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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM OCONEE COUNTY  
COURT OF COMMON PLEAS

HONORABLE J. CORDELL, MADDOX

---

CASE NO: 2016-001124

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DAN TEMPLE, JR

APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT

---

RESPONDENT

Record of Appeals

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEAL

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

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

PROOF OF SERVICE

I, Certify that I have served a Designation of Matter to be Included in the Record of Appeal. By depositing a copy of it in the U.S. Mail Postage Prepaid on November 30, 2016 address to the Respondents Attorney of Records, James Victor McDade, and P.O. Box 2125, Anderson, SC 29622  
November 30, 2016

X Dan Temple JR

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

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

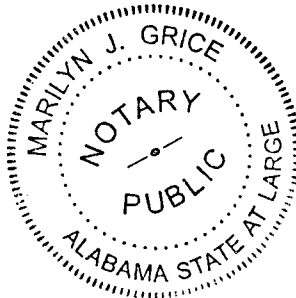
SWORN & Subscribed Before Me,

This November, Day of 30, 2016

Marilyn J. Grice

Notary Republic State of Alabama

My Commission Expires 8-4-2018



179  
DT

Index for Record of Appeals

Case# 2016-001124

- Blue Tab  
Orders
- Green Tab  
Complaint/Claim
- Red Tab  
Transcript of Hearing  
Case# 14-CP-37-000675  
Dan Temple V. Oconee County Sheriff's Department
- Blue Tab  
29 Exhibits  
Dated from October 6, 1997 to May 5, 2017

279  
DT

Exhibits

1. October 6, 1997

Copy of \$1000 Receipt for Retainers Fee for Dunaway

2. October 29, 1998

Letter to Mrs. Lynch request for Video Surveillance, for Audio Conversation & Transcripts

3. December 28, 1998

Letter to Ms. Smith asking for all Information pertaining to my case

4. June 30, 1999

Letter to Mrs. Schull from Me "Mr. Temple", Tape used to prosecute was altered, Delay Denied on October 29, 1998 Trial, writing to request Transcripts because Mr. Day failed to Respond to previous Letters of Mine

5. September 7, 1999

Letter to Ms. Smith from Me "Mr. Temple", asking for Preliminary Hearing Paperwork dated 4-21-1998- She did not have any papers concerning the Hearing

6. November 9, 1999

Affidavit of Witnessing, Signed by Steven Watkins

7. January 28, 2000

Letter to Me "Mr. Temple" from New Attorney Mr. Pachak

8. June 5, 2000

Letter to Records Division from Mr. Pachak, Requesting copies of Search Warrant's issued in reference to Mr. Temple's case

9. October 24, 2000

Letter to Mrs. Smith from Me "Mr. Temple", requesting copies of all motions. NONE were in the File

3 pg  
DT

10. November 26, 2001

Letter to Ms. Friedson from Me "Mr. Temple", Information request pertaining Indictment from dates November 20, 1997 to June 2, 1998

11. September 17, 2002 Heard, Filed November 4, 2002

Public Reprimand in matter of Mr. Day

12. February 6, 2003

Letter to Mr. Robinson from Me "Mr. Temple", touch base on PCR hearing information that case has number of errors & agree the CI and Sheriff's Department may be involved in entrapment

13. April 8, 2003

Letter to Me "Mr. Temple" from Mr. Robinson appointed to represent in PCR

14. November 2, 2003

Letter to Your Honor from Me "Mr. Temple", concerning Motion to Compel Discovery, Failure to receive discovery material for 5yrs

15. June 3, 2004

Motion to Compel, signed Mr. Robinson, Dan Temple V. State of South Carolina

16. June 4, 2004

Letter to Me "Mr. Temple" from Mr. Robinson notice of Subpoena to Ken Washington to PCR Hearing

17. June 7, 2004

Motion to Compel signed Mr. Robinson, Dan Temple V. State of South Carolina to Produce Audio & Video

18. June 7, 2004

Letter to Me "Mr. Temple" from Mr. Robinson, Information from hearing continued, Video and Audio Tapes Finally produced

19. August 3, 2004

Letter to Me "Mr. Temple" from Mr. Robinson, Information agreeing Mr. Day was ineffective to Investigate/Cross Examination of Witnesses to alleged transaction

479  
DT

20. November 10, 2004

Letter to Ken Washington from Mr. Robinson requesting copy of Tape to blow up some frames to reveal what the "Box" is at the time of the alleged buy

21. April 5, 2005

Letter to Me "Mr. Temple" from Mr. Robinson

22. March 30, 2012

Order of Dismissal

23. April 25, 2012

Letter to Supreme Court from Me "Mr. Temple", pertaining to "Order of Dismissal" I disagree & did file to Courts in the Proper Manner

24. May 17, 2012

Letter to Clerk of Court from Me "Mr. Temple", informing Brady Motion has been violated

25. November 1, 2012

Letter to Me "Mr. Temple" from Clerk Supreme Court of South Carolina information that No Action will be taken on my Notice of Appeal

26. March 6, 2014

Letter to Me "Mr. Temple" from Clerk Supreme Court of South Carolina, response to my "Motion to Not seek Destruction of Audio Video Tapes of the Controlled Substance Evidence

27. August 12, 2014

Letter to Bar Association from Me "Mr. Temple", File Complaint of Judge Maddox pattern of Discrimination

28. October 15, 2015

Affidavit of Ken Washington

29. May 5, 2016

Letter to Me "Mr. Temple" from Mr. Dunaway Denying Retainer Fee of \$1000

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEAL

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

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

CERTIFICATE OF PRO.SE COUNSEL



PRO.SE, DAN TEMPLE, JR  
P.O. BOX 901  
FULTONDALE, AL35068  
11/28/2016

CC: ATTORNEY RECORD  
JAMES VICTOR McDADE, ESQ  
P.O. BOX 2125  
ANDERSON, SC 29622

CC: THE SOUTH CAROLINA COURT OF APPEALS  
ATTORNEY: JENNY ABBOTT KITCHING, CLERK  
P.O. BOX 11629  
COLUMBIA, SC 29211

RECEIVED  
DEC 05 2016  
SC Court of Appeals

Certificate of Counsel

The respondent stated in (TT pg.3, Line 20) Mr. Temple's arrest record in 1997, he had a Jury trial in 1998. (See TT pg.3, line 2). He also alleged the sheriff office and solicitor office did not give him a full Brady Motion during that trial. (See Exhibit 1-44)

Position one goes back to the transcript where Oconee County Sheriff Department failed to give the full Brady Motion, proving the point of not receiving a full discovery. (See TT pg.4) the applicant made the judge aware of his actions on 10/31/2005 (line 1-25). Appellant did not receive discovery.

The judge made a ruling and failed to carry out his own order ruling. (See TT pg.5, line 7-13). It shows well within the limits of two years statutory limit (See TT pg.6, line 1-14) we sent motion to Sheriff Department to get discovery and they failed to release it, (See TT pg.6, line 21-25)

He is the one who made the problem by not following up on his orders; it would not be statute of limitation by court order. (See TT pg.7-12, pg.8 line 6-9) (See Exhibit 1-44)

The respondent stated, it is very old technology and they don't have it anymore. That statement is not true, cold case files are kept 30-40 years, also (See TT pg.8, line 20-25).

They still have transmitter's (See TT pg.9, line 1-25). Protocol from S.L.E.D, shows only one transmitter, not a Sony Box, (See TT pg.10, line 15) I am entitled to these Brady Materials, (See TT pg. line 18-20). The court failed to carry out the order.

I did not get it (See TT pg.11, line 1-5). Brady Motion (See Exhibit 1-44)

The errors on the court, failure to carry out the order and is not on the Appellant. (See TT pg.11 we are talking about the device line 6-25)(TT pg.12, line 1-16).

(See TT pg.13, line 1-16). Asked them not to destroy the Tape.

Dunaway failed to return One Thousand Dollar Deposit, which was a retainer fee. (See Exhibit 1-44)

To the Court of Appeal,

Please find enclosed to the Clerk of Court and the Respondent, the records of appeals by the appellant. The appellant is basing his argument on constitutional violation; these constitutional violations have been brought to the Honorable Court in Letters, Motions and Appeals.

The conflict of interest comes into pay because the courts and respondent's had knowledge of a failure to turn over the discovery of the Devices and Tapes, each one of the respondent's played equal parts in the conflict of interest.

We are asking this Honorable Court to waive its Jurisdiction due to its past knowledge of the case, and allow the Federal Court to take Jurisdiction over this case.

Also the court can get the Transcript Record for 10-31-2005 and it will show the constitutional violation of Judge Maddox failing to turn over the Devices that would have shown my innocence. He knew these Devices would be damaging to the Oconee County Sheriff's Department, Solicitors Office and Courts of South Carolina.

X Dan Temple Jr

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

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

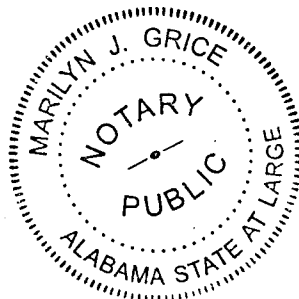
SWORN & Subscribed Before Me,

This November, Day of 30, 2016

Marilyn J. Grice

Notary Republic State of Alabama

My Commission Expires 8-4-2018



Rule 210 Record on Appeal

(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

(b) Time for Filing. The appellant must file with the clerk of the appellate court fifteen (15) copies of the Record on Appeal no later than the date his brief(s) are due under Rule 211. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The appellate court may require an appellant to file additional copies of the Record on Appeal.

