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DEC 05 2016

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

DAN TEMPLE, JR

APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT

RESPONDENT

Record of Appeals

(6)

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

11/10/04

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

Here is Receipt!

I would like to have my \$1000.00 Back
at 4% on dollar, as we can go Court
on it, as claim
Thank you for time
Dan Temple JR

BANK TRANSIT NO.	1000.00	\$ CASH	NET	DATE	NAME	DESCRIPTION	RECEIVE BY
				10/6/92	Dan Temple Jr.	OK	TD PT
		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

↑
INVALID
WITHOUT
SIGNATURE

RETAIN THIS RECEIPT
FOR YOUR RECORDS

D. Thompson
SIGNATURE

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL

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

CASE NO. 2016-001124

DAN TEMPLE.....APPELLANT

V.

OCONEE COUNTY SHERIFF DEPARTMENT.....RESPONDENT

DESIGNATION OF MATTER

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

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

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

RECEIVED
OCT 11 2016
SC Court of Appeals

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

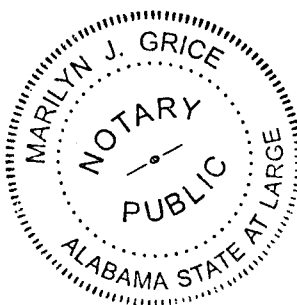
SWORN & Subscribed Before Me,

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

2pg
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

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9. October 24, 2000

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

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

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

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.

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COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA	)	10th JUDICIAL CIRCUIT
DAN TEMPLE #254316,	)	
Plaintiff,	)	Civil Action No. _____
VS.	)	
OCONEE COUNTY	)	<u>COMPLAINT</u> / <u>CLAIM</u>
SHERIFF DEPARTMENT ,	)	
Respondents.)	)	

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. Crt. Key 12.1). Further, among other things also since Statutory provision of South Carolina as well as policies and protocol creates and/or define such right or duty, and imposes such on the defendants in which the defendants negated; See: 15-78-10.

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

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

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

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

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

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

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

S. Pan Gumpel
Pro, S. #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.
Emily Hays (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

66)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.

Emily Wolfe
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

ORDER

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

_____ 2014

_____ S.C.

James H. ...
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 W. Huf
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 4-27-2016

Orig: Hon. Beverly Whitfield, Clerk of Court,

Post Office Box 678, Walhalla, South Carolina 29691-0678.

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

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

(8) #9

people of index

- (1) Donnie Hartman
- (2) Phillip Scott
- (3) Brade. Norman
- (4) Daniel R Day
- (5) Raft Campbell.
- (6) Judge Wadley
- (7) David S Robinson
- (8)

Claims act § 15-78-40

~~§ 15-78-40~~ In an action under the South Carolina Fair

County SC act 1929.3388C.253 § E 21.542

Generally Related to the injury ultimately suffered by action

2 Kix

Scudalco

O'Connor County

Phone:

864-638-4117

Fax 638-4208

Re. 972-4929

Warrant Captain, Greg Reed, -

Warrant " Mitelz Draig -

Warrant, " Kenney Washington -

Department of Justice

AKA Fred good

Warrant Daniel R Day

Phillip Scott

Warrant Anderson Mc

Warrant Cadden Mc D

I hope and pray you can handle the thing
you are doing to record on the ~~you~~

Rafe Campbell

Dora Hartman

Brad Warner

Daniel R Day

Phillip Scott

Mr.

Under Rule 33 Interrogatories. The Plaintiff filed
a civil action. in this case, He also stated your office
Represented, him in a ^{discovery} hearing. Judge Cordell Maddox
~~was~~ ^{also} Conceded an issue, of Brady Motion, and he
would like you to

296291

Anderson E. Brown
112 Foster

Jul 14 30

COUNTY OF OCONEE)
STATE OF SOUTH CAROLINA)
DAN TEMPLE)
Plaintiff,)
VS.)
OCONEE COUNTY)
SHERIFF DEPARTMENT ... ,)
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IN THE COURT OF COMMON PLEAS
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DATED: _____ S/ _____
DAN TEMPLE #254316, Pro Se, Plaintiff,
TURBEVILLE CORRECTIONAL INSTITUTION,
POST OFFICE BOX 252,
TURBEVILLE, SOUTH CAROLINA 29162.

SWORN to and Subscribed before
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NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: _____

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COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS
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DAN TEMPLE	)	
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VS.	)	
OCONEE COUNTY	)	<u>COMPLAINT</u> / <u>CLAIM</u>
SHERIFF DEPARTMENT ... ,	)	
Respondents.)	)	

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 X knowledge, was never approved for use; nor authorized to be used by the Defendants (Oconee County

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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.

5

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:

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- 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.

COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA	)	_____ JUDICIAL CIRCUIT
DAN TEMPLE,	)	
Plaintiff,	)	Civil Action No. _____
VS.	)	Motion w/affidavit in support to
OCONEE COUNTY	)	proceed <u>In Forma Pauperis</u>
SHERIFF DEPARTMENT ... ,	)	
Respondents.)	)	upon leave of Court.

That I, _____ 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.

S/ _____

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

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

 NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: _____

ORDER

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

_____ 2014

_____ S.C.

_____ CIRCUIT COURT JUDGE.

Note: Am a Ward of the State.

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

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

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

Case No. _____.

