BLK	BRO	POSSIBLY AT 510 BOUNDARY ST							
	<input type="checkbox"/> WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE			
	<input type="checkbox"/> WARRANT	521 BRANTLY STREET			NEWBERRY	SC	29108	4	321-9260	H	H		
	<input type="checkbox"/> ARREST	<input type="checkbox"/> VICTIM NO. _____ VISIBLE INJURY: <input type="checkbox"/> NO <input type="checkbox"/> YES			<input type="checkbox"/> VICTIM USING ALCOHOL: <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK			<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPLASH/IT <input type="checkbox"/> ALONE					
	<input type="checkbox"/> JAIL	EXPLAIN:			DRUGS: <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: _____			<input type="checkbox"/> UNK <input type="checkbox"/> ONE-MAN VEH <input type="checkbox"/> OTHER		<input type="checkbox"/> ASSISTED			
	<input type="checkbox"/> SUMMONS	<input checked="" type="checkbox"/> SUBJECT NO. 02 USING ALCOHOL: <input type="checkbox"/> NO <input type="checkbox"/> YES											
	<input type="checkbox"/>	USING DRUGS: <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: _____								<input checked="" type="checkbox"/> UNKNOWN			

A D M I N I S T	SUBJECT IDENTIFIED		SUBJECT LOCATED		<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY						
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
MIKE HAWKINS		10/15/2008	323	JASON KYLE STUHR		10/16/2008	314
				FOLLOW-UP INVESTIGATION OFFICER			
				<input type="checkbox"/> YES <input type="checkbox"/> NO			

# **EXHIBIT #4**

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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

Anthony Derone Richardson

2013-CP-36-00321

Summons and Complaint &

Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,  
Chief Of Police,  
Newberry County Municipal Police

Defendant(s)

*[Handwritten signature]*

FILED  
NEWBERRY COUNTY  
2013 JUN 24 PM 12 24  
JACKIE S. BOWERS  
CLERK OF COURT

JURISDICTIONAL BASIS:

Plaintiff claims federal jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution. Plaintiff brings this suit pursuant to Title 42 U.S. Code § 1983 for violations of certain protections guaranteed to him by the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process, by the defendant under color of law in his/her capacity as a Chief Of Police in the County of Newberry. Plaintiff brings this action against (Jackie Swindler), Chief of Police, pursuant to Title 42 U.S.C. §1983, the challenged conduct must be committed "under color of law." This means that the defendant must have acted in an official, government capacity, clothed with the authority of the state, in order to be held liable. Miga v. City of Holyoke, 398 Mass. 343 (1986). Since cities and towns derive their authority from the state, local government actors are deemed to act "under color of law" whenever they commit acts within their official capacity. Title 42 U.S. Code § 1983 reads as follows: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. Chief of police Jackie Swindler engage in misconduct in acting as a Judge in conducting a bench trial and sentencing Plaintiff on 2/20/2013 to 250.00 Or thirty days in Jail, wavering plaintiff jury trial, and violating plaintiff right to confront witness, abuse his power, violating plaintiff right to be tried by fair and impartial juror, Chief of police had a bench warrant issued signed by Judge Frank Partridge to have me arrested illegally however the bench warrant is invalid when a chief of police conducts a bench trial, and denied the plaintiff the right to a public trial and denial of equal protection under the Fourteenth Amendment. Chief of Police violated my Right to Compel the Attendance of Witnesses (See S.C. Const. Art. I, §14, Right To Trial by Impartial Jury (See S.C. Const. Art. I, §13, Right of Confrontation. It is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States. (18 U.S.C. §§ 241, 242). Chief of police one or more persons *acting under color of law* willfully to deprive or conspire

to deprive another in canceling my jury trial and conducting a jury trial selection. Chief of Police waive my right to a jury trial and instead he sentence Anthony Richardson however deprived of me of my right to a jury trial.

(OPENING OF STATEMENT)

May IT please the COURT, and you, Ladies and Gentlemen of the  
Jury

FACTUAL BACKGROUND:

On Feb. 2, 2013 Anthony Richardson was in court at the Newberry Municipal court in Newberry County. Anthony pleaded not guilty to Trespassing after notice warrant/ticket no: 11842GF, before the Honorable Judge Frank Partridge Jr. Anthony filled out a form demanding Jury trial in the present of Judge Frank Partridge JR. After, the court date was on about or around Feb. 10, 2013. I receive a letter in the mail stating a Jury Trial selection was schedule for Feb. 20, 2013 at 1 p.m. I attended the Jury selection and I notice that there was no Juror present at all. Chief of Police Jackie Swindler took me in his office with no court reporter or no Judge. Chief of police stated to me that he is the one that handles the Jury selection. Chief of police stated to me that he had waived my Jury trial selection and that the Juror would found me guilty anyway if I was to have a jury trial. The right of trial by jury as heretofore enjoyed shall remain inviolate. Chief Jackie Swindler wrote on a folder in his own writing that I agreed to pay 250.00 dollars before 3/15/2013 or a bench warrant would be serve on me in his office without a Judge or court reporter constitutes a bench trial however when he prepared the agreement in his office and I sign the agreement in his office. This constitutes a sentence by Chief of Police and not by the Judge and no bench warrant should have been issued for my arrest. Chief of police took the sign folder in onto Judge Frank Partridge and he signed the bench warrant knowingly that a bench trial took place in on Feb. 20, 2013 in front of Chief of police in his office without a judge or court reporter was not present. After Judge Frank Partridge reviewed the sign folder that Chief of police sentenced me on 2/20/2013 he signed a bench warrant to arrest me and instead of going to jail, I had to pay 250.00 dollars. Judge Frank Partridge Jr. knew that there was a bench trial done on 3/20/2013 conducted by Chief Jackie Swindler and signed for a bench warrant for my arrest after he knew it was not illegal because he signed the bench warrant to arrest me. The police officer Looney came to my house with the bench warrant to arrest me but the police officer told me that if I would go pay 250.00 dollars he would hold on from arresting me until I go and pay the fine. Chief of police abuse his power in acting in the place of a Judge is misconduct, abuse of power. I was ordered to pay 250.00 dollars or thirty days after having a bench trial in front of the Chief of police instead of the Judge clearly violates my right in every state however there are two or more distinct sets of procedures used in criminal matters. The concept of a fair trial involves fairness to the prosecution and to the public as well as to the defendant: *DPP v Meakin* [2006] EWHC 1067. Anthony Richardson argues that there is not only that an abuse has taken place but that Anthony has been prejudiced in the presentation of his or her case as a result, so that a fair trial is no longer possible because of the bench trial by Chief of police. The chief of police violated Anthony Constitutional rights, when he allegedly held a bench trial and sentenced the plaintiff is illegal in all states. Chief of Police in violation of my Fourteenth Amendment secures the right to due process was violated by Chief of police Jackie

Swindler. The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process however the Chief of police prevented Anthony Richardson from receiving a fair trial, and illegally been sentence by the chief, and he is not a Judge. Anthony Richardson is a victim of Police corruption may also involve depriving people of their legal rights to be tried by a jury trial as the Seventh Amendment however Anthony Richardson been tried by Chief of Police at his bench trial and waive my right to a jury trial without my consent in a jury selection result in police corruption when one or more persons acting "under the color of law" willfully attempt or succeed in depriving another person or persons of their legal rights. "Color of law" involves using the authority of their police status even if the acts exceed the officer's rightful power. Meaning of *Police Corruption and Misconduct as a legal term*. ... *Police authority to deprive or conspire to deprive another person of any right ... of conduct that deprives persons of their rights* (42 U.S.C.A. 14141 [2000]). Chief of police abuse his power in acting and was truly involved in police corruption. South Carolina has two ... Within the first thirty (30) days of ... the judge calls the jury back to the courtroom and with the defendant present, not the police or Chief of police. Chief Swindler misconduct in sentencing Anthony Richardson and canceling my Jury trial, and conducting a Jury trial selection without a Judge is clearly misconduct of police officer under the equal protection of the law is clearly violated... Chief Swindler is not a Judge and did not have any authority to sentence or even conduct a bench trial because he is not a Judge. Municipal judges are granted the same jurisdiction in traffic cases as magistrates, by S.C.Code Ann. § 14-25-45 of the South Carolina Code. Magistrates and municipal judges may impose sentences within these limits singularly or in the alternative not the police officer. As a result Anthony Richardson constitutes actual damages, and punitive damages. Anthony Derone Richardson is suing for \$2 million for abuse of process and fourth amendment violation and \$2 million Abuse of authority punitive damages the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process and \$2 million for **Civil Rights Damages** committed *judicial misconduct* malicious prosecution and other abuses of power. **Chief of police clearly violates Sixth and Fourteenth Amendment rights** to a fair jury trial and *my Fourteenth Amendment right* to equal protection of the laws. Chief Jackie Swindler committed *judicial* and prosecutorial *misconduct* and other abuses of power **in sentencing and waiving my jury trial however** A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause under the Sixth Amendment right to confrontation was violated by Chief Of Police Jackie Swindler. Id. at 331, 563 S.E.2d at 317. **Anthony Richardson was sentence without Judge Approval and waiving my jury trial without my consent is misconduct.** Chief of police *violated my right* to a fair trial and *due process*. 42 U.S.C. Sec. 1983 (1970) provides: Anthony Richardson was deprived of his right to a trial and to be tried by impartial jury. Chief of Police Jackie Swindler had constitute *judicial misconduct*, the *police* had no reason to sentence me at all, even in a jury selection on 2/20/2013 because he is not a judge and only a Judge can sentence or even conduct a jury selection. It is the *duty* of the *judge* to protect citizens against improper and unwarranted ... *Control*. No person shall be . . . deprived of life, liberty, or property without due process of law . . ." (U. S. Const., Fifth Amendment; see S. C. Const. Art. I, Section 3, for similar language). Section 1983 because that is where

the law has been published, within Title 42, of the United States Code. Section 1983 makes it unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law. Chief Of Police is without *jurisdiction* to review a *sentencing* court's or to even sentence any person at a bench trial of any kind.

**There is no crueller tyranny than that which is exercised under cover of law, and with the colors of justice ..."**

**- U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)**

Constitutional rights violations committed by Chief of police include: Right to a Lawyer Right to Cross Examine and Confront Witnesses, Right to Use Courts Subpoena Power to Compel Witnesses to Testify, Right to a Jury Trial and Presumption of Innocence. The defendant acted *with malice or with reckless indifference to the federally protected rights of an aggrieved individual*.

South Carolina Code Ann. section 15-78-70 specifically provides that government employees may be liable in tort actions:

(a) This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity. An employee of a governmental entity who commits a tort while acting within the *scope of his official duty* is not liable therefore except as expressly provided for in subsection (b).

(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the *scope of his official duties* or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The dividing line between the types of procedures is usually the misdemeanor/felony distinction: one set of procedures is used for misdemeanor trials and another set issued for felony trials. South Carolina has two distinct sets of procedures, but the dividing line is not the traditional misdemeanor/felony distinction. In this State, the difference is based on the jurisdictional line between courts of limited jurisdiction (magistrate's court) and the courts of general jurisdiction (circuit court). This jurisdictional line is the provision in S.C. Code Ann. §22-3-550 -- the \$500 or 30 days, or both clause. All offenses falling below this line are within the jurisdiction of the magistrates (and by implication, municipal courts), where one distinct set of procedures is used, and all offenses above this line are within the jurisdiction of the circuit courts where another set of procedures is used. The procedure used in the courts higher than magistrates' courts and municipal courts is not discussed in this book. The procedure which magistrates use is a "summary procedure." The General Assembly has adopted this definition of magistrate court procedure in §22-3-730: All proceedings before magistrates shall be summary or with only such delay as a fair and just examination of the case requires. Summary procedure

shall also be used in municipal courts, by virtue of §14-25-45, as amended. In brief, summary procedure means that the process is not elaborate, that the time between arrest and sentencing is relatively short. Of course, the fact that the proceedings lack many of the formalities required in the higher courts does not mean that various fundamental safeguards can be ignored in the magistrates' courts. When a defendant is found guilty, either by the judge or a jury, the magistrate or municipal judge must then sentence the defendant. The judge may use his discretion in sentencing as long as his decision conforms to the statutory requirements for the particular offense for which the defendant has been convicted. He may impose a fine or require imprisonment, or both within the statutory limitations. (§22-3-550). Where a statute prescribes a minimum sentence, the magistrate or municipal judge may not impose a lesser sentence, except in the case of a conviction for drawing a fraudulent check. (§22-3-800). (See CRIMES AND OFFENSES, Fraudulent Checks). Of course, the magistrate or municipal judge may not exceed the statutory limits with any sentence. Where separate charges have been alleged and proven, the magistrate or municipal judge may impose sentences to run concurrently or consecutively. The sentences will be served concurrently unless the judge specifically orders them to be served consecutively. Finley v. State, 219 S.C. 278, 64 S.E.2d 881 (1951); State v. DeAngelis, 257 S.C. 44, 183 S.E.2d 906 (1971). §22-3-550 prohibits a magistrate from sentencing any person to consecutive terms of imprisonment totaling more than ninety days (except for convictions resulting from violations of Chapter 11 of Title 34, pertaining to fraudulent checks, or violations of §16-13-110(B) (1), relating to shoplifting).

If, upon conviction, a defendant is sentenced to a term of imprisonment for three months or less, the defendant is placed in the custody of the county (or municipality) in which he was sentenced. If the county (or municipality) has facilities suitable for confining the defendant, his sentence should be served in that county or municipality. Any defendant who receives a term of imprisonment from a court of competent jurisdiction exceeding ninety days is placed in the custody of the Department of Corrections, which will then designate the facility at which the defendant will be incarcerated. There are several sections of the S.C. Constitution which concern the jury trial. Article I, Section 14 guarantees a "speedy and public trial by an impartial jury." Article I, Section 14 states that the right to a jury trial is "preserved inviolate." In addition, the right to a trial by jury, provided in the Sixth Amendment to the U.S. Constitution, has been made applicable to the states through the Fourteenth Amendment to the U.S. Constitution. Duncan v. Louisiana, 391 U.S. 145, 88 S. Ct. 1444 (1968).

My prayer is for this court to accept this summons and complaint including Appendix A which is the actual sentence signed by me and the Chief of police in his office on 2/20/2013 signed by Jackie Swindler, Appendix B amount past due payment agreed with the Chief of Police and not no Judge, however a bench warrant was issued, Appendix C Jury selection conducted by Chief of Police on 2/20/2013 on the day the sentence had taken place.

---

Pro. Se: Anthony Derone Richardson  
914 Gray Street, Newberry, S.C. 29108

Signed Anthony Derone Richardson date 6-24-2013

2013-CP-36-00321

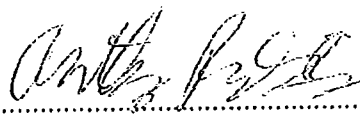
# CERTIFICATE OF SERVICE

I, Anthony Derone Richardson, hereby certify that on, I  
[Anthony Richardson] [5/20/2013]

Served copies of  
[Summons and Complaint] & Appendix A, Appendix B, Appendix C

On the following parties by way of:  
[U.S. mail.]

