

BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

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SC Court of Appeals

Carmen T. Mullen, Circuit Court Judge

Case No. 2017-001017

Lynne Van House ,

Appellant

v.

Colleton County,

Respondent

INITIAL BRIEF OF APPELLANT

Lynne Van House
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Appellant (acting pro se)

TABLE OF CONTENTS
Cases, Statutes, Codes, Authorities, and Exhibits

CASES AND AUTHORITIES:

BESS v. BRACKEN COUNTY FISCAL COURT, 210 SW. 3d 177, 180 Ky (2006) pg. 23, 39

BRADY v. MARYLAND 373 U.S. 83 (1963) pg. 14, 24, 48

BRINEGAR v. UNITED STATES, 338 US 160 at 174 (1949) pg. 36

CANTWELL v. CONNECTICUT, 310 US 296 (1940) pg. 19

CITY OF CUYAHOGA FALLS v. BUCKEYE COMMUNITY HOPE FOUNDATION, 538 US 188 (2003)
pg. 27, 39

CITY OF DES PLAINES v. SCIENTIFIC MACHINE MOVERS, INC. 9 Ill. App. 3D 438, 292 NE,2d
154 (1972) pg. 32, 44

COOLIDGE v. NEW HAMPSHIRE, 403 US 443, 467, et al. (1971) pg. 19

COOPER v. AARON, 358 U.S. 1 (1958) .pg. 30

DAVIS A. WECHLER, 263 US 22, at 24 (1923) pg. 30, 31

ELDRIDGE v. MELCHER, Pa Superior Ct. 381,313A 2d 750 (1973) Ann, 97 ALR 374 (1935) pg. 33

FROST v. RAILROAD COMMISSION, 271, US 583 (46 S. Ct. 605, 70L.5d.1101) (1926) pg. 39

GIGLIO v. UNITED STATES, 405 U.S. 150, (1972) pg. 48

GAILBRAITH v. MONARCH GOLD DREDGING CO, 160 Or. 282, 84 P.2d 1110 (1938) pg. 32, 44

GRAN v. CITY OF ST. PAUL, 274 Minn. 220, 143 NW.2d 246 (1966) pg. 38

HALL v. BENEFIT ASSOCIATION OF RAILROAD EMPLOYEES, 164 S.C. 80, 161 SE. 868
(1932) pg. 32

HAYES v. EAGLE-PICHER INDUSTRIES, INC. 513 F.2d 892, 894 10th Circuit (1945) pg. 37, 44

KING CONSTRUCTION COMPANY v. MARY HELEN COAL CORP. 194 Ky. 435, 239 SW. 799
(1922) pg. 30, 42

KRISTI M. PERRY/SAN FRANCISCO v. CA GOVERNOR A.SCHWARZENEGGER, Opinion 10-16696,
9th Circuit. (2011) pg. 12, 21, 31

KYLES v. WHITLEY, 514 US 419, (1995) pg. 24, 48

LANIER v. STATE, 486 P.2d 981 (Alas. 1971) pg. 30

O'NEILL, ET AL / LOUISVILLE KENNEL CLUB v. JEFFERSON COUNTY METRO GOVERNMENT, ET AL, 42 USC (1983) pg. 26

MANNING v. WYMER, 273 Cal. App. 2D 519, 78 Cal. Rptr. 600 (1969) pg. 32, 44

MARBURY v. MADISON, 5th US (2 cranch) 137 (1803) pg. 30

MASS. CASU. INS. CO. v. FORMAN, 469 F.2d 259 5th Circuit (1972) pg. 32, 44

MILEWSKI v. ROFLAN CO, 195 F. Supp. 68 D. Mass. (1961) pg. 32, 44

MILLER v. UNITED STATES, 230 f. 2d 486 Cal 192 (1958) pg. 13

MILLER v. MUELLER, 28 Md. App. 141, 343 A 2d 922 (1975) pg. 34

MIRANDA v. ARIZONA, 384 US 486 (1966) pg. 30

MONTGOMERY v. GOLDSTEIN, 109 Or. 497, 220 P 65, 567 (1923) pg. 31, 33

MIXON v. STATE OF OHIO, 193 F. 3d 389-400 , 6th Circuit (1999) pg. 22

MUNN v. PEOPLE OF ILLINOIS, FIELD, J. 94 US 113 (1876-1900) pg. 22

MURDOCK v. PENNSYLVANIA, 319 US 105 (1943) pg. 27

RODRIGUEZ v. UNITED STATES, 575 US. (2015) pg. 15

SEIBERT v. SEVERINO, 256 F.3d 648, 660 7TH CIRCUIT (2001) PG. 21

SHERAR v. CULLEN, 481, F2d. 945 (1973) pg. 34, 39

STATE v. HUGHES, 22 Ariz. App. 19, 522 P2d 780 (1974) pg. 44

STOKES v. SPARTANBURG REG'L MED. CNTR., 368 SC 515,522, 629 S.E. 2d 675, 679 (Ct, App. 2006) pg. 23

SOUTHERN PACIFIC TRANSPORTATION CO. v. PUBLIC UTILITIES COMMISSION, 18 Cal. 3D 309, (1976) pg. 13, 17, 41

THORNTON v. KELLY, 11 R.I. 501,161 SE at 202, Page 28; at 868, (2010) pg. 34, 38

TRUPIANO v. UNITED STATES, 344 US 699 (68 S.Ct. 1229, 92 L.Ed (1948) pg. 8

UNITED STATES VS ADAMS, 422 F.2d 575 (10th Circuit, (1970) pg. 44

UNITED STATES v. AGURS, 75-491, (1976) pg. 24, 48

UNITED STATES VS BEEBE, 180 US 343, 352 (1901) pg. 31

UNITED STATES v. CRAVERO, 530 F. 2d 666 , 5th Circuit (1976) pg. 44

WAESCHLE v. DRAGOVIC, 576 F3d. 539, 544 (6TH Circuit 2009) pg. 16, 21

WILSON v. EDDY, 2 Cal. Rptr. 826 (1969) pg. 35

WINTERS v. COOK, 489 F.2d 174, 178 (5th Circuit, 1973) pg. 36

YICK VO v. HOPKINS, SHERIFF, 118 US 356 (1886) pg. 40

UNITED STATES CONSTITUTION AMENDMENTS, BILL OF RIGHTS:

Amendment 4—“right to be secure against unreasonable searches and seizures” pg. 8, 9, 13, 14, 15, 19

Amendment 5—“depriving of property without due process, or selling without compensation”
Pg. 15, 16, 22, 23

Amendment 6—“right to confront witnesses and assess evidence against him” pg. 8, 9

Amendment 8—“no excessive bail, fines, or cruel or unusual punishment” pg. 22

SOUTH CAROLINA CONSTITUTION--DECLARATION OF RIGHTS:

Article 1, Section 10 “Searches, seizures, invasions of privacy” pg. 9, 13, 14, 15, 19

Article 1, Section 13 “Taking of personal property for sale to another” pg. 10

Article 1, Section 14 “Nature of accusation, confronting witnesses” pg. 8

Article 7, Section 16 “Libel” pg. 27

SOUTH CAROLINA RULES OF CIVIL PROCEDURE:

Rule 41.1 SCRPC	“Rules and agreements” pg. 45
Rule 41-2(b) SCRPC	“Dismiss case for lack of timely prosecution” pg. 37
Rule 43 (k) SCRPC	“Agreements written and signed by <u>both</u> parties” pg. 3, 45
Rule 5 (a) SCRPC	“papers must be served on <u>all</u> parties” pg. 46
Rule 75 SCRPC	“papers served to all parties that record has been filed” pg. 4

SOUTH CAROLINA CODE OF LAWS:

Section 16-5-10	“Conspiracy against civil rights” pg. 36, 37
Section 16-5-60	“Suits against County for damages” pg. 38
Section 16-11-510(a)	“Animals are property” pg. 9, 13, 22
Section 16-11-600	“Entry onto another's pasture or other lands” pg. 8, 10
Section 16-11-640	“unlawful entry into enclosed places” pg. 18
Section 16-11-650	“Removing, destroying, or leaving down fences” pg. 19
Section 16-7-150	“Slander and libel” pg. 27, 28
Section 17-13-140	“Warrants and seizures” pg. 15, 26
Section 17-13-141	“Keeping records of warrants and affidavits” pg. 15
Section 17-13-150	“Receiving affidavit and warrant” pg. 15
Section 47-1-40	“First offense is a misdemeanor” pg. 11, 23
Section 47-4-20	“Private property breeding livestock” pg. 12
Section 47-3-940	“Disabling of a service animal” pg. 40
Section 47-3-950	“Wrongfully obtain, intent to deprive” of a service animal pg. 40

*Definition of: Spoliation of evidence; pg. 23

UNITED STATES CODE OF LAWS:

Title 18, Section 241, 242 “Conspiracy under color of law” pg. 9, 16, 17, 21, 24
Title 42, Section 1983 “Civil action for deprivation of rights” pg. 16
Title 42, Section 1985 “Conspiracy to interfere with civil rights” pg. 36

COLLETON COUNTY ORDINANCES:

6-04-10 “Companion animal hoarder” description pg. 35
6-04-50 “contracted” animal activists pg. 16
6-24-10 “Personal property animals are livestock, not companions” pg. 9, 13, 22

APPELLANT EXHIBITS:

AC# 1—copies of 9 original misdemeanor citations—2 written for 4 PM on the 13th, and correct—other 7 written as though they were done at 5:30 on the 16th—which is wrong. All were written on the 13th. pg. 11

AC# 2---County Statute about ill-treatment of animals. (47-1-40) Using the actual statute as they did for the charges issued against me, the criminal warrants should never have been issued, as this was a first offense in the County's records—and should have been misdemeanors as my background check lists- pg. 11, 23

AC# 3 and AC# 4—*Plaintiff's Exhibit #9*--consisting of 3 pages each-with show standard's pictures and descriptions by breed and a complete listing, by matching breed—of all of the actual weights and vital signs of each dog seized, on May 16, 2016, listed by the County's assigned number. And *garnered from Plaintiff's Exhibit #9* pg. 14, 23, 28, 38, 50

AC# 5---2 Coastal Coop Electric Co. bills—showing the different addresses of my trailer, and my dog pens. (only one animal seized from my trailer at 19897) pg. 15

AC# 6---Colleton County Animal Control Enforcement Statutes—highlighted with both the actual law in yellow, and what was done to me in pink. Pg. 2, 15, 16

AC# 7---listing of dogs seized, and probable replacements over the next 10 years—with a *low* evaluation of the possible value lost by the seizure of my animals. pg. 49

AC# 8---Hand written receipt by Ms. Taylor indicating return of *one* of my carrying crates, after I complained in open court of their taking several without authorization and while *not* listed anywhere as taken. Pg. 20

AC# 9---copy of landing page for my kennel web site—showing completely *closed* status for many years. Pg. 20

AC# 10—Article: “titer tests and avoiding over-vaccination.” Pg. 21, 26

AC# 11---Article about healthy breeding animals “rescued” from a kennel in Missouri, and shipped to California for immediate adoption. Pg. 23

AC# 12---Color copy of the Purina “body Condition” chart, which was claimed as the basis for their condition diagnosis—Respondent’s (Plaintiff’s) Exhibit # 7.

AC# 13---three pictures of obese dogs advertising well-known companies—apparently thinking they were in good condition.

AC# 14---Article titled “Animal Shelter Fraud” exposing SPCA, HSUS, and “animal welfare” fraud. Pg. 28

AC# 15---Article titled “Animal Control Terrorists” exposing armed invasions, seizure, and death of pets by activists. Pg. 28

AC# 16---Article titled: Dept. Of Homeland Security-Eco-terrorism Report—assessment of Animal and Environment Activist activity. Pg. 28

AC# 17---Article titled “FBI top Terrorists: ALF and ELF” including HSUS and PETA expose’.

AC# 18---Article: “Your dog’s Best Friend May Be His Attorney” discussing illegal confiscation and Impoundment of privately owned animals. Pg. 28

AC# 19---.Article from Press & Standard newspaper on line—Ms. Taylor asserting on June 8, 2016 that she had “recently talked” to me, and I agreed to “surrender” my animals. Pg. 38

AC# 20--- Copy of letter from Attorney. S. Thornton, envelope dated June 28, asserting that the County could not comply with Judge Duffie’s requirement to keep all the dogs intact until the July 21 hearing. pg. 2, 37, 39

AC# 21---My statement that was to be read by Mr. Sapp at the May 31, 2016 hearing titled: “My Defense at The Seizure Hearing.” (Defendant’s (Appellant’s) Exhibit #23) pg. 31

AC# 22---Full copy of Appellant’s actual criminal background check which lists ONLY misdemeanors, as should have been issued for a first offense charge, (and which appear to show that they have never been heard or cleared)

AC# 23—Article entitled “This Growing Movement Is Pitting Vets vs. Pet Owners” regarding Immunity against common diseases in pet animals, and using titers to guarantee it, rather than re-Vaccinate indiscriminately.

MAGISTRATE COURT “DEFENDANT/ APPELLANT” EXHIBITS

#1—Definition of the “Grandfather” clause pg. 8

#2--- Definition of criminal trespass in general pg. 8, 9

#5---US Constitution, 4th Amendment- Warrantless searches, surveillance, privacy. pg. 8, 9, 19

#6---US Constitution, 5th Amendment-due process, taking property for resale, incrimination. pg.

#7---Sixth Amendment –“Miranda” type rights, confront witnesses and evaluate evidence pg. 8, 9

#8---US Constitution 8th Amendment- No excessive bail pg.