Dear Ms. Whitfield:

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

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

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

With the kindest regards,

DATED: _____

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

STATE OF SOUTH CAROLINA)
County of Oconee)

IN THE COURT OF COMMON PLEAS
Case No. 2014-CP-37-0675

DAN TEMPLE, JR #254316)
Plaintiff,)

SCRCP. V. DEPOSITIONS AND DISCOVERY

V.)

RULE 26. GENERAL PROVISIONS GOVERNING
DISCOVERY.

OCONEE COUNTY SHERIFF)
DEPARTMENT,)

RULE 26 (b)(4)(A) Discovery Methods

RULE 26 (b)(4)(B) Scope of Discovery

Defendant.)

RULE 26 (b)(4)(C) Protective Orders.

TO: THE OCONEE COUNTY SHERIFF DEPARTMENT.

S.C.R.C.P. RULE 26 (b)(4)(A). Trial Preparation: Experts.

Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained by any discovery method subject to subdivisions (b)(4)(B) and (C) of this rule, concerning fees and expenses.

S.C.R.C.P. RULE 26 (b)(4)(C).

Upon the request of the party seeking discovery, unless the court determines otherwise for good cause shown, or the parties agree otherwise, a party retaining an expert who is subject to deposition shall produce such expert in this state for the purpose of taking his deposition, and the party seeking discovery shall pay the expert a reasonable fee for time and expenses spent in travel and in responding to discovery and upon motion the court may require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

The following questions need to be answered based upon the requirements of the CODE OF LAWS SOUTH CAROLINA 1976, BINDER 26, R 73-90. DUTIES OF CUSTODIANS. SECTION C.

(1) Give the name and address of the person, custodian, responsible for the drugs and device pertaining to the case TEMPLE v. STATE, No. 2014-CP-37-0675, and the Court Hearings held on 10/31/05 and 08/09/04 controlled by the captions, (98-GS-37-671), (98-GS-37-672), (98-GS-37-673).

(2) The name of the Law Enforcement Agency employing the evidence custodian who signed-out the audio/video tape for the hearing held in the courtroom of Judge Connelly J. Malloy JR on 10/31/05.

(3) The capacity of employment of the evidence custodian.

(4) The date when the controlled substance was received.

(5) How the controlled substance evidence was received (by mail, in person)?

(6) From whom the controlled substance evidence was received?

(7) The name of the agency employing the law enforcement officer or law enforcement employee from whom the the controlled substance was received?

(8) The name of the original seizing officer?

(9) The name of the person who had control over the CHAIN OF CUSTODY for the seizure of the said controlled substance?

(10) The name of the person who had control over the CHAIN OF CUSTODY for the DRUG ANALYSIS?

(11) The name of the person who had control over the audio/video tape?

(12) The name of the person who had control over the evidence of the control substance listed in the INDICTMENT FOR ONE BEIGE ROCK?

(13) The name of the person who had control over the evidence of the TWO (2) WHITE ROCKS as stipulated in the INDICTMENT which was presented at trial?

(14) The name of the person who had control over the protocol device the Informant was wearing as stated in the record/transcript by Kenneth Washington.

(15) The serial number for the controlled protocol device used by the Informant.

(16) The time log, record keeping information, as required by R 73-72 for the signing-out and the return signing-in of the controlled protocol device used by the Informant.

U.S. v. MORGAN, cited as 193 F. 3d 252 (4th Cir. 1999), Where compliance with the regulation is mandated by the Constitution, prejudice may be presumed.

The party upon whom the request is served shall answer with a written response within thirty (30) days after the service of the request, except that defendant may serve a response within forty-five (45) days after service of the summons and complaint upon the defendant.

STATE OF SOUTH CAROLINA)
County of Oconee)
DAN TEMPLE, JR #254316)
Plaintiff,)
V.)
S.C.R.C.P. DEPOSITIONS AND DISCOVERY
RULE 33. INTERROGATORIES TO PARTIES
under S.C.A.C.R.

COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA	)	_____ JUDICIAL CIRCUIT
DAN TEMPLE	)	
Plaintiff,	)	Civil Action No. _____
VS.	)	<u>NOTICE</u> , and <u>MOTION</u> FOR A TEMPORARY
OCONEE COUNTY	)	
SHERIFF DEPARTMENT ... ,	)	<u>RESTRAINING ORDER.</u>
Respondents.)	)	

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: _____

S/ _____

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

within their custody containing at least the following.

(D) Each and every evidence custodian shall create or cause to be created a SUBSEQUENT CHANGE OF CUSTODY FORM. This SUBSEQUENT CHANGE OF CUSTODY shall contain the following information.

3. → (1) The record must show how one (1) beige rock changes into two (2) bags and becomes two (2) white rocks.

* Rule 60 (B). The Motion shall be made within a reasonable time and for reason (1), (2), and (3) Not more than one year after the Judgement, Order or Proceeding was entered or taken. This Rule does not limit the power of a Court to entertain an independent action to *Space* → relieve a party from a Judgement, Order, or Proceeding, or to set aside a Judgement for fraud upon the Court.

§ 15-78-20 In order to create a special duty by special circumstance in a law enforcement context, the Plaintiff must show (1) an actual promise was made by law enforcement to create a special duty, (2) The promise was reasonable, relied upon by the Plaintiff, and (3) the Plaintiff's reliance was casually related to the injury ultimately suffered. Check language in book

ARTHURS v. AIKEN COUNTY, S.C. App. (1999), 338 S.C. 253, 525 S.E. 2d 542.

