## Smith, Amelia G.

**From:** scot <dscotlyn@yahoo.com>
**Sent:** Monday, November 13, 2017 6:13 PM
**To:** Smith, Amelia G.
**Subject:** Re: David Scot Lynd v. Dawn Caldwell 2016-002024
**Attachments:** reply cladwell sled dismiss motion.pdf

please find attached a courtsey digital copy of the response to the motion to dismiss, it was mailed today USPS

and the tracking number is 9505 5104 1211 7317 1915 48

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On Fri, 11/10/17, scot <dscotlyn@yahoo.com> wrote:

Subject: Re: David Scot Lynd v. Dawn Caldwell 2016-002024
To: "Amelia G.Smith" <asmith@sccourts.org>
Cc: jlockemy@sccourts.org
Date: Friday, November 10, 2017, 12:34 PM

Please take notice that i received motions from 2 parties sled, and dawn Caldwell on 11-9-17, and 11-8-17.

The Caldwell motion is postmarked
10-25-17 and was received on the 9th of Nov. The sled motion is metered postage with no date but the service states also mailed on 10-25-17, and received the 8th of nov.

As explained before I cannot respond to these in a timely manner without being given a email courtesy copy. I have started the reply to both motions and will be mailing them monday.

As an example of the issue these IOP
also filed the same motion but gave a courtesy copy by email the same day, and I was able and have timely replied to that motion,

It is inexcusable that my due process
rights are denied for something as simple as a email being sent.

PLEASE BE ADVISED AND TAKE OFFICAL
NOTICE I AM DRAFTING A RESPONSE TO BOTH FILINGS AND WILL BE MAILING THEM ON MONDAY 11-13-17

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On Thu, 8/24/17, Smith, Amelia G.
<asmith@sccourts.org>
wrote:

Subject: David Scot Lynd v. Dawn
Caldwell 2016-002024
To: "dscotlyn@yahoo.com"
<dscotlyn@yahoo.com>,
"sandy@sennlegal.com"
<sandy@sennlegal.com>,
"jordan@dmorrison-law.com"
<jordan@dmorrison-law.com>,

"tdomin@clawsonandstaubes.com" <tdomin@clawsonandstaubes.com>, "david@dmorrison-law.com" <david@dmorrison-law.com>, "chris@sennlegal.com" <chris@sennlegal.com>
Date: Thursday, August 24, 2017, 1:37 PM

Attached please find an order filed in this case.

APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case#: 2016-002024

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

Kristi Harrington, Circuit Court Judge
Dennis Markley, Circuit Court Judge

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

Dawn Caldwell,
Individually and in her capacity as an Officer of the Isle of Palms Police Department

South Carolina Law Enforcement Division

Reply to Defendants Caldwell and SLED Motion to Dismiss.

These two motions are identical in argument and case law as IOP's, as stated before this is a conscience conspiracy to try and misguide the court to facts that do not exist. Each, even including I.O.P.'s motion, try and state the motions were mislabeled and that in somehow is grounds for dismissal, that was clearly decide in *Elam* below. ""***This view holds true even when a party mislabels a post-trial motion.*** *See Blair v. Equifax Check Services, Inc., 181 F.3d 832, 837 (7th Cir.1999)""*

All three go on to try and claim that the filing of the rule 59 or rule 60 did not stay the time to file a notice of appeal, that to is incorrect and has had all the prior rulings codified into the Elam precedent. *""Our mandatory preservation requirements make it doubly important that litigants generally be freely allowed to file a first, written Rule 59(e) motion* ***without concern a later appeal will be deemed untimely.***

*Fifth, civil procedure and appellate rules should not be written or interpreted to create a trap for the* ***unwary lawyer or party****, but a careful consideration of this issue has led us to conclude that is precisely the effect of an unwarranted expansion of* ***Quality Trailer***

They all 3 quote *Tench vs v S.C. dept of* educ. 2001, but this was superceded and a guiding precedent set by the S.C. Supreme Court to conjoin and migrate all the prior rulings and decisions into one guiding precedent and set a universal standard as the opinion sows in ***Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004***

The South Carolina Supreme Court has held that the motion Lynd filed does apply to start/toll the appeal time limit and the motion in 2015 was not required to be a separate appeal. The Supreme Court also outlines the times and cause of order entry's to file the rule 59/60 motions as well as the application of all the previous motions in a particular case. This is the standard precedent the court has set to correlate all the prior opinion and numerous rulings.