X Dan Temple JR

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

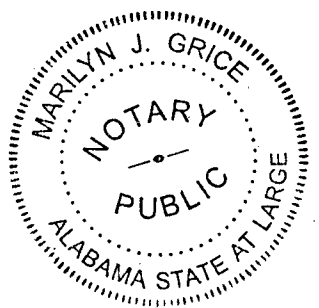
PRO. SE  
DAN TEMPLE  
P.O. BOX 901  
FULTONDALE, AL  
35068

SWORN & Subscribed Before Me,  
This November, Day of 30, 2016

*Marilyn J. Grice*

Notary Republic State of Alabama

My Commission Expires 8-4-2018



499  
DT

To the Court of Appeal,

Please find enclosed to the Clerk of Court and the Respondent, the records of appeals by the appellant. The appellant is basing his argument on constitutional violation; these constitutional violations have been brought to the Honorable Court in Letters, Motions and Appeals.

The conflict of interest comes into pay because the courts and respondent's had knowledge of a failure to turn over the discovery of the Devices and Tapes, each one of the respondent's played equal parts in the conflict of interest.

We are asking this Honorable Court to waive its Jurisdiction due to its past knowledge of the case, and allow<sup>3</sup> the Federal Court to take Jurisdiction over this case.

Also the court can get the Transcript Record for 10-31-2005 and it will show the constitutional violation of Judge Maddox failing to turn over the Devices that would have shown my innocence. He knew these Devices would be damaging to the Oconee County Sheriff's Department, Solicitors Office and Courts of South Carolina.

X Dan Temple Jr

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

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

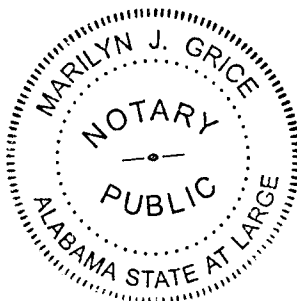
SWORN & Subscribed Before Me,

This November, Day of 30, 2016

Marilyn J. Grice

Notary Republic State of Alabama

My Commission Expires 8-7-2018



**FORM 17  
ITEMIZED STATEMENT OF COSTS**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

The Appellate Court is requested to tax the following costs against

Oconee County Sheriff Department

(Name of Party)

<b>COSTS TAXABLE UNDER RULE 222, SCACR</b>	<b>NO. OF PAGES</b>	<b>RATE</b>	<b>REQUESTED</b>	<b>ALLOWED (For Court Use Only)</b>
Cost of Printing or Copying Final Brief				
Cost of Printing or Copying Final Reply Brief				
Cost of Printing or Copying Record on Appeal	1,056 pgs	.25 Pg	\$264.00	
Filing Fee Paid Under Rule 203(d), SCACR		\$182.00	\$182.00	
Cost of Court Reporter's Transcript	14 pgs	\$62.00	\$62.00	
Attorney's Fee Provided By Rule 222(b), SCACR				
Other (specify and explain):				

COSTS TAXABLE UNDER RULE 242(j), SCACR				
Cost of Printing or Copying Brief		\$150.00	\$150.00	
Cost of Printing or Copying Reply Brief				
Cost of Printing or Copying Appendix				
Filing fee paid under Rule 242(c), SCACR				
Attorney's fee provided by Rule 242(j)(2), SCACR				
Other (specify and explain): Consult Fee		\$250.00	\$250.00	
		<b>TOTAL</b>	<b>\$908.00</b>	

I, \_\_\_\_\_, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was (mailed to/served upon) opposing counsel.

Don Temple Jr  
(Signature)

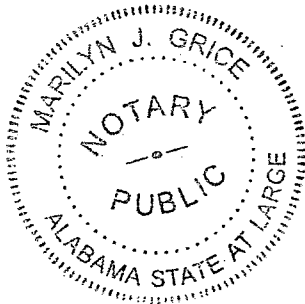
Pro Se Attorney \_\_\_\_\_

Subscribed and sworn to before me this 30 day of November, 2016.

Marilyn J. Grice

Notary Public for Walker County

My Commission Expires: 7-4-2018



STATE OF SOUTH CAROLINA )

COUNTY OF OCONEE )

Dan Temple # 254316, )

Plaintiff, )

vs. )

Oconee County Sheriff's, )  
Department, )

Defendant. )

IN THE COURT OF COMMON PLEAS

ORDER

2014-CP-37-00675

FILED OCONEE COUNTY, SC  
SERVILY H. WATKINS, CLERK OF COURT  
2016 APR 28 P 3 14.

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

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


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

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

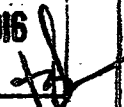
It is also clear that the trial docket and control of a criminal prosecution rests with the Solicitors Office. "In every criminal prosecution the responsibility for the conduct of the trial is upon the solicitor and he must and does have full control of the State's case." State v. Addis 186 S.E. 2d 415,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

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

IT IS SO ORDERED.

  
\_\_\_\_\_  
J. Cordell Maddox, Jr.  
Circuit Judge

Dated: 4/22, 2016

**A TRUE COPY**  
**APR 28 2016**  
  
**CLERK OF COURT - OCOEE COUNTY**

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

# The South Carolina Court of Appeals

Dan Temple # 254316, Appellant,

v.

Oconee County Sheriff's Department, Respondent.

Appellate Case No. 2016-001124

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## ORDER

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

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:  
Dan Temple, Jr.  
James Victor McDade, Esquire

**FILED**

September 28, 2016  
11

COUNTY OF OCONEE )  
STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
10th JUDICIAL CIRCUIT

DAN TEMPLE #254316, , )  
Plaintiff, )

Civil Action No. \_\_\_\_\_

VS. )

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

COMPLAINT / CLAIM

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

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

(2 Pg.)

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

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

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

SUMMERS v. HARRISON CONSTRUCTION, 381 S.E. 2d. 493 and

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

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

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

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

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

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

SWORN to and subscribed before me this  
6<sup>th</sup> day of Nov, 20 14.  
Emily White (L.S.)  
Notary Public for South Carolina

S. Pan Temple  
Pro, #254316

My Commission Expires: 4-27-2016

COUNTY OF OCONEE )  
STATE OF SOUTH CAROLINA )  
DAN TEMPLE #254316, )  
Plaintiff, )  
VS. )  
OCONEE COUNTY )  
SHERIFF DEPARTMENT ... , )  
Respondents.)

IN THE COURT OF COMMON PLEAS  
10th JUDICIAL CIRCUIT

Civil Action No. \_\_\_\_\_

NOTICE, and MOTION FOR A TEMPORARY

RESTRAINING ORDER.

The, Plaintiff herein, before this Honorable Court, would so move this Court, pursuant to Rule 65 of the South Carolina Rules of Civil Procedures for a NOTICE of a TEMPORARY RESTRAINING ORDER to forever bar and prevent the Defendants from forming, using, or retaliating against the Petitioner in any way, to include disciplinary actions, transfers, threats, harassments, of any type by the Administration of the Oconee County Sheriff Department, Officers, and / or any associates thereof the same.

In filing such, a hearing is requested as well as monitoring, by the Courts, as to any of the listed and named in this motion.

DATED: 11/6/14

s/ Dan Temple JR

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

SWORN to and subscribed before me this  
6th day of Nov, 2014.  
Paula Stark (L.S.)  
Notary Public for South Carolina

My Commission Expires: 4-27-2016

(5) Pg

COUNTY OF OCONEE )  
STATE OF SOUTH CAROLINA )  
DAN TEMPLE #254316, )  
Plaintiff, )  
VS. )  
OCONEE COUNTY )  
SHERIFF DEPARTMENT ... , )  
Respondents.)

IN THE COURT OF COMMON PLEAS  
10th JUDICIAL CIRCUIT

Civil Action No. \_\_\_\_\_

NOTICE and SUMMONS

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

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

DATED: 11/6/14

S/ Dan Temple Jr

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

**RECEIVED**

NOV 06 2014

MAILROOM  
TURBEVILLE CI

6)P9

COUNTY OF OCONEE )  
STATE OF SOUTH CAROLINA )  
DAN TEMPLE #254316, )  
Plaintiff, )  
VS. )  
OCONEE COUNTY )  
SHERIFF DEPARTMENT ... , )  
Respondents.)

IN THE COURT OF COMMON PLEAS  
10th JUDICIAL CIRCUIT

Civil Action No. \_\_\_\_\_  
Motion w/affidavit in support to  
proceed In Forma Pauperis  
upon leave of Court.

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

DATED: 11/6/14 s/ Dan Temple JR  
DAN TEMPLE #254316, Pro Se, Plaintiff,  
TURBEVILLE CORRECTIONAL INSTITUTION,  
POST OFFICE BOX 252,  
TURBEVILLE, SOUTH CAROLINA 29162.

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

Emilee White  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

ORDER

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

\_\_\_\_\_ 2014  
\_\_\_\_\_ S.C.

J. [Signature]  
CIRCUIT COURT JUDGE.

Note: Am a Ward of the State.

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

COUNTY OF OCONEE )  
STATE OF SOUTH CAROLINA )  
DAN TEMPLE #254316, )  
Plaintiff, )  
VS. )  
OCONEE COUNTY )  
SHERIFF DEPARTMENT ... , )  
Respondents.)

IN THE COURT OF COMMON PLEAS  
10th JUDICIAL CIRCUIT

Civil Action No. \_\_\_\_\_

CERTIFICATE OF SERVICE

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

DATED: 11/6/14

S/ Dan Temple Jr

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

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

Emily Huff  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

Orig: Hon. Beverly Whitfield, Clerk of Court,  
Post Office Box 678, Walhalla, South Carolina 29691-0678.  
CC: Oconee County Sheriff Department, 415 S. Pine Street,  
Walhalla, South Carolina 29691-2149.  
CC; State Budget and Control Board, 612 Wade Hampton Building,  
Post Office Box 12444 Columbia, South Carolina 29211.