[Chief of Police,  
Jackie Swindler  
City Safety Complex  
1507 Nance Street  
Newberry, SC, 29108-2740

Signed by  date 5-29-2013

FILED  
NEWBERRY COUNTY  
2013 JUN 24 PM 12 24  
JACKIE S. BOWERS  
CLERK OF COURT

# **EXHIBIT #5**

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

**CITY OF NEWBERRY**  
1507 NANCE STREET  
NEWBERRY, SC 29108  
(803) 321-1010



**TO: ANTHONY DEROME RICHARDSON**  
**914 GRAY ST**  
**NEWBERRY SC 29108**

**DATE: 03/22/2013**

**SUBJECT: PAST DUE PAYMENT**

**WARRANT/TICKET NO.: 11842GF**

**AMOUNT DUE: 250.00**

**OFFENSE: TRESPASS AFTER NOTICE**

**YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.**

**IF FULL PAYMENT IS NOT MADE WITHIN (10 DAYS) FROM THE DATE OF THIS NOTICE, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.**

**PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.**

**IF MAILING IN YOUR FINE, PLEASE SEND A MONEY ORDER OR CASHIER'S CHECK.**

**IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT THE NUMBER ABOVE.**

**SINCERELY,**

# EXHIBIT #6

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

**Newberry Municipal Court  
1507 Nance Street  
Newberry, S. C. 29108**

**W. F. Partridge, Jr., Municipal Judge  
Barry S. Koon, Asst. Municipal Judge**

**Phone: 803-321-3720  
Fax: 803-321-1004**

February 7, 2013

**Mr. Anthony Derone Richardson  
914 Gray Street  
Newberry, S. C. 29108**

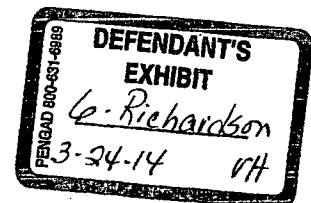
**RE: Trespass after notice**

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

**Cella E. Dodgen  
Secretary**



# EXHIBIT # ~~2~~ 7

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

I plead guilty  
and agree to pay  
\$250. I will pay  
by March 15, 2013

JK

Frank Richardson

DEFENDANT'S  
EXHIBIT  
7-Richardson  
3-24-14 V64

# EXHIBIT # ~~4~~ 8

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

**CITY OF NEWBERRY**  
1507 NANCE STREET  
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/06/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash  M.O.  Check  Other  Credit Card   Visa  American Express  
Card # / Description:  MasterCard  Discover

Total Amount Applied: 250.00

Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code:NT Statute: 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00

# EXHIBIT #5 9

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

**CITY OF NEWBERRY**  
1507 NANCE STREET  
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/08/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash  M.O. ( ) Check ( ) Other ( ) Credit Card ( )  
Card # / Description:

( ) Visa ( ) American Express  
( ) MasterCard ( ) Discover

Total Amount Applied: 250.00

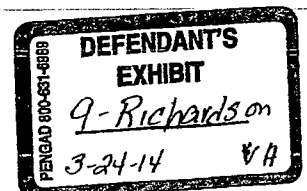
Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code: NT Statute: 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00



~~Index~~ 2

# EXHIBIT # ~~1~~ 8

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

~~EXHIBITS~~  
PP (8) (C)

Smith Jones

9/1

of Land  
and you to pay  
\$2500. of well pay  
by March 15, 2013

**Newberry Municipal Court  
1507 Nance Street  
Newberry, S. C. 29108**

**W. F. Partridge, Jr., Municipal Judge  
Barry S. Koon, Asst. Municipal Judge**

**Phone: 803-321-3720  
Fax: 803-321-1004**

February 7, 2013

Mr. Anthony Derone Richardson  
914 Gray Street  
Newberry, S. C. 29108

**RE:      Trespass after notice**

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

Cella E. Dodgen  
Secretary

**CITY OF NEWBERRY**  
1507 NANCE STREET  
NEWBERRY, SC 29108

**DISPOSITION SHEET**

---

**Date Printed:** 02/20/2013

**Case Type:** Traffic Ticket      11842GF

**Case #:** 2012-10708

**Name:** ANTHONY DEROME RICHARDSON  
914 GRAY ST  
NEWBERRY, SC 29108

**Violation:** NT 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

**Trial Date:** 02/20/2013      **Offense Date:** 12/11/2012

**Disposition:** 2      GUILTY BENCH TRIAL

**Total Fine:** 250.00      **Total Paid:**

**Sentence:** Fine to be paid on or before 03-15-2013

Index: 1

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

2013-CP-36-00321

Anthony Derone Richardson

Summons and Complaint &

Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,  
Chief Of Police,  
Newberry County Municipal Police

Defendant(s)

FILED  
NEWBERRY COUNTY  
2013 JUN 24 PM 12 24  
JACKIE S. BOWERS  
CLERK OF COURT

JURISDICTIONAL BASIS:

Plaintiff claims federal jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution. Plaintiff brings this suit pursuant to Title 42 U.S. Code § 1983 for violations of certain protections guaranteed to him by the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process, by the defendant under color of law in his/her capacity as a Chief Of Police in the County of Newberry. Plaintiff brings this action against (Jackie Swindler), Chief of Police, pursuant to Title 42 U.S.C. §1983, the challenged conduct must be committed "under color of law." This means that the defendant must have acted in an official, government capacity, clothed with the authority of the state, in order to be held liable. Miga v. City of Holyoke, 398 Mass. 343 (1986). Since cities and towns derive their authority from the state, local government actors are deemed to act "under color of law" whenever they commit acts within their official capacity. Title 42 U.S. Code § 1983 reads as follows:  
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.  
Chief of police Jackie Swindler engage in misconduct in acting as a Judge in conducting a bench trial and sentencing Plaintiff on 2/20/2013 to 250.00 Or thirty days in Jail, wavering plaintiff jury trial, and violating plaintiff right to confront witness, abuse his power, violating plaintiff right to be tried by fair and impartial juror, Chief of police had a bench warrant issued signed by Judge Frank Partridge to have me arrested illegally however the bench warrant is invalid when a chief of police conducts a bench trial, and denied the plaintiff the right to a public trial and denial of equal protection under the Fourteenth Amendment. Chief of Police violated my Right to Compel the Attendance of Witnesses (See S.C. Const. Art. I, §14, Right To Trial by Impartial Jury (See S.C. Const. Art. I, §13, Right of Confrontation. It is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States. (18 U.S.C. §§ 241, 242). Chief of police one or more persons *acting under color of law* willfully to deprive or conspire

to deprive another in canceling my jury trial and conducting a jury trial selection. Chief of Police waive my right to a jury trial and instead he sentence Anthony Richardson however deprived of me of my right to a jury trial.

#### FACTUAL BACKGROUND:

On Feb. 2, 2013 Anthony Richardson was in court at the Newberry Municipal court in Newberry County. Anthony pleaded not guilty to Trespassing after notice warrant/ticket no: 11842GF, before the Honorable Judge Frank Partridge Jr. Anthony filled out a form demanding Jury trial in the present of Judge Frank Partridge JR. After, the court date was on about or around Feb. 10, 2013. I receive a letter in the mail stating a Jury Trial selection was schedule for Feb. 20, 2013 at 1 p.m. I attended the Jury selection and I notice that there was no Juror present at all. Chief of Police Jackie Swindler took me in his office with no court reporter or no Judge. Chief of police stated to me that he is the one that handles the Jury selection. Chief of police stated to me that he had waived my Jury trial selection and that the Juror would found me guilty anyway if I was to have a jury trial. The right of trial by jury as heretofore enjoyed shall remain inviolate. Chief Jackie Swindler wrote on a folder in his own writing that I agreed to pay 250.00 dollars before 3/15/2013 or a bench warrant would be serve on me in his office without a Judge or court reporter constitutes a bench trial however when he prepared the agreement in his office and I sign the agreement in his office. This constitutes a sentence by Chief of Police and not by the Judge and no bench warrant should have been issued for my arrest. Chief of police took the sign folder in onto Judge Frank Partridge and he signed the bench warrant knowingly that a bench trial took place in on Feb. 20, 2013 in front of Chief of police in his office without a judge or court reporter was not present. After Judge Frank Partridge reviewed the sign folder that Chief of police sentenced me on 2/20/2013 he signed a bench warrant to arrest me and instead of going to jail, I had to pay 250.00 dollars. Judge Frank Partridge Jr. knew that there was a bench trial done on 3/20/2013 conducted by Chief Jackie Swindler and signed for a bench warrant for my arrest after he knew it was not illegal because he signed the bench warrant to arrest me. The police officer Looney came to my house with the bench warrant to arrest me but the police officer told me that if I would go pay 250.00 dollars he would hold on from arresting me until I go and pay the fine. Chief of police abuse his power in acting in the place of a Judge is misconduct, abuse of power. I was ordered to pay 250.00 dollars or thirty days after having a bench trial in front of the Chief of police instead of the Judge clearly violates my right in every state however there are two or more distinct sets of procedures used in criminal matters. The concept of a fair trial involves fairness to the prosecution and to the public as well as to the defendant: *DPP v Meakin* [2006] EWHC 1067. Anthony Richardson argues that there is not only that an abuse has taken place but that Anthony has been prejudiced in the presentation of his or her case as a result, so that a fair trial is no longer possible because of the bench trial by Chief of police. The chief of police violated Anthony Constitutional rights, when he allegedly held a bench trial and sentenced the plaintiff is illegal in all states. Chief of Police in violation of my Fourteenth Amendment secures the right to due process was violated by Chief of police Jackie

Swindler. The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process however the Chief of police prevented Anthony Richardson from receiving a fair trial, and illegally been sentence by the chief, and he is not a Judge. Anthony Richardson is a victim of Police corruption may also involve depriving people of their legal rights to be tried by a jury trial as the Seventh Amendment however Anthony Richardson been tried by Chief of Police at his bench trial and waive my right to a jury trial without my consent in a jury selection result in police corruption when one or more persons acting "under the color of law" willfully attempt or succeed in depriving another person or persons of their legal rights. "Color of law" involves using the authority of their police status even if the acts exceed the officer's rightful power. Meaning of *Police Corruption and Misconduct* as a *legal* term. ... *Police* authority to *deprive* or conspire to *deprive another person* of any *right* ... of conduct that *deprives persons of their rights* (42 U.S.C.A. 14141 [2000]). Chief of police abuse his power in acting and was truly involved in police corruption. South Carolina has two ... Within the first **thirty (30) days** of ... the **judge** calls the **jury** back to the courtroom and with the **defendant present**, not the police or Chief of police. Chief Swindler misconduct in sentencing Anthony Richardson and canceling my Jury trial, and conducting a Jury trial selection without a Judge is clearly misconduct of police officer under the equal protection of the law is clearly violated... Chief Swindler is not a Judge and did not have any authority to sentence or even conduct a bench trial because he is not a Judge. Municipal judges are granted the same jurisdiction in traffic cases as magistrates, by S.C. Code Ann. § 14-25-45 of the South Carolina Code. Magistrates and municipal judges may impose sentences within these limits singularly or in the alternative not the police officer. As a result Anthony Richardson constitutes actual damages, and punitive damages. Anthony Derone Richardson is suing for \$2 million for abuse of process and fourth amendment violation and \$2 million Abuse of authority punitive damages the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process and \$2 million for **Civil Rights Damages** committed *judicial misconduct* malicious prosecution and other abuses of power. **Chief of police clearly violates** Sixth and Fourteenth Amendment *rights* to a fair jury trial and *my* Fourteenth Amendment *right* to equal protection of the laws. Chief Jackie Swindler committed *judicial* and prosecutorial *misconduct* and other abuses of power **in sentencing and waiving my jury trial however** A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause under the Sixth Amendment right to confrontation was violated by Chief Of Police Jackie Swindler. Id. at 331, 563 S.E.2d at 317. **Anthony Richardson was sentence without Judge Approval and waiving my jury trial without my consent is misconduct. Chief of police violated my right to a fair trial and due process.** 42 U.S.C. Sec. 1983 (1970) provides: Anthony Richardson was deprived of his right to a trial and to be tried by impartial jury. Chief of Police Jackie Swindler had constitute *judicial misconduct*, the *police* had no reason to sentence me at all, even in a jury selection on 2/20/2013 because he is not a judge and only a Judge can sentence or even conduct a jury selection. It is the *duty* of the *judge* to protect citizens against improper and unwarranted ... *Control*. No person shall be ... deprived of life, liberty, or property without due process of law ... (U.S. Const., Fifth Amendment, see S. C. Const. Art. I, Section 3, for similar language). Section 1983 because that is where

the law has been published, within Title 42, of the United States Code. Section 1983 makes it unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law. Chief Of Police is without *jurisdiction* to review a *sentencing* court's or to even sentence any person at a bench trial of any kind.

**There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice ..."**

**- U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)**

Constitutional rights violations committed by Chief of police include: Right to a Lawyer Right to Cross Examine and Confront Witnesses, Right to Use Courts Subpoena Power to Compel Witnesses to Testify, Right to a Jury Trial and Presumption of Innocence. The defendant acted *with malice or with reckless indifference to the federally protected rights of an aggrieved individual*.

South Carolina Code Ann. section 15-78-70 specifically provides that government employees may be liable in tort actions:

(a) This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity. An employee of a governmental entity who commits a tort while acting within the *scope of his official duty* is not liable therefore except as expressly provided for in subsection (b).

(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the *scope of his official duties* or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The dividing line between the types of procedures is usually the misdemeanor/felony distinction: one set of procedures is used for misdemeanor trials and another set issued for felony trials. South Carolina has two distinct sets of procedures, but the dividing line is not the traditional misdemeanor/felony distinction. In this State, the difference is based on the jurisdictional line between courts of limited jurisdiction (magistrate's court) and the courts of general jurisdiction (circuit court). This jurisdictional line is the provision in S.C. Code Ann. §22-3-550 -- the \$500 or 30 days, or both clause. All offenses falling below this line are within the jurisdiction of the magistrates (and by implication, municipal courts), where one distinct set of procedures is used, and all offenses above this line are within the jurisdiction of the circuit courts where another set of procedures is used. The procedure used in the courts higher than magistrates' courts and municipal courts is not discussed in this book. The procedure which magistrates use is a "summary procedure." The General Assembly has adopted this definition of magistrate court procedure in §22-3-730: ~~All proceedings before magistrates shall be summary or with~~ only such delay as a fair and just examination of the case requires. Summary procedure

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER

2012-10708

NCIC

INO. X ENTD.

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM						
1. 80J - TRESPASS OF REAL PROPERTY				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	07		<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.						
2.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO									
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE	WEAPON TYPE							
1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC						29108								
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.						
12/11/2012	1656		12/11/2012	1715	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	4					
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)					RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE		
LOYNES, MAJOR LESLIE					#1 ST	<input checked="" type="checkbox"/>	S O U	B	M	00	N			
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.						
1607 NANCE ST					NEWBERRY	SC	29108	4						
VICTIM'S NAME (LAST, FIRST, MIDDLE)					RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE		
SHEFCHICK, MICHAEL J					#1	<input checked="" type="checkbox"/>	J O U	W	M	46	N	(803) 321-0105H		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
6-1	201	BLK	BRO											
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.						
380 WYSES FERRY RD					PROSPERITY	SC	29127	99						
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN -														
VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.														
<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input checked="" type="checkbox"/> J - This Jurisdiction <input type="checkbox"/> S - State <input type="checkbox"/> O - Out of State <input type="checkbox"/> U - Unknown														
SUBJECT	SUBJECT NAME (LAST, FIRST, MIDDLE)					RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	<input checked="" type="checkbox"/> SUSPECT					RICHARDSON, ANTHONY DEROME								
	<input type="checkbox"/> RUNAWAY					FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	<input type="checkbox"/> WANTED					POSSIBLY AT 610 BOUNDARY ST								
	<input type="checkbox"/> WARRANT													
ARREST	ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.					
	914 GRAY ST					NEWBERRY	SC	29108	99					
	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. ARRESTED NEAR OFFENSE SCENE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					DATE/TIME OF OFFENSE		DATE/TIME OF ARREST						
DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:					TOTAL # ARRESTED	1	12/11/2012	1656	12/11/2012	1702				

Offenses:  
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.

I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).

I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).

I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.

DEFENDANT'S EXHIBIT  
3-Richardson  
3-24-14 1H

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
PROPERTY	TYPE (GROUP)										TOTAL VALUE
	Burned										
	Count/Forged										
	Dist./Damaged										
	Recovered										
	Seized										
Stolen											
Unknown											
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18			
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input checked="" type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER			
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY											
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER		
MAJOR LOYNES			12/11/2012	332	MIKE WOOD			12/11/2012	319		
					FOLLOW-UP INVESTIGATION OFFICER						
					<input type="checkbox"/> YES <input type="checkbox"/> NO						

### TRESPASSING NOTICE

TO: Anthony Richardson

ADDRESS: 521 Brantley St

Newberry SC 29105

FROM: 1430 Drayton St

DATE: 10-15-08

This letter is to advise you, Anthony Richardson, that you are no longer allowed on my property located at 1430 Drayton (Quick Stop), in the City of Newberry.

Should you violate this notice and visit this property, you will be prosecuted for Trespassing After Notice.

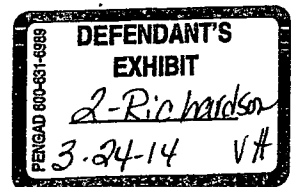
M. G. [Signature]

Sworn to and subscribed before me more this 15<sup>th</sup> day of October, 2008.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 5-23-2018

SERVED BY: R.M. Hawker

DATE SERVED: 10-15-08



Conth Ruffin

9/1

of Bond  
and give to  
#2780  
by March 15, 2013

THE STATE OF SOUTH CAROLINA  
NEWBERRY MUNICIPAL COURT  
BENCH WARRANT

2013B3620200044

T 11842GF

2012-10708

To any Lawful Constable or Officers:

WHEREAS: One ANTHONY DEROME RICHARDSON  
was convicted in this court of TRESPASS AFTER NOTICE  
with sentence imposed of 30 DAYS OR \$250.00

on the 20 day of February, 2013

This order is to command you to take and convey him/her to the common jail. This keeper of the said jail is hereby commanded to receive the said defendant and to safely keep until he/she shall be thereof discharged by due course of law; And for so doing, this shall be your good and sufficient warrant.

Witness: The due execution of this warrant on the 5 day of April, 2013

JUDGE, NEWBERRY MUNICIPAL COURT  
**COPY**  
OFFICER'S RETURN  
THE STATE OF SOUTH CAROLINA  
NEWBERRY MUNICIPAL COURT

I hereby certify that pursuant to the command of the within warrant, I have placed the said ANTHONY DEROME RICHARDSON in the jail this 6 day of May, 2013

WITHDRAWN

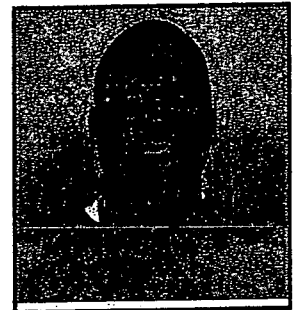
OFFICER'S NAME

Address: 914 GRAY ST  
NEWBERRY, SC 29108

Height: 5 ft. 10 in.  
Weight: 235  
Hair: BLK  
Eyes: BRO

Race: B  
Sex: M  
Age: 39  
DOB: 07/24/1973

SSN: 251-47-4765  
St. Lic: SC  
Dr. Lic: 004048122  
Phone: 321-9260



*Withdrawn 5/6/13*

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2013CP3600352

Anthony Derone Richardson	State Of South Carolin
------------------------------	------------------------

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <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 of Dismissal

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/ Frank R. Addy, Jr.  
 Circuit Court Judge

2159  
 Judge Code

11/07/2014  
 Date


 62

STATE OF SOUTH CAROLINA )  
COUNTY OF NEWBERRY )  
  
Anthony Derone Richardson, )  
  
Applicant, )  
  
v. )  
  
State of South Carolina, )  
  
Respondent. )

IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

2013-CP-36-0352

**ORDER OF DISMISSAL**

JACKIE S. BOWERS  
CLERK OF COURT

2014 NOV 17 AM 11 07

FILED  
NEWBERRY COUNTY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 18, 2013. The Respondent made its Return on September 4, 2014. An evidentiary hearing into the matter was convened on October 14, 2014, at the Greenwood County Courthouse. Carson Henderson, Esquire, represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. John Livingston and Travis Freeman also testified. This Court also had before it a copy of the records of the Newberry County Clerk of Court, records from the South Carolina Department of Corrections, and a recording of the guilty plea proceeding in Magistrate's Court.

