

IN THE STATE OF SOUTH CAROLINA  
Supreme Court Of South Carolina

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Honorable G. Thomas Cooper Jr., Circuit Court Judge

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Supreme Court of South Carolina Case No. 2017-001902

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Unpublished Opinion No. 2017-UP-217

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Clarence B. Jenkins Jr.,

Petitioner,

v.

South Carolina Department of Employment &  
Workforce, South Carolina Budget and Control Board, and  
Office of the Governor of South Carolina,

Respondents.

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**PETITION FOR WRIT OF CERTIORARI**

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RECEIVED

OCT 10 2017

S.C. SUPREME COURT

**TABLE OF CONTENTS**

CERTIFICATE OF COUNSEL.....P. 1

QUESTIONS PRESENTED.....P. 2

STATEMENT OF THE CASE.....P. 3

STATEMENT OF THE FACTS.....P. 3- P. 5

LEGAL ARGUMENT AND CITATION AUTHORITY.....P. 5- P. 8

CONCLUSION.....P. 9

**TABLE OF AUTHORITIES**

**CASES**

Flateau v. Harrelson, 355 S.C. 197, 584 S.E. 2d 413 (S.C. Ct. App.2003).....P. 3  
Mylan Laboratories Inc. v. Matkari, 7 F .3d 1130, 1134 (4<sup>th</sup> Cir. 1993).....P. 2,3

**S.C. JUDICIAL COURT RULES**

Rule 3, SCADR, Alternative Dispute Resolution.....P. 2,3,5

**FED. RULE**

Rule 12(B)(6).....P. 2,3,7

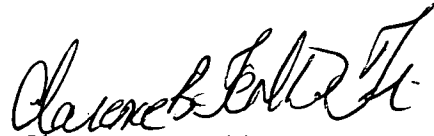
**STATUES**

S.C. Code Ann. 1-13-80(A)(1)(2)(B).....P. , 4  
S.C. Code Ann. 15-3-550.....P. 3  
S.C. Code Ann. 15-78-10.....P. 8  
S.C. Code Ann. 15-78-30(C).....P. 2,6  
S.C. Code Ann. 15-78-40.....P. 6  
S.C. Code Ann. 15-78-60(17).....P. 6,7  
S.C. Code Ann. 15-78-70(B).....P. 2,7,8  
S.C. Code Ann. 41-27-20.....P. 5

**CERTIFICATE OF COUNSEL**

Clarence B. Jenkins Jr, Petitioner hereby certify that he filed a Petition For Rehearing on June 6, 2017 which was denied by S.C. Court of Appeals on August 18, 2017.

October 7, 2017



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## QUESTIONS PRESENTED

- I. Did the COURTS willfully neglect Rule 3, SCADR requiring Alternative Dispute Resolution for civil complaint in Richland County as ordered by Supreme Court Of South Carolina?
- II. Did S.C. Court of Appeals failed to properly apply S.C. Code Ann. 15-78-30(c) as to the parties named in the Complaint?
- III. Did the COURTS wrongly applied a single pleading to the entire Complaint?
- IV. Did Petitioner properly listed agencies as Defendants not as individuals?
- V. Did Petitioner successfully pleaded acts of conspiracy by state agencies and their Individual employee(s) as conspirators as a cause of action in Complaint?
- VI. Did COURTS properly apply 12(b)(6) dismissing a case when sufficient facts are presented in a Complaint with the Fourth Circuit Court of Appeals' previous opinions in Mylan Laboratories, Inc. v. Matkari, 7 F. 3d 1130, 1134 (4<sup>th</sup> Cir. 1993) (?)
- VII. Did the COURTS properly considered denying a right work, eat and employment opportunities by blackballed affect "out of the scope of official duty" meet the standard of actual fraud, actual malice, intent to harm or a crime involving moral turpitude?
- VIII. Did the COURTS properly considered S.C. Code Ann. 15-78-70(b) which does not give a government entity immunity from suit and liability of an employee(s) actions constitutes grossly negligence under TORT CLAIM ACT?
- IX. Did the COURTS properly considered "Barred From Applying" was applied at South Carolina Department of Employment Human Resources Office using their computerized applications software during normal working hours as an employee in their OPINION?
- X. Did the standard of an employee of a government entity acting within the scope of their official duty and out of the scope of their official duty was achieved in Petitioner's complaint?
- XI. Did the Justices of South Carolina Court of Appeals mis-characterization of facts Pleaded in Petitioner's complaint suggesting separation of employer from Employee in their OPINION?