(8) 1/3

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

**TRANSCRIPT OF HEARING**

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

**APPEARANCES:**

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

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

*TRANSCRIBED FOR VIVIAN CROSS, COURT REPORTER*

**Deborah Garrison**  
*Circuit Court Reporter – 13th Judicial Circuit*  
P O Box 27145  
Greenville, South Carolina 29616  
[dgarrison@sccourts.org](mailto:dgarrison@sccourts.org)

Dan Temple v. Oconee County Sheriff's Department

2

Case No. 14-CP-37-00675

Hearing of April 12, 2016

Before The Honorable J. Cordell Maddox

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

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

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

9 THE COURT: I don't know.

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

12 MR. TEMPLE: Uh, ---

13 MR. McDADE: I sent you one.

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

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

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

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

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

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

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

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

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

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

1 that you, yourself, Judge Maddox, told Mr.  
2 Ken Washington here to turn over the tapes to  
3 me. You had an appointment that day, so you  
4 got up from your bench and went out and you  
5 left Ken Washington and the TV screen here  
6 and you let us watch it. Because the  
7 Sheriff's Department at the time was saying  
8 that 'he didn't have anything on him.'

9 If you go back to the transcripts,  
10 you'll see Ken Washington and Lee Williams  
11 stated "he had nothing on him", and that they  
12 was lying. So when they put the tape on and  
13 they seen the box that was on his side, this  
14 was what he was using to be able to get his  
15 bias to be able to get out of prison.

16 So when it was over with, my  
17 attorney -- you told my attorney, Scott  
18 Robinson, to take control of the tape. It  
19 never happened. He never got it. I've got  
20 paperwork here showing that Scott Robinson  
21 has said a number of times, "I never received  
22 it. I never got it. I've called the  
23 Sheriff's Department, they disconnect me."  
24 Everything.

25 THE COURT: He is not your lawyer

1 anymore, though?

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

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

14 And the ---

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

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

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

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

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

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

15 MR. TEMPLE: I ---

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

20 MR. TEMPLE: Not necessarily.

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

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

3 THE COURT: You have one pending?

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

6 THE COURT: Okay.

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

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

13 THE COURT: (Reviewing).

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

16 THE COURT: (Reviewing).

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

20 THE COURT: (Reviewing).

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

25 THE COURT: All right, I believe

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

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

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

17 MR. TEMPLE: Your Honor, ---

18 THE COURT: Yeah?

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

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

5 THE COURT: Right.

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

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

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

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

1 exactly what it was. SLED ---

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

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

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

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

24 I know he served his sentence.

25 I know he filed this in 2014.

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

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

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

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

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

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

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

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

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

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

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

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

13 THE COURT: Okay.

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

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

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

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





	1000.00			10/6/97	Dan Temple, Jr.	OR	TN
BANK TRANSIT NO.	\$ CHECKS	\$ CASH	NET	DATE	NAME		DESCRIPTION

IF **ENCIRCLED** INDICATES CASH RETURNED FOR ADJUSTMENT TO NET AMOUNT OF ACTUAL PAYMENT

**DUNAWAY & ASSOCIATES**  
 ATTORNEY'S AT LAW  
 514 S. McDUFFIE ST. - P.O. BOX 1965  
 ANDERSON, SOUTH CAROLINA 29622  
 864-224-1144 FAX 864-224-2083

4600

*D. Thompson*  
 SIGNATURE

**RETAIN THIS RECEIPT FOR YOUR RECORDS**

Dunaway & Associates  
 To whoever it may concern  
 Enclose is a copy of my retainers receipt dated 10/6/97 I feel I am entitled my 1000<sup>00</sup> dollars back with interest

Thank you  
 Dan Temple J

VIII

Dan Temple #254316  
K.C.I. Magonlia East 14-B  
P.O.Box 518  
Kershaw, S.C. 29067

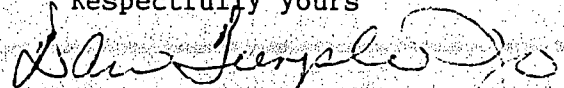
Mrs. Loriene Lynch  
Office of Appellate Defence  
1122 Lady Street  
Suite 940  
Columbia, S.C. 29211

Dear Mrs. Lynch

I'm presently incarcerated at the Kershaw Correctional Institution and would appreciate it very much if your office would look into my request concerning key evidence that may help to clear my case which was tried in the county of Oconee, South Carolina, on or about the 29th. of October 1998. My case numbers are as follows; 98-GS-37-672 and 98-GS-37-673. I was represented by an attorney by the name of Daniel Day, the presiding judge was Honorable Dean Hall.

The evidence that I'm requesting is essential to my preparation for my post conviction relief in the event my appeal is turned down. The material I need is a video surveillance tape that has the audio conversation between myself and the state informant. I'm also requesting a copy of the trial transcripts and any other information concerning my case that may assist in providing information. Thank you for your time.

Respectfully yours



Dan Temple #254316

ce

FILED FOR RECORD  
OCONEE COUNTY  
S.C.

JAN 11 10 34 AM '99

SALLIE C. SMITH  
CLERK OF COURT

17, 866

Dan Temple # 254316  
Kershaw Correctional Institute  
Magnolia East  
P.O. Box 518  
Kershaw, S.C. 29067

December 28, 1998

Att. Clerk of Court

Ms. Sallie C. Smith

Dear Ms. Smith

I'm writing you in conjunction with the ( Motion of Discovery pursuant to S.C. rules of Criminal Procedure 5 and 6 ) that was filed in your office on December 15, 1998. My case numbers are # 98-CS-37-672 # 98-CS-37-673

My motion asked for any and all information concerning my case that was seen by The Honorable Judge Dean Hall and my attorney was Mr. Daniel Day, be sent to me here at Kershaw. The information that was forwarded to me was not all the information that I requested and should have been in the package that you sent to me. I'm asking that you contact the necessary people needed to obtain the information pertaining to my case. The information I'm seeking would be as follows;

- 1.) Any and all police reports
- 2.) Any and all investigative reports before and after my arrest
- 3.) A copy of the grand jury hearing and its true bill
- 4.) A copy of the chemical analysis done on any evidence that my have been confiscated
- 5.) A copy of the trial transcript
- 6.) A copy of the video surveillance tape of the undercover transaction and conversation
- 7.) A copy of my criminal record
- 8.) A copy of the jury selection process

In accordance with state statute 14-7-1700 used in this case subject to disclosure to Rule 5 of this South Carolina rule of criminal procedure. The defendant further request to the court to produce any and all evidence that would be favorable to the defendant, subject to disclosure pursuant to ( Brady vs. Maryland 373 U.S. 83-1963.

Your assistance to my request will be greatly appreciated verymuch. Thank you for you time.

Respectfully yours

*Dan Temple Jr*  
Dan Temple

1/4/99  
*John E. [Signature]*  
Notary Public, South Carolina, State of Large  
My Commission Expires Feb. 6, 2008

Exhibit  
VII

Dan Temple #254316  
K.C.I. Magnolia East 22  
P.O.Box 518  
Kershaw, S.C. 29067

Ms. Angel Schull (Court Administrator)  
1015 Smuter Street  
Suite 200  
Columbia, S.C. 29201

June 30, 1999

Dear Ms. Schull

I'm presently incarcerated at the Kershaw Correctional Institution and am writing to you in hopes that you may be able to assist me in my request to obtain certain items of evidence used in my case trial. My case numbers are as follows: 98-GS-37-672 and 98-GS-37-673. The trial was in the county of Oconee on or about October 29, 1998 in the presence of Honorable Judge Dean Hall. My attorney at that time was Mr. Danile Day.

The item I'm requesting is the video tape used by the state to prosecute me. The tape appeared to have been altered in some way. In the recorded conversations words were missing. When I brought this issue up to the judge and my attorney request a delay so we could prepare witness on my behalf we were denied and were told to be ready in two days. On several occasions I've written to Mr. Day but he has never answered my letters requesting a copy of the trial transcript or the video tape. So I'm asking that your office provide me with these two items. If there is a fee for obtaining the video and trial transcript please indicate what it is in your response. So that I may arrange for it to be paid.

Respectfully yours

*Dan Temple*  
Dan Temple

2/7/99  
*John E. D.*  
Notary Public, South Carolina, State of Large  
My Commission Expires Feb. 6, 2008

Mrs. Sallie C. Smith  
Clerk of Court  
Walhalla, SC 29691

Dear, Mrs. Smith

I am writing to you, asking you to send  
a copy of my Preliminary hearing paper work date  
4-21-98. A copy of all paper work file in my  
behalf on Daniel R Day. in last 45 day. that  
I have send to your office. Thank you very  
much for your time in this matter.

your truly  
Dan Temple

P.S. If it a cost for copy, please Enclose  
how much in your return letter.

We do not have anything  
concerning Preliminary Hearing  
Please Contact your  
Attorney

cc

Sallie C. Smith, Clerk of Court  
Oconee county  
P.O. Box 678  
Walhalla, South Carolina 29691

SALLIE C. SMITH  
CLERK OF COURT

SEP 7 9 51 AM '99

FILED FOR RECON  
OCONEE COUNTY

(3)

EXHIBIT  
(21)

NOTICE OF AFFIDAVIT OF WITNESSING

I Steven Watkins being of sound mind, body and judgement,  
was an inmate in the Ocnee, county detention center during the time  
of Month April Day 21 Year 1998. During this  
time I witnessed inmate Dan Temple and inmate Gary Smith present a  
notice for a preliminary hearing concerning his case to a county jail  
officer on the following date; April 21st. 1998.

Steven Watkins 1999  
Signature

Sworn to and subscribed before me this 9  
day of NOV, 19 99.