(15-78-20) In an action under the South Carolina Tort Claims Act § 15-78-10 et seq., the Court properly admitted evidence that a Police Officer whose vehicle has struck and injured the Plaintiff was aware of the resulting altercation, where the evidence was admitted on the issue of damages for emotional injuries rather than to show a separate act of negligence, CREED v. CITY OF COLUMBIA, (S.C. 1993), 310 S.C. 342, 426 S.E. 2d 785.

(All other allegations of merit)

The Plaintiff will also show unto this Honorable Court, that a Hearing was held in the Honorable J. Cordeil MADDOX, Jr. Courtroom and the Judge ordered Oconee County Sheriff Department to turnover Brady Material requested under the Brady Motion filed under BRADY v. MARYLAND, 373 U.S. 83 (1963). They failed to follow the Procedures, Rule of ORDER, and DUE PROCESS, Audio/Video tape dated 08/30/97, to be tested by an independent analysis on the ground that a portion of the recording from the tape was missing, but that process never took place, the Judge exited the courtroom, the date of this hearing was 10/31/2005.

The O.C.S.D. Ken Washington would not release the tape to the Plaintiff's Attorney, Scott Robinson. A letter was sent to Attorney Scott Robinson, asking him why he did not get the tape tested. He stated in a letter that they would not release the tape to him.

BRADY v. MARYLAND, 373 U.S. 83, (1963), of a substitute indictment.

South Carolina Law Enforcement Division sent the Plaintiff a letter, Concerning a statutory Authority 1976 Code 44-53-120, and protocol of the three devices of transmission transmitted that were used in the incident report, dated 08/30/97. They stated that it needed to contact C S D. The defendant suppression by way of prosecution of evidence favorable to Plaintiff are to accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

Suppression by the prosecution of the evidence favorable to an accused of who has requested it violates

7th

For a Fourth Defense

§ 15-78-60.4)(2)

(1) Legislative, Judicial, has a duty of Care, of relating to, or by the Court, (Judicial duty) to turnover, the Brady Motion, ⁽²⁾ The Court Records is witness Judicial confession. (3) Legal, The attorney General also has a Legal duty to make sure, Plaintiff's Right, of due process and discovery is turnover,

in Applicable

§ 15-78-60 ~~(4)~~ ⁽⁵⁾ don't apply to my case

(4-5-25

15-78-60 ~~(3)~~ ⁽⁵⁾ The employee or the performance failure to exercise his duty of turnover. Evident that was Order by Court to the turnover by the Shrubbs department, to the Plaintiff, To fail to carry out a duty Protection, Control, over Evident, Video tape and. three device of SLED transmitter. Except when the Responsibility or duty is exercised in a grossly Negligent manner (15-78-60 - (25), Responsibility or duty including, but not limited to supervision Protection,

(4)

(73-80) Duties of the Seizing Officer

The seizing officer shall create or shall cause to be created at his or her employing law enforcement agency a written Record of any Controlled substances(s), or suspected Controlled substances(s) or Paraphernalia that shall come into his or her possession.

44-53-485, Handling of seized Controlled substance, use of Photographs or videotapes of substances at trial, admissibility of evidence.

(73-80) - (5) If the Controlled substance was altered in any while in the possession of the seizing officer, the seizing officer shall in writing fully describe the nature and extent of the alteration. The written Records of alteration to the Controlled substance Evident must be kept with the chain of Custody Records.

864-638-3132

Daniel R. Day, JR.

South Circuit Public Defender's Office

415 South

Wallhalla, SC 29691

(1) Judge Lee Alford ✓
Moss Justice Center
1675-11 York Hwy
York SC 29745

(2) Judge Cordell J. Maddox
Judge Maddox, J. Cordell JR.
SC Circuit Court
P.O. Box 8002
Anderson SC 29622

(3) Judge Macaulay Abernethy
SC Circuit Court
P.O. Drawer 428
Wallhalla, SC 29691

(4) Robinson Scott David
P.O. Box 1004
Greenville SC 29601

(5) Judge James C. Williams Jr.
(No address) P.O. Box 1949
Orangeburg SC 29116

(6) Judge Dean H. Wall ✓
(No address) P.O. Box 8002
Anderson SC 29622
864-467-0503

(7) Richey, Rodney Wade ✓
Richey & Richey, P.A.
P.O. Box 10916
Greenville SC 29603-0916

(73-90.)

(A) any law enforcement officer or law enforcement employee who receives suspected Controlled substance evidence or paraphernalia from another law enforcement officer or law enforcement must maintain the record of the chain of custody.

(A) all evidence Custodians shall create or cause to be created a written Record Concerning the Controlled substance evidence within their Custody, Containing at least the following.

(D) Each and every evidence Custodian shall create or cause to be created a Subsequent Change of Custody from; This Subsequent Change of Custody shall contain the following information.

(1) The Records must show, have one ^{Right} Pack Change into two bags, and became two white Pack. Rule 60, (B). The Motion shall be made within a reasonable time and for reasons (1) (2) and (3) Not more than one year after the Judgment, Order or Proceeding was entered or taken, This Rule does not limit the power of a Court to entertain an independent action to relieve a Party from a Judgment, Order, or Proceeding or to set aside a Judgment or award upon the Court.

§ 15-78-20; In order to create a special duty by Special Circumstances in a law enforcement context, the Plaintiff must show; (1) an actual Promise was made by law enforcement, to create a special duty (2) the Promise was reasonably relied upon by the Plaintiff and (3) the Plaintiff reliance was causally related to the injury ultimately Arthur v. Aiken County 8 C app. 1999. 338 8 C. 253, 525 S.E. 2d 542.