> **Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004**
>
> We take this opportunity to clarify the limits and rationale ***of Quality Trailer, supra,*** and two Court of Appeals' opinions, ***Coward Hund Const. Co. v. Ball Corp.,*** **336 S.C. 1, 518 S.E.2d 56 (Ct.App.1999), and *Collins Music Co. v. IGT,*** 353 S.C. 559, 579 S.E.2d 524 (Ct.App.2002).** We conclude the Court of Appeals in the present case and **in *Matthews v. Richland County School Dist. One,*** **357 S.C. 594, 594 S.E.2d 177 (Ct.App.2004)** has

extended the holdings and rationale of those three **cases in a manner which unnecessarily complicates post-trial and appellate practice.**

After studied review, we reject the rationale and result reached by the Court of Appeals in the present case and in *Matthews*. We conclude a party usually is free to file an initial Rule 59(e) motion, regardless of whether the previous JNOV/new trial motions were made orally or in writing, without unnecessary concern the repetition of an issue or argument made in a previous motion will result in a subsequent appeal being dismissed as untimely. In essence, we view the use of oral or written JNOV/new trial motions, followed by an initial Rule 59(e) motion, **as part and parcel of a party's "single bite at the apple" in presenting his case to the trial court.**

We believe this view of the propriety of post-trial motions to be the correct approach for several reasons. First, it is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. A motion under Rule 59(e) long has been viewed as "motion for reconsideration" **despite the absence of those words from the rule.** Consequently, a party usually is allowed to ask the court to reconsider its decision **even if it means rehashing all or part of an argument previously presented.** *See, e.g., Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992) ("purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to 22*22 request the judge to reconsider matters properly encompassed in a decision on the merits"); *Curcio v. Caterpillar, Inc.*, 355 S.C. 316, 585 S.E.2d 272 (2003) (an example of the many cases in which trial and appellate courts describe a Rule 59(e) motion as a "motion to reconsider" or "motion for reconsideration"); James Flanagan, *South Carolina Civil Procedure* 474-475 (2d ed. 1996). **There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.**

Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.[3] Neither contains any provision for a motion for "reconsideration." However, federal courts consider it appropriate for a party to make a "motion for reconsideration" under Rule 59(e) even though the rule mentions only a "motion to alter or amend a judgment." **This view holds true even when a party mislabels a post-trial motion**. *See Blair v. Equifax Check Services, Inc.*, 181 F.3d 832, 837 (7th Cir.1999) (Rule 4(a)(4), FRAP, restates long-accepted practice of considering motions for reconsideration, a practice independent of any appellate rule); 12 *Moore's Federal*

*Practice* § 59.30[2][a] and [7]; 11 Wright, Miller & Kane § 2810.1; 20 *Moore's Federal Practice* §§ 304.13[2] and 304.13[4][b] (3d ed. 2003). "\\

In fact, the United States Supreme Court explicitly has described a motion under federal Rule 59(e) as one which "involves *reconsideration* of matters properly encompassed in a decision on the merits." *Osterneck v. Ernst & Whinney*, 489 U.S. 169, 174, 109 S.Ct. 987, 990, 103 L.Ed.2d 146, 154 (1989) 23*23 (a request relating to discretionary prejudgment interest is a part of the plaintiff's compensation and thus a part of the decision on the merits, which means a Rule 59(e) motion raising prejudgment interest tolled the time for appeal; Court cited precedent in which Rule 59(e) motions relating to attorney's fees and case costs are deemed collateral issues, thus such motions did not toll the time for appeal) (emphasis added). The Court explained its decision furthered the goals of avoiding piecemeal appeals and fostering informed appellate review. *Osterneck*, 489 U.S. at 177-178, 109 S.Ct. at 992, 103 L.Ed.2d at 156

The commentators explain that the approach taken in today's rules allowing a motion for reconsideration which addresses the merits of the case at hand originated in the common law. "It is absolutely necessary *to justice*, that there should, upon many occasions, be opportunities of *reconsidering* the cause by a new trial." 11 Wright, Miller & Kane § 2801 (quoting a 1757 opinion written by an English judge) (emphasis in original); 12 *Moore's Federal Practice* 59 App. 102 (even before 1946 amendment adding subdivision (e) to Rule 59, courts routinely found that motions seeking such relief as rehearing or reconsideration were proper under Rule 59, although the motions were not literally or technically motions for a new trial).

Third, our rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.