John E. [Signature] (L.S.)  
Notary Public

My Commission Expires Feb 6, 2003  
Notary Public, South Carolina, State of Large

Exhibit 1  
Appendix A

COPY

2000  
1/28

# South Carolina Office of Appellate Defense

Daniel T. Stacey  
Chief Attorney  
Joseph L. Savitz, III  
Deputy Chief Attorney

Wanda H. Haile  
Senior Assistant Appellate Defender

1122 Lady Street, Suite 940  
Columbia, S.C. 29201-3243

Telephone: (803) 734-1330  
Fax: (803) 734-1397

Robert M Pachak  
Robert M. Dudek  
M. Anne Pearce  
Melissa J. Kimbrough  
Tara S. Taggart  
Melody J. Brown  
Aileen P. Clare  
Assistant Appellate Defenders

January 28, 2000

Dan Temple, Jr. #254316  
Kershaw Correctional Institution  
Post Office Box 518  
Kershaw, South Carolina 29067

Re: Your case

Dear Mr. Temple:

As you know, our office was initially approved to represent you on your appeal to the South Carolina Court of Appeals. However, due to failure of your trial attorney to forward the necessary paperwork needed for the appeal after multiple requests, our office closed our file and turned the appeal back over to R. Daniel Day, your trial attorney. Because of the nature of the grievance you have filed against Mr. Day, our office has been contacted and will now assume representation of you on your appeal to the Court of Appeals.

I am the attorney who will be handling your case. I will be reviewing the record of the proceedings below to determine what legal errors to present to the Court on your behalf. If you have information you believe will assist me in handling your case, please write it down and send to me by mail.

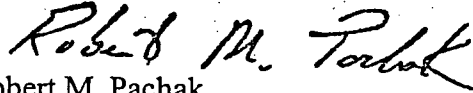
I will be sending you copies of all hearing transcripts and other records relevant to your case, as well as any materials I submit to the Court on your behalf. However, I must ask you to be patient while the Court considers your case. I realize the process is very slow, but there is nothing I can do to speed up the procedure. On average, the Court should decide your case within nine months to a year from now, but some cases take even longer.

Please contact me (preferably in writing, but if necessary at 0-888-204-0345 using the enclosed instructions) if you have any questions concerning your case. I will be better able to form an opinion about our chances of success after I have reviewed the proceedings in the lower court.

Mr. Dan Temple, Jr. #254316  
January 28, 2000  
Page 2

I hope this letter answers some of the questions you may have at this time. Again, please do not hesitate to contact me if you have any questions or I may be of further assistance.

Sincerely,



Robert M. Pachak  
Assistant Appellate Defender

RMP/srw  
Enclosure

4.

*Letter  
attorney*

## South Carolina Office of Appellate Defense

Daniel T. Stacey  
Chief Attorney  
Joseph L. Savitz, III  
Deputy Chief Attorney

Wanda H. Haile  
Senior Assistant Appellate Defender

1122 Lady Street, Suite 940  
Columbia, S.C. 29201-3243

Telephone: (803) 734-1330  
Fax: (803) 734-1397

Robert M. Pachak  
Robert M. Dudek  
M. Anne Pearce  
Tara S. Taggart  
Melody J. Brown  
Aileen P. Clare  
Katherine Carruth Link  
Assistant Appellate Defenders

June 5, 2000

Oconee County Sheriff's Department  
415 S. Pine Street  
Walhalla, South Carolina 29691  
ATTN: Records Division

Re: The State v. Dan Temple, Jr.

Dear Sir or Madam:

This office is currently representing Mr. Temple on appeal for charges of distribution of crack cocaine. Please forward any copies of search warrants that may have been issued in reference to Mr. Temple.

Sincerely yours,



Robert M. Pachak  
Assistant Appellate Defender

RMP/srw

Cc: Mr. Dan Temple, Jr.

10/20/00

#17,866

Hon. Sallie C Smith  
Clerk of Court  
Post office Box 678

FILED DEPT. CLERK OF COURT  
SALLIE C. SMITH  
2000 OCT 24 A 9:10

RE: Jemph - VS - State  
Case NO: 98-G8-37-672  
NO: 98-G8-37-673

~~None of motions in this file!~~

Dear, MS, Smith

I am again writing to your office requesting copies of all motions filed in the above stated cases which were filed by the solicitors office and the public defense office. Please be advised that because my earlier letter have gone ignored, that unless your office timely reply to this request in 10 day is made. I will contact the South Carolina Court Administration with a formal complaint on your office its failure to comply with my requests.

CC: Court Administration

Sincerely  
Dan Jemph JR

Date - 10-20-2000

RECEIVED

OCT 20 2000

Will attempt to return

Kerli

Exhibit  
(7)

Roselyn Friedson  
South Carolina Court Administration  
1015 Sumter Street, Suite 200  
Columbia, South Carolina 29201

Dear Ms. Friedson:

In response to your "Memorandum," dated November 2, 2001, being an inmate at the Kershaw Correctional Institute, I wish to clarify my intent. First of all, the information I request concerning the indictment/s, has only to do with the date of presentment to the Grand Jury, and the date it was posted at the South Carolina Court Administration.

According to the Freedom of Information Act this information is available to me, via the South Carolina Court Administration Office.

If there is a concern for the payment for cost of copies, I am willing to pay such costs if you will inform me of them.

My information request pertaining to indictment/s as outlined above concerns the dates from Nov 20 1997 to Jun 2 1998.

Thank You Sincerely,

11-26-2001  
Date

Dan Jeyel JR

Sworn and Subscribed before me,  
this 26 day of Nov, 2001

[Signature]  
Notary Public of South Carolina  
My Commission Expires February 6, 2008

My Commission Expires:

copy: file

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

In the Matter of R. Daniel Day,  
Jr., Respondent.

---

Opinion No. 25552  
Heard September 17, 2002 - Filed November 4, 2002

---

**PUBLIC REPRIMAND**

---

Attorney General Charles M. Condon, Assistant Deputy Attorney General J. Emory Smith, Jr., and Assistant Disciplinary Counsel Barbara M. Seymour, all of Columbia, for the Office of Disciplinary Counsel.

R. Daniel Day, Jr., of Seneca, pro se.

---

**PER CURIAM:** This is an attorney disciplinary matter. After a hearing, the Commission on Lawyer Conduct concluded respondent committed misconduct and recommended a public reprimand. Neither the Office of Disciplinary Counsel nor respondent except to the recommended sanction.

Matter I

At the hearing, Attorney to Assist Disciplinary Counsel (ATA) Donald C. Coggins, Jr., testified he mailed a letter to respondent requesting respondent contact him for an appointment. Coggins testified respondent did

not respond. Respondent testified he did not remember receiving Coggins' letter, but agreed he was responsible for mail delivered to his office.

ATA William M. Hagood, III, testified he mailed respondent two letters, the second of which asked respondent to contact him to schedule an appointment. Hagood stated he left two messages with respondent's office; respondent did not contact him. Ultimately, respondent complied with a deposition subpoena. Respondent acknowledged he did not respond to Hagood in a timely manner.

### Matter II

Client A testified, although respondent withheld money for tax purposes during a real estate transfer, he failed to forward the money to the Department of Revenue (DOR). Client A stated he informed respondent of the error and it took approximately six weeks to clear up the matter. Client A testified, on occasion, respondent failed to timely respond to his communications.

Respondent testified his office erroneously closed Client A's file. He explained, once he realized the DOR transaction had not been completed, he immediately contacted the DOR, forwarded the taxes, plus interest, and eventually was able to get the purchasers to sign the necessary documentation.<sup>1</sup> Respondent accepted responsibility for this matter, noting he should have corrected the matter more quickly.

### Matter III

*1/20/10 - 1-1-10 Case*

Client B testified he hired respondent to represent him in a criminal matter. He stated, after his conviction and sentence, he repeatedly contacted respondent for file material but respondent was not forthcoming. Respondent testified he gave Client B his file when Client B was in court for an unrelated matter.

---

<sup>1</sup> There is no claim respondent misappropriated these funds.

#### Matter IV

Respondent represented parties during a closing in early May 1998. The seller intended to convey 8.2 acres of land and retain approximately one acre of contiguous property.

The buyer testified, a month or two after the closing, he discovered he had purchased the one acre parcel and immediately went to respondent's office to discuss the situation. Respondent stated he would take care of the problem. The buyer testified he telephoned respondent approximately twenty times; respondent returned only two calls. The buyer was notified in late May 1999 that the corrected deed had been filed in April 1999.

A mortgage broker testified he obtained the loan and mortgage for the buyer. He explained how the closing documents erroneously described the sale of the one acre rather than the eight acres. The broker testified that once the error with the property was discovered, respondent contacted him to correct the situation. By this time, the loan and mortgage had been sold to another lender and the new lender had difficulty locating the documents. The broker testified he and respondent "worked constantly" in an attempt to get the new lender to locate the documents as quickly as possible.

Respondent testified, at the closing, the parties reviewed the survey and deed. No one noticed any error. Once the buyer contacted him about the error, respondent stated he ordered a new survey of the eight acres. He testified it took quite a long time for the lender to locate the original loan papers. Respondent apologized to the buyer for the error.

#### Matter V

3  
LJP  
Client C testified he received a copy of an order appointing respondent to represent him on his post-conviction relief application. According to Client C, respondent did not contact him until after he filed a complaint with the Commission on Lawyer Conduct.

Respondent stated he did not receive the order of appointment. After he received communication from the Commission on Lawyer Conduct informing him of Client C's complaint, he obtained a copy of the order of appointment from the Oconee County Clerk of Court's office.<sup>2</sup> Ultimately, respondent represented Client C at the PCR hearing and obtained a favorable ruling.