**PROCEDURAL HISTORY**

The Applicant is not presently confined. The Applicant was charged with Petit Larceny and Trespassing. The Applicant was represented by Charles Verner, Esquire. On October 25, 2012, the Applicant pled guilty to trespassing in Newberry County Magistrate's Court. The Honorable Gordon Johnson sentenced the Applicant to credit for 1 day served in jail and dismissed the petit larceny

*DM*

charge. A Notice of Appeal was filed on Applicant's behalf and an appeal perfected in the Court of Common Pleas of Newberry County. This appeal was dismissed on May 30, 2013 for non-service.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Judge failure to swear under oath prior to sentencing defendant"

### SUMMARY OF TESTIMONY

John Livingston testified that he called law enforcement on May 27, 2012 because he had not seen Applicant's car in the area before. He testified he did not see Applicant driving erratically or see Applicant commit any crimes. Livingston also stated he saw Applicant on another's driveway. On cross-examination, Livingston testified he saw Applicant on Mr. Wessinger's property.

Travis Freeman testified he is employed with the Greenwood County Sheriff's Office but was employed with the Newberry County Sheriff's Office at the time of the incident. He stated he received a call and responded to the scene. This call, from Livingston, informed Freeman that there was a suspicious vehicle that was trespassing on a neighbor's property. Freeman testified he stopped the vehicle that Applicant was driving and that there was a female passenger. He also stated he did not see Applicant commit a crime and did not arrest Applicant. Freeman testified he asked to look in Applicant's trunk and Applicant obliged. In the trunk, Freeman found a tire, a "For Sale" sign and wire. Freeman further stated he found no physical signs of trespassing. On cross-examination, Freeman stated Livingston told Freeman that he saw Applicant driving on Wessinger's property. Freeman lastly testified that he saw a "No Trespassing" sign on Wessinger's property.

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Applicant testified he was issued a Petit Larceny ticket in Newberry County which was

*MA*

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expunged. He also stated he was never given a trespassing ticket. Charles Verner, Esquire represented him in this case. Applicant testified he was found with junk in his trunk but convicted of trespassing. Applicant stated Counsel represented him well in this case and had no complaints about Counsel.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard a recording of the proceeding before the magistrate judge and the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

#### **Ineffective Assistance of Counsel**

This Court finds Applicant failed to allege any deficiencies on Counsel's part. Applicant stated he was satisfied with Counsel's assistance in this case. This Court finds under Rule 41(b) SCRPC, Applicant failed to prosecute his case and has not shown any right to relief.

Additionally, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these

allegations are denied.

### CONCLUSION

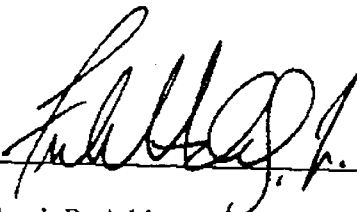
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. ~~The Applicant must be remanded to the custody of the Respondent.~~ *AM*

### AND IT IS SO ORDERED!



Frank R. Addy, Jr.  
Presiding Circuit Court Judge  
Eighth Judicial Circuit

*Nov. 7*, 2014

*Greenwood*, South Carolina



ALAN WILSON  
ATTORNEY GENERAL

November 13, 2014


The Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Drawer 10  
Newberry SC 29108

Re: Anthony Richardson v. State of South Carolina  
2013-CP-36-0352

Dear Ms. Bowers:

Enclosed please find an original and a copy of an Order of Dismissal in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,

  
J. Rutledge Johnson  
Assistant Attorney General

JRJ:cey  
Enclosures

cc: Carson M. Henderson, Esquire

11-18-14 copies mailed mm

FILED  
NEWBERRY COUNTY  
2014 NOV 17 AM 11:07  
JACKIE S. BOWERS  
CLERK OF COURT

The undersigned hereby certifies that the <sup>AMEND</sup> Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Anthony Derone Richardson

P.O Box 221

Newberry, SC 29108

Pro.Se for Appellant



..... Date 2/27/2016

Morrison Law Firm

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC, 29212

(803) 661-6285

.....  
Attorney for Respondent

Certificate of Counsel

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

Anthony Derone Richardson

P.O box 221 Newberry, SC 29108

*Ant Derone* date *2-27-16*

Morrison Law Firm

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC, 29212

(803) 661-6285

Attorney for Respondent

APPEAL FROM Newberry COUNTY

Frank R. Addy, Circuit Court Judge

C/A:2014-002532

Anthony Derone Richardson, ..... Appellant,

v.

Jackie Swindler chief of Police

Newberry County Municipal Police. .... Respondent.

CERTIFICATE OF SERVICE

The Pro Se Anthony Derone Richardson for the Appellant does hereby certify that service of the Respondent Record of Appeal by placing in the United States mail at the below address clearly on the 5th of Jan. 2016 address as follows and resend again on 2/27/2016.

Anthony Derone Richardson

P.O Box 221

Newberry SC, 29108

*Anthony Derone Richardson* Date 2/27/2016

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC, 29212

(803) 661-6285

Attorney for Respondent

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

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2013CP3600321

Anthony Derone  
Richardson

Jackie Swindler  
Chief Of Police  
  
Newberry County  
Municipal Police

SCANNED

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 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), 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:

FILED  
NEWBERRY COUNTY  
2013 NOV 5 PM 4 55  
JACKIE S. BOWERS  
CLERK OF COURT

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

*Summary Judgment is granted pursuant to Heck v Humphrey, 517 U.S. 477 (1996). Plaintiff pled guilty to the charge, no appeal taken, and PCR was dismissed. No evidence was presented that an appeal was pending per Heck v Humphrey. No notice of intent has been filed.*

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.

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*[Signature]*  
Circuit Court Judge

2159  
Judge Code

11/5/14  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on November 5, 2014, and a copy mailed first class or placed in the appropriate attorney's box on November 11, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Anthony Derone Richardson 914 Gray St Newberry, SC 29108 PO Box 221 Newberry, SC 29108

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

Kassi B. Sandifer 7453 Irmo Dr., Ste.B Columbia, SC 29212

**ATTORNEY(S) FOR THE DEFENDANT(S)**

Jackie S. Bowers

Jackie S Bowers - Clerk of Court

**Court Reporter**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA

2014 OCT 27 AM 11:16

IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY

JACKIE S. BOWERS  
CLERK OF COURT

C/A #: 13-CP-36-00321

Anthony Derone Richardson,

Plaintiff,

v.

Jackie Swindler, Chief of Police,  
Newberry County Municipal Police,

Defendant.

DEFENDANT'S AMENDED MOTION FOR  
SUMMARY JUDGMENT

SCANNED

**TO: ANTHONY RICHARDSON, PRO SE PLAINTIFF:**

YOU WILL PLEASE TAKEN NOTICE that the undersigned attorney for the Defendant will move before the Presiding Judge of the Eighth Judicial Circuit at the Newberry County Courthouse, Newberry, South Carolina on the tenth (10<sup>th</sup>) 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, pursuant to S.C.R.C.P. 56 for an Order granting Defendant's Motion for Summary Judgment on the grounds that the Plaintiff is barred from bringing his claim. The Plaintiff was arrested on December 11, 2012 for Trespass After Notice. (See Uniform Traffic Ticket, attached hereto as Exhibit 1). The Plaintiff initially pled guilty and demanded a jury trial. On February 7, 2013, the Secretary for the Newberry Municipal Court notified the Plaintiff that the court had scheduled jury selection on February 20, 2013 at 2:30 p.m. (See Letter dated February 7, 2013, attached hereto as Exhibit 2). Instead of selecting a jury, he pled guilty to the charge and agreed to pay the fine by March 15, 2013. (See Document signed by Plaintiff, attached hereto as Exhibit 3). He paid the fine on May 6, 2013. (See City of Newberry Receipt No. 48896, attached hereto as Exhibit 4).

~~23~~ 23

The Plaintiff subsequently filed a civil lawsuit against Chief Jackie Swindler on June 24, 2013 seeking \$4,000,000. The crux of his Complaint is that his procedural due process rights were violated in that he claims he was denied his right to a jury trial to challenge the charge. However, around the time the he filed his Complaint, the Plaintiff also filed a petition for Post Conviction Relief arising out of the alleged procedural due process violation. At the time the Defendant filed his initial Motion for Summary Judgment, the Plaintiff's petition for Post conviction Relief was still pending. The Court heard the matter on October 14, 2014. Upon information and belief, the Court granted the State's Motion for Summary Judgment. As a result the Plaintiff's conviction remains in effect. Accordingly, the Defendant now amends his initial Motion for Summary Judgment to assert the following grounds:

1. The Plaintiff's claim is barred by *Heck v. Humphrey*, 517 U.S. 477 (1994). The Plaintiff's conviction has not been reversed on direct appeal, expunged by executive order or declared invalid by a state tribunal authorized to make such determination;
2. The Plaintiff waived his right to a jury trial in the underlying proceeding. The Plaintiff was charged with trespass after notice. He ultimately pled guilty to the charge and subsequently paid the fine associated with that charge. He did not appeal the conviction, but rather filed a petition for Post Conviction Relief, which was essentially denied. Accordingly, the Plaintiff's suit is barred by the doctrine of waiver;
3. The Plaintiff's claim is barred by the doctrines of res judicata and collateral estoppel; and,
4. No genuine issue of material fact exists, and the Defendant is entitled to judgment as a matter of law.

This Motion is based upon the pleadings filed in this case, Rules of Court, case law, deposition testimony and such other documents and matters as may be properly presented to the Court.

MORRISON LAW FIRM, LLC

By: Kassi B. Sandifer

David L. Morrison, Esquire,  
Kassi B. Sandifer, Esquire,  
Robert G. Cooper, Esquire  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212  
Phone: (803) 661-6285  
Fax: (803) 661-6289  
E-mail: david@dmorrison-law.com  
E-mail: kassi@dmorrison-law.com

ATTORNEY FOR THE DEFENDANTS

Columbia, South Carolina

October 24, 2014

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS

Anthony Derone Richardson, )  
 )  
Plaintiff, )

C/A #: 13-CP-36-00321

v. )

CERTIFICATE OF SERVICE

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )  
 )  
Defendant. )  
\_\_\_\_\_ )

The undersigned employee of Morrison Law Firm, LLC, attorney for the Defendant does hereby certify that service of the **Amended Motion for Summary Judgment** 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 24<sup>th</sup> day of October, 2014, addressed as follows:

Anthony Derone Richardson  
914 Gray Street  
Newberry, South Carolina 29108

Callie M. Morrison  
Callie M. Morrison

Columbia, South Carolina

FILED  
NEWBERRY COUNTY  
2014 OCT 27 AM 11 17  
JACKIE S. POWERS  
CLERK OF COURT

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STATE OF SOUTH CAROLINA  
UNIFORM TRAFFIC TICKET

11842GF

CITY OR COUNTY OF **NEWBERRY** VERSUS

FIRST NAME <b>ANTHONY DEROME</b>		MIDDLE NAME		LAST NAME <b>RICHARDSON</b>	
STREET AND NO. <b>914 GRAY ST</b>		CITY <b>NEWBERRY</b>		STATE ZIP CODE <b>SC 29108</b>	
STATE LICENSED <b>SC</b>	DRIVER'S LICENSE NO. <b>004048122</b>	CDL <input type="checkbox"/> YES <input type="checkbox"/> NO	DRI. LIC. CLASS <b>D</b>		
VEH. LIC. NO. <b>HX463</b>	STATE <b>SC</b>	MAKE OF VEH. <b>0</b>	YEAR <b>0</b>	COMM VEH <b>HAZ. MAT.</b>	AUTO <b>MOPED</b>
		16 PSGR VEH <b>MTRCYCL</b>	COMB. <b>OTHER</b>		

**YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT**

NAME OF TRIAL COURT <b>CITY OF NEWBERRY</b>		STREET AND NO. <b>1507 NANCE STREET</b>			
DATE OF TRIAL <b>02/20/2013</b>	TIME OF TRIAL <b>1300</b>	CITY <b>NEWBERRY, SC</b>	STATE <b>SC</b>	ZIP CODE <b>29108</b>	
VIOLATION - COURT APPEARANCE REQUIRED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			VIOLATION SECTION NO. <b>00-00-0000 / 11-15</b>		
TRESPASS AFTER NOTICE					
OWNER OF VEHICLE <b>ANTHONY DEROME RICHARDSON</b>			DATE OF ARREST <b>12/11/2012</b>		
ADDRESS OF OWNER <b>914 GRAY ST NEWBERRY SC 29108</b>			DATE OF VIOLATION <b>12/11/2012</b>		

BAIL DEPOSITED	NAME OF ARRESTING OFFICER <b>MAJOR LOYNES</b>		RANK
DESCRIPTION OF ACCUSED			
RACE <b>B</b>	SEX <b>M</b>	BIRTH DATE <b>07/24/1973</b>	HT. <b>5-10</b>
HAIR <b>BLK</b>	WT. <b>235</b>	EYES <b>BRO</b>	COUNTY <b>NEWBERRY</b>
DATE BAIL REC'D			NUMBER <b>36</b>
BY			BADGE
CASE BEFORE			TROOP <b>2</b>
MAGISTRATE <input type="checkbox"/>	MUN. COURT <input checked="" type="checkbox"/>		DAY
CIRCUIT COURT <input type="checkbox"/>	FAMILY COURT <input type="checkbox"/>	FEDERAL COURT <input type="checkbox"/>	1 2 3 4 5 6 7
NAME OF TRIAL COURT IF DIFFERENT FROM ABOVE <b>CITY OF NEWBERRY</b>			TIME OF VIOLATION <b>1702</b>
DEFENDANT: DID NOT APPEAR <input checked="" type="checkbox"/> APPEARED <input type="checkbox"/>			WEATHER <b>CLEAR</b>
NOLLE PROSSED <input type="checkbox"/> DISPOSITION FORFEITED BOND <input type="checkbox"/> PLED: NOLO CONTENDERE <input type="checkbox"/>			DISTANCE IN FEET FROM INTERSECTION OF <b>0</b> <b>DRAYTON STREET</b>
TRIAL BY: TRIAL JUDGE <input checked="" type="checkbox"/> JURY <input type="checkbox"/>			AND <b>CROSSON STREET</b>
VERDICT OF TRIAL IF ANY GUILTY <input checked="" type="checkbox"/> NOT GUILTY <input type="checkbox"/>			MILES <b>0</b>
DATE OF TRIAL IF ANY <b>02/20/2013</b>			N 1 2 3 4 E S W
JAIL <b>30</b>	SUSPEND <b>250.00</b>	FINE <b>250.00</b>	AMT. COLLECTED <b>250.00</b>
AMT. SUSPENDED			HWY. NO.
COMMITTED TO:			CITY <b>NEWBERRY</b>
Vehicle Searched <b>NO</b>			Lat
Arrest as Result of Collision <b>NO</b>			Long
OFFENSE CODE <b>94</b>			B.A. LEVEL
CERTIFIED CORRECT			<b>11842GF</b>
INITIALS <b>W. FRANK PARTRIDGE</b>			DATE

ENFORCEMENT RECORDS COPY

REF CASE 2012-10708

**A: PLEA BARGAIN**

Reduced To \_\_\_\_\_ Points

Date: 02/20/2013

\_\_\_\_\_  
Judge

**B: SPEED REDUCED**

FILED  
 NEWBERRY COUNTY  
 2014 OCT 27 AM 11 17  
 JACKIE S. FORTNER  
 CLERK OF COURT

LT

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Newberry Municipal Court  
**1507 Nance Street**  
Newberry, S. C. 29108

*W. F. Partridge, Jr., Municipal Judge*  
*Barry S. Koon, Asst. Municipal Judge*

**Phone: 803-321-3720**  
**Fax: 803-321-1004**

February 7, 2013

Mr. Anthony Derone Richardson  
914 Gray Street  
Newberry, S. C. 29108

**RE:       Trespass after notice**

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

Cella E. Dodgen  
Secretary

FILED  
NEWBERRY COUNTY  
2013 OCT 27 AM 11 17  
JACKIE S. POWERS  
CLERK OF COURT

78



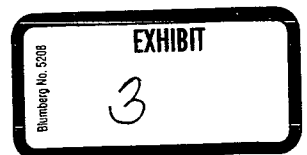
FILED  
NEWBERRY COUNTY  
2014 OCT 27 AM 11 17  
JACKIE S. BOWERS  
CLERK OF COURT

*I placed funds  
and gave to pay  
\$250.00. I will pay  
by March 15, 2013*

*JK*

*Frankie Bowers*

*79*



CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/06/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash  M.O.  Check  Other  Credit Card   Visa  American Express  
Card # / Description:  MasterCard  Discover

Total Amount Applied: 250.00

Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code: NT Statute: 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00

FILED  
NEWBERRY COUNTY  
2014 OCT 27 AM 11 17  
JACKIE S. POWERS  
CLERK OF COURT

80

Blumberg No. 5208  
EXHIBIT  
4

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY

FILED

ORIGINAL

Anthony Derone Richardson,

NEWBERRY COUNTY

Civil Action No. 13-CP-36-00321

Plaintiff,

2014 OCT 27 AM 11 16

v.