## **STATEMENT OF THE CASE**

The case went before Judge G. Thomas Cooper Jr. on September 15, 2015 for employment discrimination, slander and government conspiracy due to a secret blackballed affect “Barred from Applying” to deny employment without justification and notification where each party provided facts, evidence and the laws pertaining to their legal argument. By SCDEW publishing and submitting Candidate Is Marked “Barred from Applying” to potential employer is a false classification therefore constitutes slander and libel therefore met the standard of S.C. Code Ann. 15-3-550. Judge G. Thomas Cooper Jr. Dismissed the case under 12(b)(6) even though sufficient facts were pleaded in Complaint stated in Mylan Laboratories, Inc. v. Matkari, 7 F .3d 1130, 1134 (4<sup>th</sup> Cir. 1993). Richland County Court of Common Pleas is designated to provide mediation for all civil complaints under Rule 3, SCADR as ordered by Supreme Court of South Carolina. Petitioner never participated in mediation which was never offered by Richland County Court of Common Pleas before Judge G. Thomas Cooper Jr. concluded case on October 8, 2015. Petitioner met the standards of conspiracy established in Fleteau v. Harrelson, 355 S.C. 197, 584 S.E. 2d .413 (S.C. Ct. App. 2003).

## **STATEMENT OF FACTS**

Petitioner became unemployed and was seeking employment with the state of South Carolina due to having previous employment as part of Workforce Investment Act

Program. Appellant apply on-line and continued to do seeking opportunities but constantly received rejection emails from South Department of Employment Workforce(herein SCDEW) see Supplemental Record On Appeal p. 6 - p. 20 for verification. Appellant believed that he was being blackballed but did not have any verification by the constant rejection email from SCDEW. Petitioner received an email from Sharlayne Bellamy of S.C. Judicial Center on July 24, 2013 stating that my application can no longer be considered for employment due to receiving notification from the state of South Carolina. An additional email was sent by Sharlayne Bellamy on July 24, 2013 providing a actual computerized screen link of the employment notification.

The notification provided by Ms. Bellamy was authorized by SCDEW stating that candidate has been marked "Barred from Applying" (Record On Appeal p. 103 - p. 106). Petitioner did not have any knowledge of the "Barred from Applying" and notification was not provided because there were not reasons for the illegal employment stipulation. Petitioner provided Defendants with notification of the "Barred from Applying" therefore all stated it was system error. Petitioner filed a complaint with S.C. Human Affairs Commission because of illegal employment practices as stated in S.C. Code Ann. 1-13-80(A)(1)(2))B) and continued to seek additional responses because of distortions from Respondents. Petitioner received a packet from Brian Gaines of South Carolina Budget & Control Board that included "Barred From Applying" was intentionally applied by Adrienne Sorenson of SCDEW on July 19, 2013 to expired on December 30, 2018

without any notification. S.C. Code Ann. 41-27-20 Declaration of State Policy: States economic security due to unemployment is a serious menace to health, morals and welfare of the people of this state etc.

Respondents knew that it was not a system error because pertinent records available to them but promoted a distortion to hide a conspiracy which evidence disputes claims. Respondents willingly provided distortions to Petitioner and their records of documented emails verify their corruption to deceived with regards to “Barred From Applying” (Record On Appeal p. 106 - p. 108 and Supplemental Record On Appeal p. 22 - p. 23).

Petitioner’s complaint filed in Richland County Court of Common Pleas named state agencies as defendants with specifics facts regarding the grossly negligent actions of individual employee(s) and never separated employer from employee which is confirmed by transcript from September 15, 2015 hearing. Richland County Court of Common Pleas never complied with Rule 3, SCADR requiring mediation as ordered by Supreme Court of South Carolina.

### **LEGAL ARGUMENT AND CITATION AUTHORITY**

**I. Did the COURTS willfully neglect Rule 3, SCADR requiring Alternative Dispute Resolution for civil complaint in Richland County as ordered by S Supreme Court Of South Carolina?**

Rule 3, SCADR requiring Alternative Dispute Resolution was never completed by Richland County Court of Common Pleas and affirmed by S.C. Court of Appeals.