#13A—“Collusion” US Code, Title 18-241 pg. 9

#13B---“Collusion” US Code, Title 18-242 pg. 9

#16--- Press and Standard newspaper article on-line about seizure_ pg. 8, 12, 22

#17---Schematic of my real property boundaries and features pg. 8, 16

#18---Overhead photo of my real property from Google Earth pg. 8, 16

#19---Benton’s feed sales and charged tickets-5+ month’s worth for my small-breed dogs. pg. 12

#20---My bill of sale for puppies, Two-part, with explanations on how I filled them out.

#21---Reviews from PuppyFind sales site on-line, many pages. pg.39

#22--“My Defense at the Seizure Hearing” statement-which was to have been read then, and wasn’t.

#24---photos of feed bins, vaccines in fridge, photos of surrounding signs on my property, at the road, and my mailbox, and “no trespassing” signs pg. 8, 12, 15

#25---Revival Animal Health orders over last 10 years pg. 12

#26---Landing page of my kennel web site, www.phoenix-kennel.com stating facility was completely closed to everyone, and why.

#27—list of dogs and cats seized during raid, by breed and name.

#28—Photo of dog seized that they used nylon rope on to muzzle, and rubbed raw sores and lost hair off her nose. This pic #28 taken on the Friday BEFORE the seizure, after their unwarranted search; but injured pics (from the shelter) were used to appear that I had done the damage.

#29-#30—two articles about animal enterprise terrorism—animal activism.

#31---Pet Business magazine article “Swept Away?” about animal activism killing the multi-billion dollar pet business in the US.

#32 & 33---articles about over-vaccination health problems--written by Vets. Pg. 21, 26

#34—Plaintiff’s Exhibit #1—e-mails *purporting* my surrender of all my animals just 1 day after they were ordered to wait until June 15 to allow due process. pg. 37

#35---Plaintiff’s Exhibit #4—Another e-mail *purporting* my surrender of all my animals, and holding out the arrest for criminal charges. pg. 37

#36---Copy of receipt for \$500 I paid Mr. Sapp to defend my right to keep all my dogs. pg. 29

ARGUMENT NO. 1
(Synopsis and questions of law)

Both the Respondents and Mr. McNeil's original complainant did commit several well-documented acts of Invasion of Privacy; Unwarranted Surveillance; and Criminal Trespass prior to either Search Warrant being issued.

The first Search/Seizure warrant was issued based on the unlawfully obtained evidence garnered on the unwarranted search carried out by the Animal Control officers on Friday 13, 2016.

Both seizure warrants were issued to the wrong address, neither were signed by the Appellant, the Appellant was given a copy of only one of the Warrants when served, and neither of the Affirmation Affidavit as required.

Much collateral damage to Appellant's personal property and goods resulted, and much of the property actually seized was never listed on either warrant.

QUESTION 1:

Did Judges Duffie and Campbell, who signed the two warrants in question—ERR in signing them; due to the quality and legality of the potential evidence used in procuring them?

QUESTION 2:

Should Respondents be barred from using any potential evidence seized; due to the unlawful methods used in obtaining it?

QUESTION 3:

Should any potential evidence to be presented by the Respondents be suppressed or expunged, and the warrants issued be vacated; and declared null, void, and moot; due to the potential evidence's quality, legality, and methods used to obtain it?

QUESTION 4:

Should Appellant be entitled to suitable restitution for the damaged goods and irreplaceable life's work, re: her personal property livestock and the value of it's future progeny?

ARGUMENT NO. 2
(SYNOPSIS AND QUESTIONS OF LAW)

Appellant's then-attorney Mr. Sapp was hired only *after* the seizure of her personal property livestock and goods, in order to specifically effect their return intact. Although Respondents were Ordered by Judge Duffie, in his May 31, 2016 decision, to keep all of the property intact as evidence until the next court date of June 21, 2016, neither Mr. Sapp nor Respondents did so. Instead, all of Appellant's animals were surrendered to local County officials and animal shelters the very next day—June 1, violating (AC#6) *Colleton County Animal Control Statute Section 6.04.050* and Judge Duffie's Order.

The now-Attorney of record for Respondents, Mr. Thornton, also reported violation of this order while some of Appellant's animals were still in Respondent's possession. Mr. Thornton's undated letter postmarked June 28, 2016 (AC #20) states that 22 animals were still in the Hilton Head shelter, and that those would be held intact until the July 21 Hearing. They were NOT. When the July hearing convened, Mr. Bennett, who became the then-attorney of record for the Respondents at that time; simply informed the court and the Appellant that "*all the animals had been adopted out or disposed of*". (per Mag. Ct. Audio)

Question 1:

Did Magistrate Court Judge Duffie ERR by Affirming the Respondent's belated request to allow the keeping and selling of the Appellant's seized private property after the discovery that his Order had been violated, and that the Appellant knew nothing of this agreement?

Question 2:

Should the Order affirming this action be vacated and be declared null, void, and moot?

ARGUMENT NO. 3
(Synopsis and Questions of Law)

Magistrate Court Judge Duffie signed Mr. Bennett's proposed Order as written, and used it to deny all three of Appellant's Motions, focusing on only ONE aspect of the case, Rule 43(k), since my animals were, indeed, gone by this time, and the "agreement" had already been "carried into effect"; inasmuch as Appellant's then-attorney Mr. Sapp had already surrendered all of Appellant's animals (without her knowledge or consent) on June 1, 2016. However, Mr. Sapp had been hired AFTER the seizure of Appellant's personal property animals and goods.

In addition, the Amendment in 2009 to Rule 43(k) specifically states that : "The amendment to Rule 43(k) provides a settlement agreement is also binding if the agreement is reduced to writing and signed by the parties and their counsel." Appellant did not know about the agreement, and did not sign them over or surrender them.

Mr. Sapp never worked in defense of Appellant's best interests; as designated to him by Appellant's clearly stated goals of retrieving all of her breeding animals intact and undamaged. His (Mag. Ct. audio) comments made under oath, as well as his several actions leading up to his surrendering of them immediately after being ordered by Judge Duffie to have them kept intact at the shelter— indicate that none of these actions were aimed at retrieving Appellant's animals and goods.

Question 1:

Did Judge Duffie ERR by signing the Order, written by the County's then-attorney, which appeared to allow Appellant's defense attorney the power to surrender Appellant's property without her knowledge or consent?

Question 2:

Should the Order denying all three of Appellant's Motions be vacated, and declared null, void, and moot?

ARGUMENT NO. 4
(SYNOPSIS AND QUESTIONS OF LAW)

Appellant's Motion to Reverse the Order made by Judge Duffie in Magistrate Court denying all three of Appellant's Motions was promulgated on the facts that:

- 1) Judge Duffie never made sure that Appellant got a copy of his Answer to Appellant's Appeal at all. *(Rules 75 and 18 SCRCRCP ... "shall send notice to all parties that the record has been received... and the return has been filed")*
- 2) Judge Duffie's clerk claimed as "proof of service" a yellow "sticky note" on the front of the Common Pleas Clerk's copy Claiming *"I brought this return and file to Common Plea on 11-10-16 and gave it to Polly...Ms. Pam" . This date is 4 days earlier than the actual time and date stamp of 11-14-16 at 8:57 AM as noted by the Common Pleas Clerk.*
- 3) Although the letter to Judge Buckner from Judge Duffie, requesting an extension to file his Answer, was entered into the file in Common Pleas Court on 11-15-16, Appellant never received a copy of Judge Buckner's agreement to allow the extension, as instructed in the letter to Judge Duffie. This further confused the issue and greatly increased the difficulty by Plaintiff to determine what was actually in Judge Duffie's Answer, and when and if the Common Pleas Court had ever actually received it.

QUESTION 1: Did Judge Mullen ERR by allowing this irregular and questionable court procedure to stand, and denying Appellant's suggested Motion of Reversal; While offering no alternative modifications or sanctions for these actions?

STATEMENT OF THE CASE:

Appellant's Appeal to the Appeals Court is set up in a narrative form, essentially like an oral Argument; with time/date listings, and citations of law and exhibits listings inserted where appropriate in the argument. The Motions that were appealed to Common Pleas Court were: 1) to rescind the search warrants that were signed by Magistrates Duffie and Campbell while based on information garnered by alleged illegal and unlawful invasion of privacy and trespassing; 2) To rescind the alleged "probable cause" to have removed Appellant's animals from her property as authorized by Appellant's special attorney, but never agreed to by Appellant; 3) to declare a Mistrial, because all the facts from both sides were not heard or presented in court before the Order was signed, and Appellant was not allowed to cross-examine Plaintiff's witnesses nor object to any of the evidence submitted before that order stopped the proceedings; and based on several inappropriate and personally abusive remarks by Respondent's just-appointed attorney Mr. Bennett against the Appellant. 4) To have those Orders reversed because of multiple errors of court procedure as alleged in this Motion and in oral argument in Common Pleas Court, and as part of this Motion, a demand for a Compel to Produce Evidence referencing Motions for Discovery introduced three times before, the last with the Appeal to Common Pleas Court.

The original case was appealed timely with fee paid, to the Court of Common Pleas on September 21, 2016 because of the Order issued by Judge Duffie from Magistrate's Court denying all three of Appellant's Motions as presented, before her cross-examination and objections and most of the County's evidence, was presented for hearing.

When notified of this Appeal, Judge Duffie prepared an Answer, but requested of Judge Buckner an extension to complete the Answer, as the actual court sessions covered over 10 hours of testimony. This request was granted with a letter to Judge Duffie, with the extension to be until November 15, 2016. Although Judge Buckner ordered Judge Duffie to make Appellant aware of this extension, this was not done, and Appellant was never sent a copy of the Answer from the Magistrate Court.

Appellant attempted to determine in several ways what this Answer contained, but was not given a copy of it before the first Hearing date of November 17, 2016. At that Hearing, Judge Buckner had to leave early because of a funeral he needed to attend—so this case did not come before him on that day. When Appellant attempted to discuss her lack of a copy of the Answer with Respondent's attorney, Mr. Thornton, she was told that she could “probably get a copy from the clerk.” When Appellant responded that that solution would have done her no good for this Hearing, if it had come off—and asked if he knew why she'd not gotten a copy of Judge Duffie's Answer—Mr. Thornton replied that “nobody ever pays any attention to pro se claimants anyway.” Appellant's Motion to Reverse was filed with the Common Pleas clerk on that day; and Appellant also requested a Compel to Produce Evidence from the Motion of Discovery filed with the original Appeal to Common Pleas.

At the next scheduled Hearing date, November 28, 2016, Mr. Thornton broke in to Appellant's request to have her second Motion heard first because of time constraints; with comments that they were frivolous claims, and the Court should disregard what I wanted. I had no choice except to request a Continuation, in order to have the time needed to attempt to have my Motions properly heard; which was granted by Judge Buckner.

This Hearing was then Continued to February 8, 2017—changed by the court from February 6. The docket was too full, and it was continued by the court to March 17, 2017.

This Hearing before Judge Mullen was held off until Appellant was the last case in the Courtroom. Appellant was given some time to discuss the second Motion as to Reversal of the Motions from Magistrate Court first, as requested, and the clerical errors she alleged, and was told that that would be considered in a bit, but that Judge Mullen needed to read the Appeal to Common Pleas Court now, as she knew nothing about it. After several minutes of reading on her computer, Judge Mullen then asked Appellant exactly why she had appealed. A few minutes into Appellant's narrative of the case under appeal, and after a few comments by Mr. Thornton relative to why he thought she was still fighting this

case; Judge Mullen said she needed to take this “under advisement” and adjourned the Court subject to her Judgement; which would be issued later.

On March 22, 2017, Judge Mullen issued her Judgements; Appellant received her copy on March 25, 2017 by mail. All that was said was that both were “respectfully denied;” The main Appeal was because there were “no errors of law?” made in Magistrate's Court, and the shorter Reversal Motion simply respectfully denied with no explanation: with no citations of law, no arguments to refute Appellant's; no explanations of any kind.

This is then brought forward to this Appeal to the Appeals Court. Appellant is appealing all the judgments and orders of both courts, as none of them ever addressed by citation, argument, or opinion, or by countering Appellant's citations; why her personal property was seized and sold without due process of law; exactly what Appellant was actually charged with that ended by her extremely valuable property being arbitrarily seized and sold without restitution; if those original charges in Magistrate's Court were dropped, why is her personal property gone with no restitution; and finally; who actually did the original invasion of privacy and criminal trespass (in Appellant's surveilled absence) in order to gather supposed evidence of whatever crime she was alleged to have committed? Appellant's arguments are arranged numerically, and narrative statements, time line, and evidence are all attached by number of argument in order. In addition, several Exhibits have been developed primarily from the County's Exhibits that Appellant was able to procure, which actually show that her animals were not being poorly cared for, and were not in any danger whatsoever; but were likely taken simply because the participants were unwilling to accept her on-going breeding of her animals; and to be able to sell valuable animals and assist local animal shelters to boost their budgets, with little extra expense and (up to this point) no resistance to their taking and selling of private citizen's personal property being made. These extra exhibits developed from testimony in Magistrate Court are noted by AC (Appeals Court) # whatever...An example (AC #1) because *no evidence/ Discovery* was given.