§ 15-78-20; In an action under the South Carolina Tort Claims Act § 15-78-10 et seq. the Court properly admitted evidence, that a Police officer whose Vehicle had struck and injured the Plaintiff was aware of the resulting altercation, where the evidence was admitted on the issue of damages for emotional injuries Rather than show a separate act of Negligence, Creed v City of Columbia SC. 1993, 310 8 C. 342, 420 S.E. 2d 785.

(For a Third Defense)

(5) The Plaintiff's objection to any allegations are incorporated herein and made a part of this defense.

(6) We agree to the Defendant would admit that the South Carolina Tort Claims Act, (S.C.T.C.A.), applies to this case and that the Defendant is a government entity under (S.C.T.C.A.)

(7) We disagree with the Defendant, would admit that it provided the Plaintiff with all of the information required under the law. The Defendant has no knowledge of any recent efforts of the Plaintiff and, would therefore, deny the same and demand strict proof thereof.

(1) Date; 2012 Clerk of Court.

(2) Date; 2013 Clerk of Court.

(3) Date; 2014 Clerk of Court.

(4) Date; 2015 Clerk of Court.

(8) Once again, we disagree, on the remaining allegations set forth in Plaintiff's answer.

(For a Fourth Defense)

§15-78-60 (1)(2). Legislature Judicial has a duty of care; of relating to or by the Court (Judicial duty) to turnover the Brady ^{Plaintiff} Motion, ^{Filed in the Court acc. Pro. P.} The ~~Court~~ records is witness Judicial Confession.

(3) Legal Process. The Attorney General, also has a legal duty to make sure, ^{The} Plaintiff Right of DUE PROCESS and DISCOVERY. are met.

§15-78-60 (4)(5) The employee of Oconee County Sheriff Department or the performance failure to exercise his duty of turnover, Brady Motion evidence to Court, to fail to carry out

3 of 1

LAWRENCE, 549 U.S. at 3

(4) The Plaintiff is well inside statute of limitations. The Plaintiff just came from the U.S. Supreme Court in 2014. The Plaintiff has carried his case all the way to the U.S. Supreme Court of the United States, Washington, DC, and is well inside equitable tolling, and there is some extraordinary circumstance which stood in his way to not receive a Full Brady Motion, see

of language.

Counsel failed to appropriately object to the indictment inside to investigate the drug analysis and chain of custody and

3.
duty, protection, control, over evidence of the videotape and the three ^{device} ^{transmission} of transmitted, except when the responsibility or duty is exercised in a grossly negligent manner.

*
§15-78-60 (25) Defendant has a responsibility or duty including but not limited to supervision ^{and} protection.

73-80 (A) Duties of the Seizing Officer.

*
The seizing officer shall create or shall cause to be created at his or her employing law enforcement agency a written record of any controlled substance(s) or suspected controlled substance(s) or paraphernalia that shall come into his or her possession.

*
44-53-485 Handling of seized controlled substance; use of photograph ^{SC} or videotapes of substance(s) at trial; ^{admissibility} ~~admissibility~~ of evidence.

*
73-80 (5). If the controlled substance(s) was altered in any way while in the possession of the seizing officer, the seizing officer shall in writing fully describe the nature and extent of the alteration. The written record of alteration to the controlled substance evidence must be kept with the CHAIN OF CUSTODY RECORDS.

73-90 (A) Any law enforcement officer or law enforcement employee who receives suspected controlled substance evidence or paraphernalia from another law enforcement ^{officer or law enforcement employee} must maintain the record of the CHAIN OF CUSTODY.

(C) All evidence custodians shall create or cause to be created a written record concerning the controlled substance evidence.

(8) Were you aware of who had control over the audio/video tape on October 31, 2005, (10/31/05)?

(9) Were you aware that the Agency employing the law enforcement Officer or law enforcement employee(s) in this case, did not have a chain of custody for the device used to hear by the Informant substance was received, and released? pertaining to the containment of the alleged drugs?

(10) Under South Carolina Code of Laws of S.C. 1976, RULES and REGULATIONS Section 73-100 and 73-110, the Plaintiff is asking the defendant to produce the protocol of the device, the number used to do the control buy, and all relevant records pertaining to this matter, date, time, place/location of Informant, the disguise of device--- where the Informant was disguised as to the use of a pager or beeper, telephone or radio, and that the videotape was an accurate representation of what transpired; the serial number of the device as mandated under 73-72

CODE REGULATION? A. Law enforcement officers, law enforcement employees, law enforcement agencies

Under Chapters 71 to 103 of the Regulations of South Carolina promulgated through State Register Volume 35, Regulation 73-100 and 73-110 of the S.C. Law Enforcement Division, Handling of Controlled Substances.

Finished

OK

3 of 3

SOUTH CAROLINA APPELLATE COURT RULES (S.C.A.C.R.), RULE 501.

OK JUDICIAL CONDUCT CANON 3. B. (5), ~~it~~ states in pertinent part:

A judge shall perform judicial duties without bias or prejudice.

OK A judge shall not, in the performance ~~of~~ of judicial duties, by words or conduct manifest bias or prejudice, including but ~~not~~ limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

Under South Carolina Rules of Civil Procedure (S.C.R.C.P.), RULE 33. INTERROGATORIES the following questions need to be answered:

(1) Were you aware that the OCONEE COUNTY SHERIFF DEPARTMENT (O.C.S.D.) did not turn over the audio/video tape to my Attorney to be tested, specifically admitted, modified or explained.