#### Matter VI

Party A testified he sued respondent's client, Client D, in magistrate's court claiming Client D owed him money for appraisal work. According to Party A, while in magistrate's office for jury selection, respondent telephoned Party A and asked for copies of the invoices. Party A testified respondent indicated Client D owed Party A and a trial was unnecessary. Immediately after the conversation, Party A faxed the invoices to respondent but did not receive a response.

A week later, Party A sent a letter to respondent inquiring about the status of the unpaid invoices; again, he received no response. Thereafter, Party A testified he telephoned respondent's office "probably 25 days in a row," but received no response. Ultimately, the case was restored to the trial roster. Approximately a year later, the parties settled.

Respondent testified, at the time he filed the answer, he requested Party A provide copies of the appraisals. The magistrate telephoned Party A when he did not appear for jury selection. According to respondent, Party A then sent some invoices, but not the requested appraisals. Respondent testified he never promised Party A his client would settle the matter.

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<sup>2</sup> According to the parties' stipulation, the Oconee County Clerk of Court places orders of appointment in cubbyholes at the courthouse. As a result of this incident, respondent stated he instructed the Clerk of Court to mail orders to his office.

### Matter VII

Client E testified respondent agreed to represent her in a personal injury matter. She admitted respondent told her he had previously represented the potential defendants on other matters, but at the time stated he did not have a conflict. While she admitted respondent sent her to two other attorneys, she testified these attorneys were to assist respondent with her case. Not until later did respondent tell Client E he had a conflict and would not be able to represent her.

Respondent testified he immediately told Client E he could not represent her in her personal injury claim as he had a conflict and, therefore, recommended two other attorneys. He stated he represented Client E on other matters.

### Matter VIII

Client F testified she was charged with causing an automobile accident. She retained respondent the same month to represent her as a plaintiff in the matter. Client F stated respondent failed to return her telephone calls on five occasions. She testified, several months after she filed a complaint with the Commission on Lawyer Conduct, respondent served the pleadings in the action.

Client F agreed respondent advised it would be better to file suit after the traffic charge against her was resolved. She testified she did not remember respondent informing her that her own insurance company had paid the defendant's damages and was not supporting her claim.

Respondent testified he told Client F her claim would be difficult to substantiate as the witnesses to the automobile accident were "wishy-washy," but admitted he could have been clearer. He stated he did not communicate with Client F properly or frequently enough.<sup>3</sup>

<sup>3</sup> Respondent ultimately represented Client F at trial.

Matter IX

Client G paid respondent a retainer on January 28, 1999, and terminated his representation by letter dated February 15, 1999. Client G complained respondent had not contacted him and failed to return his telephone calls.

On March 15, Client G filed a complaint with the Commission on Lawyer Conduct. Three days later, the Commission requested respondent provide a response. By letter dated April 7, 1999, Disciplinary Counsel again requested respondent respond to the matter. By letter dated April 14, 1999, respondent stated he had interviewed Client G and prepared pleadings. He stated his office advised Client G to return to the office to review and sign the pleadings.

Respondent testified he did not remember receiving Client G's February 15<sup>th</sup> letter. He stated he had prepared Client G's pleadings and was waiting for him to return to the office to review and sign the papers. Respondent returned Client G's retainer.

After considering the testimony and exhibits from the hearing, the Commission on Lawyer Conduct concluded respondent breached various provisions of the Rules of Professional Conduct (Rule 407, SCACR) and the Rules for Lawyer Disciplinary Enforcement (Rule 413, SCACR). Finally, the Commission concluded respondent committed misconduct by failing to cooperate with the investigations of the Office of Disciplinary Counsel. Matter of Treacy, 277 S.C. 514, 290 S.E.2d 240 (1982).

6  
bjs  
While this Court is not bound by the findings of the Commission on Lawyer Conduct, its findings are entitled to great weight, particularly when the inferences to be drawn from the testimony depend on the credibility of witnesses. Matter of Moore, 329 S.C. 294, 494 S.E.2d 804 (1997); Matter of Yarborough, 327 S.C. 161, 488 S.E.2d 871 (1997). Nonetheless, the Court may make its own findings of fact and conclusions of law. Id. A disciplinary violation must be proven by clear and convincing evidence. Id.

We conclude the testimony at the hearing establishes by clear and convincing evidence respondent engaged in misconduct by failing to handle client matters diligently and competently, by failing to adequately communicate with clients, by failing to promptly deliver funds, and by neglecting legal matters.<sup>4</sup> In addition, we conclude respondent failed to respond to requests for information from the Office of Disciplinary Counsel. In the Matter of Treacy, supra. We note respondent has acknowledged his error.

This Court has imposed a wide range of sanctions where misconduct involves neglect of legal matters, failure to deliver funds, failure to handle client matters diligently and competently, failure to communicate with clients, and failure to cooperate with the Commission on Lawyer Conduct. See Matter of Mayer, 325 S.C. 1, 478 S.E.2d 286 (1996) (public reprimand); Matter of Shibley, 320 S.C. 362, 465 S.E.2d 356 (1995) (60 day suspension); Matter of Tootle, 319 S.C. 392, 461 S.E.2d 824 (1995) (4 month suspension); Matter of Ballard, 312 S.C. 227, 439 S.E.2d 846 (1994) (1 year suspension); Matter of Nida, 315 S.C. 132, 432 S.E.2d 462 (1993) (9 month suspension); Matter of Acker, 308 S.C. 338, 417 S.E.2d 862 (1992) (6 month suspension). In this instance, we find respondent's misconduct warrants a

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<sup>4</sup> We find violations of Rule 407, SCACR, particularly/Rule 1.15 (failure to deliver promptly to client or third party funds or files the client or third party was entitled to receive), Rule 1.3 (failure to act with reasonable diligence and promptness in representing a client), Rule 1.4(a) (failure to keep a client reasonably informed about the status of a matter and comply promptly for requests for information), Rule 1.1 (failure to represent a client competently), Rule 1.2 (failure to consult with a client as to the objectives of the representation and the means by which they are to be achieved), Rule 8.4(a) (violated the Rules of Professional Conduct), and Rule 8.4(e) (engaged in conduct that is prejudicial to the administration of justice). Further, we find violations of Rule 413, SCACR, specifically Rule (7)(a)(1) (violating the Rules of Professional Conduct) and Rule 7(a)(5) (engaged in conduct tending to pollute the administration of justice or to bring the courts or legal profession into disrepute and engaged in conduct demonstrating unfitness to practice law).

7  
33

public reprimand. Respondent is hereby publicly reprimanded for his misconduct. In addition, respondent is ordered to pay the costs of the disciplinary proceeding (\$2,504.78). This amount shall be remitted to the Commission on Lawyer Conduct in accordance with Rule 413, SCACR.

**PUBLIC REPRIMAND.**

**TOAL, C.J., MOORE, WALLER, BURNETT and  
PLEICONES, JJ., concur.**

8  
BB

CERTIFIED TRUE COPY:

*Deputy*  
*Sienda J. Shealy*  
Clerk, S. C. Supreme Court

Feb 6-2003

EVANS CORRECTIONAL  
INSTITUTION  
FEB 06 2003  
MAIL ROOM

Letter  
2/6/2003

Mr. Scott Robinson  
209 East Main St.  
Pickens S.C. 29671

P.O. Box 678  
Liberty, S.C. 29657

RE: Temple V. State  
2001-CP-37-290

Dear Mr. Robinson

I thank you for taking my case. I am writing to you in order to touch base on my P.C.R. hearing. I am enclosing my case file. I am requesting audio, video tape, the word from the audio, video is defective ~~from~~ transcription.

I would like to have two frames frozen of the audio video tape. That would show the C.I. had something on his waist a beeper and a headphone set. Kenneth Whashington stated C.I. had nothing on him at the time he came to my house. The C.I. pass by a video camera to enter the yard of my home. This showed that State C.I. and Sheriff Dept. was involved in Entrapment.

The police sent the C.I. to my house with something on his waist to make an drug buy. Also see Page 116-120 Daniel R Day fail to object to exhibit three. The exhibit was defective upon it face. Mr. Robinson this case have a number of errors. I thank you very much for your time in this matter.

Yours Truly  
Mr. Dan Temple  
*Mr. Dan Temple*

P.S.  
Please don't hesitate to contact me if you need more information.

*Robert  
Fail to Rise  
Subject matter  
Jurisdiction*

April 8-2003

LAW OFFICE OF SCOTT D. ROBINSON  
ATTORNEY AND COUNSELOR AT LAW  
209 E. MAIN STREET  
PICKENS, SOUTH CAROLINA 29657

Letter  
4-8-2003

MAILING ADDRESS:  
P.O. BOX 463  
PICKENS, SOUTH CAROLINA 29671

EMAIL: USCLAW92@MSN.COM  
PHONE (864) 898-1889  
FAX (864) 898-1891

April 8, 2003

Mr. Dan Temple, 254316  
Evans Correctional Institute  
610 Hwy. 10, West  
P.O. Box 29512  
Bennettsville, SC 29512

Re: Dan Temple vs. State  
Case No: 01-CP-37-290

Dear Mr. Temple:

First of all, I would like to apologize for not getting back to you sooner. I have been appointed to represent you in your PCR. I have retained a copy of your file from Mr. Sprouse. In regards to your letter addressed to Judge Nicholson, again, I apologize for the tardiness in this matter. It appears that you would like for me to submit a Motion for Authorization of funds for expert and investigation of the audio and video tapes.

I have been appointed to you in your Post Conviction Relief Application by the Oconee County Clerk of Court. I look forward to working with you and consider it a service both for you and part of my duties as lawyer to assist persons who require help. I have represented a large number of applicants in the past and have found that the best procedure is to require the applicant to provide us with whatever they feel is important to their case, including any notes or memos that they wish to add to their application and bring out at the hearing. Also, following is some questions you may have, please review them.