ARGUMENT NO. 1
(BACKGROUND AND CITATIONS OF LAW)

The Respondents and the original complainant committed several well documented acts of invasion of privacy, criminal trespass, unwarranted surveillance, and collusion; in order to obtain the unlawful warrants to seize my personal property animals and dispose of them without due process of law. I was told by the Magistrate Court clerk there was no transcript available—although I did obtain a *thumb drive of the audio*. Testimony from that is notated as (*Mag. Ct. audio*)

SOMETIME PRIOR to May 13, 2016: A person who was said to be “known” by Mr. McNeil when I questioned him on both May 13 and May 16, 2016 but by May 19, was claimed to have been an “anonymous” phone call; was said in Mr. McNeil's Press Release to the Press and Standard newspaper (*Defendant's Exhibit #16*) to have entered my totally closed, completely *Private, Posted, and Grandfathered* property during a “walk in the woods.” (*Defendant's Exhibit #7--6th Amendment in regard to my right to “face” my accuser*) (*SC. Const. Art. 1, S. 14*) (*Defendant's Exhibit #5, U.S. Const. Amend. IV,)* (*Trupiano v. United States, 334 US 699(68 Ct.1229, 92 L. Ed. 1663 (1948) “Individual liberty depends on freedom from unreasonable invasion”*) (*Defendant's Exhibit #2 “warrantless searches are presumed to be violating the 4th Amendment”*) (*Defendant's Exhibit #1 “a legal provision that a business or enterprise is exempt from a new rule, regulation, or law that would affect rights previously held”*) None of my personal property is visible from anywhere around the perimeter of my real property, or even from the air. (*Defendant's Exhibits #'s 17 and 18-Schematic and overhead photo*) including all buildings, livestock, and vehicles. What is obvious are the dozens of “No Trespassing” signs (*some of Defendant's Exhibit #24*) located closely all around the perimeter of my property (only 4 required by law-*SC Code 16-11-600*), and in *many* places in a second or third close layer surrounding several areas of the interior. During that “walk in the woods” this person passed at least 2-3, and probably up to a dozen of my “posted” signs in a concerted effort to actually see any of my personal property livestock. A report was apparently taken because of this complainant's statement

of finding “diseased and malnourished” animals “hidden in the woods”. (*Defendant's Exhibit # 16 and #7*) SC Trespass law claims all real property is private—and it becomes Criminal Trespass when the trespasser(s) are aware that they are not on their own property; are notified that the owner does not wish anybody to come onto it, and the trespass is carried out anyway. (*SC Code 16-11-510, and Defendant's Exhibit #2.*)

A LATER TIME-FRAME THAN ABOVE—PRIOR to May 13, 2016: Several unmarked vehicles started following me, apparently timing my comings and goings. *This surveillance and entry was described in detail in Magistrate Court under oath and no one made any objection, nor questioned, nor denied that any of these practices were used against me, thus violating my privacy rights and sense of personal safety and security. (SC Const. Art.1, S. 10) (U.S. Const. Amend. 4-Defendant's Exhibit #5)*

FRIDAY MAY 13, 2016. 1:45 PM: I left out of my latched gate to head into town to administer meds to my son. A Black pickup with blacked out windows literally skidded into the ditch across the road getting stopped; apparently to watch which way I turned, and there was a small SUV, parked at the outside corner of Sidney’s Road that pulled in directly behind me, and followed me to my son’s place.

FRIDAY MAY 13, 2016 APPROX. 4:10 PM: I left my son's apartment and started back home. At the fork, what appeared to be the same small SUV fell in behind me and followed me out toward my place. When I got there, the whole sky was lit up with flashing Blue lights directly in front of my property. I pulled into the ditch past my driveway. *I was refused access to my property.*

FRIDAY MAY 13, 2016 4:30 pm: I walked to my gate, and was stopped alongside a pickup where Mr. McNeil and three other Deputies were standing. Mr. McNeil said he had “*some questions*” for me. He “*introduced*” all of them so hurriedly that I didn't catch any of the names except his—but when I asked for cards or a slower or louder name recitation (I'm slightly hard of hearing); I was told by Officer Spears that if I continued to “*obstruct*” them in their “*investigation*” it would “*go harder*” on me. (*Defendant's Exhibit # 13 & 14 --US Code Title 18, S. 241, 242 concerning collusion, and the taking of personal property for use or sale to another, under (SC Const. Art 1, S. 13)* Mr. McNeil then asked me

if I was Lynne Van House; I said I was. He asked if I lived “there” indicating an area behind my gate; I said I did. He asked me if I owned “the dogs that are back there”. I then stated that I *did* own dogs which were kenneled on my Private, Grandfathered, Posted property, but asked why he was asking the questions. Mr. McNeil said he had had a “*complaint.*” I asked Mr. McNeil *who* complained, and was told that he “*knew*” who it was, but that he did not have to tell me except in “*court*”. Mr. McNeil then asked me to “*escort*” them down to “*where the dogs were*” to “*explain*” some things they had “*observed.*” I told him that they had already trespassed onto my private property, invaded my peace and privacy, and apparently trampled all over knowing I was *not* there—and would not.

(SC Code 16-11-600): “Every entry upon the lands of another where any horse, mule, cow, hog or any other livestock is pastured, or any other lands of another, after notice from the owner or tenant prohibiting such entry, shall be a misdemeanor...” When any owner or tenant of any lands shall post a notice in four conspicuous places on the borders of such land prohibiting entry thereon, a proof of the posting shall be deemed and taken as notice conclusive against the person making entry, as aforesaid, for the purpose of trespassing.” Under oath in Magistrate Court, (from *Mag. Ct. audio*) Mr. McNeil admitted that he had seen several No Trespassing signs at my gate, and at least one in either direction from my gate, out at the road; but that he had “*walked around the gate on this little path*”(Mag. Ct. *audio*) to gain entry. I also asked him *why* he had ignored all those no trespassing signs—he replied that he felt that they meant that “*You had something to hide.*” (Mag. Ct. *audio*)

ANSWER to Common Pleas Court: Page 13, line 26: “McNeil testified that the No Trespassing signs did not prevent or apply to a law enforcement officer entering property for investigative purposes.”

(This and many subsequent actions by armed law enforcement concerns me greatly because of the apparent belief that the uniform should allow an officer of the court to simply plunder in a private citizen's life and property at any time, regardless of the privacy laws, because of a nebulous “suspicion” of some crime possibly having been committed, or an *opinion* the person may be “hiding” something.) Mr. McNeil said that he had called me “*sometime this morning*” about returning his call about “*this*”

but that I had not returned his call, and was apparently “*avoiding*” them. I told him that I’d been in my trailer nearly all morning—and had received *no* call from him. When I asked for a specific time, he would not say, nor was he willing to look at his phone to verify a time. I told them that I wanted them to leave immediately; but instead spent at least a half hour more being loomed over, threatened that “*It will go harder on you if you don’t “cooperate”*” and that they “*will come back and take all your dogs*” if I didn’t lead them all back down onto my property; but that if I did allow them back on my property (their words)—they “*might allow you to get back some of them.*” Tractor Supply sells vaccines for various species every day, and my Veterinarian, Dr. Buddy DeLoach of Walterboro has seen dozens of my puppies that I’ve docked tails on, and has never had anything negative to say about how it was done or the final result, and has always accepted my claims of what shots had been given when during my many visits for health certificates. While I was still standing *outside my own gate* that **Friday May 13**; Mr. McNeil wrote a couple of misdemeanor citations, for “animal care” and “rabies” then stepped out of the truck. Mr. McNeil clearly dated them 5/13/16 at 4 PM—which was the actual date and time they were written. Mr. Spears got in and wrote 7 more citations, while Mr. McNeil then cajoled me to allow them access to my property “willingly.” Mr. Spears dated 6 of his 7 citations as 5/16/16, at 5:30 PM, and left one undated, and overwrote one of the dates in an obvious attempt to *cover up their unwarranted* invasion of my property on the 13th. I was handed 9 misdemeanors (AC# 1). My criminal background check shows 10 misdemeanors for “ill treatment of animals” all of which are *unresolved* (after 18 months) The 10 listed on my background check are dated May 16, 2016 *not* May 13, when all the *original* ones were written *at my gate*. The original 9 were “cleared” per Mr. Bennett in (Mag. Ct. audio) The “criminal” warrants were listed as “ill treatment of animals” but (SC Code 47-1-40--*ill-treatment of animals generally*) specifies that a first offense is a misdemeanor, that it needs to be knowingly or intentionally done, and *does not apply* to accepted animal husbandry practices” (AC #2) **PLEASE NOTE:** These were not my companions (except for my Service Dog)—but my breeding livestock, producing puppies for sale. (SC code 47-4-20 as amended means all classes and breeds of

animals, domesticated or feral, raised for use, sale, or display.) My animals were not kept as pets, but as personal property breeding livestock, used to produce animals for sale, and their care requirements fell under accepted animal husbandry practices which I fully followed.

*(Defendant's Exhibit #16-Press Release-claims that I had not shown them any documentation—and then further states that there was “a lot of proving she has to do” in relation to what Mr. McNeil refused to let me bring out to show him.) I have since submitted as Exhibits the prior 10 years of orders from my primary vaccine and supply company Revival Animal Health, (Defendant's Exhibit #25) ; pictures of my feed bin with both adult and puppy feed inside; (some of Defendant's Exhibit #24) and 5+ months of feed purchases for cash and on credit from Benton Feed of Walterboro, (Defendant's Exhibit #19) (A better calculation of these pages reveals nearly a *ton of food* was bought in a bit over 5 months, for my mostly *toy breed* dogs); plus pictures of partially used boxes of vaccine vials in my fridge. (some of Defendant's Exhibit #24) **On Friday the 13th**, I asked Mr. McNeil if he had found any animals in danger or un-cared-for during his unwarranted invasion—he replied that he had not. The brunette officer *claimed* she'd seen a specific *one* without water, but other than that, *nobody* claimed to have seen any animals in “any danger”. I told them that I'd checked water and my pregnant girls at about 6 AM that day, and that all of them were fine then. The brunette officer *gaped*, and exclaimed “you have *pregnant* ones down there?” I replied that I bred them—and of course I did. (Kristi M. Perry/San Francisco v. CA Governor A. Schwarzenegger, Opinion 10-16696 9th Cir. (2011) “Moral disapproval is not an adequate basis to deprive men and women of their Constitutional rights.” I allege that animal “rights” activists may *not* legally impose *their* sense of morality on me or my use of my personal property. Finally, I said I needed them to stop blocking my driveway and leave. I drove down to the next driveway and waited until they dispersed; then drove back, went into my place, and latched the gate. By the next day, I had installed an actual *lock* on my gate, in place of the latch.*

PLEASE NOTE: that on **Monday the 16th**, well *prior* to the arrival of the first search warrant, Mr. Spears verbally threatened and attempted to intimidate me again about my needing to “allow” them to

access my property without a warrant. When he saw I had replaced the latch with a padlock, he glared at me, threw the chain back down, climbed over the side-wing, and entered my property on foot. I stopped him again about 50 feet down my driveway—and told him that he *could not enter* onto my posted property. Mr. Spears' response was: “*yeah, well, Walterboro Horse Auction and the Round O Hunt Club thought that way—and they were wrong too.*” (*Southern Pacific Transportation Co. v. Public Utilities Commission, 18 Cal., 3d 309 1976*) “*Obviously, administrative agencies, like police officers, must obey the Constitution and may not deprive persons of their Constitutional rights.*”

FRIDAY, MAY 13, 2016 5:30 PM. I checked messages when I got back in. The only message from Mr. McNeil was at **4:21 PM**—only *eight minutes* before I had pulled into the ditch by my gate. All he said was “*I need you to call me back*” and gave his cell phone number. The 4th Amendment says *I should be secure against “unreasonable searches” and the SC Constitution adds against “invasions of privacy”* as well, but they had already committed criminal trespass, and searched and invaded my privacy on the “*authority*” of a person who they admitted had committed the same crimes. The claim of an anonymous phone call was only mentioned *after* I claimed my right to know who it was. I had not committed any *crime* that was ever specified or explained. (*Miller VS United States, 230 F. 2d 486.Cal192 (1958): “The claim and exercise of a fundamental right cannot be converted into a crime”*) I was simply quietly enjoying my peace and privacy; breeding, caring for, and selling the progeny of my personal property livestock, and taking care of my 41-year-old son, managing his worsening *terminal* disease. (*SC Code 16-11-510 specifically names animals as owned personal property*). The carefully guarded and zealously maintained bloodlines of the livestock I bred were literally my life's work—as animals of the exceptional quality of mine in health, longevity, rare and unique colors and patterns, and breeding ability are not being produced any longer. At the time of the seizure, I was raising only enough pups to pay for my livestock's upkeep and enough extra for other unexpected bills of my own or my son's as they occurred. My friend Kim and her daughter were preparing to move here to help me increase production of my exceptional quality pets and in protecting

my irreplaceable bloodlines. She *has* bought a house near me, and I testified in (*Mag. Ct. audio*) that my intention was to teach them all about the bloodlines, strengths, pedigrees, and exacting care of these exceptional animals so that in 10 years or so, I could have *them* doing all the breeding and care, and all I had to do was “*play with puppies*”. I made the comment that I’d be “*nearly 80*” by then.