? (2) Were you, the Court, aware that the BRADY MOTION was not ~~given to~~ ~~served on the~~ Plaintiff nor his attorney, Rodney

(3) Were you aware of the different indictment(s), in this case; one/two that went to the Grand Jury?

OK (4) Were you aware, only one was presented to the trial Court?

(4) Were you aware that the search warrant did not turn up until, after the trial on Feb 60/29/98?

(6) Were you aware that the Prosecution/State used a substitute indictment to mislead the defense in order to gain a conviction, and give the Court an advantage to gain the conviction?

(7) Were you aware of the numerous Public Reprimands that were filed against Attorney DANIEL R. DAY? See 352 S.C. 41, 572 S.E. 2d 291 (S.C. 2002) No.# 25552, Nov. 04, 2002 / 360 S.C. 69, 600 S.E. 2d 66 (S.C. 2004) No.: 25841, July 12, 2004.]

2 *
Missing
No. #

Finished
OK 2 of -3

STATE OF SOUTH CAROLINA
County of Oconee

DAN TEMPLE, JR #254316
Plaintiff,

v.

OCONEE COUNTY SHERIFF
DEPARTMENT,

Defendant.

) I IN THE COURT OF COMMON PLEAS
)
)
) S.C.R.C.P. DEPOSITIONS AND DISCOVERY
)
) RULE 33. INTERROGATORIES TO PARTIES
)
) under S.C.A.C.R., RULE 501; CANON 1-5
)
) 2014-CP-37-0675
)
)

To the HONORABLE JUDGE CORDELL J. MADDOX, Jr.

On October 31st, 2005 (10/31/05), a hearing was held in your court room, TEMPLE V. STATE, 2001-CP-37-290. My Attorney, Scott D. Robinson, made a BRADY MOTION to the court at which time a request was made for the release of the tape recording for testing. This was the audio/video tape of an incident which was dated August 30, 1997, (08/30/97). Under the BRADY MOTION, authorization for funding for the test procedures was also sought to allow SOUTH CAROLINA LAW ENFORCEMENT DIVISION (S.L.E.D.), to perform this test. See U.S. v. WALKER, 9 F. 3d 1245 (1994).

OK The Oconee County Sheriff Department (O.C.S.D.), The State and Sheriff Department Witnesses, argued that the Informant did not have anything on him at the time of the alleged buy on 08/30/97. My Attorney, Scott D. Robinson, stated that there was a part (portion) of the tape that was missing, and the tape needed to be tested for its originality and perfection due to suspected tampering and erasure.

on U.S. v. MORGAN, cited as, 193 F. 3d 252,²⁶⁷ (4th Cir. 1999)

shows in pertinent part that where compliance with the regulations are mandated by the Constitution, Prejudice may be

presumed. Similarly, where an entire procedural framework, Insert designed to insure the fair processing of an action affecting an individual of 3 is created but then not followed by an agency, it can be deemed prejudicial.

Finished

OK

Competency

A defendant in a court proceeding has the due-process right to fair hearing. Defendant's rights are violated when the judicial system fails to hold a proper competency hearing, where, there is substantial evidence that, a defendant is incompetent. Filiaggi v. Baglee, 445 F.3d 851 C.A.6 (Ohio) 2006; S.C. Code Ann. 1976 § 44-23-10.

Competency claims can raise issues of both procedural and substantive due-process: ^{i.e.} an allegation that, the court erred by failing to order a competency hearing is a "procedural competency claim", while an allegation that the defendant was convicted or sentenced while, legally incompetent is a "substantive competency claim". U.S. v. General, 278 F.3d 389 C.A.4 (N.C.) 2002; 28 U.S.C.A. Const. Amend. 5.

Failure of trial counsel to request a competency hearing where there is evidence raising substantial doubt about Petitioner's competency to stand trial may constitute ineffective assistance of counsel. Speedy v. Wyrick, 702 F.2d 723 (6) C.A.8 (Mo.), 1983; Taylor v. State, 404 S.C. 350, 745 S.E.2d 97 (n.2-4) (S.C. 2013). A criminal defendant is guaranteed the right to effective assistance of counsel under the Sixth Amendment to the U.S. Constitution. 28 U.S.C.A. Const. Amend 6 § 30; (7) Strickland v. Washington, 466 U.S. 688, 104 S.Ct. 2052 (1984)

"Whether Counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Butler v. State, 286 S.C. 441-42, 334 S.E. 2d 813-14 (1985) (quoting Strickland, 466 U.S. at 686, 104 S.Ct. 2052.) As such, courts evaluate allegations of ineffective assistance of counsel using a two-prong test. Cherry v. State, 300 S.C. 117, 386 S.E.2d 625 (citing Strickland, 466 U.S. at 688, 104 S.Ct. 2052. First, the applicant must demonstrate Counsel's representation was deficient, which is

measured by an objective standard of reasonableness. Strickland, 466 U.S. at 687-88. "Under this prong, the proper measure of attorney's performance remains simply reasonableness under prevailing professional norm". Cherry, 300 S.C. at 117 (quoting Strickland, 466 U.S. at 688). Second, the applicant must demonstrate he was prejudiced by counsel's performance in such a matter that, but for counsel's error, there is a reasonable probability the result of the proceedings would have been different. Strickland, 466 U.S. at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome".