JACKIE S. BOWEN  
CLERK OF COURT

MOTION & ORDER INFORMATION  
FORM COVER SHEET

Jackie Swindler, Chief of Police, Newberry  
County Municipal Police,

Defendant.

Plaintiff's Pro See: Anthony D. Richardson 914 Gray Street Newberry, South Carolina 29108 Phone: (803) 413-3961 E-Mail: Unknown	Defendant's Attorney: Kassi B. Sandifer 7453 Irmo Drive, Suite B Columbia, South Carolina 29212 Phone: 803-661-6285 Fax: 803-661-6289 E-Mail: kassi@dmorrison-law.com
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
<b>SECTION I: Hearing Information</b>	
Nature of Motion: <u>Amended Motion for Summary Judgment</u> Estimated Time Needed: 15 minutes Court Reporter Needed: <input type="checkbox"/> Yes / <input type="checkbox"/> No	
<b>SECTION II: Motion/Order Type</b>	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<u>Kassi B. Sandifer</u> Signature of Attorney for Defendant(s)	<u>October 24, 2014</u> Date Submitted
<b>SECTION III: Motion Fee</b>	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
<b>JUDGE'S SECTION</b>	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	
<b>CLERK'S VERIFICATION</b>	
Collected by: <u>J. Toly</u> <input checked="" type="checkbox"/> MOTION FEE COLLECTED: <u>25.00</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	Date Filed: _____ JUDGE: _____ CODE: _____ DATE: _____

SCCA/233 (11-03)

(81)

**Morrison Law Firm, LLC**

7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Phone: (803) 661-6285

Fax: (803) 661-6289

E-mail: David@dmorrison-law.com

E-mail: Kassi@dmorrison-law.com

E-mail: Bob@dmorrison-law.com

David L. Morrison\*  
Kassi B. Sandifer  
Robert G. Cooper\*\*

\*Licensed in SC & NC  
\*Certified Mediator  
\*\*Of Counsel

October 24, 2014

Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Box 278  
Newberry, South Carolina 29108

RE: Anthony Derone Richardson v. Jackie Swindler, Chief of Police, Newberry County  
Municipal Police  
C/A #: 13-CP-36-00321  
Date of Incident: 2/2/13  
Claim #: SF-13-0467  
Our file: 210.0411

Dear Clerk Bowers:

Enclosed is the original and one copy of Defendant's Amended Motion for Summary Judgment, Cover Sheet and filing fee of \$25 in the above-referenced matter. Please file the original and return a clocked-in copy to me in the self-addressed stamped envelope enclosed for your convenience. By copy of this letter, I am serving Plaintiff with copy of same.

Very truly yours,

MORRISON LAW FIRM, LLC

*Kassi B. Sandifer*  
Kassi B. Sandifer

FILED  
NEWBERRY COUNTY  
2014 OCT 27 AM 11 16  
JACKIE S. BOWERS  
CLERK OF COURT

KBS/cmm

Enclosure

cc: Anthony D. Richardson

(82)

Copy mailed 10/28/14

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

Anthony Derone Richardson  
Plaintiff,

C/A#:13-CP-36-00321

SCANNED

V.

Amend

Jackie Swindler, Chief of Police  
Newberry County Municipal Police  
Defendant

Memorandum in Support Of Plaintiff  
Motion for Summary Judgment and Opposition  
to Defendant Motion for Summary Judgment

FILED  
NEWBERRY COUNTY  
2019 SEP 17 PM 11 31  
JACKIE S. BRYERS  
CLERK OF COURT

To: Morrison law Firm, Kassi B. Sandifer

YOU WILL PLEASE TAKEN NOTICE that the pro se Anthony Richardson will move before Presiding Judge of the Eighth Judicial Circuit at Newberry County Courthouse, Newberry, South Carolina. This document plaintiffs' complaint for the reasons stated in Amend Memorandum in Support of Plaintiff Motion for Summary Judgment and Opposition to Defendant Motion for Summary Judgment, which is being filed simultaneously herewith According to s.c.r.p 56 for order granting Plaintiff Motion for Summary Judgment on the grounds that cause of action has accrued and the defendant Motion for Summary Judgment should be denied. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, plaintiff, hereby move for Cross-Motion for summary judgment. The grounds for this motion are that there is genuine issue of material fact in this action, and Plaintiff are entitled to judgment as a matter of law on all claims. See Fed.R.Civ.P. 56(c); plaintiffs' complaint for the reasons stated in Defendant Motion for Summary Judgment, which is being filed simultaneously herewith. The Plaintiff was arrested on December 11, 2012 for trespass after notice. However, because the Plaintiff appeal still pending, there has been no final decision as to whether the Plaintiff was entitled to jury trial, however according to Exhibit A, B, C, D, E, F, G that the Plaintiff is entitled to a Jury Trial after the request is writing, and that no document on record showing that the Plaintiff waive his Jury trial request. Accordingly, civil cause of action has accrued.

**Defendant Motion to Stay or Dismiss should be denied and case should not be stayed and nor dismissed.**

In determine whether state officials instituted an action in bad faith or intent to harass, the court: there are three factors: (1) whether it was frivolous or undertaken with no reasonable objective hope of success. (2) In retaliation for the plaintiff exercise of constitution rights; however this would apply because the Chief of Police violated the Plaintiff constitution right to the seventh amendment right. Plaintiff has suffered irreparable injury and Plaintiff is entitled to a right to confront witness, to question his or her witness, right to a jury trial and no proof that Plaintiff sought to waive jury trial after requesting in writing before the Municipal judge. The plaintiff pled guilty before the defendant in his office and not before the Municipal judge. The defendant failure to show proof that Plaintiff in writing waive his jury trial. Defendant according to Exhibit A.B, C, D, E, F, G the Plaintiff is

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entitled to a jury trial, and there is nothing on record stated that the Plaintiff pled guilty before any judge or even agreed to pay the fine associated with that charge before any judge. The defendant perceives on in sentencing the Plaintiff in this case in spite of constitution right violation and clearly violate S.C.Code 14-25-45 in impose sentence upon Plaintiff within these limits singularly. The defendant in this case acted like the persecution and in bad faith sentence the Plaintiff. Plaintiff argues if a stay was granted or a dismissal which will be very severe injury when there is bad faith or harassment by state officials responsible for the prosecution. *Judice v. Vail*, 430 U.S. 327, 338 (1977) (refusing to find bad faith and further restricting its scope by stating, “[the bad faith] exception may not be utilized unless it is alleged and proved that [the judges] are enforcing the contempt procedures in bad faith or are motivated by a desire to harass”); *Hicks v. Miranda*, 422 U.S. 332, 350-51 (1975) (refusing to acknowledge bad faith because the plaintiffs failed to show that faulty warrants were either knowingly relied on by prosecutors or knowingly issued by judges). In this case the bad faith appeared before the Chief of Police the defendant in this in conducting a bench trial according to the Exhibit B

### **STANDARD OF REVIEW**

Rule 56(c) provides that summary judgment shall be rendered if the record shows that there is no genuine issue as to material fact and the moving party is entitled to judgment as a matter of law. See, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-250 (1986) (if factual matters are clear because of the strength of movant’s evidence or the weakness of non-movant’s evidence, summary judgment for the claimant is appropriate) As set forth below, the facts before the Court are not disputed. To the contrary, Plaintiff relies upon the admissions of the Defendants in seeking summary judgment. The sole question in this case is whether these admissions establish negligence per se under controlling South Carolina law. This is an issue within the exclusive province of the Court.

### **PLAINTIFF IS ENTITLED TO SUMMARY JUDGMENT**

#### **I. The Negligence per Se Doctrine Supports Summary Judgment.**

Under the South Carolina negligence per se doctrine, a statute may create a legal duty or standard of care. Violation of the applicable statute constitutes negligence per se which is a form of ordinary negligence. See by *Causey v. Winburn*, 314 S.C. 416, 445 S.E.2d 94 (Ct. App. 1994) (negligence per se established by showing a statute created a duty to the plaintiff and the defendant breached the duty by violating the statute)<sup>2</sup>

*Footnote 2:* Negligence per se does not assume, create or require a private cause of action based upon statute. Instead, the statute relied upon forms a basis of the duty to which negligence standards apply.

Negligence per se removes from the jury the responsibility of deciding whether the defendant acted in a reasonable fashion. The statute fixes the standard of conduct required of the defendant, leaving as the sole issue whether the defendant’s conduct constituted a breach. *Rayfield v. South Carolina Department of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988), cert denied 298 S.C. 204, 379 S.E.2d 133 (1989) To establish negligence per se, the plaintiff must show: (1) that the essential purpose of the statute is to protect from the kind of harm the plaintiff has suffered; and (2) that plaintiff is a member of the class of persons that the statute is intended to protect. *Norton v. Opening Break*, 313 S.C. 508, 443 S.E.2d 406 (Ct. App. 1994) aff’d. 319 S.C.

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469, 462 S.E.2d 861 (1995) The causative violation of a statute constitutes negligence per se and is evidence of recklessness and willfulness, requiring submission of the issue of punitive damages to the jury. Wise v. Broadway, 315 S.C. 273, 443 S.E.2d 857 (1993)

Defendants Violated the State Seventh Amendment & S.C. Code 14-25-45.

According to the Exhibit A, B, C, D, E, F, G the defendant conducted a bench trial. Mr. Swindler waive the Plaintiff right to a trial by jury and case rise to the level of a constitutional violation and question of fact. The defendant conducted a bench trial, after the plaintiff requested a jury trial in the present of the judge. No chief of police can sentence a plaintiff of even conduct a jury selection.

Plaintiff argue remedy for alleged due process violation claim in this lawsuit is judicial review and defendant deprived plaintiff right to the seventh amendment without due process of the law.

Plaintiff right to the seventh amendment and the 14 amendment according to the Exhibit A, B, C, D, E, F, G. 42 U.S.C 1983 and the 14 amendment. However, the Plaintiff pled guilty before the defendant in his office result in impose a sentence agreed by defendant and the plaintiff as a result of the defendant waive the Plaintiff right at the defendant bench trial, and later on the defendant sought a bench warrant to have Plaintiff arrested is a impose sentence at a bench trial where the defendant conducted a fact finding and found the Plaintiff guilty. Monetary relief for ordinary compensatory damages is fundamental to legal relief subject to the right to a jury trial. Indeed, the text of the Seventh Amendment reflects the need for monetary damages as part of the controversy. U.S. Const. Amend. VII and *Seventh Amendment* guarantees the *right to trial by jury*. State court are bound by the seventh amendment. S.C.Code 14-25-45 in impose sentence upon Plaintiff within these limits singularly. Defendant violate the S.C.Code of 14-25-45 in conducting a jury trial selection and conducting a bench trial is clearly violation of my due process right. The seventh amendment guarntees a criminal the right to jury and the right to public trial, right to impartial jury, right to confront and cross examine adverse witness, right to compel favorable, right to witness to testify at trial through the subpoena power was violated by defendant.

**Defendant MOTION FOR SUMMARY JUDGMENT SHOULD BE DENIED AND Plaintiff Motion for SUMMARY JUDGMENT SHOULD BE ENTERED IN FAVOR OF THE Plaintiff**

Defendant has filed a Motion for Summary Judgment which relies on factually inapplicable decisional law; ignores the threshold issue of legal standing; fails to justify the striking of plaintiff contesting Answer; and purports to be supported by Defendant which is not made on personal knowledge and which is in fact based on incompetent hearsay. Defendant has failed to demonstrate the absence of genuine issues of material fact and has failed sustain its burden to be entitled to the entry of summary judgment. Defendant own submissions and admissions therein demonstrate that the Defendants are not entitled to the entry of summary judgment on their Defense as a matter of law. Second cited many of the answers and defenses proffered are legally insufficient as they fail to challenge the essential elements of lawsuit. Plaintiff claim are supported by the specific facts of the case. Plaintiff case rise to the level of a constitutional violation and questions of fact. The right to confront my witness, be tried by impartial jury, was

(85)

violated after plaintiff requested in writing a jury trial, and then later on tried by defendant violated plaintiff right for a clearly established constitution at the time such that it would be clear to an objectively reasonable officer that his conduct violated that right to tried by a judge. Saucier v. Katz 533 U.S. 194(2001) S.C. Const. Art.I, 14, 13 42 U.S. c a 1414 The Seventh Amendment guarantees the right to trial by jury "[i]n Suits at common law, where the value in controversy shall exceed twenty dollars." U.S. Const. Amend. VII. The Supreme Court has construed this language to require a jury trial on the merits in those actions that are analogous to "suits at common law," which were customarily tried before a jury in the English law courts predating the Constitution. Tull v. United States, 481 U.S. 412, 417 (1987). (Under the South Carolina negligence per se doctrine, a statute may create a legal duty or standard of care. Violation of the applicable statute constitutes negligence per se which is a form of ordinary negligence. Seals by Causey v. Winburn, 314 S.C. 416, 445 S.E.2d 94 (Ct. App. 1994) (negligence per se established by showing a statute created a duty to the plaintiff and the defendant breached the duty by violating the statute)

Plaintiff is not barred from bringing this claim of action

Plaintiff is not barred from bringing this claim of action because the Plaintiff was sentence by defendant instead of a judge, according to Exhibit A,B,C,D,E,F,G in the defendant clearly impose sentence upon Plaintiff at a bench trial by signing his initials right beside my name. Accordingly, the Plaintiff is not barred from bringing the present suit until the conviction is overturned right for a clearly established constitution at the time such that it would be clear to an objectively reasonable officer that his conduct violated that right to tried by a judge and not by police officer or defendant. S.C. Const. Art.I, 14, 13 42 U.S. c a 1414

#### Plaintiff's Evidentiary Objections/ Arguments

Plaintiff Opposes Defendant Motion For Summary Judgment that there is a cause of action when Plaintiff has suffered irreparable injury and Plaintiff is entitled to a right to confront witness, to question his or her witness, right to a jury trial and no proof that Plaintiff sought to waive jury trial after requesting in writing before the Municipal judge. The plaintiff pled guilty before the defendant in his office and not before the Municipal judge. The defendant failure to show proof that Plaintiff in writing waive his jury trial. Defendant according to Exhibit A.B, C, D, E, F, G the Plaintiff is entitled to a jury trial, and there is nothing on record stated that the Plaintiff pled guilty before any judge or even agreed to pay the fine associated with that charge before any judge. Nothing on record that the state can prove that the Plaintiff was before a judge when he pled guilty, or even waive his right to have a jury trial after requested a jury trial in writing.

Plaintiff is entitled to post conviction relief is in the essence a finding that the plaintiff was entitled to a jury trial and that a defendant which is the Chief of Police cannot sentence no person in the state of South Carolina however the plaintiff been sentenced by chief of police defendant in this case however and the appeal is still pending and the defendant the chief of police sentence the plaintiff in this case is a serious damage that cannot be cured. A civil cause of action has occurred. Under the South Carolina law no police can conduct a sentencing phase, only a Judge. According to the exhibit B the defendant acted as a Judge and then defendant initial his name beside the plaintiff and also preparing the sheet saying I pled guilty and agree to pay 250 dollar. I will pay by March 15, 2013.



Plaintiff argues he did have a right to a jury trial because my action at law. Plaintiff argue summary judgment should be granted in favor of the Plaintiff because defendant violation of plaintiff seventh amendment right: The South Carolina Constitution preserves the right of trial by jury only in those cases in which parties would have been entitled to it at the time of the adoption of the Constitution. Lester v. Dawson, 327 S.C. 263, 267, 491 S.E.2d 240, 242 (1997). See also Rule 38 (a), SCRPC ("The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate. Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a jury trial be waived."). "Generally, the relevant question in determining the right to trial by jury is whether an action is legal or equitable; there is no right to trial by jury for equitable actions." Lester, 327 S.C. at 267, 491 S.E.2d at 242 (citation omitted). Whether an action is legal or equitable is primarily determined by the allegations in the complaint. See Nat'l Bank of South Carolina v. Daniels, 283 S.C. 438, 440, 322 S.E.2d 689, 690 (Ct. App. 1984). Where legal and equitable issues or rights are raised in the same complaint, the legal issues are for determination by a jury and the equitable issues are for determination by the court. Floyd v. Floyd, 306 S.C. 376, 379, 412 S.E.2d 397, 398-99 (1991). Furthermore, either party may demand a trial by jury of any issue triable by jury. See Rule 38 (b), SCRPC. "An action for damages for conversion is an action at law." Blackwell v. Blackwell, 289 S.C. 470, 471, 346 S.E.2d 731, 732 (Ct. App. 1986) (citation omitted). In this case, Clotell asserted causes of action for conversion, wrongful withholding, recoupment, and unjust enrichment. In addition to seeking equitable relief in the form of possession of items of personal property, Clotell asserted a legal cause of action for conversion and sought damages in the amount of the funds received by Helen as Robert's widow, and pre- and post-judgment interest. Furthermore, Helen properly endorsed upon her answer a demand for a jury trial. See Rule 38(b), SCRPC. Helen's assertion of equitable defenses does not change the nature of Clotell's conversion claim from an action at law to one in equity. Rather, such equitable defenses are equitable issues for determination by the court. See Hann v. Carolina CAS. Ins. Co., 252 S.C. 518, 526, 167 S.E.2d 420, 424 (1969). Accordingly, we hold the trial judge erred in denying Helen's request for a jury trial on Clotell's claim for conversion. See Floyd, 306 S.C. at 379, 412 S.E.2d at 398-99.