The first warrant apparently cited an “emergency” condition in order to obtain the warrant. *No one* of the several officers that were in Magistrate Court *objected in any way* to my statements about the verbal exchanges relative to my animals being in danger, (or not) yet Mr. McNeil apparently “swore or affirmed” that my animals were “not being taken care of” and the warrant actually cited a *head count* that was only off by 2, proving a careful close-up inspection of them. (a litter of 3 Chihuahuas were born **Monday AM the 16th**; but were so fat and healthy that the initial Vet exam put them at a week of age) and a Min Pin mamma had a litter of 7, 6 of which survived—*10 days* after the seizure--*even after* all the trauma she had been put through. Toy breed dogs do not have large and strong litters like this if they are in any way “*endangered.*” or “*not being taken care of.*” (*SEE: AC# 3*) of *weights and vital signs completely derived from those initial exams, & pictures and show standards of the breeds I raised from the registering body I used. (AC#4)* All of this so-called “evidence” (*most of which I have never seen despite 3 Motions for Discovery, verbal requests in Court, and a Motion to Compel to Produce*) was obtained in violation of my 4th Amendment and SC Bill of Rights guarantees, *and I also invoke the “Exclusionary Rule” in that any evidence obtained was obtained unwarranted and cannot be introduced in court or used against me for any purpose.* (they have not produced the *exculpatory evidence* I’d moved to receive either, *since they also ignored my many motions in both lower courts.*) (*BRADY v. MARYLAND 373 U.S. 83 (1963)*...) “*It is a violation of constitutional due process for prosecution to withhold evidence. ...the prosecution must turn over all evidence that might exonerate the defendant (exculpatory evidence) to the defense.*” Because of the “*fruit of the poisonous tree*” rule, I allege the evidence seized because of the *second* warrant cannot be used either, because they told me that they had “*discovered*” my burial pit during the *first* (unlawful) seizure raid.

BOTH of the warrants were served to my “trailer” address 19897 Augusta Hwy. My “dog pens” address, 19893 Augusta Hwy, (per Coastal Electric Coop bills (AC# 5) for my kenneling area at the far rear of my property was *not listed on either warrant*. I had *one* animal in my trailer, a 2-week old Min Pin puppy I was raising by hand, bottle feeding. The warrants were served to the *wrong address* for the “property” listed to be seized, which only named *adult dogs* as well—but every single animal was seized, *including* my cats and several puppies, *and* 3 puppies that were only hours old. In addition, they used a Drug Sniffing dog on the *second* seizure day to locate my cats. It is not lawful to bring in such a dog unless they have *reason to believe* that drugs are to be found—the evidence found, *if used, must be drugs*. (*Rodriguez v. United States 575 U.S. (2015)*. “*In 4th Amendment terms, the eight-minute period during which the officer detained Rodriguez—after writing his warning—was an “unreasonable seizure.”*”) *From a purely constitutional perspective, Justice Ruth majority opinion is...obviously correct.*” Bringing in a drug sniffing dog *hours after* the second seizure began in order to find “*anything else needed*” is a clear violation. They found no drugs, only my cats—which became *unusable*, live “evidence” when seized.

My mailbox shows four numbered addresses—but only two are currently used, because of 911-addressing errors. (*part of Defendant's Exhibit #24*)(AC# 5) My trailer is 19897—my kenneling area (listed by the electric company as “dog pens”) at the far back of my property, is 19893.

ANSWER to Common Pleas Court: Page 13, starting line 13: Mr. McNeil claimed under oath that he called 911 for both the address and phone number. (for me, not my kenneling/breeding set up.) (*SC Codes 17-13-140, 17-13-141, 17-13-150*) cover “*legal suppression of unlawfully obtained evidence; requiring a copy of the Affirmation affidavit be given along with the search warrant; and a specific address and specific description of the property seized being required*. None of these requirements for lawful warrants were met in my case. I allege, as well, that this “raid” was orchestrated and initiated on a late Friday afternoon in order to restrict my access to legal counsel and *eliminate due process of law* prior to the seizure of my animals. (The *complaint* was made on April 18, a *month* earlier, according to

one newspaper article I read.) The first question I was asked by Mr. Spears on the Monday of the first seizure was “Do you have an attorney standing here now?” and when I said no—he informed me that he guessed they’d “just go on and do this, then.” (*Waeschle vs. Dragovic*, 576 F.3d 539, 544 (6th Cir. 2009) “In order to establish a procedural due process claim, a plaintiff must show that (1) he had a life, liberty, or property interest protected by the Due Process Clause; (2) he was deprived of this protected interest; and (3) the state did not afford him adequate procedural rights prior to depriving him of the property interest.”

MONDAY, MAY 16, 2016 1:45 PM: I stepped out of my trailer to go medicate my son at the usual time, but *again* had my gate and right of way *blocked* by vehicles and flashing blue lights. Mr. McNeil said he'd be “with me” in “a few minutes.” I waited on my side of my locked gate for about 30 min., and was completely ignored by everyone, *but* not allowed to leave. This large group of people included Animal Control officers, Sheriff's deputies, at least one Veterinarian, shelter representatives, and many contracted animal activists, *many of them armed.* (*Colleton County Animal Control Statute 6-04-050--AC# 6 annotated*) I left my van and went to my trailer to call my daughter to tell her what was happening. (*US Code, Title 42, Section 1983 states: “(e)very person who, under color of any statute, ordinance, regulation, custom, or usage of any State...subjects or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress.”*) I came out in a few minutes, and observed the same brunette officer as I'd seen on the prior Friday walking directly down my driveway toward the far back of my property—*already* at least 300 feet inside my property boundaries, and on *my* side of my locked gate. I asked her why, and she replied that she needed to “join them” and waved a hand toward the far rear of my property. (*Defendant's Exhibits #17-18- my real property*) I started walking her way, and she said “you can't go back there.” The two of us walked back to my main kenneling area about 800 feet from the highway, along my private driveway. On arrival among my whelping pens and runs, I was

confronted by our Colleton County Sheriff, Mr. Andy Strickland, surrounded by 4 deputies. Mr. Strickland rushed up and actually spat in my *face* as he shouted: “*this is unacceptable!*” while waving his arm at my kenneled dogs. When I asked him what he found unacceptable about my setup, he replied “*How'd you like to spend your whole life locked up in a wire pen?*” I replied that *I was not a dog*, and that this was all they had ever known. (I was never given the opportunity to inform him that the ones who *wanted* to run around outside the pens were allowed to do so *when they asked*).

ANSWER to Common Pleas Court Page 13, starting line 28: “*one of Van House's dogs was out of the pen, but none were running at large*” I often let my more active dogs out to play. I did add to Sheriff Strickland that what he was doing was against the law, that he was trespassing, and that I wanted them all to leave. He *then* screamed: “*I am the law!*” and then said the warrant was “*on it's way.*” As he is the chief law enforcement officer in this county, I allege that Sheriff Strickland was elected to *enforce* the law, not claim to *be* it. (*Southern Pacific Transportation Co. VS Public Utilities Commission, 18 Cal. 3D 309(1976) “...Police must obey the law”*)

ANSWER to Common Pleas Court: Page 15, starting line 15: Ms. Taylor (later noted as the lead investigating officer) admits that *she was there* with the Sheriff on my property on **Monday, May 16**, but *claims* that the Sheriff arrived *after* the search warrant had been served. I always left my trailer to medicate my son a little *before* 2 PM...I was *already* blocked in at that time. I went down and confronted the Sheriff, walked back up and unlocked my gate and moved my van after his threats—*then* went into my trailer and called my daughter. The warrant was *shown* to me *after* I came back out, at about 4 PM. It was only *issued* at 3:05 PM. Dispatch records would verify when the Sheriff actually drove out, *and* would verify my allegations. I have asked for these as exculpatory evidence but was ignored. Getting back to the confrontation at my whelping area, I again asked Mr. Strickland and the other officers to go back to the other side of my gate until the warrant arrived *and* I'd been served with it. Mr. Strickland immediately screamed “*are you going to unlock that F**king gate?*” I replied that I would, once I was satisfied that any warrant served was in order; since I'd never been

given time for any consultation with an attorney. He then screamed: “*if you don't unlock that F**king gate now—I'll rip the G*d D**med thing off it's F**king hinges and throw it in the G*d D**med woods!*” Oh, and then I'll tow that F**king car of yours out of my way and impound it! How do you like that?” I was not frightened before, but now, I was so shocked that I literally stepped back a pace. Sheriff Strickland followed—and stood glaring at me with his *fists clenched*. I suddenly took in my surroundings: I had no one else there that would be a witness *for me*; I was at least 100 feet *inside* 3 of my property lines, and 800 feet from the other one; I was surrounded by nobody but him and his deputies; and all of the deputies had their hands on their guns. I realized that if I confronted him further in any way, I'd likely be shot, as he appeared *completely out of control*.

As quietly as I could, I told Mr. Strickland that I'd unlock my gate, move my car, and wait in my trailer until the warrant arrived. I tried to be non-confrontational, because I was *literally in fear of my life* at that time. The brunette officer volunteered to “escort” me with a *smirk* and her hand still on her gun—but another officer instead stepped up and walked with me back to the gate. I have absolutely no doubt that if she had “escorted” me and I'd have even tripped, the brunette would have *shot* me. I simply ran my van randomly into the woods by my driveway, unlocked my gate, and walked back to my trailer to talk to my daughter again, to try to calm down. I was shaking so badly I almost couldn't walk there. When I came back out about 4 PM—two officers were standing in my back yard, and *showed* me the warrant. All it *said* was that they could “search for and seize approximately 63 Adult dogs that were not being cared for by the owner”—but I was *told* that it allowed them to search *all* my buildings, and take whatever they thought was “*important*” or “*needed*,” although all the animals except my 2-week-old bottle-fed puppy were in *outside* pens. They *did* search everywhere; while breaking and bending pen doors and frames, ripping run gates off the hinges and throwing them down, *breaking into* outbuildings and my trailer, destroying much of my personal property, and *taking* many of my things that were *never listed on any warrant*. Sheriff Strickland and many *armed* deputies were on my private property for at least an hour, probably closer to 2 hours, *before* the warrant was issued. (*Coolidge v. New Hampshire*,

403 US 443, 467, et al (1971) “A warrant must describe the specific place to be searched and persons or things to be seized with particularity sufficient to prevent a ‘general, exploratory rummaging in a person’s belongings” (Cantwell v. Connecticut, 310 US296 (1940)“ The fundamental concept of liberty embodied in the 14th Amendment embraces the liberties guaranteed in the 1st Amendment...freedom of conscience and religious belief is absolute...freedom to act is subject to regulation, however...must not unduly infringe on the protected freedom.” (SC Code 16-11-650) “A person other than the owner...who willfully and knowingly removes, destroys, or leaves down any portion of a fence in this State intended to enclose animals of any kind...or who willfully and knowingly leaves open or removes a gate...intended for the same purpose...shall be guilty of a misdemeanor.”(parts of Defendant’s Exhibit # 24) -- showing bent down (instead of unlatched and opened) wire pen doors and knocked down, thrown aside chain link gates) The (SC Const., Art. 1, S. 10,) that deals with Search and Seizure, mirrors the US Constitution’s 4th Amendment (Defendant’s Exhibit #5)—but adds even more about privacy for her citizens. I had no privacy on several levels, most notably the “probable cause” and the “particular” place, persons, or things descriptions.

MONDAY, MAY 16, 4 PM. I was told could leave to *finally* go to medicate my son, hours late. I left and spent some time with David, but was horrified over what my poor animals were going through—so I went back around 6 PM, and watched the many animal control people, Deputies, a Veterinarian, (Dr. Laurie Campbell) shelter volunteers, and contracted animal activists catching and loading them into the trucks. I was told I could *not* go within 50 feet of whatever truck they were loading or I would be arrested. At one point, two of the women present simply picked up two of my plastic dog crates out of my yard, and started to walk away. When I asked what they were doing, one replied that they had “run out of resources” and “have to use yours” but *none* of the at least 6 taken were on the seizure lists. When the question was brought up in court, Ms. Taylor offered to “return” what they had taken. She showed me only three—2 were *not* mine, and I refused them. I never got back anything they took in addition to the dogs, *except* that one tiny crate. (Receipt copy (AC# 8)

My animals were *always kept isolated and secluded* from everyone but me—*both* to protect them from random “bugs” carried on stranger's feet, clothes, and tires—and because when people know what you have, they, unbelievably, tend to think you won't “miss” one or two if they steal them when you are away! I lost dozens of my most “friendly” animals during the years that I worked at the Ford place in Walterboro; the public knew I was there for 10 hours every day and people would simply go out and help themselves. That's one of the main reasons that my property was so totally “closed” to everyone. *A screen shot of the front page of my website at www.phoenix-kennel.com shows that it had been publicly posted as totally closed to everyone, and why—for many years: (AC# 9)* My animals had literally never even *seen* anybody but me; but I witnessed them that Monday suddenly swooped down upon by several total strangers, in groups; grabbed with huge bite proof gloves, snatched and strangled with a catch pole; muzzled with ropes which caused sores and loss of hair on their noses; and carried and dragged to trucks by their necks, the hide of their backs, and strangling nylon ropes, which were *left on them* at the shelter. My poor dogs defecated and urinated on themselves in terror; fear-bit; and cried and screamed; my calico cat which I'd bottle-fed from 3 days of age was listed as “feral” on the exam report, and apparently destroyed. *I sat on my back porch crying and listening to them in their mortal distress—and had a stroke that paralyzed the left side of my vocal chords--apparently permanently--while witnessing this. (ENT records available if needed)* The “rescuers” also were heard by Kim, whom I had on the phone; to laugh, yell, sing, dance, give high-fives, and gleefully comment about the “beautiful” dogs they had “found”? She asked me what they were doing and I described this scene as she listened. That first warrant was supposedly signed because of the many animals “in immediate danger” but Kim commented that if she didn't know better—she'd have thought I was having a party from the noise and comments they made. My daughter also said it sounded like I was having a party or cookout—as I described it to her. This was told in Magistrate Court, and *no one objected to any part of my description of these actions in any way.* Several times during this seizure, I begged various people to allow me to identify certain ones who were pregnant, (5 of my girls) specify

which *one* should not be fed certain foods because of severe allergies, (Spotz), point out one *old* boy who had a *weak heart*, (Kobalt) and *especially* that they all needed to have *blood titers* run before vaccinating against anything—because of the probability of over-vaccinating, and *told* them that my dogs were all up-to-date on vaccinations.