Fourth, South Carolina appellate courts do not recognize the "plain error rule," under which a court in certain circumstances is allowed to consider and rectify an error not raised below by the party. *Dykema v. Carolina Emergency Physicians, P.C.*, 348 S.C. 549, 554, 560 S.E.2d 894, 896 (2002); *Kennedy v. South Carolina Retirement System*, 349 S.C. 531, 25*25 564 S.E.2d 322 (2001). **Our mandatory preservation requirements make it doubly important that litigants generally be freely allowed to file a first, written Rule 59(e) motion without concern a later appeal will be deemed untimely.**

**Fifth, civil procedure and appellate rules should not be written or interpreted to create a trap for the unwary lawyer or party, but a**

**careful consideration of this issue has led us to conclude that is precisely the effect of an unwarranted expansion of *Quality Trailer*.** *Cf. Gamble v. State*, 298 S.C. 176, 379 S.E.2d 118 (1989)

If a party is unsure whether he properly raised all issues and obtained a ruling, he must file a Rule 59(e) motion or **an appellate court may later determine the issue or argument is not preserved for review.** But in filing the motion, he may unwittingly forfeit the right to an appeal if an appellate court later determines the Rule 59(e) motion was unnecessary because he already had raised the issue and obtained a ruling. We strive to avoid an interpretation of procedural rules which routinely would place a party between the proverbial rock and a hard place.[5]

We reaffirm the principles set forth in *Coward Hund*, 336 S.C. 1, 518 S.E.2d 56; *Quality Trailer*, 349 S.C. 216, 562 S.E.2d 615; and *Collins Music*, 353 S.C. 559, 579 S.E.2d 524. We reverse the Court of Appeals' order in the present case and overrule the Court of Appeals' opinion in *Matthews*, 357 S.C. 594, 594 S.E.2d 177. **We conclude SCDOT timely served its notice of appeal after receipt of written notice of entry of the order denying its Rule 59(e) motion.**

In I.O.P. 's motion, the motion prior to these 2 defendants motion, they stated Lynd's appeal was untimely then corrected that by stating under Rule 54 it was timely.

***RULE 54, (b) Judgment Upon Multiple Claims or Involving Multiple Parties.***

*In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties*

**Hagood v. Sommerville, 607 SE 2d 707 - SC: Supreme Court 2005**

*An appeal ordinarily may be pursued only after a party has obtained a final judgment. Mid-State Distributors, Inc. v. 195*195 Century Importers, Inc., 310 S.C. 330, 335, 426 S.E.2d 777, 781 (1993); S.C.Code Ann. § 14-3-330(1) (1976); Rule 72, SCRCP; Rule 201(a), SCACR.*

*An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory order from which no immediate appeal is allowed. Tatnall v. Gardner, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct.App.2002).*

*Piecemeal appeals should be avoided and most errors can be corrected by the remedy of a new trial.*

Caldwell motion, through her atty tries to falsely imply that the Lynd motion through his attorney file on 6-22-16 **that was denied, was denied because it was "untimely filed" !! That is a blatant lie and nowhere in the record or order**. This is an attempt by counsel for Caldwell to subconsciously put the thought ***'untimely'*** in the courts mind that these motions are incorrect and untimely. Nowhere was the motion ever argued that it was untimely, not ruled on as untimely, and the order entered was only a form 4 entry with no order ever presented to have even stated such a ground.

None of the parties have presented an exhibit with an order for that entry signed by the court, even though the form 4 entry, clearly references an order attached . THESE FACTS! That the attached order never materialized to give specific grounds used by the court for its decision, would in and of itself extend an appeal notice deadline anyway. Especially when Caldwell is claiming it was *ruled untimely.* Even though Lynd made a timely notice of appeal and the S.C.SUPREME COURT IN ***Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004,*** has ruled that the ways, process, and procedure Lynd used in filing the motions and appeal was correct. The facts still exist that the order was never entered, only a form 4, but no actual order or opinion to show grounds or cause, the entry date itself would exist.

All 3 parties are soundly defeated on the facts, and this campaign to try and twist facts and throw out dates and motions, and rulings; all to try and overwhelm an already heavily burned court in the hopes of getting a ruling based on their being atty's and Lynd pro-se. All 3 of the defendants make the same complaint assuming the court will just take their word for it as attorneys to clear the docket.

The facts are all 3 parties have to do this! and pray because they cannot win on the facts of the case and know the appeal will be granted, and a trial would also will be found in Lynd's favor on the facts and statutes.