**II. Did COURTS failed to properly apply S.C. Code Ann. 15-78-30(c) as to the parties named in the Complaint?**

S.C. Code Ann. 15-78-30(c) states On or after January 1, 1989 when someone brings an action against a government entity under the provisions of this chapter shall named as party defendant only etc. Petitioner listed all state agencies involved as party defendants only which has been ignored by the COURTS.

**III. Did the COURTS wrongly applied a single pleading to the entire Complaint?**

The Courts focused their DECISION on a single pleading which stated an individual action as “out of the scope of official duty” but never considered “Scope of Official Duty” as a grossly negligent act and that employer and employee were never separated from each other as S.C. Code Ann. 15-78-40 and S.C. Code Ann. 15-78-60(17) states for TORT CLAIMS.

**IV. Did Petitioner properly listed agencies as Defendants not as individuals?**

Respondents are named in the Complaint as South Carolina Department of Employment Workforce, South Carolina Budget and Control Board and Office of the Governor of South Carolina which is also expressed in Cause of Action.

**V. Did Petitioner successfully pleaded acts of conspiracy by state agencies and their individual employee(s) as conspirators as a cause of action in Complaint?**

Petitioner named state agencies as defendants, pleaded facts that listed defendants as conspirators and cause of actions listed state agencies well as individual(s).

**VI. Did COURTS properly apply 12(b)(6) dismissing a case when sufficient facts are presented in a Complaint with the Fourth Circuit Court of Appeals' previous opinions?**

Petitioner stated sufficient facts in Complaint based on written documentations as verification to illegal employment discrimination applied with "Barred from Applying" which is a grossly negligent act a justifiable TORT CLAIM in the state of South Carolina.

**VII. Did the COURTS properly considered denying a right work, eat and employment opportunities by blackballed affect "out of the scope of official duty" meet the standard of actual fraud, actual malice, intent to harm or a crime involving moral turpitude S.C. Code Ann. 15-78-60(17)?**

Respondents secretly blackballing Petitioner denying him the opportunity to work, eat, earn an income from employment opportunities without a reason and notification is "out of the scope of official duty" met the standard of actual fraud, actual malice, intent to harm or a crime involving moral turpitude. "Barred from Applying" an intentional act to harm by Adrienne Sorenson of SCDEW.

**VIII. Did the COURTS properly considered S.C. Code Ann. 15-78-70(b) which does not give a government entity immunity from suit and liability of an employee(s) actions constitutes grossly negligence under TORT CLAIM ACT?**

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

- IX. Did the COURTS properly considered “Barred From Applying” was applied at South Carolina Department of Employment Human Resources Office using their computerized applications software during normal working hours as an employee therefore override an act out of the scope of her employment in this OPINION?**

“Barred from Applying” was a grossly negligent act committed by Adrienne Sorenson of SCDEW during normal working hours at her work location using the agency equipment therefore it was not a separation as being away when conduct in question becomes a justifiable S.C. Code Ann. 15-78-10 as TORT CLAIM ACT

- X. Did the standard of an employee of a government entity acting within the scope of their official duty and out of the scope of their official duty was achieved in Petitioner’s complaint?**

Petitioner properly stated acts of conduct by employee(s) of state agencies in Complaint as within the scope of their official duty and out of the scope of the official duty S.C. Code Ann 15-78-70(B).

- XI. Did the Justices of South Carolina Court of Appeals mis-characterization of facts pleaded in Petitioner’s complaint suggesting separation of employer from employee in their OPINION?**

Petitioner never separated SCDEW, employer from Adrienne Sorenson, employee which is stated in Complaint, Cause of Action, Legal Argument before the Court on September 15, 2015 and noted in transcript from September 15, 2015 hearing on p. 28 of the Record On Appeal.

**CONCLUSION**

For the foregoing reasons, Petitioner respectfully requests that this COURT issued an order granting the petition for writ of certiorari in this case.

October 7, 2017  
Neeses, South Carolina



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PROOF OF SERVICE

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I certify that Petitioner's Writ Of Certiorari was served to Respondents through their attorney of record, Attorney Eugene H. Matthews by United States Postal Mail at PO Drawer 7788 Columbia, South Carolina 29202 on October 7, 2017.

October 7, 2017

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