### **Right to Due Process**

The Fourteenth Amendment to the U.S. Constitution provides, in-part, that no state may "deprive any person of life, liberty, or property, without due process of law." This provision has been interpreted as requiring the states to assure that the defendant is receiving "that fundamental fairness essential to the very concept of justice." Lisenba v. California. 314 U.S. 219, 236, 62 S.Ct. 280, 86 L.Ed. 166 (1941). This fundamental concept of fairness should be dominant in every proceeding before the magistrate or municipal judge.

### **RULE 38**

#### **JURY TRIAL OF RIGHT**

**(A) Right Preserved.** The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate. Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a jury trial be waived.

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**(b) Demand.** Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be endorsed upon a pleading of the party.

**(c) Same: Specification of Issues.** In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

**(d) Waiver.** The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) constitutes a waiver by him of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties, except where an opposing party is in default under Rule 55(a).

Plaintiff argue, that the defendant Motion for Summary Judgment should be denied because there is a cause of action and Appendix A and B,C describe plaintiff request for jury trial and defendant sentence plaintiff is clearly constitution violation after plaintiff requested it in writing.

Plaintiff was entitled to jury trial, however because the Plaintiff appeal is still pending, according to Exhibit attached, a request for jury trial in the municipal court signed by the plaintiff., A civil action has occurred after defendant sentenced plaintiff according to the appendix B with his initial..

Plaintiff rights was denied when defendant who acted as a judge, sentenced plaintiff and denied plaintiff the right to be tried by a judge after the defendant on wrote in according to Appendix A, however plaintiff can sue for money damages under the 14 amendment. Defendant violated a clearly established law under S.C. code 14-25-45 in impose sentence upon Plaintiff within these limits singularly. Magistrates and municipal *judges* may *impose sentences* within these limits ... joined with an offense over which the summary court *judge* has *no* jurisdiction. ... However, S.C. Code Ann. 17-13-40(B) Exhibit C

Plaintiff object that he is barred from bringing this action however, while the Eleventh Amendment does not bar monetary claims against state employees

In their personal capacity, *Hafer v. Melo*, 502 U.S. 21, 27 (1991), the Eleventh Amendment does bar state employees from being sued in their official capacity for monetary relief. *Id.* at 25. More precisely, the Supreme Court has held that state employees sued in their official capacity for monetary relief are not "persons" within the meaning of § 1983. *Id.* Any suit by a private party "seeking to impose a liability which must be paid from public funds in the state treasury is barred by the Eleventh Amendment." *Edelman v. Jordan*, 415 U.S. 651, 663 (1974) under the *young v. Harris* a plaintiff is not barred from any present action and Plaintiff is not barred from bringing action in which this case. Plaintiff guilty before the defendant and not before a Municipal Judge. Plaintiff paid the fine because there was a bench warrant issue as result of the guilty plea before the defendant which impose sentence instead of a Judge. Appendix A defendant initials beside my name. Plaintiff afterwards file appeal in which i challenges the impose of sentence by the defendant which is a police and not a Judge. Plaintiff is not barred

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from bringing the present suit until his conviction is overturned due to a serious irreparable injury has occurred and there is no remedy to accrue.

Plaintiff was convicted of the charge of trespass after notice by defendant who is not a judge. Plaintiff was found guilty by defendant in his office and not in the present of the Municipal Judge. The defendant waive the plaintiff right to a jury trial in sentencing the defendant according at a bench trial according to Exhibit B in signing his initials beside my name. A judgment in favor of the plaintiff would not imply wrongfulness, when the plaintiff conviction will not stand do to the facts in this case and the factual evidence.

Defendant Motion for Summary Judgment must thus be denied, and summary judgment in favor of the Plaintiff should be granted filed by Plaintiff. The Plaintiff move this court to grant the motion for summary judgment in favor of the Plaintiff.

Signed.....*Anthony K. [Signature]*.....date *9-17-2014*

(89)

CERTIFICATE OF PROOF:

Amend Memorandum in Support of Plaintiff Motion for Summary Judgment and Opposition to Defendant Motion for Summary Judgment Exhibit A, B, C, D, E, and F Mail to: Morrison Law firm 7453 Irmo Drive, Suite B Columbia, South Carolina 29212

Signature.....*Amy P. [unclear]*.....Date.....*9-17-2014*.....

(90)

STATE OF SOUTH CAROLINA  
UNIFORM TRAFFIC TICKET

11842GF

**CITY OR COUNTY OF NEWBERRY** VERSUS  
 FIRST NAME MIDDLE NAME LAST NAME  
**ANTHONY DEROME** **RICHARDSON**  
 STREET AND NO. CITY STATE ZIP CODE  
**914 GRAY ST** **NEWBERRY SC 29108**  
 STATE LICENSED DRIVER'S LICENSE NO. CDL DRI. LIC. CLASS  
**SC** **004048122**  YES  NO **D**  
 VEH. LIC. NO. STATE MAKE OF VEH. YEAR COMM VEH AUTO 16 PSGR VEH COMB.  
**HHX463** **SC** **0** **HAZ. MAT.** **MOPED** **MTRCYCL** **OTHER**

*Exhibit A*

**YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT**  
 NAME OF TRIAL COURT STREET AND NO.  
**CITY OF NEWBERRY** **1507 NANCE STREET**  
 DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE  
**02/20/2013** **1300** **NEWBERRY, SC 29108**  
 VIOLATION - COURT APPEARANCE REQUIRED  YES  NO VIOLATION SECTION NO.  
**TRESPASS AFTER NOTICE** **00-00-0000 / 11-15**  
 OWNER OF VEHICLE DATE OF ARREST  
**ANTHONY DEROME RICHARDSON** **12/11/2012**  
 ADDRESS OF OWNER DATE OF VIOLATION  
**914 GRAY ST NEWBERRY SC 29108** **12/11/2012**  
 BAIL DEPOSITED NAME OF ARRESTING OFFICER RANK  
**MAJOR LOYNES**  
 DESCRIPTION OF ACCUSED COUNTY NUMBER  
 RACE SEX BIRTH DATE HT. HAIR WT. EYES **NEWBERRY** **36**  
**B M 07/24/1973 5-10 BLK 235 BRO**  
 DATE BAIL REC'D BY BADGE TROOP  
**2**  
 CASE BEFORE MAGISTRATE  MUN. COURT   
 CIRCUIT COURT  FAMILY COURT  FEDERAL COURT   
 NAME OF TRIAL COURT IF DIFFERENT FROM ABOVE **CITY OF NEWBERRY**  
 DEFENDANT: DID NOT APPEAR  APPEARED   
 NOLLE PROSSED  DISPOSITION GUILTY   
 FORFEITED BOND  PLED: NOLO CONTENDERE   
 TRIAL BY: TRIAL JUDGE  JURY   
 VERDICT OF TRIAL IF ANY GUILTY  NOT GUILTY  DATE OF TRIAL IF ANY **02/20/2013**  
 JAIL SUSPEND FINE AMT. COLLECTED AMT. SUSPENDED  
**30** **250.00** **250.00**  
 COMMITTED TO: Vehicle Searched  Arrest as Result of Collision  OFFENSE CODE B.A. LEVEL  
**94**  
 CERTIFIED CORRECT INITIALS DATE  
**W. FRANK PARTRIDGE** **11842GF**

**A: PLEA BARGAIN**

Reduced To \_\_\_\_\_ Points

Date: 02/20/2013

\_\_\_\_\_  
Judge

**B: SPEED REDUCED**

\_\_\_\_\_

FILED  
 NEWBERRY COUNTY  
 JACKIE S. BOWERS  
 CLERK OF COURT  
 2013 SEP 17 AM 11 31

**LT**

ENFORCEMENT RECORDS COPY

REF CASE 2012-10708

*91*

EX/111 71 ⑦  
**CITY OF NEWBERRY**

S O U T H C A R O L I N A

MUNICIPAL COURT

B

I request a jury trial on the below listed charge(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Anthony Richardson  
Name

*mail only*  
*803 - 384 - 1465*

803 - 384 - 1465  
Phone number

914 Gogay Street  
Address

NY, S.C. 29108

To Be ANNOUNCE  
Name of attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

*W. B. ...*  
JACKIE S. BOWERS  
CLERK OF COURT  
FILED  
NEWBERRY COUNTY  
211 SEP 17 AM 11 31

If you fail to appear for your jury selection, you will forfeit your right to a jury trial and a bench trial will be scheduled.

*[Signature]*  
Signature

\_\_\_\_\_  
Date

0411-0012

Exhibit  
~~Appendix~~ 5

Newberry Municipal Court  
**1507 Nance Street**  
Newberry, S. C. 29108

*W. F. Partridge, Jr., Municipal Judge*  
*Barry S. Koon, Asst. Municipal Judge*

Phone: 803-321-3720  
Fax: 803-321-1004

February 7, 2013

FILED  
NEWBERRY COUNTY  
2013 SEP 17 AM 11 31  
JACKIE S. BOWERS  
CLERK OF COURT

Mr. Anthony Derone Richardson  
914 Gray Street  
Newberry, S. C. 29108

RE:       Trespass after notice

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

Celia E. Dodgen  
Secretary

93

0411-0023

Exhibit D

0411-0002

FILED  
NEWBERRY COUNTY  
2013 JUN 24 PM 12 24  
JACKIE S. BOWERS  
CLERK OF COURT

*Jackie S. Bowers*

FILED  
NEWBERRY COUNTY  
2011 SEP 17 AM 11 31  
JACKIE S. BOWERS  
CLERK OF COURT

*SL*

*of Court  
and  
\$32.00  
by 10/15/2013*

*Appended to*

46

CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY, SC 29108

Exhibit E

## DISPOSITION SHEET

---

**Date Printed:** 02/20/2013

**Case Type:** Traffic Ticket      11842GF

**Case #:** 2012-10708

**Name:** ANTHONY DEROME RICHARDSON  
914 GRAY ST  
NEWBERRY, SC 29108

**Violation:** NT 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

FILED  
NEWBERRY COUNTY  
2014 SEP 17 AM 11 31  
JACKIE S. BOWERS  
CLERK OF COURT

**Trial Date:** 02/20/2013

**Offense Date:** 12/11/2012

**Disposition:** 2      GUILTY BENCH TRIAL

**Total Fine:** 250.00      **Total Paid:**

**Sentence:** Fine to be paid on or before 03-15-2013

95

CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY, SC 29108  
(803) 321-1010

*Exhibit B*

TO: ANTHONY DEROME RICHARDSON  
914 GRAY ST  
NEWBERRY SC 29108

DATE: 03/22/2013

SUBJECT: PAST DUE PAYMENT

WARRANT/TICKET NO.: 11842GF

AMOUNT DUE: 250.00

OFFENSE: TRESPASS AFTER NOTICE

FILED  
NEWBERRY COUNTY  
JACKIE S. BOWENS  
CLERK OF COURT  
2013 SEP 17 AM 11 32

YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.

IF FULL PAYMENT IS NOT MADE WITHIN (10 DAYS) FROM THE DATE OF THIS NOTICE, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.

PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.

IF MAILING IN YOUR FINE, PLEASE SEND A MONEY ORDER OR CASHIER'S CHECK.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT THE NUMBER ABOVE.

SINCERELY,



FILED  
NEWBERRY COUNTY  
JACKIE S. BOWENS  
CLERK OF COURT  
2013 JUN 24 PM 12 24

96

Exhibit 6

THE STATE OF SOUTH CAROLINA  
NEWBERRY MUNICIPAL COURT  
BENCH WARRANT

2013B3620200044

T 11842GF

2012-10708

To any Lawful Constable or Officers:

WHEREAS: One ANTHONY DEROME RICHARDSON  
was convicted in this court of TRESPASS AFTER NOTICE  
with sentence imposed of 30 DAYS OR \$250.00

on the 20 day of February, 2013

This order is to command you to take and convey him/her to the common jail. This keeper of the said jail is hereby commanded to receive the said defendant and to safely keep until he/she shall be thereof discharged by due course of law; And for so doing, this shall be your good and sufficient warrant.

Witness: The due execution of this warrant on the 5 day of April, 2013

JUDGE, NEWBERRY MUNICIPAL COURT

**COPY**

OFFICER'S RETURN  
THE STATE OF SOUTH CAROLINA  
NEWBERRY MUNICIPAL COURT

FILED  
NEWBERRY COUNTY  
2014 SEP 17 AM 11 32  
JACKIE S. BOWERS  
CLERK OF COURT

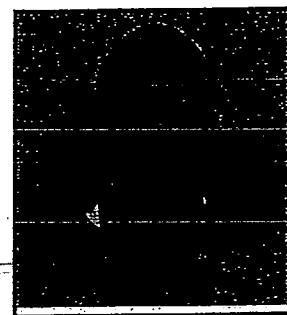
I hereby certify that pursuant to the command of the within warrant, I have placed the said ANTHONY DEROME RICHARDSON in the jail this 6 day of May, 2013

WITHDRAWN

OFFICER'S NAME

Address: 914 GRAY ST  
NEWBERRY, SC 29108

Height: 5 ft. 10 in.      Race: B      SSN: 251-47-4765  
Weight: 235      Sex: M      St. Lic: SC  
Hair: BLK      Age: 39      Dr. Lic: 004048122  
Eyes: BRO      DOB: 07/24/1973      Phone: 321-9260



97

Withdrawn 5/6/13

0411-0019

SCANNED

STATE OF SOUTH CAROLINA )

COUNTY OF NEWBERRY )

Anthony Derone Richardson, )

Plaintiff, )

v. )

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )

Defendant. )

IN THE COURT OF COMMON PLEAS

C/A #: 13-CP-36-00321

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

FILED  
NEWBERRY COUNTY  
2014 JUN 2 PM 12 07  
JACKIE S. BOWERS  
CLERK OF COURT

**TO: ANTHONY RICHARDSON, PRO SE PLAINTIFF:**

YOU WILL PLEASE TAKEN NOTICE that the undersigned attorney for the Defendant will move before the Presiding Judge of the Eighth Judicial Circuit at the Newberry County Courthouse, Newberry, South Carolina on the tenth (10<sup>th</sup>) 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, pursuant to S.C.R.C.P. 56 for an Order granting Defendant's Motion for Summary Judgment on the grounds that no cause of action has accrued. The Plaintiff was arrested on December 11, 2012 for Trespass After Notice. The crux of his Complaint is that his procedural due process rights were violated in that he claims he was denied his right to a jury trial arising out of his arrest. The Plaintiff filed this civil action in June, 2013, seeking damages in the amount of \$2,000,000. However, around the time the he filed his Complaint, the Plaintiff also filed a petition for Post Conviction Relief arising out of the alleged procedural due process violation.

The Plaintiff's appeal of his criminal conviction is currently pending. A determination that the Plaintiff is entitled to post conviction relief is in essence a finding that he was entitled to

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a jury trial. A determination that the Plaintiff is not entitled to post conviction relief is in essence a finding that the Plaintiff was not entitled to a jury trial. However, because the Plaintiff's appeal is still pending, there has been no final decision as to whether he was entitled to a jury trial. Accordingly, no civil cause of action has accrued.

Moreover, the Plaintiff's remedy for the alleged due process violation he is claiming in this lawsuit is the judicial review he is seeking by appealing his criminal conviction. His remedy for the alleged denial of his right to a jury trial is not a monetary award, but rather a trial if it is determined he was entitled to one.

Lastly, the Plaintiff is barred from bringing this action. He was convicted of the charge of trespass after notice. He pled guilty to the charge and subsequently paid the fine associated with that charge. Afterwards, he filed an appeal in which he challenges the process by which his conviction was obtained. A judgment in the Plaintiff's favor in the present case would necessarily imply the wrongfulness of his criminal conviction, which is at odds with the fact that his conviction still stands. Accordingly, the Plaintiff is barred from bringing the present suit unless and until his conviction is overturned.

This Motion is based upon the pleadings filed in this case, Rules of Court, case law and such other documents and matters as may be properly presented to the Court.