I.O.P. cannot defeat the facts that are undisputed:

They impounded the stolen jet Skies,

Failed to follow statutory procedure for notice, to the rightful, and titled owner.

Failed on over a dozen statutory requirements for certified notice to Lynd,

Claimed to have the jet skis destroyed, but cannot produce any records on that fact,

Not any of the statutory requirements required to sell, transfer, or destroy titled property were meet or even attempted.

Under the statute I.O.P., just due to the failure to notify Lynd by certified mail so he could retrieve his property, **has committed conversion, that is the statutory remedy for their conduct**. In other words they stole them. Not to mention the fraud in altering the file.

I.O.P. police through its Chief of police Buchannan , and Caldwell, too include her immediate superiors, upon discovering Lynd had discovered their impounding of the skies; then knowingly and intentionally altered the files to show a false destruction, false value, and false notification. **All of which was disproved, and subsequently admitted to by Caldwell under oath in 3 sworn statements**

**Sled was involved** when Chief Buchannan claims the case was turned over to them for investigation. It is clear fact to all, the file was generated to cover for I.O.P. **and no investigation was ever done. This is crystal clear by SLEDS own investigative file;**

They never checked the statutory requirements I.O.P. had to follow to dispose of or return tile property.

SLEDS own file shows Caldwell **ADMITTED TO THE ACTS UNDER OATH!** But SLED ruled no wrong doing, HOW?

Sled claims to have completed a thorough investigation, but never once contacting Lynd after taking Caldwell's statement, a statement were she confessed.

SLED cannot defeat these facts! The file was obtained from SLED by Lynd under the FIOA and cannot be amended or altered like the IOP file was. SLEDS own file has the admissions under oath, shows no other attempts to investigate further, and no action taken.

**All the FACTS for both IOP and SLED are UNDISPUTED!!** And cannot be overcome on the merits, in a case, or an appeal. So we are bombarded with these frivolous motions to to create some technical issue were one doesn't exist, or hoping for a courtesy ruling as attorneys, hoping the issue is just briefly glanced over.

EITHER WAY THEY DENIED Lynd his property, reimbursement, civil rights, etc. and therein lies the reason for this bombardment of claims of technical or misfiled errors.

The funny part is they never mention that **Lynd was represented by counsel during trial and the start of this appeal.** Ineffective assistance of counsel prevails on any errors done by Counsel and officer of the S.C. courts. Lynd has included those precedents set by the S.C. Supreme court.

Lynd made numerous attempts to start the appeal, filed a timely notice of appeal, **and made a clear and concise Good faith effort under the rules** and has perfected a timely appeal on all parties and all matters in the cause of action.

> **US v. Peak, 992 F. 2d 39 - Court of Appeals, 4th Circuit 1993**
>
> In its answer, the government conceded that "*failure to file a notice of appeal when so instructed by the client constitutes ineffective assistance of counsel for purposes of § 2255.*" (emphasis added). In a supplemental memorandum, the government reported that it had been unable to locate attorney Brown to see whether he could contradict Peak's representation that he had requested the filing of a notice of appeal. Accordingly, said the government, "the court should grant whatever relief it deems necessary in this case under the circumstances."
>
> However effective or ineffective Peak's counsel was before the judgment of conviction, **his failure to file the requested appeal deprived Peak of the assistance of counsel on direct appeal altogether.**
>
> We touched on this issue in *Becton v. Barnett*, 920 F.2d 1190 (4th Cir.1990). In remanding a dismissed ineffectiveness claim based, in part, **on a failure to file a notice of appeal,** we said (920 F.2d at 1195):
>
> **The effect of counsel's failure to appeal was that Becton lost his ability to protect his "vital interests at stake**." *See Evitts [v. Lucey],* 469 U.S. [387] at 396, 105 S.Ct. [830] at 836 [1985]. He was unable to attempt to demonstrate that his conviction was unlawful through the appellate process. *See id.* For whatever reason, Becton's appeal was not filed. As a result, Becton might well have been prejudiced by his counsel's ineffective

assistance. Therefore, Becton has presented a colorable claim of ineffectiveness based on counsel's failure to appeal.

In *Becton,* there was a potential factual dispute as to whether the petitioner had actually requested his attorney to file the notice of appeal. Hence, we simply remanded for an evidentiary hearing. If *Becton* left any doubt as to the showing required of petitioners raising this type of claim, we dispel it today: we join those circuits that hold that a criminal defense attorney's failure to file a notice of appeal when requested by his client deprives the defendant of his Sixth Amendment right to the assistance of counsel, notwithstanding that the lost appeal may not have had a reasonable probability of success.

