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The STATE of South Carolina
In The Court of Appeals

Appeal From York County
Court of Common Plea

S. JACKSON Kimball, Equity Court Judge
CASE No. 2016-CP-46-2414

Ralph L. Erwin, Appellant,

v

South Carolina Dept. of Probation, Parole & Pardon
Services and STATE of South Carolina, Respondents.

[INITIAL] Brief of Appellant

Ralph L. Erwin

RALPH L. ERWIN

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APT. # 38-B

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SC Court of Appeals

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STATEMENT of issues on Appeal

1. Did the Trial Court Err in Ruling That Appellant Action WAS Barred by Collateral Estoppel And Res Judicata

2. Did the Trial Court Err in Ruling Appellants Action WAS Barred by Statute of Limitation

STATEMENT OF THE CASE

On August 29, 2016, Appellant Ralph L. Erwin filed a Complaint of False Imprisonment Against The South Carolina Probation, Parole and Pardon Services, and The State of South Carolina. This action was filed in York County, SC. Under The South Carolina Tort Claims Act For False Imprisonment. On September 19, 2016, Appellant filed with the Clerk of Court a Verification of Service with copies mailed to Ms. Stephanie H. Burton, Attorney For Respondents. On October 17, 2016 Ms. Burton filed with the Clerk of Court her Answer in the form of a Motion to Dismiss based on Collateral Estoppel, Res Judicata and Statute of Limitation and Sanctions. On October 21, 2016 Appellant filed an Objection to this Motion to Dismiss.

On November 17, 2016 Appellant was

afforded a hearing on this motion to dismiss and for sanctions before Hon. S. Jackson Kimball, Equity Court Judge of York County, South Carolina. On such date Judge Kimball dismissed Appellant's action based on ESTOPPEL, RES JUDICATA AND STATUTE OF LIMITATION. For SANCTION Judge Kimball ordered that Appellant never be allowed to file this action again. Appellant in his action had requested he be awarded a combine total of six (6) million dollars for damages, four (4) hundred dollars he had paid the Parole board for a psychological test he was ordered to take and for monies he had paid since being on Parole since 2007. On November 29, 2016 Appellant requested a copy of the final order so he could begin his appeal. On December 12, 2016 Appellant filed with the York County Clerk a notice of

Appeal And sent Copies To The South
Carolina Court of Appeals And Respondents.

Argument

1. The Trial Court Erred in Dismissing Appellant's Action on Res Judicata And Collateral Estoppel

Generally An Answer Avoids Notice To
The Plaintiff And The Court As To Which
Aspects of The Claim The Defendants
Contest. A Party Shall State in Short And
Plain Terms The Facts Constituting his
defence to each Cause of Action
Asserted And Shall Admit or deny the
Averments upon which The Adverse
Party relies. Effect of Failure to Deny
Averments in A Pleading To Which A

Responsive Pleading is required other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Any defense not raised on the facts known to the parties may be deemed waived. The defense opened his argument on a motion to dismiss by Mr. Heath, R.T.P. 2 Lines 3,4. The defense, Mr. Heath goes on to give notice as to why he feels the action should be dismissed. R.T.P. 3 Lines 22,23. He states that the case should be dismissed on the grounds of Res Judicata. Whiterspoon v. U.S., 838 F. 2d 803 (5th Cir. 1988). In this case it specifically states that a matter that was in issue and determined in a prior proceeding may be Res Judicata in an action for False Imprisonment. The general rules governing the admissibility of evidence in civil actions are applica-

ble In Actions For False Imprisonment.
The record of Prior Proceedings before
A MAGISTRATE MAY be Admissible To
defeat The Claim or Mitigate Damages,
Restatement (Second) of Res Judicata
Section 118. Mr. Heath Continues to use
this defence in his Arguments R.T.P. 4
Lines 12-20.; Line 21-25; R.T.P 5 Lines 6,7.
Mr. Heath goes on to Testify that A Judge
made A Comment To The Appellant that
The Statute of Limitation had ran out
On what he Perceived was his
Thirty (30) Year Limit. I underline the
word Perceive because in that regard
he is Totally Correct. In 2012 Appellant
received A Copy of AN ANNUAL Report
Of The Attorney General of The State
Of South Carolina To The General
Assembly. When you see The very
First Page you will recognize A
Receipt From The University of South