The only response to these pleas was the brunette's dumbfounded question: “*what's a titer*”?

(*Defendant's Exhibits #32-#33—articles by Vets about the near-criminal over-vaccination of pets.*

(AC# 10) I was totally ignored in my appeals, and nearly all of my animals (that were not immediately euthanized) were over-vaccinated, over-wormed, and forced to have tests run which were not only not necessary—but actually became life-threatening or -taking in several cases. (*Seibert v. Severino*, 256 F.3d 648, 660 (7th Cir, 2001) “*There can be no dispute that an animal owner has a substantial interest in maintaining his rights in a seized animal...Animal owners have a substantial interest in their “mere pets”*) and (*Kristi M. Perry/San Francisco v. CA Governor A. Schwarzenegger*, Opinion 10-16696 9th Cir. 2011)

Monday, May 16, 2016, at least 9:30 PM: The trucks, *all* my animals, and *much* other personal property were gone. One officer stood in my yard in the dark, well after 9 PM, and *told* me to wait there with him for the “seizure lists” to be given to me. When I asked why they weren't already there, since my property was gone—he said that officer Taylor “*had to go down to the Red Oak Church*” a mile from my place, and get the *minister* to copy the paperwork on his printer; thus further humiliating me to the neighbors that I *still live near...after* all evening nearly blocking the major highway in front of my property with blue lights and “official” vehicles at my gate, for the passing traffic (and neighbors) to see and speculate over. *At this point, all I'd even been accused of were misdemeanors, with no supporting evidence shown me.* I'd also had no time to contact an attorney or exercise any due process of law, since all this had transpired over a *weekend*. (*Waeschle v. Dragovic*, 576 F.3d 539, 544 (6th Cir. 2009) and (SC Code 16-11-510) noting that my personal property should not have been taken for “public use” (sold as pets) without just compensation to me.

My life's work of 55 YEARS was taken and my entire life was disrupted beyond redemption in 5 HOURS. (Mixon VS State of Ohio, 193 f. 3d 389-400 (6th circuit 1999) "We must construe the complaint in the light most favorable to the plaintiff and accept all the facts and allegations contained therein are true." (Munn v. People of Illinois (FIELD,J. 94, U.S. 113(1876-1900))"The State cannot deprive a citizen of his property without due process of law."

When the seizure lists were finally given to me, they were largely undecipherable. They often ignored or mis-stated gender, color, and breed, and almost *none were listed by "condition"* which Dr. Laurie Campbell was stated in the "Press Release" *as being there to "verify"*. (Defendant's Exhibit #16.) *I allege that much of this misinformation was caused by under-educated volunteers, shelter personnel, or contracted animal activists who were too hurried to bother to be accurate; or who simply wanted the dogs taken from me, because I bred them.* To this day, I have positively identified only about a third of my own dogs from these seizure pages—because I was never allowed to see the dogs, or even see the pictures they took to go with the assigned numbers. It seems apparent that they never intended for me to see any of them again, since they had my dogs in hand. They were unconcerned with a description. I was told in court that all of my dogs (and the cats) have been "adopted"--which in truth, means spayed, neutered, adopted, aborted, or killed by this time. Their value to me as breeding animals was destroyed within less than 2 weeks of the seizure, by Mr. Sapp's surrendering them without my knowledge or consent. This hinges on Agency, and Mr. Sapp *acted* as my General Agent, (as though I were not capable of making my own decisions) then *hid* what he did from me until all the dogs were gone... apparently thinking that I'd then "just stop fighting" as he kept insisting that I do. Mr. Thornton expressed this question in Common Pleas court of why I was still "*fighting*" as well, since my dogs were "*gone.*" It clearly didn't occur to any of the *many* officers of the court involved that not only the animals, but their actual *monetary value* to me, were of great concern. This kind of activist operation usually results in the dogs seized being immediately sent *far out of State*, so they cannot be tracked or retrieved. (AC# 11)--Article about seized healthy former breeding animals being transported across

many State lines for immediate “adoption”) The so-called “evidence” for criminal court is also *gone*, *most of them are dead*; possibly because the shelter determined they were not readily “adoptable” because of minor defects, temperament, or old age. The “criminal” warrants are verifiably *unlawful*—since I have never had *any* other complaints registered in nearly a quarter century, and first alleged offenses are *misdemeanors*, per (SC statute 47-1-40.) Even the HSUS and the ASPCA have specifications for how “evidence” (my animals) is to be *legally kept and maintained*—for use either in court, or in case the “evidence” were to be given back to me. Now, a year and a half since their seizure, I’m virtually certain that none of them are being “maintained.” at any shelter. (*Bess VS Bracken County Fiscal Court, 210 s.w. 3d 177, 180 (KY 2006)*...*recognizing that dogs are personal property...the government is not permitted to deprive an animal owner of his property without due process of law. The risk of erroneous deprivation of this property interest is significant*”) I also assert that the 10 “criminal” cases were not considered “adoptable” (as opposed to being “knowingly deprived of food, water or medical treatment or tortured” as alleged by the warrants)—so *they* were chosen as those 10 cases, and then destroyed; with a possible exception, The Golden Sable Sheltie male. (*Plaintiff’s Exhibit #9*) All of those 10 were long-haired, but the short-haired ones were obviously those who *would have shown that they were neglected* first, even *before* seizure. I have been given no pics. (“*The spoliation of evidence is the intentional, reckless, or negligent withholding, hiding, altering, fabricating, or destroying of evidence relevant to a legal proceeding. Any testimony of plaintiff’s witnesses would not overcome the spoliation inference born of the lost evidentiary value of the missing product itself.*”) (*Stokes v. Spartanburg Reg’l Med. Ctr., 368 S.C. 515, 522, 629 S.E.2d 675, 679 (Ct. App. 2006)* (ordering a new trial for failure to give a jury instruction on the adverse inference of the import of evidence lost or destroyed by the defendant) However, “[T]he effect of the doctrine of spoliation, when applied in a defensive manner, is to allow a defendant to exculpate itself from liability because the plaintiff has barred it from obtaining evidence “(*BRADY v. MARYLAND 373 U.S. 83 (1963)*)...”It is a violation of constitutional due process for prosecution to withhold evidence.” “the prosecution must

turn over all evidence that might exonerate the defendant (exculpatory evidence) to the defense.”(United States v. Agurs, No. 75-491 Pg. 112-114. (1976) “if the omitted evidence creates a reasonable doubt of guilt that did not otherwise exist, constitutional error has been committed. The prosecution’s duty to disclose (under Brady) does not require a request by the defense.” (Kyles v. Whitley 514 US 419 (1995)-”shows that the Brady Rule is not limited to evidence known only to the prosecutor—but applies to evidence known to other agents on the persecution team, E.G. the police, etc.” I feel that since they have provided me none of the evidence supposedly gotten from my property as I hve asked for, and they were legally required to give me—and appear to have none of the “evidence” (the “ill-treated” dogs) accessible; that ALL of the Respondent's “evidence” should be excluded for consideration in this Appeal.

POSSIBLY-THURSDAY, MAY 19, 2016. The Veterinarian (Dr. Mary Campbell) who picked out the “criminally tortured” dogs stated that she went onto my property to take pictures of the “conditions the animals were living in.” (Mag. Ct. audio) Since this was done *after* the animals were already removed, and the pens, runs, and surroundings were already partially destroyed and ransacked by the Officers—this was *not* valid evidence, and is a reason that I appealed to Judge Duffie.

The *fact* is that the pens she described as “deplorable” during testimony did not contain any dogs *at the time of the seizure*, but were awaiting repair. Her “evidence” collected *after the fact* of what she was alleged to be documenting should never have been admitted, for *lack of relevance*.

About ½ of my dogs were short-haired, and yet Dr. Mary Campbell's 10 supposed worst were all long-haired, and several were made further unadoptable by partially shaving them. (Mag. Ct. audio) I submit that this was just another effort to make their case in order to be able to hurriedly ship out my dogs to sell before I had any chance to fight for them or get them back. The original “complainant”, the Unwarranted search to get “evidence” photos, the two unlawful warrants, and the follow-up by Dr. Mary Campbell to “assess the conditions they were living in” were all aimed at this *one outcome*: They would (and did) take and sell my small breed, rare color, Champion pedigreed dogs before I had the

time to fight effectively to have them returned intact.

WEDNESDAY, MAY 18, 2016-Approximately 1:45 PM : I *again* came out of my trailer, drove my car to my gate, and was *again* confronted with a large number of vehicles and people; including a large van, several police vehicles, unmarked POV's, Animal shelter vehicles, etc. All were *again* sprawled across my gate, right-of-way, and the ditches on both sides of sides of the road, blue lights flashing, and *blocking* my ability to leave and medicate my son.

PLEASE NOTE: a small doe deer had been hit and killed on the road early that morning, and her carcass had lain by my side of the road about 50 feet east of my gate. By the time I tried to go out that afternoon, buzzards had reduced her to legs and a backbone. I don't know where her skull went. but I *do* know that her carcass was driven over, ignored, parked on, and totally unnoticed because they were focusing so strongly on my *buried* animals that had died and been placed in my *burial pit* over the last 23 years! In testimony in Magistrate Court, Ms. Taylor stated that she had "*found*"? A total of 107 partial carcasses?—including any skeletons she *actually* found in the *woods* surrounding my burial pit and those she *dug up* out of the pit. She admitted that they were of several species and ages. (*Mag. Ct. audio*) Also, in the Magistrate Court hearing as to whether I would have to appear in front of the Grand Jury to determine if there was enough "evidence" to prosecute—*Ms. Taylor stated she'd "found over a 100 remains—and then we "Stopped Digging"—further proving my point that they were digging up my legal burial pit for the "evidence" they were trying to obtain.* Even if they had all been my domestic animals, and even if they did *not* make any mistakes and count more than once from partials—that would have been fewer than 5 per year, even including newborns who didn't make it, old age deaths, etc. This is *far* from a large annual number, considering the number of my breeding stock.

ANSWER to Common Pleas Court: Page 16, starting on line 4: Ms. Taylor was "*concerned*" by the finding of "5 or 6" skeletons? in the same bag in my burial pit, and speculated "*indicated*" that they "*may have died at the same time*". There is *no* indication of size, apparent ages of the carcasses? possible breed or species, *or any other factors*; so this comment is simply an apparent attempt to put

me in a bad light. In fact, she probably simply mis-counted. Before I left the first time on that 2nd seizure day, I had requested that officer Taylor leave the “seizure list” on the seat of my old truck, and she did. It did not “specifically” list *anything* taken—leaving categories like “bucket of meds” and “box of bones” as being apparently adequate for *their* uses—but leaving me with many questions and much damage to my premises and to my *memories* of my animals they had dug back up and taken away.

FRIDAY, MAY 20, 2016: I received a phone call from Mr. McNeil, who told me that he was at the Hilton Head Shelter, and asked: “Look here, what are you gonna do about these dogs—are you gonna give them up?” Of course, I told him no: they had been illegally taken, and I wanted them all back, and reiterated that they *had* to run blood titers in order to not damage their breeding ability with over-vaccination. (*Defendant’s Exhibits #32, #33 and (AC# 10) Articles about over-vaccination*)

When Ms. Trice got on, she informed me that the Vet bills were “*already up to \$15,000!*” (*The Louisville Kennel Club, Inc. et al v. Louisville/Jefferson County Metro Government, No. 3:2007 cv 00230 - Document 57 (W.D. Ky. 2009)* “*Recognizing that animals are property, and the government cannot seize the property and force the owner to pay a caretaker’s fee in advance of court and/or to kill them, since they must be able to return the property in the same condition as they seized it, if the defendant is found not guilty. If seized, however, they must be maintained in a “humane manner without altering” until a conclusion is reached in court.*” I asked why it was that high since I had not authorized them to do *anything* to them yet—she quickly changed the subject and exclaimed that “*we haven’t even gotten to all of them to “clean them up” yet—but did you know that several have already tested positive for heartworm?*” I told Ms. Trice that I found that *very hard* to believe—since all of them got Ivermectin preventative at the recommended dose every month. I then asked if she meant that some had heartworm LARVAE in their bloodstream, (*which is what the Ivermectin every month kills if they are present from mosquito bites*) or if they actually had heartworms? She didn’t answer that question, clearly because none of mine *did*, and it had simply been a *fear tactic* in case I

was ignorant of the life cycle of the heartworm. I *again* told her that I did *not* want *any* of them vaccinated or altered—because I was going to fight to get all of my breeding stock back. Ms. Trice then told me that if I refused to surrender any of them voluntarily, and they wound up being given up involuntarily—that I'd be sued? by them to get all the money they had spent? and I was likely to “lose your house and everything!” However, if I gave up “*all but just the 24 that you can TRY to get back*” that the “charges” for the Vet bills would be waived except for those 24 (if I got them back) and I wouldn't be sued? for those many thousands of dollars for the others. (*Murdock v. Pennsylvania*, 319 U.S. 105, at 113 (1943) “A State may not impose a charge for the enjoyment of a right granted by the Federal Constitution.” Out of curiosity, and because I really wanted to get a handle on what she was thinking—I asked her, if I took that route, would I be allowed to choose *which* 24—and she instantly said: “oh, no—just the 24 “healthiest” ones” and that the rest would be altered and “adopted out” immediately! (*City of Cuyahoga Falls V. Buckeye Community Hope Foundation*, 538 US. 188 (2003) “The right of ownership of property includes the inherent right to use one's property.” My “use” of my property was breeding my adults and selling their offspring. This suggestion by Ms. Trice would not have served me in retaining my bloodlines or the specific characteristics I was trying to salvage; so I told Ms. Trice that we apparently had nothing else to say to each other, and we and hung up.