MORRISON LAW FIRM, LLC

By: Kassi B. Sandifer

David L. Morrison, Esquire,  
Kassi B. Sandifer, Esquire,  
Robert G. Cooper, Esquire  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212  
Phone: (803) 661-6285  
Fax: (803) 661-6289  
E-mail: david@dmorrison-law.com  
E-mail: kassi@dmorrison-law.com

ATTORNEY FOR THE DEFENDANTS

Columbia, South Carolina

May 30, 2014

180

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS

Anthony Derone Richardson, )  
 )  
Plaintiff, )

C/A #: 13-CP-36-00321

v. )

CERTIFICATE OF SERVICE

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )  
 )  
Defendant. )

The undersigned employee of Morrison Law Firm, LLC, attorney for the Defendant does hereby certify that service of the **Notice of Motion and Motion for Summary Judgment** 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 30<sup>th</sup> day of May, 2014, addressed as follows:

Anthony Derone Richardson  
914 Gray Street  
Newberry, South Carolina 29108

Kassi B. Sandifer  
Kassi B. Sandifer

Columbia, South Carolina

FILED  
NEWBERRY COUNTY  
2014 JUN 2 PM 12 07  
JACKIE S. BOWERS  
CLERK OF COURT

101

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY )

Anthony Derone Richardson, )

Civil Action No. 13-CP-36-00321

Plaintiff, )

v. )

**MOTION & ORDER INFORMATION  
FORM COVER SHEET**

Jackie Swindler, Chief of Police, Newberry )

County Municipal Police, )

Defendant. )

Plaintiff's Pro See:  
Anthony D. Richardson  
914 Gray Street  
Newberry, South Carolina 29108  
Phone: (803) 413-3961  
E-Mail: Unknown

Defendant's Attorney:  
Kassi B. Sandifer  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212  
Phone: 803-661-6285 Fax: 803-661-6289  
E-Mail: kassi@dmorrison-law.com

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

**SECTION I: Hearing Information**

Nature of Motion: Motion for Summary Judgment

Estimated Time Needed: 30 minutes Court Reporter Needed:  Yes /  No

**SECTION II: Motion/Order Type**

- Written motion attached**
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Kassi B. Sandifer  
Signature of Attorney for Defendant(s)

May 30, 2014  
Date Submitted

FILED  
NEWBERRY COUNTY  
2014 JUN 2 PM 12 06  
JACKIE S. BOWERS  
CLERK OF COURT

**SECTION III: Motion Fee**

- PAID - AMOUNT: \$25.00**
- EXEMPT: (check reason)
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRPC)
  - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

**JUDGE'S SECTION**

- Motion Fee to be paid upon filing of the attached order.
- Other: \_\_\_\_\_

\_\_\_\_\_  
JUDGE  
CODE: \_\_\_\_\_ DATE: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: J. Joby Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: 25.00  
 CONTESTED - AMOUNT DUE: \_\_\_\_\_

182

**Morrison Law Firm, LLC**

7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Phone: (803) 661-6285

Fax: (803) 661-6289

E-mail: David@dmorrison-law.com

E-mail: Kassi@dmorrison-law.com

E-mail: Bob@dmorrison-law.com

David L. Morrison\*  
Kassi B. Sandifer  
Robert G. Cooper\*\*

\*Licensed in SC & NC

\*Certified Mediator

\*\*Of Counsel

May 30, 2014

Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Box 278  
Newberry, South Carolina 29108

RE: Anthony Derone Richardson v. Jackie Swindler, Chief of Police, Newberry County  
Municipal Police

C/A #: 13-CP-36-00321

Date of Incident: 2/2/13

Claim #: SF-13-0467

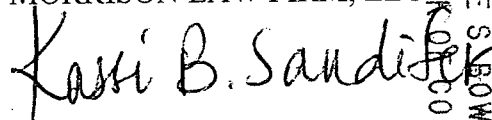
Our file: 210.0411

Dear Clerk Bowers:

Enclosed is the original and one copy of Defendant's Motion for Summary Judgment, Cover Sheet and filing fee of \$25 in the above-referenced matter. Please file the original and return a clocked-in copy to me in the self-addressed stamped envelope enclosed for your convenience. By copy of this letter, I am serving Plaintiff with copy of same.

Very truly yours,

MORRISON LAW FIRM, LLC



Kassi B. Sandifer

JACKIE S BOWERS  
CLERK OF COURT

2014 JUN 2 PM 12 06

FILED  
NEWBERRY COUNTY

KBS/cmm

Enclosure

cc: Anthony D. Richardson

103

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS

C/A #: 13-CP-36-00321

Anthony Derone Richardson, )  
 )  
Plaintiff, )

v. )

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )  
 )  
Defendant. )  
\_\_\_\_\_ )

DEFENDANT'S MEMORANDUM IN  
SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT



FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWENS  
CLERK OF COURT

This memorandum is filed in support of Defendant Jackie Swindler's Motion for Summary Judgment previously filed with the Court.

I. FACTUAL BACKGROUND

On or about October 15, 2008, the Plaintiff was involved in an incident that occurred at Quick Stop located at 1430 Drayton Street in Newberry, South Carolina. (Deposition of Anthony Richardson, ("Plaintiff's Dep.," pp. 7-8)).<sup>1</sup> As a result of the incident, the owner of the establishment placed the Plaintiff on a trespass notice, which the Plaintiff admittedly received. (Plaintiff's Dep., p. 9); (See also, Trespassing Notice, Exhibit 2 to Plaintiff's Dep., attached hereto as Exhibit 2). In the notice, the owner of Quick Stop informed the Plaintiff that he was no longer allowed on the property located at 1430 Drayton Street, Newberry, South Carolina known as Quick Stop. (Plaintiff's Dep., p. 10); (See also, Exhibit 2).

Although the Plaintiff never received notification that the trespass notice had been withdrawn, he returned to the Quick Stop property on or about December 11, 2012. (Plaintiff's Dep., pp. 11, 33-34). The Plaintiff was consequently issued a citation for trespass after notice.

<sup>1</sup> All excerpts from the Deposition of Anthony Richardson are attached hereto as Exhibit 1).

(Plaintiff's Dep., pp. 21, 33); (*See also*, City of Newberry Incident Report, Exhibit 3 to Plaintiff's Dep., attached hereto as Exhibit 3).

On or about February 2, 2013, the Plaintiff appeared before Judge Partridge and pled not guilty to the offense of trespass after notice and requested a jury trial. (Plaintiff's Dep., pp. 20-21, 25). The Plaintiff received a letter to appear at the Public Safety Complex on February 20, 2013 at 2:30 p.m. for jury selection. (Plaintiff's Dep., p. 23); (*See also*, Letter dated February 7, 2013 from Cella Dodgen to the Plaintiff, Exhibit 6 to Plaintiff's Dep., attached hereto as Exhibit 4). The Plaintiff appeared at the Public Safety Complex and met with Chief Swindler. (Plaintiff's Dep., pp. 26-27). The events that occurred during that meeting are disputed. However, it is undisputed that the Plaintiff signed a form pleading guilty and agreeing to pay \$250.00 by March 15, 2013. (Plaintiff's Dep., p. 32); (*See also*, Exhibit 7 to Plaintiff's Dep., attached hereto as Exhibit 5).

The Plaintiff did not pay the \$250.00 fine for his trespass after notice offense, and the City of Newberry sent the Plaintiff a notice advising that his payment was delinquent and that failure to make the payment in ten days would result in the issuance of a bench warrant against him. (Exhibit 5 to Plaintiff's Dep., attached hereto as Exhibit 6). The Plaintiff ultimately paid the fine on May 6, 2013 after learning a bench warrant had been issued against him. (Plaintiff's Dep., p. 62); (*See also*, Exhibit 9 to Plaintiff's Dep., attached hereto as Exhibit 6).

On June 24, 2013, the Plaintiff filed a Complaint against Chief Swindler pursuant to 42 U.S.C. §1983 alleging that Chief Swindler violated his procedural due process right to a jury trial by "waiving" that right on behalf of the Plaintiff. (*See* Plaintiff's Complaint); (*See also*, Plaintiff's Dep., pp. 30, 50-51, 53, 66-68). However, sometime within one month before or after filing his Complaint in civil court, the Plaintiff also filed a petition for post conviction relief

arising out of the alleged procedural due process violation and subsequent conviction. (Plaintiff's Dep., pp. 63-64). The Plaintiff's appeal is still pending. The Defendant moves for summary judgment on the grounds that there is no deprivation of the Plaintiff's right to a jury trial and that the Plaintiff is barred from bringing the present civil suit unless and until his conviction is overturned.

## II. ARGUMENT

### A. ***THE PLAINTIFF HAS NOT SUFFERED AND WILL NOT SUFFER A DEPRIVATION OF HIS RIGHT TO A JURY TRIAL.***

The Plaintiff filed a petition for post conviction relief contesting his conviction in the underlying criminal case, and the appeal is currently pending. The Plaintiff's appeal challenges the process by which his criminal conviction was obtained; specifically, whether his right to a jury trial was violated. That is the exact issue that forms the basis of the present civil lawsuit he filed in State Court pursuant to 42 U.S.C. § 1983. However, because the issue is currently under appeal, there has not been a deprivation of the Plaintiff's right to a jury trial at this time. Furthermore, regardless of whether or not the Court of Appeals determines the Plaintiff's right to a jury trial was violated, there still will be no deprivation of the right to a jury trial. If the Court of Appeals determines the Plaintiff was entitled to a jury trial in the underlying criminal case, he will be allowed to have a jury trial on the matter.

If, on the other hand, the Court of Appeals determines he was not entitled to a jury trial, then there can be no deprivation of a right to which he was not entitled. In other words, depending on the determination of the Court of Appeals, the Plaintiff will either get the remedy he is seeking, which is his right to a jury trial, or the conviction will stand, which is tantamount to a determination that there was no violation of his right to a jury trial. In either event, there is no deprivation of his right to a jury trial.

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**B. THE PLAINTIFF'S CLAIM PURSUANT TO 42 U.S.C. §1983 FOR VIOLATION OF HIS DUE PROCESS RIGHT TO A TRIAL BY JURY IS BARRED BY HECK V. HUMPHREY**

The Plaintiff's claim is barred by *Heck v. Humphrey*, 517 U.S. 477 (1994). The Plaintiff filed his Complaint pursuant to 42 U.S.C. § 1983 for the alleged violation of his procedural due process right to a jury trial. He is seeking monetary damages in the amount of \$4,000,000 for this alleged violation. In *Heck*, the United States Supreme Court held that:

[i]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a §1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. A claim for damages bearing relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983.

512 U.S. @486-87. The Supreme Court established a test to determine the appropriateness of the dismissal of a § 1983 suit seeking damages. When damages in a § 1983 are being sought, the Court "must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated." *Id.* However, if the Court determines that, even if successful, the plaintiff's action will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed, in the absence of some other bar to the suit. *Id.*

The Supreme Court's ruling echoes the "strong judicial policy against the creation of two conflicting resolutions arising out of the same or identical transaction." *Id.* at 485. Furthermore, it prevents a convicted criminal defendant the opportunity to collaterally attack the conviction by way of civil suit. *Id.*

The Plaintiff's appeal of his criminal conviction challenges the process by which his conviction was obtained. A judgment for the Plaintiff in this civil lawsuit would necessarily imply the invalidity or wrongfulness of his conviction in the underlying criminal matter. The Plaintiff is claiming that the violation of his constitutional right to a jury trial led to his conviction. A judgment in favor of the Plaintiff in this case is tantamount to a finding that the Plaintiff was deprived of a right to a jury trial, and consequently, that the conviction is invalid.

Since the Plaintiff's appeal is still pending, the conviction has not been reversed on direct appeal, expunged by executive order or declared invalid by a state tribunal authorized to make such determination. As a result, according to *Heck*, the Plaintiff's claim for monetary damages is not cognizable under § 1983, and therefore, should either be dismissed unless or until the conviction is reversed, expunged or invalidated or stayed pending resolution of the underlying criminal matter. *Wallace v. Kato*, 549 U.S. 384, 393-94 (2007).

### III. CONCLUSION

For the foregoing reasons, the Defendant respectfully requests that his Motion for Summary judgment be granted in its entirety.

**(Signature on Following Page)**

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MORRISON LAW FIRM, LLC

By: Kassi B. Sandifer

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo Drive, Suite B

Columbia, South Carolina 29212

Phone: (803) 661-6285

Fax: (803) 661-6289

E-mail: david@dmorrison-law.com

E-mail: kassi@dmorrison-law.com

ATTORNEYS FOR THE DEFENDANT

Columbia, South Carolina

September 5, 2014

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STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY )

Anthony Derone Richardson, )

C/A #: 13-CP-36-00321

Plaintiff, )

v. )

**CERTIFICATE OF SERVICE**

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )

Defendant. )  
\_\_\_\_\_ )

The undersigned employee of Morrison Law Firm, LLC, attorney for the Defendant does hereby certify that service of the **Defendant's Memorandum In Support of Motion and Motion for Summary Judgment** 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 5th day of September, 2014, addressed as follows:

Anthony Derone Richardson  
914 Gray Street  
Newberry, South Carolina 29108

Callie M. Morrison  
Callie M. Morrison

Columbia, South Carolina

FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

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FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

# EXHIBIT #1

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*





Southern Reporting, Inc.

Transcript of the  
Deposition of  
Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

**COPY**

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: [Depos@southernreporting.net](mailto:Depos@southernreporting.net)

FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

112

1 State of South Carolina )  
 )  
 2 County of Newberry )  
 )  
 3 ) 13-CP-36-00321  
 Anthony Derone Richardson, )  
 4 )  
 Plaintiff, )  
 5 ) Deposition  
 vs. )  
 6 ) of  
 Jackie Swindler, Chief of )  
 7 Police, Newberry County ) Anthony Richardson  
 Municipal Police, )  
 8 Defendant. )  
 9  
 10 Deposition of Anthony Richardson, taken before  
 11 Vickie M. Hester, a notary public in and for the State  
 12 of South Carolina, commencing at the hour of 10:07 a.m.,  
 13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,  
 14 1325 Main Street, Newberry, South Carolina.  
 15  
 16 Reported by  
 Vickie M. Hester  
 17  
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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

For the Defendant: Kassi B. Sandifer, Esq.  
Morrison Law Firm, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Also present: Delinda Turner

INDEX

Stipulations: 3

Examination by Ms. Sandifer: 3

EXHIBITS

Defendant's Exhibit No. 1, 10/15/08 Incident Report. 7

Defendant's Exhibit No. 2, Trespass Notice. 8

Defendant's Exhibit No. 3, 12/11/12 Incident Report. 11

Defendant's Exhibit No. 4, Complaint. 14

Defendant's Exhibit No. 5, Letter from City of Newberry Regarding Delinquent Payment. 23

Defendant's Exhibit No. 6, Letter Regarding Jury Selection. 23

Defendant's Exhibit No. 7, Handwritten Statement. 28

Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine. 62

Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine. 63

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1 A. It's irrelevant. I object once again. It's  
2 irrelevant to why we're here. Irrelevant to the  
3 reason, the purpose is --

4 Q. No, it's not.

5 A. -- the state claim -- I object. It's irrelevant to  
6 why I'm here.

7 Q. Are you going to do this the whole entire time, or  
8 are you going to answer my questions that I'm  
9 entitled to know?

10 A. I object. It's irrelevant to why we're here.

11 Q. Okay. Are you familiar with the Quick Stop on  
12 Peyton Street in Newberry?

13 A. Yes.

14 Q. All right. Do you know who owns that Quick Stop?

15 A. No.

16 Q. All right. Do you recognize the name Shefchick?

17 A. I don't know him.

18 Q. All right. Let me make this an exhibit.

19 (Defendant's Exhibit Number 1  
20 Marked)

21 EXAMINATION BY MS. SANDIFER RESUMED:

22 Q. I'm showing you what's been marked as Exhibit 1, if  
23 you want to go ahead and take a look at that. Were  
24 you involved in an incident at the Quick Stop on  
25 October 15th, 2008?

1 A. I don't remember the date. But I recall the  
2 incident.

3 Q. Okay. And as a result -- let me go ahead and show  
4 you Exhibit 2 of that incident.

5 (Defendant's Exhibit Number 2  
6 Marked)

7 EXAMINATION BY MS. SANDIFER RESUMED:

8 Q. You were put on a trespass notice, right?

9 A. Yes.

10 Q. Yes?

11 A. Yes, I was.

12 Q. And that trespass notice was served on you at your  
13 home, right?

14 A. I object to leading the plaintiff.

15 Q. Was the trespass notice served on you at your home?

16 A. Once again, I object to leading the plaintiff.

17 Q. That's not a leading question.

18 A. I object -- the plaintiff object on these terms --  
19 the deposition on the grounds that it is vague,  
20 unclear, unspecific. There's no answer that can be  
21 fashioned.

22 Q. Did you receive that trespass notice that's Exhibit  
23 2?

24 A. Could you rephrase the question?

25 Q. Did you know -- all right, let's read -- let's read

1 the trespass notice together. It's addressed to  
2 you, Anthony Richardson. And it says, "This letter  
3 is to advise you, Anthony Richardson, that you are  
4 no longer allowed on my property located at 1430  
5 Drayton Street," which is the Quick Stop, "in the  
6 City of Newberry. Should you violate this notice  
7 and visit this property, you will be prosecuted for  
8 trespassing after notice." And it's signed. Did  
9 you receive this trespass notice?

10 A. I object to you -- rephrase the question you want  
11 me to answer first.

12 Q. Yeah. Did you receive this trespass notice, this  
13 Exhibit 2? Did you receive this?

14 A. Yes, I received it.

15 Q. Okay. So you knew you were not supposed to go on  
16 the property at 1430 Drayton Street in the City of  
17 Newberry?

18 A. I don't think I remember exactly. Could --

19 Q. Can you read?

20 A. I object. The question is irrelevant.

21 Q. No, it's not. Can you read? Were you able to read  
22 this trespass notice?

23 A. Yeah, I can read. Yes. Yes, I can read it.

24 Q. Okay. So you knew you weren't supposed to go on  
25 the property, right?

1 A. I don't quite -- could you clarify your question a  
2 little bit? I don't quite understand what -- I  
3 object. It's -- to be it's leading the plaintiff.  
4 So I object to the question as leading. It's a  
5 leading question, trying to lead me to incriminate  
6 myself. So I object.

7 Q. Do you agree that this trespass notice that I just  
8 showed you as Exhibit 2 says, "This letter is to  
9 advise you, Anthony Richardson, that you are no  
10 longer allowed on my property located at 1430  
11 Drayton, (Quick Stop)" in parentheses, "in the City  
12 of Newberry?"