**When will my hearing come up?:** It depends on when the application was filed. I normally have about a month's notice of the hearing and you will be transported the week of the hearing. If the hearing is on Monday you generally will be here by Friday.

**What is the hearing about and what grounds are important?:** As you probably are aware, this application has little to do with or not you were guilty or innocent; instead it concerns specifically allegation that your attorney was ineffective and

whether or not your plea was involuntary. Your case will not be tried again. The hearings take approximately an hour or two hours. You would be given the opportunity to testify first and put your case up. The attorney Generals Office would then have the opportunity to testify first and put your case up. The Attorney General's office would then have the opportunity to cross-examine and then your previous attorney would testify as to their understanding of the plea. The judges renders his decision quickly and if it adverse, it can be appealed once the Order is filed, within ten days.

**How do I contact you?:** I do not accept collect calls, but I do accept correspondence so send me anything you think is important. I normally do not visit the jail where you are incarcerated but I do visit the LEC prior to all hearings to discuss the case with you in person.

If there are any further questions in this matter please do not hesitate to contact the office. Thank you for your attention in this matter.

With Kindest Regards,

*Scott D. Robinson*  
Scott D. Robinson

dlw/asst.

Honorable J.C. Nicholson, Jr.  
C/O Anderson County Clerk of Court  
P.O. Box 8002  
Anderson, S.C. 29622

November 2, 2003

RE: Motion to Compel Discovery in C/A No. 2001-CP-37-290


Your Honor,

This letter is to advise you, as you instructed, of matters concerning the above cited case. This is to advise you that I have sent my current Attorney Scott Robinson a Motion to Compel Discovery to present to you after he has signed off on it. I reasonably believe that you are fully aware of multiple and long standing problems with discovery in this case. Notice that the failure to receive discovery materials extends back to the original trial in that trial attorney Danial Day never applied for or received full Rule 5 and 6. Major Sates Evidence Exhibits have still not been turned over. It has been over five (5) years since trial and four (4) years since discovery was denied on direct appeal. My PCR has been before your court for three (3) years and still I have not received discovery.

Your Honor must agree that this matter has been before the court for much too long. It has gone beyond the point of due process violation and there is obvious harm to my cause. I would ask the court to consider Workman v. Tate, 957 F2d 1339 (1992). Please seriously consider my motion as it is seen as the only means to achieve discovery in this case.

If you do not hear from my attorney of record on this motion within a reasonable amount of time, please contact him as to why he is not properly representing me. Thank you in advance for your thoughtful consideration in this serious matter.

Respectfully Submitted,



Dan Temple, Jr. #254316  
McCCI FIB-132  
Rt. #2 Box #100  
McCormick, S.C. 29899

6/3/04

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF OCONEE )  
 )  
DAN TEMPLE, JR., )  
 )  
APPLICANT, )  
 )  
V. )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
RESPONDENT. )  
\_\_\_\_\_ )

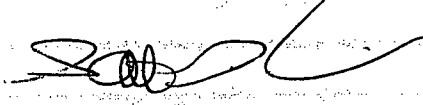
IN THE COURT OF COMMON PLEAS  
C.A. No.: 01-CP-37-290

**MOTION TO COMPEL**

Pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, the Applicant, by and through his undersigned attorney, would move this Court for an Order compelling the Oconee County Sheriff's Office to produce the audio tape and videotape used in their investigation of the Applicant. Said audio tape and video tape are important to the Applicant's case and support his innocence. The Applicant served the subpoena on April 9, 2004 upon the Oconee County Sheriff's Office but no audio tape or video tape have been produced.

The Applicant, by and through his undersigned attorney, asks that the Oconee County Sheriff's Office be compelled to produce the audio tape and video tape used in their investigation of the Applicant.

Respectfully submitted,



Scott D. Robinson

Dated: 6/3/04

(11)

**LAW OFFICE OF SCOTT D. ROBINSON**  
ATTORNEY AND COUNSELOR AT LAW  
209 E. MAIN STREET  
PICKENS, SOUTH CAROLINA 29671

MAILING ADDRESS:  
P.O. BOX 463  
PICKENS, SOUTH CAROLINA 29671

EMAIL: USCLAW92@MSN.COM  
PHONE (864) 898-1889  
FAX (864) 898-1891

FILE

June 4, 2004

Mr. Dan Temple, 254316  
McCormick Correctional Institute  
Route 2, Box 100  
Rm 7-1-132x  
McCormick, SC 29899

Re: Dan Temple vs. State  
Case No: 01-CP-37-290

Dear Dan:

I have subpoenaed Ken Washington to our PCR hearing. I have also, asked him to bring your investigation file from your PCR.

We have previously subpoenaed your video tape and audio tape from the Oconee County Solicitor's office pursuant to Judge Maddox. The court date is set for Monday, June 7, 2004. I have tried to call the numbers you gave that me but the numbers have either been disconnected.

I have also amended your petition to reflect your new allegations. I would also advise that you will need to make sure you get your point across in a truthful and honest way.

Sincerely,  
*S/Scott D. Robinson*

Scott D. Robinson

sm/asst

enclosure

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF OCONEE )  
 )  
DAN TEMPLE, JR., )  
 )  
APPLICANT, )  
 )  
V. )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
RESPONDENT. )

IN THE COURT OF COMMON PLEAS

C.A. No.: 01-CP-37-290

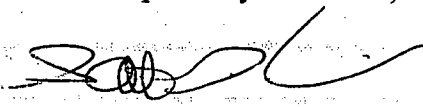
*W.C. Robinson*  
*for Plaintiff*  
**MOTION TO COMPEL**  
*injunction*

FILED OCONEE, SC  
SALLIE C. SMITH  
CLERK OF COURT  
2004 JUN 27 A 11:13

Pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, the Applicant, *by and through his undersigned attorney*, would move this Court for an Order compelling the Oconee County Sheriff's Office to produce the audio tape and videotape used in their investigation of the Applicant. Said audio tape and video tape are important to the Applicant's case and support his innocence. The Applicant served the subpoena on April 9, 2004 upon the Oconee County Sheriff's Office but no audio tape or video tape have been produced.

The Applicant, by and through his undersigned attorney, asks that the Oconee County Sheriff's Office be compelled to produce the audio tape and video tape used in their investigation of the Applicant.

Respectfully submitted,



Scott D. Robinson

Dated: 6/3/04

**ATTORNEY CLIENT COMMUNICATION**

**TO: DAN TEMPLE  
FROM: SCOTT ROBINSON, ESQUIRE**

**DATE: 6/7/04**

**THE HEARING WAS CONTINUED TODAY SO WE COULD VIEW THE VIDEOTAPE THAT WAS FINALLY PRODUCED. THE SHERIFF'S OFFICE WILL MAKE A COPY AND WE CAN MAKE COPIES OF ANY STILL PICTURES. WE HAD KEN WASHINGTON SUBPOENED TO BE THERE WITH HIS FILE.**

**I UNDERSTAND YOUR POSITION THAT THE TAPE SHOWS THAT YOU WERE SHOWING HIM TIRES AND THAT IS WHAT YOU WERE REFERRING TO AND I ALSO UNDERSTAND THAT YOU THINK THAT THAT POUCH ON HIS HIP COULD HAVE BEEN DRUGS. HOWEVER, THE JURY SAW THE TAPE AND STILL CONVICTED YOU DESPITE THE LACK OF INFORMATION.**

**I THINK A VALID ARGUMENT FOR POST CONVICTION RELIEF IS WHY THIS WAS NEVER BROUGHT UP ON CROSS EXAMINATION OR IN THE CLOSING.**

**ADDITIONALLY, MR. HOLDEN NEEDS TO CALL OR GET IN TOUCH WITH MY OFFICE TO GIVE SOME INFORMATION ON YOUR CASE**

**THE CASE HAS BEEN CONTINUED UNTIL AUGUST, 2004 SO WE CAN REVIEW THIS INFORMATION.**

**SCOTT**



(2)

8/3/04

**ATTORNEY CLIENT COMMUNICATION**

**TO: DAN TEMPLE  
FROM: SCOTT D. ROBINSON, ESQUIRE**

**DATE: 8/3/04**

**DAN: I RECEIVED YOUR SECOND AMENDMENT IN YOUR CASE. AS YOU KNOW WE FILED YOUR FIRST AMENDMENT PREVIOUSLY. I STARTED PREPARING YOUR MOTION AND I WOULD GLADLY AMEND BUT UNDER RULE 59 (E) OF THE SCRPC THAT YOU HAVE IN YOUR CAPTION SAID MOTION MUST BE BROUGHT WITHIN 10 DAYS AFTER THE ORIGINAL ENTRY OF THE ORDER OR BACK WHEN THE ORDER FROM THE JURY FINDING YOU GUILTY. I DON'T THINK THIS IS THE APPROPRIATE RULE SINCE IT IS NOT TIMELY UNDER RULE 59. I HAVE ENCLOSED A COPY OF THE RULE FOR YOUR RECORDS.**


**I REVIEWED THE SUBJECT MATTER AS IT RELATES TO YOUR PCR AND I THINK THAT WE HAVE GOOD MATERIAL FOR CROSS EXAMINATION OF MR. DAY AND OFFICER WASHINGTON AS TO THE BOX ON THE VIDEOTAPE. I HAVE REVIEWED THE TAPE WITH YOU AT THE COURTHOUSE AND LOOKED AT THE TRANSCRIPT AND I AGREE WITH YOU THAT MR. DAY WAS INEFFECTIVE AS TO INVESTIGATION AND CROSS EXAMINATION OF THE WITNESSES AS TO THE ALLEGED TRANSACTION.**