ANSWER to Common Pleas court: Page 13, line 11: Amazingly—Mr. McNeil denied *under oath* any memory of this conversation at all—despite his having traveled to Hilton Head to make the call in the first place, and it having been made from the shelter's phone. The newspapers and TV had been summoned to the Hilton Head animal shelter (to await the arrival of my dogs) earlier, AP wire photo had been alerted, and blurbs about the “rescue” appeared as far away as San Francisco and Seattle; thereby sullyng my long-standing good reputation nationally. (SC 16-7-150) “Any person who shall with malicious intent originate, utter, circulate, or publish any false statement or matter concerning another the effect of which shall tend to injure such person in his character or reputation” is subject to fine, imprisonment, or both.” All this precise information “leaked” to all these information

outlets appears suspiciously like an attempt to ruin me before I had any chance to defend myself or apply due process of law. (I mention here that in less than an hour after my arrest on the criminal charges, my *mug shot* that was taken at the jail in Walterboro was broadcast on Charleston Channel five news.

(Plaintiff's Exhibit #9): These are the initial Vet exam results on the seized dogs and cats, clearly showing that any arbitrary "body condition" number assigned bore no relationship to the actual animal. Please note carefully the chart I developed *from their vet exam report*, which lists *all the dogs seized by breed, weight, vital signs, and age*. All of my dogs were at least well within range of the ideal as noted with the breed standards and pictures attached to this exhibit, (AC# 4) and many (mostly the short-haired ones) were actually somewhat overweight. I tried to keep the long-haired ones at breed standard weights because summer in the deep South is brutal on long-haired dogs. (AC # 3). It should be noted that in the one hearing I did *not* attend; once Judge Duffie told them that the dogs were all to be kept *temporarily* by the shelter, and cared for by the County, until the July Hearing —the (*Mag. Ct. Audio*) has a woman saying: "Well, can we start neutering and spaying them now?" Of course, Judge Duffie said *no* —but by the *next day*, Mr. Sapp claimed authority to surrender all of them to the shelter anyway, and they started altering my dogs and cats immediately. I have included several articles presented at the Magistrate Court hearing aimed at exposing the facts about many animal shelters, so-called rescue organizations, and especially HSUS and ASPCA. (both are listed as involved in this seizure) These organizations firmly believe that we should not have pets, we should not eat meat, and we should never breed any animal. Nancy Foard's Spay Neuter clinic of Hilton Head and Hilton Head Humane Society made slanderous comments on major TV stations. Known animal activists were employed or contracted by the County to assist, and they *did not follow the law* ...but acted like the shelter activists in these articles. (AC#14, AC#15, AC#16, AC#17, AC# 18)

**ARGUMENT NO. 2
(BACKGROUND AND CITATIONS OF LAW)**

This Motion was forced because of my lack of attendance (and inability to input information and comment) at the first Hearing on May 31, about whether the seizure of my personal property animals, and the warrants issued that caused it were “proper.”

I was told by the Magistrate Court clerk that there was no transcript available—although I *did* obtain a thumb drive of the audio, quotes listed herein as (*Mag. Ct. audio*) I expect this Court has computer access to this recording made in Magistrate Court as well.

TUESDAY, MAY 17, 2016: I went to town to see Mr. Sapp, but as soon as I stepped into his office, he rushed out of his inner office and said: “Lynne, what the H*ll happened?” I asked what he meant, and he said: “With the dogs.” I asked how he knew anything about it, and he stated that it was “all over the TV—haven't you seen it?” I've since found segments about the “rescue” on Greenville, Charleston, Florence, Columbia, and Savannah TV stations; all of them gave my name and address, and said that all the dogs were in “deplorable” condition, and either Spay Neuter Animal Clinic (SNAC) Director Nancy Foard, or Hilton Head Humane Association Director Franny Gerthoffer can be heard saying in some of the clips that “they are all emaciated, dehydrated, and constipated!” All were *obviously healthy*, but very frightened and dirty because they had repeatedly urinated and defecated on themselves from fright during transport. . Even my Doctor took the time to look at clips—and she said she could see *no* animals in poor shape, just “scared.” Mr. Sapp hurried me into his inner office, and brought up the Charleston 5 segment on his computer. At this point he told me that I'd need to ask for a hearing. His statement that “*I want to help you with this*” seemed a Godsend at the time, so I agreed to get him some money for his help in getting all my dogs back, before they were altered or damaged by all the various things that might be done to them by the people at the shelter. Mr. Sapp always fully understood that I wanted *all my dogs back*, and that he was hired to do this for me. (I managed to get him \$500 a few days later. (AC# 36) I was deeply aimed at *retaining* all those

irreplaceable bloodlines and was anxious for him to start working on it immediately. He said he would, and to relax, he'd "handle it." He did the *opposite* of what he *knew* I wanted.

(Lanier v. State, 486 P.2d 981 Alas.1971) "Attorney's waivers of the client's Constitutional rights without consent will not bind the client if the waiver occurs before or after trial or results from a decision during the pre-trial period."

MONDAY, MAY 23, 2016: I was called by Mr. Sapp and told that there was to be a hearing on May 31—to determine if the County had "legally" seized my personal property. I immediately told him that I wanted them all back, and wanted him to especially concentrate on the Constitutional aspects of my defense and reasoning—particularly the 4th Amendment. Mr. Sapp claimed to *both* me *and* a friend that I had asked him to call (who is well versed on many Constitutional issues) that he had "no intention of defending (her) Constitutional rights." *(Miranda v. Arizona, 384 US 436 1966)* "Where rights secured by the Constitution are involved, there can be no legislation or rule-making which would abrogate them"*(Marbury v. Madison, 5th US 137,180 (1803) "All laws which are repugnant to the Constitution are null and void." Davis v. Wechsler, 263 US 22, at 2 (1923) "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.") (Cooper V. Aaron 358 U.S. 1 (1958) "The State cannot nullify Federal Court decisions."* Mr. Sapp insisted that I not attend this hearing, as there were "lots of women out for your blood, and lots of TV cameras and reporters, and all..." but insisted that I stay in his office, and let him "take care of it for you". His final argument which eventually caused me to not attend was: "Don't you trust me?" Of course, there was nothing of the sort present at that hearing, as proven by the *(Mag. Ct. audio)* when I finally listened to it. When he got back, he told me that he'd been "scared" by "at least" 20 women all "screaming for your blood"—and he was very glad I had not gone with him. I still thought he was on "my side" in trying to get my dogs back at that point. *(King Construction Co .v. Mary Helen Coal Company, 194 Ky. 435, 239 S.W. 799 (1922)) "The court said that it is a universal rule that a client is not bound by his attorney without ratification where the attorney has a personal*

interest in the subject matter involved or where there is a conflict of interest between the attorney and the client.” As verified by the (Mag. Ct. audio.) I had also prepared a statement that it had been my intention to read before the Judge, (see narrative titled “My defense at the seizure hearing”(AC Exhibit # 21) and I sent it with Mr. Sapp to the hearing, with his promise that he would read it into the record and discuss it in front of the County Officers of the Court, the shelter workers who attended, and Judge Duffie. He did not do so. In fact, Mr. Sapp did not follow virtually any of the specific instructions I gave him to carry out during this only hearing that I missed at his insistence. I did not know until I received the thumb drive of the (Mag. Ct. audio) of all the hearing dates, particularly the one I missed, that he had actually worked for the County's interests in taking my dogs away from me permanently. (United States v. Beebe, 180 US. At 352 (1901) “A judgment entered upon such a compromise is subject to be set aside on the ground of the lack of authority of the attorney to make the compromise upon which the judgment rests...entering or permitting to be entered such judgment is valid because it's assumed the attorney acted with special authority; but when it is proved he had none, the judgment will be vacated on that ground.” Mr. Sapp's and the County's moral objections as to how I kept my breeding livestock should never have entered into this decision—he should have recused himself as soon as he realized that he did not agree with how my animals were being kept, but did not. (Kristi M. Perry/San Francisco v. CA Governor A. Schwarzenegger, Opinion 10-16696 9th Cir. (2011) “Moral disapproval is not an adequate basis to deprive men and women of their Constitutional rights” (Montgomery v. Goldstein, 109 Or. 497,220P.565, 567 (1923) “An attorney at law...is a special agent limited in duty and authority to the vigilant... defense of the rights of his client...Because the attorney serves as a special agent, the scope of his authority is confined to only those actions necessary to accomplish the specific purpose for which he is employed.” I hired him to get my animals returned, not surrendered. (Davis v. Wechsler, 263 US 22, at 24 (1923) Instead, Mr. Sapp began arguing nearly daily that “all I'm trying to do is keep you out of prison” and that I just needed to “surrender them all” at

this hearing—and “try to get on with your life”. He then further asserted that if I “pled guilty” that I’d “only have to pay a small fine of a few hundred dollars and take some courses—and you probably would be “allowed” to keep a few pets in the future” just as though that would serve me just fine to lose my life’s work, and the enormous inherent value in them, in this sudden and irrevocable way! I had committed *no crime*, but he expected me to plead guilty and pay a fine! (*Sherar v. Cullen*, 481, F2d.945 (1973) “For a crime to exist, there must be an injured party. There can be no sanction or penalty imposed upon one because of this exercise of Constitutional rights.” A “party” is a human—animals are property, by law. An animal has no rights (or responsibilities) under the law, so there cannot be an injured party (victim). If there is no victim, and no probable victim—then any “animal rights/activism” is simply a moral disapproval or objection to methods. I was stunned, and this cavalier attitude toward my life’s work scared me—so I specifically asked him if he intended to try to get all my dogs back—and he said he would try; but that I needed to “accept that they probably won’t be coming back.” (from the Mag. Ct. audio). (*City of Cuyahoga Falls v. Buckeye Community Hope Foundation*, 538 US.188 (2003) Reinforcing in fact on appeal that “The right of ownership of property includes the inherent right to use one’s property.” I started lobbying repeatedly (almost daily) for him to put in a Motion to the Court to get them back, and couldn’t seem to get him to do so—plus I kept asking why they had been deemed to have been legally seized in the first place, and why they hadn’t been given back on May 31st, at least until the June 21 hearing to see if they were to be involuntarily surrendered? I had given him my statement to be read into the record at the Hearing, in my absence. (AC# 21) (*Eldridge v. Melcher* 226 Pa. Super. Ct 381, 313 A.2d750 (1973)) “The attorney, merely because of his employment as counsel...cannot affect his client by out of court admissions of fact which were not made, in order to dispense with formal proof.” This was never done, as evidenced by (Mag. Ct. audio) of that hearing. (*Kristi M. Perry/San Francisco v. CA Governor Schwarzenegger. Opinion 10-16696 (9th Circuit, (2011)* Instead of answering my questions; Mr. Sapp started to comment that he had “seen” pictures that were supposedly taken on that Friday (unwarranted) search

during the initial hearing on May 31! I find it likely that much of any “evidence” was not even taken on or from my property; I have seen no chain of evidence, *nor* have I ever had copies given me in Discovery. I finally became suspicious that Mr. Sapp was not really making any effort to get my animals back to me—so I wrote a letter to Judge Duffie articulating my many concerns about this whole procedure and the fact that Mr. Sapp was probably *not* working in my best interest or asking for the hearing about getting them back. Judge Duffie kindly accepted my letter as a Motion for a hearing about keeping “some” of my dogs. Again, this appears to have been because Mr. Sapp was paying only lip service to actually getting any of them back to me, and whether the wording was “some” or “all” made no real difference, since it was his clear intention, with hindsight, to see that none of them came back to me. (*Hall v. Benefit Association of Railroad Employees*, 164 S.C.80, (1932)

“Attorneys ...without express authority, have no right to compromise or settle their client’s rights.”

(*Strickland v. Washington*, 466 US 668 (1984)) *“The court held that where defense council’s conflict was “actual” as opposed to “potential,” a “fairly rigid” presumption of prejudice applies.”*

The day Mr. Sapp got notice of *this* hearing—I walked into his office about another matter, again and he rushed out of his inner office white as a sheet, sweating, and running his hands through his hair and rubbing them on his pants. His first words to me were: *“Lynne, what the H*ll have you done?”* After I finally understood what he was so upset about, I explained that since we’d only had until the 15th to file the motion to get my dogs back—and he hadn’t done it—that I *had*. He was very angry and terrifically upset, and told me that I hadn’t “appreciated” what he was trying to do—so I asked him exactly what it was that he was trying to do—and he said *“keep you out of prison.”* I then told him that I thought he was no longer working for my best interests, and he agreed that he needed to “resign” because I wasn’t doing what *“I told you to do.”* (*Massachusetts Casualty Ins. Co v. Forman* 469 F.2d259 (5th Circuit 1972); (*Milewski v. Rolfan Co*, 195 F. Supp. 68 (D. Mass. 1961); (*Manning v. Wymer*), 273 Cal. App. 2D 519, 78 Cal. Rptr. 600 (1969); (*City of Des Plaines v. Scientific*

Mach. Movers, 9 Ill. App. 3D 438, 292 NE,2d 154 (1972); (*Gailbraith v. Monarch Gold Dredging Co.* 160 Or. 282, 84 P.2d 1110 (1938) “According to the great weight of American Authority, only after acquiring express authority in the form of his client’s consent may the attorney compromise his client’s claim or cause of action.” (*Montgomery v. Goldstein*, 109 Or. 497,220 P. 565, 567 (1923) “An attorney at law...is a special agent limited in duty and authority to the vigilant... defense of the rights of his client.” “Because the attorney serves as a special agent, the scope of his authority is confined to only those actions necessary to accomplish the specific purpose for which he is employed.”