In the context of a guilty plea, the deficiency prong inquiry turns on whether the plea was voluntary, knowingly, and intelligently entered. Anderson v. State, 342 S.C. 54, 57, 535 S.E. 2d 649, 651 (2000); see also, Hill v. Lockhart, 474 U.S. 52, 56, 106 S.Ct. 366. "The longstanding test for determining the validity and intelligent choice among the alternative courses of action open to the defendant". (quoting North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160 (1970)). "The second, or 'prejudice', requirement... focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process". Hill, 474 U.S. 52, 59, 106 S.Ct. 366.

In Pate v. Robinson, 383 U.S. 385, 86 S.Ct. 872 U.S. Ill. (1966), The court's failure to make a competency hearing deprived defendant of his constitutional right to a fair trial, see Thomas v. Cunningham, 313 F.2d 934 (C.A.4, 1963) Where the evidence raises a 'bona fide doubt' as to a defendant's competency to stand trial, the judge's own, on his own motion must impanel a jury and conduct a sanity hearing, pursuant to, Ill. Rev. Stat., C-38, § 104-2 (1963).

The rulings determined in Jeter v. State, 308 S.C. 230, 417 S.E.2d 596 (n.1-5) (S.C.1992), "Due process prohibits the conviction of a person who is mentally incompetent". Bishop v. U.S., 350 U.S. 961, 76 S.Ct. 440 (1956). "This right cannot be waived by a guilty plea. Pete v. Robinson, 383 U.S. 375, 86 S.Ct. 836 (1966). The test of competency to enter a plea is the same as required to stand trial. State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976). The accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding, and have a rational, as well as factual understanding of the proceeding against him. Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980).

Under the State statute, S.C. Code 1976 § 17-24-10(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease, defect, or trauma, lacked the capacity to distinguish moral or legal right from a moral or legal wrong, or to recognize the particular act charged as morally or legally wrong. State v. Poindexter, 314 S.C. 490, 431 S.E.2d 254 (S.C.1993)

The Supreme Court, the Court of Appeals, and the Circuit Court have the inherent authority to set aside prior judgments that were produced and procured as a result of "extrinsic fraud". S.C.R.C.P., Rule 60(b)(3). Moreover, courts may consider the ground of extrinsic fraud, if sufficiently proven, as affecting application of statute of limitations for reopening of such matters. Robinson v. Estate of Harris, 389 S.C. 360, 698 S.E.2d 801 (n.3-7) (S.C., 2010). A judgment may be set-aside on the ground of fraud, only if the fraud is extrinsic. Hagy v. Pruitt, 339 S.C. at 431, 529 S.E.2d at 717.

"Extrinsic Fraud" is fraud that prevents a party from knowing about his rights, or defenses, or from having a fair opportunity of presenting

House

115 Crest Ave, Parrish, AL

(²Things to do)

- (1) Put up Cover over window
- (2) Cut the grass, around the House

Brand

1888-842

1-502-242-0994

1-458-888-0089

Q36



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

TRANSCRIPT OF HEARING

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

APPEARANCES:

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

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

TRANSCRIBED FOR VIVIAN CROSS, COURT REPORTER

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

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

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

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

9 THE COURT: I don't know.

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

12 MR. TEMPLE: Uh, ---

13 MR. McDADE: I sent you one.

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

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

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

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

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

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

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

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

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

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

Dan Temple v. Oconee County Sheriff's Department

4

Case No. 14-CP-37-00675

Hearing of April 12, 2016

Before The Honorable J. Cordell Maddox

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.

1 Here's the problem. A lot of what
2 you're alleging is PCR-oriented rather than
3 civil. But, again, I've just looked at this.
4 Look through it and ---

5 MR. TEMPLE: I also wanted to tell
6 you, too, Judge, that you, yourself, that I
7 filed a Motion in court to you concerning the
8 tape, to not destroy that tape. It's in the
9 Supreme Court right now. I filed that in --
10 what was it? It may have been 2013 when I
11 filed that Motion in the court asking them
12 not to get rid of the tape. The Sheriff's
13 Department went on and got rid of it anyway.

14 THE COURT: All right. I'll look
15 through the file, take it under advisement
16 and let y'all know within the week.

17 MR. McDADE: Okay.

18 THE COURT: Appreciate it.

19 (HEARING CONCLUDED)

20

21

22

23

24

25

I further certify that I am neither kin nor
counsel to any of the parties and have no interest
in the outcome of this action.

Deborah Garrison

Deborah Garrison

Greenville, South Carolina

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

V.

OCONEE COUNTY SHERIFF DEPARTMENT

RESPONDENT

CERTIFICATE OF PRO SE COUNSEL

RECEIVED

JAN 19 2017

SC Court of Appeals
APPELLANT

X Dan Temple
1/17/17

PRO SE, DAN TEMPLE, JR

P.O. BOX 901

FULTONDALE, AL35068

01/17/2017

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

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.

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

X Dan Temple *DT*

1/12/17

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

RECEIVED

JAN 19 2017

SC Court of Appeals

AFFIDAVIT

I, Dan Temple, Prose Attorney, in the Case, No. 2016-01124 Affidavit or Verification Authorize or Permitted under these Rules, Shall the Written Statement or Declaration by a Party or his Attorney of Record or of a witness, Sworn to or Affirmed before and an Officer Authorize to Administer Oaths, that the Affidavit knows the Facts Stated to be True of His Own Knowledge, Except as to those Matters Stated on Information and Beliefs.