13 A. I object. I asked and answered the question.

14 Q. No, that's a totally different question.

15 A. I object. I asked and answered the question.

16 Q. All right. What does this paragraph -- I'm going  
17 to mark it. What does this paragraph right here  
18 say? Read that for me.

19 A. I object. You're leading the plaintiff once again.

20 Q. That's not a leading question. What does that that  
21 I've marked say on Exhibit 2?

22 A. What does it say? "This letter is advising Anthony  
23 Richardson that you are no longer allowed on my  
24 property located at 1430 Drayton Street, Quick Stop,  
25 in Newberry, South Carolina."

1 Q. Thank you. Did you ever receive any notice that  
2 that trespass notice had been withdrawn?

3 A. No.

4 Q. Okay. And is it still active today?

5 A. I don't -- I don't remember.

6 Q. Okay. But you haven't received any notice that  
7 it's been withdrawn?

8 A. Once again I object. I asked -- you asked it and I  
9 answered the question.

10 (Defendant's Exhibit Number 3  
11 Marked)

12 EXAMINATION BY MS. SANDIFER RESUMED:

13 Q. I'm showing you what's been marked as Exhibit 3.  
14 And that's another incident report listing you as  
15 the subject. And it's dated December 11th, 2012  
16 where you were picked up for being on that  
17 location. Do you recall being on that location?

18 A. Can you clarify that question?

19 Q. Yeah. Did you go back on the Quick Stop after the  
20 trespass notice?

21 A. I object. Multiple questions. I object to  
22 compound question.

23 Q. That's not a compound question.

24 A. I object because the question could mean more than  
25 one -- or have more than one answer to the

1 Q. Did you ask him anything about this, anything about  
2 this agreement?

3 A. No.

4 Q. When you went to the complex on February 20th did  
5 you have your ticket with you?

6 A. Yeah.

7 Q. Okay. And that ticket was for trespass after  
8 notice?

9 A. Yeah.

10 Q. For being on the Quick Stop property?

11 A. Right, at the Quick Stop store. Correct.

12 Q. Right. Okay. Back in 2012, December 2012?

13 A. I can't remember the date. I -- I can't remember  
14 the date, exactly what date I was --

15 Q. Well, the incident report that records the incident  
16 says that the trespass after notice was on December  
17 11th, 2012.

18 A. Right.

19 Q. Do you dispute that?

20 A. No, I don't dispute that.

21 Q. Okay. Now, did you have to present that ticket to  
22 Chief Swindler?

23 A. No.

24 Q. Do you know why he thought that you were going to  
25 be found guilty anyway?

- 1 A. I object. Causing speculation.
- 2 Q. Okay, so you don't know?
- 3 A. I object. It cause me to narrate.
- 4 Q. Okay, I'm showing you again Exhibit 3 which is the  
5 incident report. Do you dispute that you were on  
6 that property?
- 7 A. No.
- 8 Q. And at the time that trespass notice was active?
- 9 A. I don't know. I don't remember.
- 10 Q. Well, you hadn't received any notification that  
11 that guy had withdrawn it, did you?
- 12 A. Not that I -- no. Because I -- if -- I don't -- I  
13 don't think that -- if he did, I had no knowledge  
14 of it, you know.
- 15 Q. So when you were in Jackie Swindler's office in  
16 February 2013 had you represented yourself in legal  
17 proceedings before that date?
- 18 A. Objection. That's irrelevant to why we're here.
- 19 Q. No, it's not.
- 20 A. I mean, you're asking me a question, you know,  
21 about did I represent myself before. That's  
22 irrelevant. I object to it being -- dealing with  
23 the issue here. I object to the irrelevancy.
- 24 Q. Well, it is relevant.
- 25 A. That's a matter for the court to decide.

1 Tricky is not a ground. And it's not tricky. You  
2 say, "Anthony pled guilty to trespassing after  
3 notice. Warrant Ticket Number 11842GF." Right?  
4 Did you receive a ticket for trespass after notice?

5 A. Yeah.

6 Q. Okay. Do you still have that ticket?

7 A. Yes, I do. But I don't have it on file, no, right  
8 here at the deposition.

9 Q. Was there a fine on that ticket?

10 A. I don't -- I don't think I remember. I don't think  
11 so. I don't have the ticket handy with me at the  
12 moment.

13 Q. All right. Further -- your complaint further  
14 states that you filled out a form demanding a jury  
15 trial in the presence of Judge Partridge. Did you  
16 get a copy of that form?

17 A. In the court system they don't give you copies.  
18 You just fill them out, they file them with the  
19 Clerk.

20 Q. All right. Explain to the best of your  
21 recollection what was on that form.

22 A. Requesting a jury trial. Simple.

23 Q. So was it just, "I request a jury trial," and you  
24 check a box or you sign something?

25 A. You go in front of the judge. The just asks you,

1 Q. Tell me what happened that led to you suing Jackie  
2 Swindler.

3 A. You asked -- I object. She asked. I answered.  
4 Repeated question.

5 Q. All right. Your complaint states that on February  
6 2nd, 2013 you were in court before Frank Partridge.  
7 Is that true?

8 A. Can you clarify the question?

9 Q. Well, were you in court before Frank Partridge on  
10 February 2nd, 2013?

11 A. That's right. Yes.

12 Q. What were you -- what were you there for?

13 A. As written in the complaint, "Anthony pleaded not  
14 guilty to trespassing after notice."

15 Q. And did you get a ticket for the charge of trespass  
16 after notice?

17 A. I object. It's a tricky question.

18 Q. It's not a tricky question. You said in your  
19 complaint -- you've mentioned -- you referenced in  
20 the second sentence --

21 A. I object. You asked and I answered you.

22 Q. I haven't -- you haven't answered this question.

23 A. I object. I stated for the record that it was  
24 tricky. That is the answer. That's the answer.

25 Q. There's not an objection. That's not a ground.

1 trial?

2 A. Yeah.

3 Q. Okay. Tell me about that process.

4 A. Well, that process is when you appear in front of a  
5 judge on the day of on the docket, that you're  
6 scheduled to go on the ticket to appear before a  
7 judge. When you appear before the judge you -- the  
8 judge calls you and asks you how do you plead. You  
9 tell him -- he said, "Do you want to plead guilty  
10 or not guilty -- guilty or not." I told him not  
11 guilty. He said, "How do you wish to -- to plead -  
12 -" I mean, "Do you wish to be tried in front of the  
13 judge or the juror." I said, "The juror." He  
14 said, "Okay, sign off on the paper and we'll send  
15 you through the mail when the jury selection will  
16 take place." That procedure's been here forever.

17 Q. I know. But what I'm asking you is have you ever  
18 represented yourself at trial before?

19 A. I represented myself in another case too presently.

20 Q. Okay. But have you ever gone through the trial  
21 process?

22 A. Yes, I have.

23 Q. Okay. Where you were either found guilty, not  
24 guilty --

25 A. I mean, it's irrelevant because it's -- I object

1 A. You have this?

2 Q. Yeah, we're going to talk about that.

3 A. Okay.

4 (Defendant's Exhibit Number 5

5 Marked)

6 EXAMINATION BY MS. SANDIFER RESUMED:

7 Q. All right. I'm showing you Exhibit 5. And is that  
8 what you just showed me to clarify -- or to explain  
9 what after the court date -- your statement, "After  
10 the court date was on or about February 10, 2013?"

11 A. I actually received a jury trial letter on February  
12 20, 2013 to appear before a jury selection.

13 Q. Okay. I'm going to go ahead and --

14 A. February 20th.

15 (Defendant's Exhibit Number 6

16 Marked)

17 EXAMINATION BY MS. SANDIFER RESUMED:

18 Q. All right. I'm showing you Exhibit 6. Is this  
19 what you received?

20 A. "In preparation for a jury trial on the above  
21 referenced charge, the Court has scheduled a jury  
22 trial selection on February 20th at 2:30 p.m."  
23 Yeah.

24 Q. Okay. Now, at this point no trial had been  
25 scheduled, right? Just jury selection?

- 1           because it's irrelevant to -- to why I'm here.
- 2    Q.    Well, no, it's not.  I want to make --
- 3    A.    I object.  I -- you -- I object.  You asked and I
- 4           answered.
- 5    Q.    Do you know what a jury selection is?
- 6    A.    Yeah.
- 7    Q.    Explain jury selection to me.
- 8    A.    I object.  It is argumentative.  I object it is
- 9           argumentative.
- 10   Q.    What -- what do you do --
- 11   A.    Argumentative question.
- 12   Q.    What do you do during jury selection?
- 13   A.    I object.  I -- you asked and I answered.  Asked
- 14           and answered the question.  I object.
- 15   Q.    Do you know what you do during jury selection?
- 16   A.    Once again I object.  You -- you asked and I
- 17           answered.
- 18   Q.    No, that's a different question.
- 19   A.    I already gave an answer.
- 20   Q.    Do you know what you do during jury selection?
- 21   A.    I object.  I -- you asked and I answered.
- 22   Q.    Did you go to the Newberry -- the Public Safety
- 23           Complex on February 20th, --
- 24   A.    Yeah.
- 25   Q.    -- 2013?

1 A. Yeah.

2 Q. Where did you go?

3 A. To the municipal courtroom at the municipal court  
4 complex right down here, Newberry Public Safety  
5 Complex.

6 Q. All right. What room did you go to?

7 A. When I entered the room I went to Jackie Swindler's  
8 office.

9 Q. So when you entered the complex who was the first  
10 person that you saw?

11 A. The lady in the front. I think she's the secretary  
12 or the clerk. That's the first lady that I met.  
13 She said, "Hold on. Jackie Swindler is the one  
14 that conducts jury selection." Said, "He will be  
15 out in a moment." I waited there until he came  
16 out. He took me back to the back of his office.

17 Q. All right. Tell me what happened.

18 A. Went back to the back of his office. He stated to  
19 me these words, that I should waive the jury and,  
20 "You're not going to win the jury anyway. So  
21 therefore, I'm going to --" let me find my paper  
22 here "-- get you to sign off on this paper. I'm  
23 going to get you to plead guilty and agree that  
24 you'll pay \$250." And I said, "Okay, I will pay  
25 you March the 15th, 2013," on record. I signed my

1 A. My question -- your answer and question state the  
2 same I said five minutes ago. You asked me what I  
3 did when I went into the office. I told you  
4 earlier. You're -- you asking -- I object to the  
5 asked and answered the question.

6 Q. You told me what he said. You haven't told me  
7 anything that you said. And I'm entitled to know  
8 the whole conversation from your point of view.

9 A. According to Exhibit 7, after he wrote, "I plead  
10 guilty and agree to pay \$250, I will pay by March,"  
11 I signed the form.

12 Q. Did you ask him any questions?

13 A. Did I ask him any questions? Could you clarify  
14 that, rephrase that a little?

15 Q. Yeah. I mean, here -- did you know what you were  
16 signing?

17 A. According to Exhibit 7, "I agree -- I plead guilty  
18 and agree to pay \$250, I will pay by March 15th,  
19 2013."

20 Q. Right. Did you understand what that was saying?

21 A. My signature.

22 Q. I understand that your --

23 A. Clarify did I understand what I was reading.

24 Q. Okay.

25 A. Yeah.

1 Q. Okay. So you didn't get the bench warrant --

2 A. In my hand, no. He -- after I had talked to him,

3 you know, he told me, said, "Look, you can turn

4 yourself in or however, you know, but you've got

5 two choices, turn yourself in or pay the money."

6 So I ended up paying the money. But he came to the

7 laundromat looking for me. That how I knew that he

8 had a bench warrant for my -- after I called him on

9 the phone at the -- through the city dispatch.

10 Q. Okay. So did you physically go pay the \$250?

11 A. I sent my wife and my mother.

12 Q. All right.

13 A. And once they paid it, and then that's when they

14 brought me the ticket and said, "You have the proof

15 that you paid it. That what lift the bench warrant

16 off of you."

17 (Defendant's Exhibit Number 8

18 Marked)

19 EXAMINATION BY MS. SANDIFER RESUMED:

20 Q. All right, this is Exhibit 8. Is that what she

21 brought you, the receipt for the payment?

22 A. No, because I don't see the number on here. I

23 don't think this is right.

24 Q. That's not right.

25 A. This is something else. I don't know what that is.

1 I appeared at the jury selection, once again, Mr.  
2 Swindler had stated to me that the jury selection  
3 had -- he waived the jury selection in his words.  
4 "There won't be no jury because you're not going to  
5 win anyway." This is verbally what he's saying.  
6 What -- my intention was to come on February the  
7 20th to be at the jury selection, to -- to clarify  
8 your question.

9 Q. How long -- when you -- after you got there how  
10 long did you have to wait for Chief Swindler to  
11 come out?

12 A. Well, I object. I don't want to do hypothetically.

13 Q. Was it a long time.

14 A. Because I object to -- to speculation.

15 Q. So you're saying --

16 A. I don't want speculation.

17 Q. -- you can't remember exactly. And I don't care  
18 exact.

19 A. I do not -- I object to -- I do not remember  
20 exactly because -- I object. I do not want to  
21 speculate.

22 Q. Do you recall whether it was a long time? If you  
23 sit here and think back, do you think it was a very  
24 long time that you had to wait?

25 A. Once again I objection, causing me to speculation -

1 Q. Okay. The document says, "I plead guilty." Did  
2 you intend to plead guilty?

3 A. Did I intend to plead guilty? According to what  
4 Jackie Swindler wrote. I was intending to have a  
5 jury trial which I filed in front of Jackie  
6 Swindler requesting a jury trial written in  
7 documents. I don't know why you don't have that in  
8 a exhibit right now when I filed the form to  
9 request a jury selection I have not yet received  
10 through discovery.

11 Q. Well, why did you then plead guilty instead of  
12 asserting your right to a jury trial?

13 A. I object to the question. Lack of foundation.

14 Q. You can still answer.

15 A. Could you rephrase -- rephrase the question?

16 Q. Instead of signing this agreement why didn't you  
17 assert your right to a jury trial?

18 A. My intention was when I first -- when I first  
19 received the letter in the exhibit to attend a jury  
20 selection. This right here was never on my mind to  
21 even plead guilty in front of the chief of police.  
22 I was expecting a jury selection which is normal  
23 process when he stated to me inside to fill the  
24 form out, that, "We will notify you through mail  
25 when a jury will be selected." My intention was

1 never to - to plead guilty. That was his decision.  
2 When I approached the desk at the complex, Jackie  
3 Swindler is the one that handled the jury  
4 selection. Then after a period of time, I can't  
5 give you exact time, he told me to come back to the  
6 back of his office. And that's when he stated to  
7 me that, "Well, you're not going to win the jury  
8 trial anyway, so I done waived it for you. So you  
9 just sign right here. I'm going to give you to  
10 dah, dah, dah, dah, dah." He signed it and signed  
11 this thing saying that you agree to what I wrote.  
12 My document speaks for itself. That document does.  
13 Q. So why didn't you -- well, what did you say in  
14 response to that? Did you say anything to him?  
15 A. No. Other than I signed. Only response I got from  
16 him is I signed my name after he signed his name.  
17 Q. Okay. Why did you sign that document?  
18 A. Because we was in his office. He asked me -- once  
19 again, he stated to me I would plead guilty -- for  
20 the record, it's written on regular paper with his  
21 signature in Exhibit 7 exhibit.  
22 Q. You don't seem to --  
23 A. The document speak for itself.  
24 Q. You don't seem to me to be shy about asserting your  
25 rights. So why didn't you say, "I have a right to

1 Q. Okay. But wait, now. You've seen him do jury  
2 selection before?

3 A. Right. I've seen him do it numerous times.  
4 Actually I done been down there before and I done  
5 watched him conduct jury selections numerous times.

6 Q. Okay. Tell me how that process works when he  
7 conducts it.

8 A. Well, legally he don't supposed to conduct it  
9 anyway. But he selects the people. He calls the  
10 jury in. He sits it down and start at the public  
11 complex and say, you know -- sits right here in a  
12 regular desk and say, "You select -- you have the  
13 right as pro se to select your people -- six people  
14 to dah, dah, dah, dah, dah." No judge present.

15 Q. Okay. So but he --

16 A. I done watched him do it. But since we did not  
17 make it to that part because he voluntarily waived  
18 my rights and signatures, documents before himself.  
19 And I haven't got all my discovery from you all. I  
20 can't really present something that I don't have.

21 Q. Okay. Do you know Chief Swindler aside from this  
22 encounter you had with him on February 20th?

23 A. Your question lacks foundation. Can you rephrase  
24 that? I object.

25 Q. Before February 20th, 2013 did you know Chief

1 Anthony Richardson and canceling my jury trial and  
2 conduct a jury selection without a judge is clearly  
3 misconduct of a police officer under the equal  
4 protection of the law is clearly violated."

5 Q. But you all didn't have --

6 A. And numerous other things.

7 Q. But you all didn't have a jury selection?

8 A. He violated my right to a jury selection in waiving  
9 -- which I am entitled to. At that time I was a  
10 criminal, which I'm entitled to the right to a jury  
11 trial selection. Which is a fact. The document  
12 speaks for itself. I object. The document speaks  
13 for itself. And I object that I don't have to  
14 really plead my case in a deposition. I have to  
15 plead my case in the trial.

16 Q. No. Again, you have to let us know your --

17 A. Grounds?

18 Q. -- grounds for why you think you're entitled to  
19 four million dollars. And you can object, which  
20 you've done. But you still have to answer.