When the hearing date of June 21 arrived, Mr. Sapp showed up, was excused as my counsel—and left. I was asked if I wanted to have time to get another attorney, and I said I had no more money—so I'd go pro se from then on out of sheer necessity. The hearings to determine if I could get any of my dogs back began, and proceeded much as Judge Duffie's ANSWER to my Common Pleas Court Appeal states it—with a few exceptions and points left out. I will attempt to follow his narrative closely, but add to or clarify by page and line. I have made no quote or comment here that was not said under oath in Magistrate Court, with NO objections.

ANSWER to Common Pleas Court: Page 1 line 6: states “Attorney Benjamin C.P. Sapp appeared on behalf of Lynne Lucille Van House. Mr. Sapp advised the court that Van House waived her appearance at the hearing, and he would be speaking on her behalf.” Now that I finally have the actual testimony (*Mag. Ct. audio*) of that hearing which he insisted I not attend—it's clear to me exactly why I wasn't supposed to show up! Mr. Sapp clearly had no intention of actually defending my right to get my dogs back—even temporarily—and fully intended to make sure that the County got at least temporary custody of all of them; to make it easier in the future to make sure they got them permanently. If I had been there, I would have continued my argument that I needed them *all* brought back —and Mr Sapp clearly didn't want to do this, despite the fact that he claimed to speak on my behalf.

(*Montgomery v. Goldstein*, 109 Or. 497,220 P. 565, 567 (1923)

ANSWER to Common Pleas Court: Page 1 beginning on line 14: Mr. Sapp claimed that I agreed

that there was “*probable cause*” for the dogs to be removed from my property. That was never the case, as my time line clearly shows. Mr. Sapp continued with his testimony that he (and myself) “*had seen photographs and spoken with Deputy Taylor.*” at the interrogation I was in at the time—with Miranda Rights having been read to me, and in an interrogation room at the jail. In testimony later *under oath*, I asked Ms. Taylor how many pictures, of those taken on my property, I *ever actually saw*—at first, she said she didn't know. When I pressed, with “*a dozen, two dozen, a hundred?*” She finally said she'd probably shown me “*about a dozen.*” (from the Mag. Ct. audio) Out of those “dozen” photos—at least 2 were “staged.” I allege that *many* of the “evidence” photos that were taken on my property are similar to these, and that this is one reason that the County continued to ignore my requests to possess copies of them through Discovery. (*Wilson v. Eddy*, 2 Cal. App. 3d 613, 82 Cal. Rptr. 826 (1969) (*Miller v. Meuller*, 28 Md. App.141,343 A.2d 922 (1975) *Thornton v. Kelly*, 11 R.I. At 202 (2010) “*It is well established that absent some expressed authority, the attorney has no implied plenary power to make, enter into, or alter a contract on behalf of his client.*” (*Sherar v. Cullen*, 481, F2d. 945 (1973) Mr. Sapp stated that it was a “*horrible situation*” and that since it was his “*understanding*” that I could only have 24 animals on my property, (this designation is for hoarders of companion animals, (CC ordinance 6-24-10 (1) and (2), *not* livestock animals bred for sale, and I was a hobby breeder of my personal property livestock—they were not pets or my companions) but Mr. Sapp went on to say that I was in violation of the County Code--And that I “*waived my rights*” to the other 49 animals—that I had consented to a “*probable cause*” to have had them “*removed from her property*”, and that I “*consented*” to the animals remaining in the custody of the County. (From the Mag. Ct. audio) (*Wilson v. Eddy*, 2 Cal. App. 3d 613, 82 Cal. Rptr. 826 (1969) (*Miller v. Meuller*, 28Md. App.141,343 A.2d 922 (1975) *Thornton v. Kelly*, 11 R.I. at 202(2010) (*Sherar v. Cullen*, 481, F2d.945 (1973) I was simply harvesting my livestock by raising and selling their puppies. I did *not* agree, at any time, to any of those waivers or supposed violations, nor did I know about them. Mr. Sapp was not my General Agent. I would have vigorously refused to accept those statements—and

defended my own position-- If he had said them within my hearing. There was *no* expressed authority to do what he did. The whole point of my hiring a defense attorney was for him to defend me and my Constitutional rights, not act on behalf of the County to persecute me and assist them to take my property/life's work and sell/destroy it. (*Brinegar v. United States, supra, at 17 (1949)* "guilt in a criminal case must be proved beyond a reasonable doubt and by evidence confined to that which long experience in the common law tradition, to some extent embodied in the Constitution, has crystallized into rules of evidence consistent with that standard." "These rules are historically grounded rights of our system, developed to safeguard men from dubious and unjust convictions, with resulting forfeitures of life, liberty, and property." (*Winters v. Cook, 489 F.2d 174, 178 (5th circuit, 1973)* "(W)here an inherently personal right of fundamental importance is involved...Both counsel and the Judge would have to make certain that the client had been sufficiently informed and made a truly intelligent waiver in every situation where an attorney's action or inaction might involve any possible constitutional rights."

ANSWER to Common Pleas Court: Page 2, starting on line 8: "Attorney Sapp said he had "discussed" the issue with Trice and that "costs" were approximately \$15,000, that Trice confirmed that figure, and that these "costs would be waived" if I relinquished *all* the animals—as she also said during my phone call received from the shelter with Mr. McNeil. Mr. Sapp then stated in Court that he wished to "preserve" my rights to request return of "up to 24 of the dogs" to me, so we could "discuss" trying to get the 24, or whether to relinquish them in order to have the "care" costs removed." (*SC 16-5-10*)

ANSWER to Common Pleas Court: Page 2, starting line 29: Mr. Sapp *claims* when he talked to me after the hearing of May 31, that I *agreed* to the terms he had set up. He never told me what was said (or agreed to) in that hearing, and never indicated that he would arrange for them to take the dogs the next day, but only that he'd "gotten" me until June 15 to "decide" about giving up all of the dogs. I

had to listen to the audio of it before I ever found out what was actually said. I most certainly *never* agreed to those terms.

**From testimony under oath, Plaintiff's argument: (Mag. Ct. audio) Lynne: "Mr. Sapp, do you recall at what point you determined to make my decision for me against my wishes?" Mr. Sapp: "Lynne, we discussed that after the Court Order; and whether or not that's what you wanted, that's what I did, and I thought it was in your best interests." In fact, the very next day, June 1--he began the process to surrender all my animals to the County, in "exchange" for dropping the misdemeanor charges, and told me he was "sure" he'd be would able to avoid any "criminal" charges. Actually, in the:*

ANSWER to Common Pleas Court: Page 15, starting on line 6: *"In an e-mail to Sapp, (AC# 35) Taylor...reserved her right to file the General Sessions charges which were not part of the agreement." This indicates that Mr. Sapp understood immediately after the May 31 hearing that Ms. Taylor intended to proceed with the "criminal" charges, but told me differently. Mr. Sapp advised the court and Trice that he'd "get back" to Trice after talking to me, and later claimed that "all parties" agreed to these terms. (Hayes v. Eagle-Picher Industries, Inc., 513 F,2d 892, 894 (10th Cir. 1945) "So long as the client unequivocally repudiates an unauthorized agreement immediately after learning of it,... there will have been no ratification." I immediately disclaimed all of this—as soon as I heard of it in court. Mr. McNeil, Ms. Taylor, & Ms. Trice, plus a couple of other deputies and Mr. Sapp's office personnel—all had my phone number and my e-mail address by that time, and none of them let me know what they were doing—clearly because they knew that I'd never go along with it. (SC 16-5-10) "Conspiracy against civil rights.") I understand that criminal cases have no statute of limitations in SC—so they have purposely ruined me for good in this way as well, unless it is shown that this never should have happened in the first place. I also feel that I could invoke (Rule 41-2(b)(3) SCRCP "when it appears that there is a failure of the plaintiff to prosecute, the court may on it's own, or on a motion of a defendant, order the action or any claim dismissed for lack of prosecution." The 10 "criminal" charges are a "first offense" and should be (and are listed under my background check) as*

misdemeanors, which have *never been heard in 18 months*.

By June 2, 2016 I was informed I was to report to the jail for arraignment and arrest on “torture” charges, possibly because I continued to insist I was innocent of any charges, and I refused to “*just stop fighting*” as they kept telling me to do. They apparently kept hoping I'd quit and just give in to their taking all my personal property livestock & 55 years of my life. (SC 16-5-60) “*Suits against county for damages to person or property resulting from violation of person’s civil rights.*”) On June 8, 2016; Ms. Taylor actually had the newspaper print an article asserting that she had “*spoken*” to me, and that I'd “*recently agreed*” to relinquish the animals to avoid the high costs of “*treating the animals and nursing them back to health.*” (AC#19) *None* of this was ever done, none of my animals were sick, I did not speak to her except in court after my arrest on June 3, and she went out of her way to claim poor health of animals that were not unhealthy. (AC# 3 & 4) Her statements were both slanderous and libelous, and I literally never even knew anything about this article *or* her claims until months after her assertions of having “*spoken*” to me! (SC Const. Art.7, Sect. 6) I never held any stance except that my dogs were illegally removed from my Grandfathered Private real property.

JUNE 30, 2016: In a copy of an undated letter (AC# 20) to Judge Duffie, County Attorney Sean Thornton said that Judge Duffie's *requirement* to maintain possession of all seized animals pending a hearing in July could not be met, because Mr. Sapp had informed Mr. McNeil on June 1 that his *then client* “*would relinquish all the animals to the County.*” (*Gran v. City of St. Paul*, 274 Minn.220, 143 NW 2d 246 (1966) (*Thornton v. Kelly*, at 211, 161 SE at 868,(2010) “*It is the well settled law of this state that the authority of an attorney of record to settle claims is limited to the claims presented by the pleadings in a given case and that any settlement that goes beyond these matters must be expressly agreed to by the client, the general rule is that compromises based solely on the attorney’s implied authority are voidable and not binding on the client.*” It was at that point with the receipt of that letter copy that I became aware that most of my animals were already gone; because Mr. Thornton

went on to say that only 22 animals were still being held in Ridgeland. His next statement was: “*The County will maintain custody of those animals pending your July ruling.*” (AC# 20) This was not done—by the time of that hearing, I was informed by Mr. Bennett that all the animals were “*adopted out or disposed of.*” (Mag. Ct. audio) In addition, it was notated in that letter that copies of the e-mails were attached, but they were *not* included with the letter copy to me. (*Bess v. Bracken County Fiscal Court* 210 S.W. 3d 177, 180 Ky (2006) “*Recognizing that dogs are personal property...the government is not permitted to deprive an animal owner of his property without due process of law. The risk of erroneous deprivation of the property interest is significant.*”

ANSWER to Common Pleas Court: Page 9, beginning line 1: My animals are my personal property, (SC 16-11-510). Since animals cannot be held legally responsible for anything they do (they cannot commit a crime)—they therefore cannot have “rights” nor can they be victims. They can't also then be “victims of a crime.” It is *not a crime* to keep and use (breed and sell) your own personal property. (*Sherar VS Cullen, 481, F2d.945 (1973)*) A “party” is a person, not property. *Although my animals were given food, water, shelter, individual affection and attention, and medical care, as required by SC law, they were not my pets; they were my breeding livestock. I sold exceptional quality puppies that became beloved household pets—because that is what I strove to produce. (Defendant’s Exhibit #21)—a great number of unsolicited, glowing seller reviews posted by buyers from all over the country and locally.)* Livestock is solely possessed by the owner, and only the owner can use them (harvest them) as is normally done for that species. Veal calves are butchered; chickens are raised to be eaten or lay eggs; cows are milked or eaten; sheep and goats are eaten, milked, and wool harvested; dogs and cats are used for breeding, for service, and to sell their progeny. This is what I did *right there unmolested* for 23 years.