**MOVING ON TO WITNESSES, I HAVE CALLED THE SENECA POLICE DEPARTMENT ON MR. HOLDER TO FIND OUT HIS WHEREABOUTS. IF I CAN FIND HIM I WILL SUBPOENA HIM. MR. WASHINGTON AND THE TAPE AND FILE ARE SUBPOENED FOR THE HEARING ON AUGUST 9, 2004. I ALSO CALLED THAT NUMBER YOU GAVE ME IN YOUR LETTERS FOR YOUR FAMILY WITH NO RESPONSE.**

5

**Respectfully submitted,**

**LAW OFFICE OF SCOTT D. ROBINSON**

BY: 

---

**Scott D. Robinson  
ATTORNEY FOR APPLICANT  
209 East Main Street  
Pickens, South Carolina 29671  
(864) 898-1889**

**Dated: \_\_\_\_\_**

(6)

11/10/04

**LAW OFFICE OF SCOTT D. ROBINSON**  
ATTORNEY AND COUNSELOR AT LAW  
209 E. MAIN STREET  
PICKENS, SOUTH CAROLINA 29671

MAILING ADDRESS:  
P.O. BOX 463  
PICKENS, SOUTH CAROLINA 29671

EMAIL: USCLAW92@MSN.COM  
PHONE (864) 898-1889  
FAX (864) 898-1891

November 10, 2004

Ken Washington  
Oconee County Sheriffs Dept.  
300 South Church Street  
Walhalla, SC 29691

Re: State vs. Dan Temple

Dear Ken:

I hope all finds you well. I have a favor to ask on behalf of Mr. Temple. I would like to see when I can get a copy of the tape of the alleged buy. I would like to blow up some of the frames of the tape of reveal to my client what the "BOX" is.

Also, I would like to see if you could get me a copy of the authorization form for the electronic surveillance that you probably have in your file.

If you have any questions please call my office.

Sincerely,

*S/Scott D. Robinson*

Scott D. Robinson

cc:

Dan Temple Jr. -254316

PCI-Q2A106

430 Oaklawn Road

Pelzer, SC 29669

(7)

**LAW OFFICE OF SCOTT D. ROBINSON**  
**ATTORNEY AT LAW**  
**209 E. MAIN STREET**  
**PICKENS, SC 29671**  
**TELEPHONE 864-898-1889**  
**FAX 864-898-1891**  
**E-MAIL SPARKISDR@BIRCH.NET**

April 5, 2005

Dan Temple Jr.

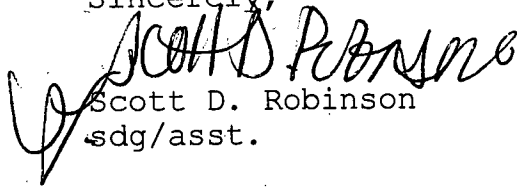
Perry Correctional Inst.  
430 Oakland Road  
Pelzer, SC 29669

Dear Dan:

I am writing in response to your letter and would state I'd like to hear from you but it's just not really appropriate since you have another attorney. I will say that I have given you copies of everything in your file that I ever had. In fact, I have sent this to you twice and met with your attorney to allow him to copy the file if he needed. There is nothing left that you do not have. If you are looking for the tape; it is in the hands of the sheriff's office. I never received a copy.

Best of luck!

Sincerely,

  
Scott D. Robinson  
sdg/asst.

The Supreme Court of South Carolina

Dan Temple, Jr., Petitioner,

v.

State of South Carolina, Respondent.

The Honorable J. Cordell Maddox, Jr.  
Oconee County  
Trial Court Case No. 2010-CP-37-00005

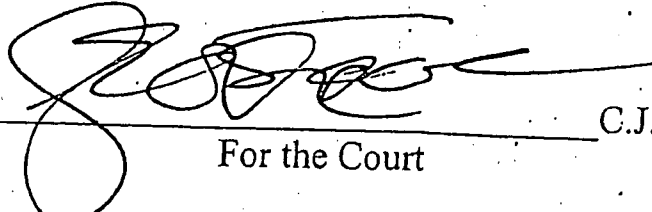
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ORDER of DISMISSAL

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In the explanation required by Rule 243(c), SCACR, petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

IT IS SO ORDERED.

  
C.J.  
For the Court

Columbia, South Carolina

March 30, 2012

cc: Appellate Defense  
Dan Temple Jr #254316  
Assistant Attorney General Kaelon E. May

SUPREME COURT,

I AM ENCLOSING THIS MOTION TO THE ORDER OF DISMISSAL. MY PREVIOUS MOTION WAS FILED TO THE COURTS IN THE PROPER MANNER ACCORDING TO THE TIME ALLOTTED BEING (15) FIFTEEN DAYS REQUIRED BY LAW.

I AM VERY CONFUSED CONCERNING THE ORDER OF THE ARGUBLE MERITS ON ASSERTING THE DETERMINATION FROM THE LOWER COURT BEING IMPROPER. THE CONSTANT DENIEL OF THE COURTS IN GIVING ME A PROPER HEARING. I AM REQUESTING AN INVESTIGATION INTO THIS MATTER.

I AM REQUESTING THAT THE UNITED STATES DEPARTMENT OF JUSTICE INVESTIGATE THE GROSS NEGLIGENCE OF THE LOWER COURT. I HAVE BEEN IN PRISON FOR (14) FOURTEEN YEARS AND I CANNOT GET MY PROPER ISSUES ON THE RECORD TO BE REVIEWED BY THE UNITED STATES SUPREME COURT.

THE LOWER COURT RECORDS WILL REFLECT THE VIOLATIONS OF THE RULES OF PROCEDURE FROM SOUTH CAROLINA. ALL OF THE DIFFERENT LEVELS OF COURTS ARE IGNORING THE FACTS OF THE RECORD. I AM ASKING THIS HONORABLE COURT TO INVESTIGATE THESE ERRORS OF CONDUCT FROM THE LOWER COURT WHICH IS VIEWABLE BY THE LOWER COURT RECORDS.

AT THIS TIME I AM ASKING THIS COURT TO INVESTIGATE THE RECORDS AS TO THE ERRORS IN THERE PROCEDURES.

I STRONGLY FEEL MY DUE PROCESS WAS VIOLATED, IN ADDITION TO, THE DRUG RECORDS WERE SWITCHED AT TRIAL. THE CHEMICAL ANALYSIS WAS SUBSTITUTED. IF ALL OF THESE ISSUES ARE NOT QUESTIONS OF LAW, THEN COULD YOU PLEASE EXPLAIN TO ME WHAT IS?

WE, AS INMATES, ARE TIRED OF BEING ABUSED THROUGH THE JUDICIAL SYSTEM. WE ARE PUTTING THE UNITED STATES SUPREME COURT DEPARTMENT ON NOTICE. WE ARE SENDING ALL CERTIFIED DOCUMENTS TO THE DEPARTMENT OF JUSTICE SO THAT ALL THESE ALLEGATIONS WILL BE REVEALED. WE ARE SENDING NOTICE TO ANY AND ALL ADMINISTRATION OFFICES, COURTS, JUSTICE SYSTEMS. ANYONE WHO WILL TAKE NOTICE TO ALL THE VIOLATIONS OF DUE PROCESS THAT IS GOING ON IN THE COURT SYSTEMS OF SOUTH CAROLINA.

WE, AS INMATES, DO THANK YOU FOR YOUR TIME AND PATIENCE WITH THIS MATTER.

SWORN to and subscribed before me this  
25<sup>th</sup> day of Apr., 20 12.  
Emilio D. Hays (L.S.)  
Notary Public for South Carolina

My Commission Expires: 4-27-2016

RESPECTFULLY SUBMITTED,

Dan George JT

Pro, Se. #2543 16

5/17/2012

TO:  
CLERK OF COURT  
SUPREME COURT BLDG.  
1231 GERVAIS ST., BOX 11330  
COLUMBIA, SC 29211

No# 2010-CP-37-00005

FROM:  
DAN TEMPLE #254316

DEAR CLERK OF COURT,

I'M MAKING YOU AWARE THAT I HAVE SENT YOUR HONORABLE COURT  
A NUMBER OF MOTIONS DEALING WITH CASE #2010-CP-00005. I RECEIVED  
A NUMBER OF DISMISSALS BASED UPON AN ORDER OF CONDITIONAL  
DISMISSAL. EACH TIME WE HAVE MADE THE COURTS AWARE THAT THE  
BRADY MOTION HAS BEEN VIOLATED, THE LOWER COURTS FAILED TO GRANT  
THE BRADY MOTION. WE ARE MAKING THIS HONORABLE COURT AWARE OF  
THE CONSTITUTIONAL VIOLATION, BY THE LOWER COURT TO GRANT A  
BRADY MOTION AND THE EXCULPATORY EVIDENCE THAT WILL SHOW THE  
VIOLATIONS. A RULING HAS BEEN PASSED DOWN IN 2012, OF AN ORDER  
OF DISMISSAL BASED BY THE HONORABLE J. CORDELL MADDOX JR. THIS  
ORDER HAD A CONFLICT OF INTEREST BASED UPON THE RULING THE JUDGE  
MADE TO RELEASE THE AUDIO VIDEO TAPE AND ALLOWED IT TO BE TESTED  
BUT IS A VIOLATION OF BRADY.

WE HAVE MADE A MOTION TO THE COURT FOR AN INVESTIGATION,  
BUT WE FAILED TO RECEIVE A RESPONSE FROM THE REQUEST OF THE  
INVESTIGATION. WE ARE ASKING THIS HONORABLE COURT TO INVESTIGATE  
THIS CASE BASED UPON THE NUMEROUS ERRORS IN THIS CASE. THIS HAS  
BEEN DRAGGING ON FOR THE PAST 14 YEARS. WE ARE ASKING THIS COURT  
TO ADDRESS THESE ISSUES OF THE BRADY VIOLATION AND THE OTHER  
ISSUES CONCERNING THIS CASE BEFORE BRINGING THE JUSTICE  
DEPARTMENT INTO THIS CASE.