The judgment is reversed, and the case is remanded with instructions to vacate Peak's judgment of conviction and enter a new judgment from which an appeal can be taken. *See Estes,* 883 F.2d at 649.

**Becton v. Barnett, 920 F. 2d 1190 - Court of Appeals, 4th Circuit 1990**

Although Becton did not give notice of appeal at the trial, he alleged in this petition that he contacted counsel three days 1192*1192 after the trial to ask counsel to appeal. **He alleged further that counsel assured him that there was still time to appeal as the ten day period for appeal had not yet run. However, no appeal was ever filed.**

Therefore, the ultimate conclusion of a state or federal court that counsel was effective is not binding upon a court reviewing the issue. *Hyman v. Aiken,* 824 F.2d 1405, 1412 (4th Cir.1987); *Lee v. Hopper,* 499 F.2d 456 (5th Cir.), *cert. denied,* 419 U.S. 1053, 95 S.Ct. 633, 42 L.Ed.2d 650 (1974). As a reviewing court, it is proper for us to address the ineffectiveness claims anew, regardless of the findings of the district court.

Becton alleged that counsel was ineffective for a second reason: failure to appeal. In North Carolina, persons convicted of a criminal charge on a plea of not guilty are entitled to appeal the adverse judgment as a matter of right. N.C.Gen.Stat. § 15A-1444(a) (1988). **In order for the appeal as of right to be adjudicated in accord with due process of law, the appellant must have the effective assistance of counsel. *Evitts v. Lucey,* 469 U.S. 387, 396, 105 S.Ct. 830, 836, 83 L.Ed.2d 821 (1985).**

*Turner v. North Carolina* is another case involving ineffectiveness regarding appeal. 412 F.2d 486 (4th Cir.1969). There, counsel gave oral notice to the court of his desire to appeal at defendant's request. However, counsel never took any further action in connection with the appeal. This court stated that after conviction,

***when time is an important factor in obtaining appellate review, no one is in better position to insure the indigent defendant of the appeal which he has requested than counsel who has represented him at trial.***

After desire to take an appeal is shown by an indigent defendant the very least which counsel must do is inform the defendant of his right to appeal without cost; of the need for a transcript of the 1195*1195 trial proceedings; and of the availability of this transcript without cost. If at this time appointed trial counsel decides that he cannot or will not continue to represent the defendant he must so inform the defendant, in addition to informing him of his right to appointment of other counsel, and of the procedure through which the trial transcript and appeal may be obtained if assistance of counsel is not desired.

*Id.* at 489. This court held that petitioner was denied his right to assistance of counsel due to the inaction and neglect of his attorney. *Id.*

Counsel candidly admitted that he cannot remember whether or not he advised Becton of his right to appeal.

The district court stated that it could not say that the failure to appeal resulted in a different outcome. However, this court should properly address the issue of ineffectiveness of counsel anew because it is a mixed question of law and fact. *Strickland,* 466 U.S. at 698, 104 S.Ct. at 2070. Becton asserted that he asked his attorney to appeal. No affirmative evidence refutes that assertion other than counsel's general statement of his habit. Proper records of counsel might have cleared up this issue; however, none were presented.

**US v. Poindexter, 492 F. 3d 263 - Court of Appeals, 4th Circuit 2007**

In preparation for the appellate phase of the case, an attorney in an appeal waiver case still owes important duties to the defendant. First and foremost, the attorney, as recognized in *Flores-Ortega,* **has the duty to respect the appellate wishes of his client by filing a timely notice of appeal if he is unequivocally instructed to do so.** 528 U.S. at 476, 120 S.Ct. 1029. Second, as further recognized in *Flores-Ortega,* even if his client does not express (or clearly express) a desire to appeal, the attorney may be required to file a timely notice of appeal after appropriate consultation with the his client. *Id.* at 478.[5]

If a notice of appeal is ultimately filed, an attorney has yet other duties owing to his client. These duties include examining the trial record and identifying and weighing potential issues for appeal. If the appropriate review reveals a meritorious issue for appeal, the attorney is ethically required to prepare a brief on the merits and argue the appeal. If the appropriate review reveals only frivolous issues, the attorney can file a brief in accordance with *Anders v. California,* 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).[6]