21 A. "The jurisdictional line is the provision in South  
22 Carolina 22-3-550 or both. All offenses falling  
23 below the line are the jurisdiction of the  
24 magistrate and implication municipal court where  
25 one distinct set of procedures is used and all

1 offenses above this line are within the  
2 jurisdiction of the circuit courts where another  
3 set of this procedure is used. The procedure used  
4 in this court higher than magistrate's court and  
5 municipal court is not discussed in this book. The  
6 procedure which magistrates use is a summary  
7 procedure. The General Assembly has adopted this  
8 definition." You can finish reading it. The  
9 document speaks for itself.

10 Q. All right. Now, what are your actual damages? I  
11 know that you paid \$250. Is there any -- do you  
12 have any other actual damages?

13 A. Constitutional violation. Basically in the factual  
14 background specifically tells you -- states the  
15 official reason why I'm suing for that amount. I  
16 mean, where it's a Constitutional violation I  
17 believe I can sue whatever amount I desire to sue  
18 for. If I can prove within a court of law that it  
19 is a clearly Constitution established statutory  
20 violation, then I'm entitled to -- it all depends  
21 on what the jury awards the plaintiff with.

22 Q. Okay. But what I want to know is aside from the  
23 \$250 and the Constitutional violation, how -- how  
24 else have you been damaged?

25 A. "Anthony Richardson was deprived of his right to a

1 trial and to be tried by an impartial jury. Chief  
2 of Police Jackie Swindler has constituted judicial  
3 misconduct and police have no reason to sentence me  
4 at all, even in a jury selection on 2/20/2013  
5 because he is not a judge and only a judge can  
6 sentence or even conduct a jury selection. It is  
7 the duty of the judge to protect citizens against  
8 improper and unwarranted control. No person shall  
9 be deprived of life, liberty or property without  
10 due process of the law (U.S. Constitution, Fifth  
11 Amendment). Constitutional rights violations  
12 committed by chief of police include right to a  
13 lawyer, right to cross examination, right to  
14 confront a witness, right to use court subpoena  
15 power to compel a witness to testify, right to a  
16 jury trial and presumption of innocence. Defendant  
17 acted with malice or with reckless indifference to  
18 federal protected rights on an aggrieved  
19 individual. South Carolina Section 15-78-70  
20 provides that government employees may be liable in  
21 tort actions."

22 Q. You don't think Jackie Swindler owed you an  
23 attorney, do you?

24 A. I object to hypothetical or speculation in your  
25 question.

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1 Q. I think that's --

2 A. Oh, that's Common Pleas Court. Okay.

3 Q. Yeah.

4 A. No, this is not it. I know the ticket number is  
5 the same thing on this one. I don't think that's  
6 the ticket number on it. If it don't match the  
7 ticket number, that's not it.

8 Q. Here we go.

9 (Defendant's Exhibit Number 9  
10 Marked)

11 EXAMINATION BY MS. SANDIFER RESUMED:

12 Q. Is this what she brought you?

13 A. Yes, this is -- I think this is it. Like I don't  
14 see the ticket number on it to really classify it  
15 as the exact -- but it appear to be the same.

16 Q. Okay. I think the ticket number is right there.

17 A. Oh, yeah, I see it now. Yeah, that's it. This is  
18 it then. All right.

19 Q. Okay. Do you have an appeal on file regarding this  
20 matter, this -- your -- your pleading guilty?

21 A. Yeah.

22 Q. Okay.

23 A. And it's about to be overturned, yeah.

24 Q. Okay. Is an attorney handling that for you?

25 A. Yeah.

1 Q. All right. And can you tell me the grounds that  
2 you're appealing it on? Is it post conviction  
3 relief?

4 A. Well, that's -- I object because that's client and  
5 -- privileged -- client and attorney privileged.

6 Q. No, I don't want to know what you all have --

7 A. That's irrelevant. I object for the record.  
8 Attorney/client privilege for the trial in court.

9 Q. I don't want to know what you all have talked  
10 about. Is it classified as post conviction relief?  
11 Do you know?

12 A. It's PCR.

13 Q. Okay.

14 A. Right.

15 Q. Do you know what stage that appeal is in?

16 A. Once again, I object. It's attorney/client  
17 privilege. You have to call my attorney.

18 Q. You don't know. Okay, that's fine.

19 A. Right. Call my attorney that's representing me in  
20 the case.

21 Q. Now, your complaint alleges that you're seeking  
22 four million dollars for this lawsuit.

23 A. Yeah.

24 Q. Why do you think you're entitled to four million  
25 dollars?

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NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

# EXHIBIT #2

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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Southern Reporting, Inc.

Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
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1 State of South Carolina )  
 )  
2 County of Newberry )  
 )  
3 ) 13-CP-36-00321  
4 Anthony Derone Richardson, )  
 )  
5 Plaintiff, )  
 ) Deposition  
6 vs. )  
 ) of  
7 Jackie Swindler, Chief of )  
 )  
8 Police, Newberry County ) Anthony Richardson  
 )  
9 Municipal Police, )  
10 Defendant. )

9  
10 Deposition of Anthony Richardson, taken before  
11 Vickie M. Hester, a notary public in and for the State  
12 of South Carolina, commencing at the hour of 10:07 a.m.,  
13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,  
14 1325 Main Street, Newberry, South Carolina.

15  
16 Reported by  
17 Vickie M. Hester  
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APPEARANCES

For the Plaintiff:	Plaintiff Appearing Pro Se
For the Defendant:	Kassi B. Sandifer, Esq. Morrison Law Firm, LLC 7453 Irmo Drive, Suite B Columbia, South Carolina 29212
Also present:	Delinda Turner

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Stipulations:	3
Examination by Ms. Sandifer:	3

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Defendant's Exhibit No. 4, Complaint.	14
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Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine.	62
Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine.	63

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TRESPASSING NOTICE

TO: Anthony Richardson

ADDRESS: 521 Brantley St  
Newberry SC 29105

FROM: 1430 Drayton St

DATE: 10-15-08

This letter is to advise you, Anthony Richardson,  
that you are no longer allowed on my property located at 1430 Drayton  
(Quick Stop), in the City of Newberry.

Should you violate this notice and visit this property, you will be prosecuted  
for Trespassing After Notice.

Mindy Stat-Mish

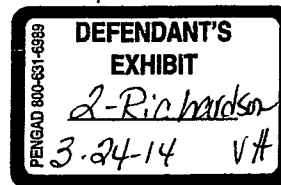
Sworn to and subscribed before more  
this 15<sup>th</sup> day of October, 2008.

Ruth Harker  
Notary Public for South Carolina  
My Commission Expires: 5-23-2018

SERVED BY: Ruth Harker

DATE SERVED: 10-15-08

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NEWBERRY COUNTY  
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CLERK OF COURT

# EXHIBIT #3

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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Southern Reporting, Inc.

Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

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2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

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Email: [Depos@southernreporting.net](mailto:Depos@southernreporting.net)

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1 State of South Carolina )  
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2 County of Newberry )  
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3 ) 13-CP-36-00321  
Anthony Derone Richardson, )  
4 )  
Plaintiff, )  
5 ) Deposition  
vs. )  
6 ) of  
Jackie Swindler, Chief of )  
7 Police, Newberry County ) Anthony Richardson  
Municipal Police, )  
8 Defendant. )

9  
10 Deposition of Anthony Richardson, taken before  
11 Vickie M. Hester, a notary public in and for the State  
12 of South Carolina, commencing at the hour of 10:07 a.m.,  
13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,  
14 1325 Main Street, Newberry, South Carolina.

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Vickie M. Hester  
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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

For the Defendant: Kassi B. Sandifer, Esq.  
Morrison Law Firm, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Also present: Delinda Turner

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AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER

2012-10708

NCIC

INO.  ENT.

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. 90J - TRESPASS OF REAL PROPERTY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	07		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.
2.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			
3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) **1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC** ZIP CODE **29108** WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
12/11/2012	1656		12/11/2012	1715	12/11/2012	1656	1656	1715	4

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) **LOYNES, MAJOR LESLIE** RELATIONSHIP TO SUBJECT **ST** RESIDENT **J S O U** RACE **B** SEX **M** AGE **00** ETH **N** DAYTIME PHONE **H** EVENING PHONE **B**

ADDRESS **1607 NANCE ST** CITY **NEWBERRY** STATE **SC** ZIP CODE **29108** LOCATION NO.

VICTIM'S NAME (LAST, FIRST, MIDDLE) **SHEFCHICK, MICHAEL J** RELATIONSHIP TO SUBJECT **J S O U** RACE **W** SEX **M** AGE **46** ETH **N** DAYTIME PHONE **(803) 321-0105** EVENING PHONE **944-1007**

HEIGHT **6-1** WEIGHT **201** HAIR **BLK** EYES **BRO** FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS **380 WYSES FERRY RD** CITY **PROSPERITY** STATE **SC** ZIP CODE **29127** LOCATION NO. **99**

VISIBLE INJURY (VICT. 1)  YES  NO EXPLAIN -  
VICTIM (NO. 1) USING: ALCOHOL:  YES  NO  UNK. DRUGS:  YES  NO  UNK.  
 TWO-MAN VEH.  ONE-MAN VEH.  DETECTIVE/SPLASMT.  OTHER  ALONE  ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown

SUSPECT	SUBJECT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
<input checked="" type="checkbox"/>	<b>RICHARDSON, ANTHONY DEROME</b>	<b>B</b>	<b>M</b>	<b>39</b>	<b>N</b>	<b>07/24/1973</b>	<b>5-10</b>	<b>235</b>	<b>BLK</b>	<b>BRO</b>
<input type="checkbox"/>	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
<input type="checkbox"/>	<b>POSSIBLY AT 610 BOUNDARY ST</b>									
<input type="checkbox"/>	ADDRESS <b>914 GRAY ST</b>	CITY <b>NEWBERRY</b>	STATE <b>SC</b>	ZIP CODE <b>29108</b>	LOCATION NO. <b>99</b>					
<input type="checkbox"/>	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.		ARRESTED NEAR OFFENSE SCENE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		DATE/TIME OF OFFENSE <b>12/11/2012 1656</b>		DATE/TIME OF ARREST <b>12/11/2012 1702</b>			
<input type="checkbox"/>	DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:		TOTAL # ARRESTED <b>1</b>							

Offenses:  
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.

I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).

I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).

I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.

DEFENDANT'S EXHIBIT  
*3-Richardson*  
*3-24-14 VH*

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P	TYPE (GROUP)										TOTAL VALUE
R	Burned										
O	Count/Forged										
P	Dest/Damaged										
E	Recovered										
R	Seized										
T	Stolen										
Y	Unknown										
SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18 <input checked="" type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER			
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY											
REPORTING OFFICER(S) <b>MAJOR LOYNES</b>				DATE <b>12/11/2012</b>		UNIT NUMBER <b>332</b>		APPROVING OFFICER <b>MIKE WOOD</b>			
								DATE <b>12/11/2012</b> UNIT NUMBER <b>319</b>			
								FOLLOW-UP INVESTIGATION OFFICER <input type="checkbox"/> YES <input type="checkbox"/> NO			

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CLERK OF COURT

# EXHIBIT #4

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

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NEWBERRY COUNTY  
2014 SEP 8 PM 12 40  
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CLERK OF COURT

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1	State of South Carolina	)	
		)	
2	County of Newberry	)	
		)	
3		)	13-CP-36-00321
	Anthony Derone Richardson,	)	
4		)	
	Plaintiff,	)	
5		)	Deposition
	vs.	)	
6		)	of
	Jackie Swindler, Chief of	)	
7	Police, Newberry County	)	Anthony Richardson
	Municipal Police,	)	
8	Defendant.	)	

9

10 Deposition of Anthony Richardson, taken before

11 Vickie M. Hester, a notary public in and for the State

12 of South Carolina, commencing at the hour of 10:07 a.m.,

13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,

14 1325 Main Street, Newberry, South Carolina.

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16 Reported by

17 Vickie M. Hester

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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

For the Defendant: Kassi B. Sandifer, Esq.  
Morrison Law Firm, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Also present: Delinda Turner

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Newberry Municipal Court  
**1507 Nance Street**  
Newberry, S. C. 29108

*W. F. Partridge, Jr., Municipal Judge*  
*Barry S. Koon, Asst. Municipal Judge*

**Phone: 803-321-3720**  
**Fax: 803-321-1004**

February 7, 2013

Mr. Anthony Derone Richardson  
914 Gray Street  
Newberry, S. C. 29108

**RE:      Trespass after notice**

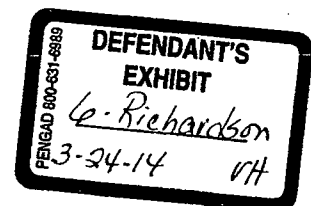
Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

Cella E. Dodgen  
Secretary

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NEWBERRY COUNTY  
2014 SEP 8 PM 12 40  
JACKIE S. BOWERS  
CLERK OF COURT

# EXHIBIT #5

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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Southern Reporting, Inc.

Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al  
13-CP-36-00321

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2014 SEP 8 PM 12 40  
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CLERK OF COURT

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1 State of South Carolina )  
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2 County of Newberry )  
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3 ) 13-CP-36-00321  
4 Anthony Derone Richardson, )  
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5 Plaintiff, )  
 ) Deposition  
6 vs. )  
 ) of  
7 Jackie Swindler, Chief of )  
 ) Anthony Richardson  
8 Police, Newberry County )  
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9 Municipal Police, )  
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10 Defendant. )

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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

For the Defendant: Kassi B. Sandifer, Esq.  
Morrison Law Firm, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Also present: Delinda Turner

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I plead guilty  
and agree to pay  
\$250.00. I will pay  
by March 15, 2013

JR

Frank Richardson

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DEFENDANT'S  
EXHIBIT  
Richardson  
324-14 V4  
PENGAD 800-631-6988

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NEWBERRY COUNTY  
2014 SEP 8 PM 12 40  
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CLERK OF COURT

# EXHIBIT #6

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry  
County Municipal Police*

*Case Number: 13-CP-36-00321*

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Transcript of the  
Deposition of

Anthony Richardson

3/24/2014

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CLERK OF COURT

Richardson vs. Swindler, et al  
13-CP-36-00321

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*USA*

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1 State of South Carolina )  
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2 County of Newberry )  
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3 ) 13-CP-36-00321  
4 Anthony Derone Richardson, )  
 )  
5 Plaintiff, )  
 ) Deposition  
6 vs. )  
 ) of  
7 Jackie Swindler, Chief of )  
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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

For the Defendant: Kassi B. Sandifer, Esq.  
Morrison Law Firm, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212

Also present: Delinda Turner

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CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/08/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash  M.O.  Check  Other  Credit Card   Visa  American Express  
Card # / Description:  MasterCard  Discover

Total Amount Applied: 250.00

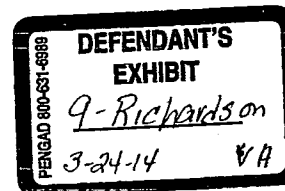
Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code: NT Statute: 00-00-0000 / 11-15  
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00



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**Morrison Law Firm, LLC**

7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212  
Phone: (803) 661-6285  
Fax: (803) 661-6289  
E-mail: David@dmorrison-law.com  
E-mail: Kassi@dmorrison-law.com  
E-mail: Bob@dmorrison-law.com

David L. Morrison\*  
Kassi B. Sandifer  
Robert G. Cooper\*\*

\*Licensed in SC & NC  
\*Certified Mediator  
\*\*Of Counsel

September 5, 2014

Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Box 278  
Newberry, South Carolina 29108

RE: Anthony Derone Richardson v. Jackie Swindler, Chief of Police, Newberry County  
Municipal Police  
C/A #: 13-CP-36-00321  
Date of Incident: 2/2/13  
Claim #: SF-13-0467  
Our file: 210.0411

Dear Clerk Bowers:

Enclosed is the original and one copy of Defendant's Memorandum In Support of Motion for Summary Judgment in this matter. The Motion for Summary Judgment was previously filed on June 2, 2014. Please file the original and return a clocked-in copy to me in the self-addressed stamped envelope enclosed for your convenience. By copy of this letter, I am serving Plaintiff with copy of same.

Very truly yours,

MORRISON LAW FIRM, LLC

*Kassi B. Sandifer*

Kassi B. Sandifer

Enclosures

cc: Anthony D. Richardson

FILED  
NEWBERRY COUNTY  
2014 SEP 8 PM 12 39  
JACKIE S. BOWERS  
CLERK OF COURT

*Cops mailed 9/9/14*

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**FORM 7**  
**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM Newberry COUNTY  
Court of Common Pleas

Frank Addy, Jr, Circuit Court Judge

Case No. 2014-002532

Jackie Swindler,

Respondent,

v.

Anthony Derone Richardson,

Appellant.

**PROOF OF SERVICE**

I certify that I have served the certified of counsel on Jackie Swindler Amend Record Of Appeal by depositing a copy of it in the United States Mail, postage prepaid, on October. 23, 2015, addressed to his attorney of record, Kassi B. Sandifer, Post Office 7453 Irmo Dr Ste B, Columbia, SC 29212 [by personally delivering a copy of it to his attorney of record, Kassi B. Sandifer, at her office at 7453 Irmo Dr Ste B, Columbia, SC 29212, on ~~October 5, 2016~~].

October 23, 2015

10-12-16

Anthony Derone Richardson

P.O. Box 221 Newberry, SC 29108

Appellant: Pro Se

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