Pro, Se Dan Temple JR

Pro, Se. Dan Temple

P.O. Box 901

Fultondale, Al 35068

SWORN & Subscribed Before Me,

This October, Day of 5, 2016

Marilyn J. Grice

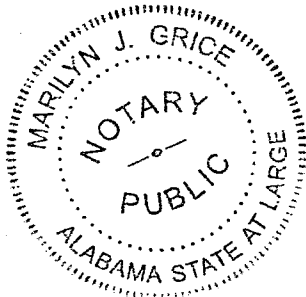
Notary Republic State of Alabama

My Commission Expires 8-4-2018

RECEIVED

JAN 19 2017

SC Court of Appeals



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

AMENDMENT
TO POST CONVICTION RELIEF
APPLICATION

TO: CHRISTOPHER NEWTON, ASSISTANT ATTORNEY GENERAL:

The Applicant, by and through his undersigned attorney, would amend his original application to include the below mentioned grounds as follows:

1. Ineffective Assistant of Counsel
 - a. failure to investigate
 - b. failure to object to certain testimony
 - c. failure to file Brady motion and obtain Brady materials
2. Subject Matter Jurisdiction
 - a. defective indictment
 - b. defective search warrant

Respectfully submitted,



Scott D. Robinson (SC Bar ID # 65351)

Dated: 6/3/04

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

TRANSCRIPT OF HEARING

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

APPEARANCES:

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

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

TRANSCRIBED FOR VIVIAN CROSS, COURT REPORTER

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

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

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

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

9 THE COURT: I don't know.

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

12 MR. TEMPLE: Uh, ---

13 MR. McDADE: I sent you one.

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

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

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

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

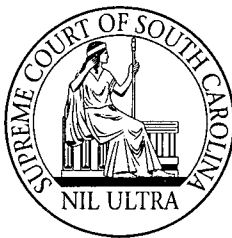
Sincerely yours,



Tom W. Dunaway, III
Attorney At Law

TWD/ktc





The Supreme Court of South Carolina

OFFICE OF THE DISCIPLINARY COUNSEL

HENRY B. RICHARDSON, JR.
DISCIPLINARY COUNSEL

SUSAN M. JOHNSTON
DEPUTY DISCIPLINARY COUNSEL

P. O. BOX 12159
COLUMBIA, SC 29211
TELEPHONE: (803) 734-2038

May 2, 2001

PERSONAL AND CONFIDENTIAL

Mr. Dan Temple #254316
K.C.I. Magnolia East 22-X
P. O. Box 518
Kershaw, SC 29067

Re: Lawyer: Thomas W. Dunaway, III, Esquire
Case Number: 99-DE-L-598 (NOTICE OF FINAL DISPOSITION)

Dear Mr. Temple:

You previously filed a complaint with the Commission on Lawyer Conduct or its predecessor agency, the Board of Commissioners on Grievances and Discipline, against the above named lawyer in connection with the above referenced matter. The Commission caused a full investigation to be conducted into this matter.

On April 20, 2001, an investigative panel of the Commission was convened to consider the recommendation of Disciplinary Counsel for disposition of this matter based on the information gathered in the full investigation conducted into this matter by the Office of Disciplinary Counsel. This panel was, as required by the Rules for Lawyer Disciplinary Enforcement - Rule 413, SCACR, promulgated by the Supreme Court of South Carolina, comprised of seven (7) members, one (1) of which was the chairman or vice-chairman of the Commission and one (1) of which was a lay member who had never been admitted to the practice of law.

The inquiries of this investigative panel into this matter were, as provided in these rules, limited to whether or not there was evidence of ethical misconduct (as defined by the Supreme Court of South Carolina in these rules) on the part of the above named lawyer which would warrant the filing of formal charges against that lawyer. The panel considered the report of Disciplinary Counsel setting forth the results of the full investigation. Thereafter, the panel voted that this matter should be dismissed.

DUNAWAY LAW OFFICE

TOM W. DUNAWAY III

May 5, 2016

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

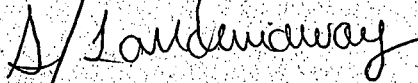
RE: DAN TEMPLE, JR. – RETAINER

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.

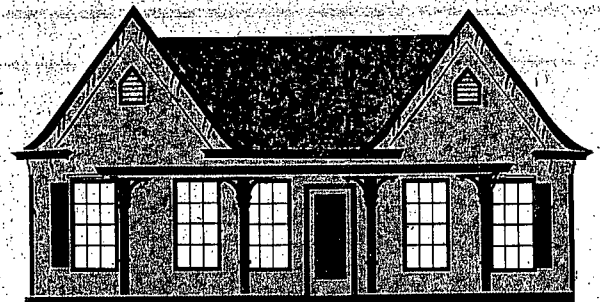
With kind regards, I am

Sincerely yours,



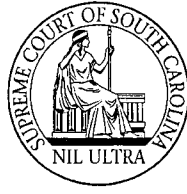
Tom W. Dunaway, III
Attorney At Law

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



The Supreme Court of South Carolina
OFFICE OF THE DISCIPLINARY COUNSEL

HENRY B. RICHARDSON, JR.
DISCIPLINARY COUNSEL

SUSAN M. JOHNSTON
DEPUTY DISCIPLINARY COUNSEL

POST OFFICE BOX 12159
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-2038

September 7, 2005

PERSONAL AND CONFIDENTIAL

Mr. Dan Temple #254316
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29699

Dear Mr. Temple:

This will acknowledge receipt of your letter of August 8, 2005. From reading your letter I am unsure as to the exact nature of your complaint.