**Our decision today is consistent with the four United States Courts of Appeal that have concluded that an attorney renders constitutionally ineffective assistance of counsel if he fails to follow his client's unequivocal instruction to file a notice of appeal**. *See Sandoval-Lopez, 409 F.3d at 1195-99 "But even though no one would think a doctor incompetent for refusing to perform unwise and dangerous surgery, the law is*

*that "**a lawyer who disregards specific instructions from the defendant to file a notice of appeal acts in a manner that is professionally unreasonable.**"[18] Indeed, in Peguero v. United States,[19] the Supreme Court summarized its previous holding in Rodriquez v. United States[20] as "when counsel fails to file a requested appeal, a defendant is entitled to resentencing and to an appeal without showing that his appeal would likely have had merit."[*

**In sum, we hold that an attorney is required to file a notice of appeal when unequivocally instructed to do so by his client,**

**Hill v. Braxton, 277 F. 3d 701 - Court of Appeals, 4th Circuit 2002**

The court's "exercise of ... discretion should not be automatic, but must in every case be informed by those factors relevant to balancing the federal interests in comity and judicial economy against the petitioner's substantial interest in justice." Yeatts, 166 F.3d at 262

second, notice and an opportunity to respond are particularly appropriate when the prisoner is *pro se,* like Hill, and the long-standing practice is to construe *pro se* pleadings liberally. *See* Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972) (per curiam). A seasoned habeas practitioner might try to preempt an anticipated statute of limitations defense by including facts to show that the petition is timely. A *pro se* prisoner, however, is generally less able to anticipate affirmative defenses. This problem was made worse in Hill's case because, as a *pro se* § 2254 petitioner, Hill was required to use a standard government form that did not direct him to address the timeliness issue or ask him to include facts that might be outside of the record but relevant to timeliness under § 2244(d). *See* Acosta, 221 F.3d at 125

THIS IS ALL BLATANT, error and cover-up, and is shameful for police and state agencies to attempt it, much less get away with it. **They are asking this Court Of Appeals to jump in and do the same as they have,** ignore the facts and just make it go away. The COA can see the admission, the altered files, and the statutes, this is clear civil rights viuolation, conversion of titled property, malfeasance and fraud, and the COA should read the admissions,

the lack of certified notice, and enter a declaratory judgment in favor of Lynd on the conversion, fraud, and civil rights violations.

This is the exact thing the public is in uproar over, and protesting in the streets. A police department errs and is caught at it, the dept., and multiple officers involved, attempt to alter the records to cover their error, The state agency SLED, duty bound to protect Lynd's rights, basically ignores it and covers it up without taking any action, claiming they ( IOP ) did nothing wrong. **But the facts and multiple statutes clearly show they did**. **This is why the defendants are on a campaign through this entire case, trial and appeal, too manufacture or imply technical error to avoid facing the facts of the case.**

Take note, the facts and admissions are undisputed! Yet; not a single party or Counsel for the **parties had enough integrity to admit they, are their client was wrong**. Clearly shows without question their total lack of honesty, morals and integrity. Which should shed light on the reason behind these frivolous motions.

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David scot Lynd

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dscotly@yahoo.com

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case#: 2016-002024

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

Kristi Harrington, Circuit Court Judge
Dennis Markley, Circuit Court Judge

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

Dawn Caldwell,
Individually and in her capacity as an Officer of the Isle of Palms Police Department

South Carolina Law Enforcement Division

PROOF OF SERVICE

I hereby certify that the above named partied were served this reply by **U.S.P.S. mail on 11-13-2017** to the address on file with the court shown below.

_____

David Lynd

Timothy Domin
126 Seven Farms Dr.,
Ste. 200
Charleston SC 29492

Dorsel, Christopher Thomas
3 Wesley Drive
Charleston SC 29407

Morrison, David Leon
7453 Irmo Dr.,
Ste. B
Columbia SC 29212

# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
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V. CLAIRE ALLEN
DEPUTY CLERK

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November 14, 2017

Lisa Randolph
203 West Carolina Street
Blacksburg SC 29702

Re: Lisa Randolph v. Dolgencorp (2)
Appellate Case No. 2016-001751

Dear Ms. Randolph:

Please provide a status update to this Court regarding the status of the Rule 59(e) SCRCP motion with the circuit court within 10 days of the date of this letter or your appeal will be dismissed. This is the second request.

Very truly yours,

CLERK

cc: Lee Ellen Bagley, Esquire
Regina Hollins Lewis, Esquire
Randi Lynn Roberts, Esquire