Carolina School of Law where a receipt
of when it was received was 11-27-2012.
See Exhibit To Complaint. Number 1
Exhibit 3B. Mr. Heath Attorney For
Respondents also mentioned Appellants
Case being barred by Collateral Estoppel,
R.P. 5 Lines 6,7. It's basically the same
As Res Judicata. Thompkins v. Missouri,
211 F.391 (C.C.A. 8th 1914) The record of
Prior Proceedings before a Magistrate
may be Admissible to defeat the
Claim or mitigate damages.
Actually the Court Addressed the issue
About a hearing on the Merits in
Prior Cases, The Court Admitted At
That Time That Appellant has never
had a hearing on the Merits of his
Actions. R.T.P. 8 Lines 15-20.
Appellant Addressed That issue
Accordingly, R.T.P. 9 Lines 1-14; 17-
24.

11. The Trial Court Committed Reversible Error By Dismissing Appellant Claim Based on Statute of Limitation.

The Court stated in its argument that under the Tort Claims Act that the Statute of Limitations is Two (2) years but Appellant addressed that issue in his opposition to the defendant's Motion to dismiss. R.T.P. 11 Lines 9, 10, 11, 12, 13, 17, 18. Bennett v. Ohio Dept. of Rehab. + Corr., 60 Ohio St. 3d 107 (1991). An action for False imprisonment generally accrues, for limitations purposes, on the termination of the imprisonment or confinement, and not the completion of the proceedings resulting from the arrest. The statute runs from the time of release on the basis that False Imprisonment is a continuing tort. Under the prevailing

Rule, The Statute runs From The Time
When The Imprisonment Terminated,
rather than when The Person subse-
quently Learned That The Arrest
had been illegal. Restatement
(Second) of Limitation Section 157.
When A inmate is on Parole it
Simply mean he doing time in the
Street.

Conclusion

The Errors Identified in each of the Forego-
ing Sections in Their Cumulative effect
Prejudiced Appellant and deprived him of
A Fair Trial. Accordingly he should be
Awarded The Request in his Complaint.

February 6, 2017

Respectfull Submitted

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Verification of Service By Mail

I RALPH L. ERWIN, First being duly sworn under OATH, depose and says that I did place in the U.S. MAIL AN EXACT COPY of the INITIAL Brief And Designation of MATTER To be Included on the Following:

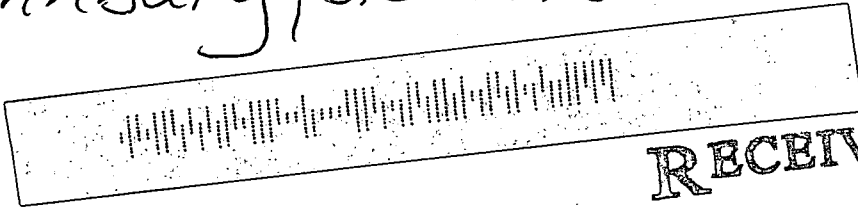
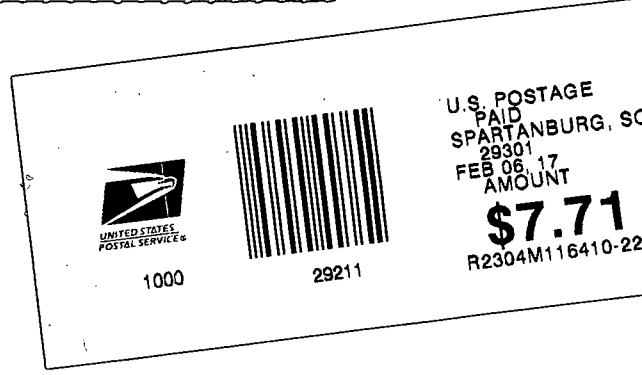
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CASE No. 2016 CP-46-2414

February 6, 2017

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