A COPY OF THIS LETTER WILL BE SENT TO THE JUSTICE  
DEPARTMENT BASED UPON THE UNLAWFUL SENTENSE AND THE FRAUDULENT  
EVIDENCE PLACED UPON THE COURT. AT THIS TIME I AM AN INDIGENT  
INMATE AND FOR THE PAST 14 YEARS I HAVE BEEN AT THE MERCY OF THE  
COURT BY DENYING PROPER COUNSEL AND RECEIVING DISCULPATORY  
EVIDENCE. THE RECORD WILL REVEAL THAT THE STATE PLACED UPON THE  
COURT FRAUDULENT EVIDENCE. THE INDICTMENTS, VIDEO TAPES AND THE  
SEARCH WARRANT EACH HAVE AN ELEMENT OF FRAUD THAT WAS PLACED  
UPON THE COURT, WHICH MAKES A CONSTITUTIONAL VIOLATION.

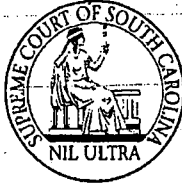
WE HAVE MADE THE LOWER COURT, AS WELL AS, THE HIGHER COURT  
AWARE OF THESE VIOLATIONS AND EACH COURT HAS IGNORED THE ISSUES  
IN THIS CASE. THE DUE PROCESS, THE SIXTH AMENDMENT VIOLATION AND  
THE FOURTEENTH.

SWORN to and subscribed before me this  
21<sup>st</sup> day of May, 2012.  
*[Signature]* (L.S.)  
Notary Public for South Carolina

RESPECTFULLY,

My Commission Expires: 4-27-2016

S/ Dan Temple Jr  
#254316



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211

1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

[www.sccourts.org](http://www.sccourts.org)

November 01, 2012

Mr. Dan Temple, Jr., 00254316  
Turbeville Correctional Institution  
P.O. Box 252  
Turbeville, SC 29162

Re: Dan Temple, Jr., v. The State  
Appellate Case No. 2012-208638

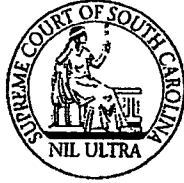
Dear Mr. Temple:

Since it has no authority to review decisions of this Court, the South Carolina Court of Appeals has forwarded your notice of appeal to this Court. Please be advised that this Court denied your petition for rehearing in this matter on October 11, 2012, and the remittitur was sent to the circuit court on that day. The sending of the remittitur ended appellate jurisdiction over this case. *Wise v. South Carolina Department of Corrections*, 372 S.C. 173, 642 S.E.2d 551 (2007). Therefore, no action will be taken on your notice of appeal.

Very truly yours,

CLERK

cc: Kaelon Elizabeth May, Esquire  
The Honorable Beverly H. Whitfield



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
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TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
[www.sccourts.org](http://www.sccourts.org)

March 06, 2013

Mr. Dan Temple, Jr., #254316  
Turbeville Correctional Institution  
P O Box 252  
Turbeville, SC 29162

Re: Dan Temple, Jr., v. The State  
Appellate Case No. 2012-208638

Dear Mr. Temple:

This responds to your motion to entitled "Motion to Request to not to seek destruction of the audio and video tape and the controlled substance evidence." Since the remittitur has been sent in this matter, no action will be taken on this motion. *Wise v. South Carolina Department of Corrections*, 372 S.C. 173, 642 S.E.2d 551 (2007) (the sending of the remittitur ends appellate jurisdiction and no further motion can be considered).

Very truly yours,

CLERK

cc: Kaelon Elizabeth May, Esquire

Dan Temple Jr., S.C.D.C. # 25-4316  
Turbeville Correctional Institution  
P.O. Box 252, 5A-123  
Turbeville, S.C. 29162-0252

South Carolina Bar Assoc.  
950 Taylor St.  
P.O. Box 608  
Columbia, S.C. 29202-0608

Date: August 12, 2014

Re: File of Complaint (2010 - CP - 00005)

Dear Bar Association,

I would like to formally file a complaint concerning a issue involving audio and video tapes, I initially requested for the in 2005. The Judge failed to keep his ruling, accordingly to turn over the audio and video tapes.

A hearing was held on or about October 31, 2010, J Cordell Maddex Jr., the Judge had a conflict of interest in his ruling. Under Rule 65, SCRCP, the Court was worked in common-design with the Oconee County Sheriff's Department to not allow, defendant (Dan Temple Jr.) to have the audio and video tapes that would have cleared and vindicated him. Judge Maddex made a ruling to give Dan Temple Jr.'s son a sentence of (100) years.

I am also enclosing documents to provide proof in this matter, I will also send a copy of this matter to the U.S. Department of Justice, Civil Rights Division to have this complaint placed on the record. I have a letter from Scott D. Robinson stating, the Court would not release the tape to him. My question is, why not? The Court would not allow the audio and video to be tested, under Rule 65, SCRCP, this action is a mandatory disqualification or recusal, not only in my case by my sons also. This is proof of the Judge's pattern of actual and apparent bias, to father and son in his court room.

This prejudicial impact, to withheld key evidence, the defendants right to a fair trial and prejudicial publicity continues during the trial, Re: Murchion, 349 US 133, 136-39 (1955), due process is violated because Judge could have recused himself in part of influence of personal knowledge of this family.

Judge chose to block the affidavit of true test, it requires the same level of bias, and discrimination to get up from the bench, and walk out of the Court Room to the Sheriff's Department, that are false and may be known to be so by the Judge. We are asking this Court for a hearing of this matter. We are asking that the little people of South Carolina be heard, and we need a fair Court of action

cc: U.S. Dept of Justice  
NAACP

Respectfully,  
SI Dan Temple Jr  
Dan Temple Jr., Pro Se

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

Dan Temple # 254316, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Oconee County Sheriff's, )  
Department, )  
 )  
Defendant. )  
\_\_\_\_\_ )

AFFIDAVIT OF  
CAPTAIN KEN WASHINGTON

2014-CP-37-00675

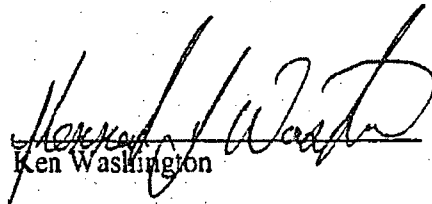
FILED OROUPE  
SEVERLY H. MITCHELL  
CLERK OF COURT  
2015 OCT 15 P 3:28

Personally appeared before me Ken Washington, who being first duly sworn,  
deposes and states:

1. That I am a Captain with the Oconee County Sheriff's Department.
2. In 1997, Oconee County experienced a problem with crack cocaine. As a result, an informant was used to attempt to buy drugs in the affected area. No specific person was targeted as a part of this investigation.
3. Through the informant, multiple arrests were made after the informant bought drugs. One of the persons arrested as a result of this operation was the Plaintiff, who sold crack cocaine to the informant.
4. Audio and video recordings were made as a part of this investigation. Prior to attempting to buy drugs and record the transaction, the informant was searched by members of the Oconee County Sheriff's Department.
5. At or around the time of the Plaintiff's arrest, I listened to that transaction and

recognized the Plaintiff's voice. I was familiar with the Plaintiff through other drug operations. There was no viewable video of the transaction with the Plaintiff.

6. The audio visual equipment used at that time is now discarded. The Department did not keep a record of the serial number of the specific equipment used in each transaction.
7. Plaintiff was arrested in 1997 as a result of the operation and was tried in 1998. I testified at the Plaintiff's trial and Plaintiff was convicted in a jury trial of crack distribution in the proximity of a school and the manufacture and distribution of crack 2<sup>nd</sup> offense. He received a 15 year sentence on the former charge and 20 years on the latter charge.

  
Ken Washington

Sworn to before me this 15<sup>th</sup>  
day of October, 2015.  
Wynne S. Massey  
Notary Public for South Carolina  
My Commission Expires: 9-17-18

# DUNAWAY LAW OFFICE

TOM W. DUNAWAY III

May 5, 2016

Mr. Dan Temple, Jr.  
PO Box 372  
Fultondale, AL 35068

RE: DAN TEMPLE, JR. – RETAINER

Dear Mr. Temple:

Your letter postmarked March 17, 2016 and addressed to Brad Easterling arrived in the mail. I am not sure who Brad Easterling is and I have enclosed that correspondence with this letter. However, thank you for contacting my office regarding a retainer fee of \$1,000.00 which you paid almost 20 years ago. After ten (10) years my office destroys files other than Probate Court files. Although you have presented a receipt written 10-06-1997 I have no file and no record of what you retained me for or what I did for you. I will not refund a retainer fee to you for work I did 20 years ago.

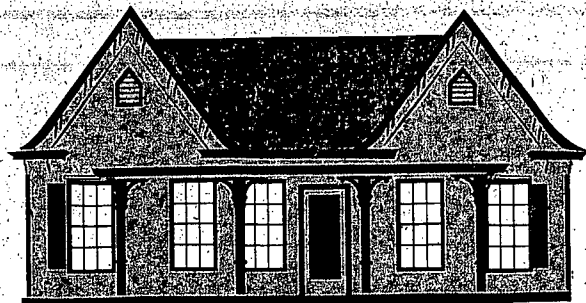
With kind regards, I am

Sincerely yours,



Tom W. Dunaway, III  
Attorney At Law

TWD/ktc



TELEPHONE (864) 224-1144 TOLL FREE (866) 692-8897 FAX (864) 224-2083  
PO BOX 1965 (29622) 514 SOUTH MCDUFFIE STREET ANDERSON, SC 29624

ATTORNEY & COUNSELOR AT LAW