The authority of this office and the jurisdiction of the Commission on lawyer Conduct are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines set out in Rule 413, SCACR. This office does not have the authority to determine whether the outcome of a matter was fair; nor does this office have the authority to intervene in any matter presently pending before any court or other tribunal or to seek to change in any way the decision of any court or other tribunal.

If you wish to file a complaint against an attorney, you will need to furnish this office, in writing, with more specific details of what he or she did or did not do to cause you to file a complaint.

Without the requested information, we will be unable to proceed with an investigation.

Very truly yours,

Barbara W. Hinson
Administrative Assistant

BWH/clg

	1000.00			10/6/97	Dan Temple Jr.	CR	TR
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

RETAIN THIS RECEIPT
FOR YOUR RECORDS

D. Thompson
SIGNATURE

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 1000⁰⁰ dollars back with interest

Thank you
Dan Temple Jr



The Supreme Court of South Carolina

OFFICE OF THE DISCIPLINARY COUNSEL

HENRY B. RICHARDSON, JR.
DISCIPLINARY COUNSEL

P. O. BOX 11330
COLUMBIA, SC 29211
TELEPHONE: (803) 734-2038

June 8, 1999

PERSONAL AND CONFIDENTIAL

Mr. Dan Temple#254316
K.C.I.-Magnolia East 22-X
Post Office Box 518
Kershaw, SC 29067

RE: Lawyer: Thomas W. Dunaway, III
 Case Number: 99-DE-I,-598

Dear Mr. Temple:

This is to acknowledge receipt of your complaint against the above named lawyer. An investigation will be conducted by this office into the matters you have reported in your complaint.

In this letter, we seek to address in advance issues and questions which often arise and to give you some understanding as to what this office and the Commission on Lawyer Conduct (the Commission) can do, and, more importantly, what they cannot do in connection with your complaint. It is important that you understand that neither this office nor the Commission can take any action to protect or promote your personal interest. So, you should not delay in seeking advice or taking action needed to protect your own personal interest.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer has committed misconduct or is incapacitated within the guidelines set out in the Rules for Lawyer Disciplinary Enforcement Rule 413, SCACR, promulgated by the Supreme Court of South Carolina. Where such misconduct is found, sanctions may be imposed upon a lawyer ranging from a confidential letter of caution all the way up to disbarment. If our investigation does not reveal either evidence of lawyer misconduct or incapacity as described in the applicable Supreme Court rules or reason to believe further investigation would reveal such evidence, these rules require the complaint to then be dismissed.



The Supreme Court of South Carolina

OFFICE OF THE DISCIPLINARY COUNSEL

HENRY B. RICHARDSON, JR.
DISCIPLINARY COUNSEL

P. O. BOX 11330
COLUMBIA, SC 29211
TELEPHONE: (803) 734-2038

November 16, 1999

PERSONAL AND CONFIDENTIAL

Mr. Dan Temple, #254316
KCI, Magnolia East 22-X
PO Box 518
Kershaw, SC 29067

RE: Lawyer: Thomas W. Dunaway, III
Case Number: 99-DE-L-598

Dear Mr. Temple:

The Supreme Court of South Carolina has appointed several attorneys across the State to act as Attorneys to Assist Disciplinary Counsel in connection with complaints received by the Commission on Lawyer Conduct. You are hereby notified that the above referenced matter has been reassigned to one of these Attorneys to Assist Disciplinary Counsel.

In all likelihood, you will be contacted by this Attorney to Assist to furnish information concerning the above referenced matter. If you are so contacted, your cooperation with the Attorney to Assist in this regard is requested.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Susan M. Johnston", is written over the typed name and title.

Susan M. Johnston
Deputy Disciplinary Counsel

SMJ/ehg
cc: Sally Wiggins Speth, Esquire

Mr. Temple
Page Two
June 8, 1999

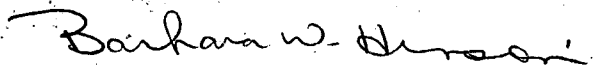
Often, persons filing complaints with the Commission or our office seek advice as to what to do about their case or request help in getting a lawyer to take certain action. However, under the applicable rules, the efforts of this office and those of the Commission must be directed toward promotion of institutional values for the benefit of the public as a whole, and not toward obtaining relief for or rendering assistance to any individual complainant.

Neither this office nor the Commission has authority to give advice or to seek to obtain any relief on behalf of an individual complainant. Neither this office nor the Commission have any authority to determine whether the outcome of a case was fair; nor do we have the authority to intervene in any matter presently pending before any court or other tribunal or to seek to change in any way a prior decision of any court or other tribunal. Both this office and the Commission are without authority to seek to make a lawyer take any particular action on your behalf.

We take this opportunity to advise you of the limited role of this office and that of the Commission so that, if you have sought assistance or advice from either this office or the Commission, you will now be aware that such assistance or advice cannot be provided by us and that you should promptly seek any such assistance or advice that you might need from legal counsel or such other source as you might select.

You will be notified as to the final disposition of your complaint in this matter. However, you should be alerted that it is often many months after receipt of a complaint before a final disposition of a complaint can be made and the complainant notified as to the nature of such final disposition. Please refer to the case number set out above in any future correspondence or inquiries to this office concerning this matter.

Very truly yours,



Barbara W. Hinson
Administrative Assistant

BWH/clg