(*City of Cuyahoga Falls v. Buckeye Community Hope Foundation, 538 US 188 (2003)* “*The right of ownership of property includes the inherent right to use one’s property.*”

PLEASE NOTE: one of the dogs taken out of my back yard was a Service Dog, thus violating my

civil rights and disability rights as well, and depriving me of her service and companionship. (SC 16-11-510) *“It is unlawful for a person to willfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property or the goods or chattels of another”* (SC 47-3-940(a)) *“It is unlawful for a person with reckless disregard to injure, disable, or cause the death of a guide dog or service animal.”* (SC 47-3-950(a)) *“It is unlawful for a person to wrongfully obtain or exert unauthorized control over a guide dog or service animal with the intent to deprive the guide dog or service animal user of his guide dog or service animal.”*

I included a comment here in the (Mag. Ct. audio) testimony regarding my 2006 Relay van, approximated here: *If my van had been observed by a neighbor (who came onto my posted private property in my absence) as being overdue for an oil change—should he rightfully be allowed to call the Sheriff and demand that a search warrant be obtained to seize my van because it “wasn't being taken care of”? Should my van then be impounded, lots of unnecessary work done to it to raise the repair bill well beyond my ability to pay—and then sold to the “highest bidder” because I couldn't “buy it back” from the County? Should I then potentially be sued for the difference in price for the “care”? Common sense dictates that this scenario is absurd—yet this is very representative of what I have endured. (Frost, et al. v. Railroad Commission, 271 US 583 46 S Ct. 605, 70 L.5d. 110 (1926) “The State has no authority to unreasonably burden the exercise of fundamental rights such that the burden compels the relinquishment of such rights in exchange for privileges” (Yick Vo v. Hopkins, Sheriff: 118 US 356 (1886) “Sovereignty... is the author and source of law...sovereignty ...remains with the people, by whom and for whom all government exists and acts...for the very idea that one man may be compelled to hold his life or the means of his living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails...”* The main difference is that my van can be replaced in kind—my breeding

animals, and those 55 years of outstanding bloodlines that they represented—are lost forever. (SC 16-5-60) “Any citizen who shall be hindered, prevented, or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby.” Shortly after this statement, Mr. McNeil asked me a couple of questions, in his capacity as representing the County. His main question was if it was “safe” to have buried animals housed? “close” to my living ones. I asked him what did he mean? *Safe for what? safe for who? Safe against what?* He said “Just Safe”. I told him that inasmuch as my dead animals *had been* in a 6-foot deep burial pit—and humans are buried 6 feet deep (and they have chemicals in them) that, Yes—I thought it was safe. Mr. McNeil threw up his hands, and said: “no more questions!” (Mag. Ct. audio)

On July 20, the hearing was re-convened with Mr. Bennett suddenly having been hired to represent the County, with no explanation of why the switch to an attorney for the County instead of Mr. McNeil. At that point, I became the true “underdog” here—the County got an experienced attorney, while I remained pro se by necessity. *Mr. Bennett had a conflict of interest, not addressed.*

Mr. Bennett stood and asked for a *hearing* as to whether there was an “enforceable settlement agreement” between the parties. It turns out he meant, upon further questioning and comment—“was Mr. Sapp representing me for *all aspects* of my case during the short time he was representing me, and therefore was he legally able to decide *for me* that my dogs needed to be surrendered to the County without any input from me given to any of the involved parties; just his word that he “understood” me to mean yes”? (*Southern Pacific Transportation Co. v. Public Utilities Commission, 18 Cal, 3d 309 (1976)* “Obviously, administrative agencies, like police officers, must obey the Constitution and not deprive persons of their constitutional rights.” I allege that this extends to *all* officers of the court, including attorneys. The agreement that Mr. Sapp and the County had reached was outlined, *and* that Mr. Sapp had agreed for me without my knowledge or input, to relinquish all the animals; *and the 10*

misdemeanor charges were dropped. The e-mails that were the sum of the “agreements” between Mr. Sapp and the County, along with the telephone conversations that were said to have taken place were finally revealed to me. My Motion to rescind the first search warrant was denied because it was deemed “not appropriate” but this appears to be only because of the “agreement” reached by Mr. Sapp and the County. Agency is the key word here—but Mr. Sapp was *not* my General Agent, nor was he allowed to make this decision without my express permission—which he never had.

My Motion that the Friday unwarranted search evidence collected when I wasn't there be excluded because of that illegal search--was held pending hearing my other Motions, but was almost immediately denied when the “enforceable agreement” Motion was Ordered as valid. *This search was done well before my hiring of Mr. Sapp, and the evidence garnered at that time should have been excluded because the evidence was seized before he represented me and without either of us agreeing.* My Motion that evidence seized that was not included on the seizure list should be excluded also, and that items that were seized that were not listed on the search warrant be returned to me were all held in abeyance as well, but then denied as well, as soon as the “enforceable agreement” Motion was Ordered. In essence, the claim was that if Mr. Sapp's actions were to be deemed to have been those of a General Attorney, instead of the Special Attorney as he was hired to be—all of my Motions would be denied, since Mr. Sapp did all those things before we parted company in our agreement of representation. *Regardless of the fact that the first, Unwarranted search AND the seizure of my animals was done prior to his hiring.* My animals became living “evidence” as soon as they were seized. Mr. Bennett had been instructed by Judge Duffie to write up a preliminary Order ordering, most Particularly, the “Enforceable Agreement.” When this Order finally got to me in it's nearly complete form in Court (Mr. Bennett claimed he'd e-mailed me a copy, but it was soon determined that he had not)—that it contained only 4 Citations, all from SC Supreme Court rulings. I discovered, after research, that all four of these were intertwined, each one referring to the other 3 as further proof and as

a Citation in and of itself. One of them was even clearly listed when further researched as *not* being usable as a Citation! After I pointed out the above irregularities in the citations he'd used, Mr. Bennett found a few others to add to his list, but they were not to point either.

I was told I could “tweak” this proposed Order, and I made a Motion to allow me to write up my own version of what happened—with Case Law for whether or not Mr. Sapp was my General P.O.A. I was told that I could, and I wrote up a very clear and concise Preliminary Order of my own—with citations from US Supreme Court rulings, SC Supreme Court rulings, and State and US Codes of Law clearly indicating that Mr. Sapp had been hired as a Special Attorney, and his adverse actions in my case had no legal basis. My “proposed Order” as offered, clearly listed my objections on these grounds by refuting citations of law as arguments. My proposed Order was ignored—and Mr. Bennett's/Judge Duffie's version of the Order denying All my Motions was Ordered intact with no apparent attempt to consider any of my case law or arguments presented, nor to justify those that were used against me, although I allege that I'd already shown conclusively that they had no relevance to my case.

When Mr. Sapp was called as a *witness for the County* in reference to the above *conflict of interest*, I asked him several questions, one about whether he had been hired to make decisions *for me*; he answered: “*Lynne, as I said before, I was just trying to help you out...I considered that I was doing the best job that I possibly could in light of the many facts and circumstances surrounding this, and there were many—I was trying to help you out.*” He did not give me a yes or no answer at all. A second question was more specific: “*Mr. Sapp, did I ever, even once, at any time—tell you that you could give away any of my dogs?*” Mr. Sapp prevaricated for a time, then replied that “*I understood that it was in your best interests.*” (*Mag. Ct. audio*) At no time would he say that I told him to or agreed to surrender any or all of them. There was never any agreement between us as to his course of action, he simply decided *for me* to surrender my animals *without my knowledge or consent.* (*King Construction Co. v. Mary Helen Coal Corp., 194 Ky. 435, 239 S.W. 799 (1922)*) “*The court said that it is a universal rule that a client is not bound by acts of his attorney without ratification, where the attorney has a*

personal interest in the subject matter involved or where there is a conflict of interest between the attorney and the client.” (United States v. Cravero, 530F.2d 666 (5th circuit 1976); (United States v. Adams, 422 F.2d 575 (10th circuit 1970); State v. Hughes, 22 Ariz. App. 19, 522 P.2d 780 (1974) “Counsel’s implied authority to make admissions and stipulations affecting his client’s rights and interests must comply with the general limitation that the attorney’s actions based on implied authority relate to procedure and remedies and not disrupt substantive rights or the cause of action.” (Hayes v. Eagle-Picher Industries, Inc., 513 F.2d 892, 894 (10th Cir. 1945))

From testimony under oath, Mr. Sapp: Plaintiff’s argument: Mr Bennett: “Your understanding was that she had authorized you to enter into the agreement? Mr. Sapp: “She was very upset, I don’t know if she was in her right mind or not, but it was my understanding that she would relinquish the dogs in exchange for dropping the charges and eliminating the restitution and that it would be in her best interests.” This was a clear attempt to infer that I was incompetent to make my own decisions.

(Massachusetts Casualty Insurance Co v. Forman 469 F.2d 259 5thCircuit (1972);

(Milewski v. Rolfan Co 195 F. Supp. 68 D. Mass. (1961)); (Manning v. Wymer); 273 Cal. App. 2D 519, 78 Cal. Rptr. 600 (1969) (City of Des Plaines v. Scientific Mach. Movers; 9 Ill. App. 3D 438, 292 NE,2d 154 (1972) (Gailbraith v. Monarch Gold Dredging Co 160 Or. 282, 84 P.2d 1110 (1938)

At no time did I ever give Mr. Sapp permission to do anything but fight for my right to get them all back intact. My intention was always to continue to fight for my rights and my animals or restitution, because I was not “guilty” of anything except quietly living my life in the privacy of my property, bothering no one. I asked little of the people around me but simply to be left alone, but I was not.

**(ARGUMENT NO. 3)
BACKGROUND AND CITATIONS OF LAW**

Appellant alleges that this was not an “enforceable agreement” per Rule 43(k) as amended in 2009 (text below) and other citations; none of these options were instituted, as neither myself nor Judge Duffie were aware of this surrender until the next hearing (*Mag. Ct. audio*); and Mr. Sapp was not hired as my General Agent. My Motion specifically addressed the difference in agency between a special and a general Counsel.

I made an oral motion to submit an alternative motion to the one Mr. Bennett had been told to submit, referring to the “Enforceable Agreement“, and Judge Duffie granted my request. I *did* forward this entire proposed Order to Judge Duffie well within the time allotted. Mr. Bennett, however, waited until *one minute* before the required deadline (just prior to midnight) to submit HIS motion to the Court by e-mail, and failed to e-mail a copy to me, as was *ordered*. When court next convened, and I revealed that I had not received a copy,—Mr. Bennett immediately *first* claimed I was mistaken, and inferred that I didn't know how to check my e-mail; *then* claimed that I'd given him my e-mail address wrong at the last hearing, and lastly that his “girls at the office” must have made a mistake. When Judge Duffie pointed out that HE had also given Mr. Bennett my e-mail address, when he was ordered to send a copy to me—Mr. Bennett then apologized, and gave me a copy; too late, of course, to adequately argue at that time. (*Mag. Ct. audio*). I had no choice but to make a formal motion to deny this order, because my motion, arguments, and citations of law were apparently never considered. The order written by Mr. Bennett never made it to my inbox for my perusal, and the “enforceable agreement” was simply Ordered at that hearing, intact. Rule 43(k) states: “*No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel. Settlement agreements shall be handled in accordance with (Rule 41.1, SCRPC.)*”

Also during this hearing—Mr. Bennett went out of his way to make a number of snide, belittling, and accusatory remarks to me while I was on the stand, while testifying. Initially his remarks were aimed at whether I had actually agreed to the surrender of my animals, with comments like: “*Just because she agreed to this and then decided to change her mind...*” and “*then she asks for all her animals—you can't eat your candy and have it too!*” “*They (the County) have a lot of money in this case, a lot of time...if she's gonna play games on this, the tickets (the 9 misdemeanors) can be reinstated!*” and “*she apparently has several so-called addresses there, ...so she can hide something.*” Judge Duffie had asked me who I thought might have been the person who made the original trespass and complaint; and I answered that strong circumstantial evidence indicated that it may have been a former sister-in-law, who was very opposed to my marriage to and request for a portion of her brother's estate. Mr. Bennett had been her attorney in that case in Probate Court, and Mr. Sapp had been mine. At first, Mr. Bennett's statements were confined to generally smearing comments, but after my statement about the circumstantial evidence, Mr. Bennett *jumped up* and actually named Gloria Smoak, and said he “*guaranteed*” that she was “*not the person who complained*”—and then went on to say how “poor” conditions and “sick dogs” could have made anybody complain. (But he still *would not* name the complainant) As if *that* weren't enough, he then went on to inform me that I “*couldn't even get to be declared Tommy Catterton's wife—and we didn't even oppose that!*” When I corrected him by saying I'd appealed, and won the common-law wife title—he then shouted “*it's perjury to claim something like that in Court; that isn't true!*” I informed him that it WAS true, and I resented his shouting at me. Judge Duffie then intervened and said this had nothing to do with the matter at hand, and we needed to get back on track. (*Mag. Ct. audio*). When we convened next, I asked Judge Duffie to either excuse him as County Counsel, or sanction him for his loudly voiced, snide & abusive outbursts. Judge Duffie told Mr. Bennett was to stop,—and if he did it again, I could complain again? However, by the next time in court, Mr. Thornton had been named the County's attorney.

ARGUMENT NO 4)

(BACKGROUND AND CITATIONS OF LAW)

This Appeal to Common Pleas Court was done properly and submitted timely; However, I allege that the Answer from Judge Duffie and the Magistrate Court; and the methods by which it and various sources of supportive documentation were handled, were often outside of the Judiciary Rules, and the Clerk's handbook:

(Rule 5 SCRCPP: "...papers shall be served upon each of the parties of record " and 2005 Amendment:: " ...all major documents and papers, including, but not limited to, pleadings and amended pleadings, discovery requests and responses, motions and similar papers are to be served on every party of record.")

Specifically, My Motion for Reversal of all Orders was submitted primarily because:

Judge Duffie, despite being both a Judge and an attorney—never made certain that his clerk served a copy of his Answer to my Appeal to Common Pleas Court *to me*, and I never received a copy until I went to the Common Pleas clerk and *bought* one for myself.

Judge Duffie's clerk actually filed his Answer to my Appeal *by* the final extension date of November 15 afforded by Judge Buckner, but the Common Pleas clerk only date stamped the letter *requesting* an extension into Common Pleas Court on November 16, 2016.

In addition, although Judge Buckner's letter extending the date allowable to serve his Answer stated that Judge Duffie was responsible for letting me, the Appellant, know that the extension had been granted at all—I *was never notified*.

Judge Duffie's clerk claimed that she had "served" the Common Pleas clerk with his Answer via a "sticky note" on the front page of the Answer, but this note claimed that it had been handed to the Common Pleas clerk on November 10—NOT the 14th as the Answer was stamped in.

Although the request for a "Compel to Produce" was listed on this motion, referring to the actual 3rd

formal "Motion of Discovery" as submitted along *with* my Appeal to Common Pleas Court; This was neither addressed *nor* complied with in any way.

In (*Brady v. Maryland*, 373 U.S. 83 (1963)) the United States Supreme Court established that the prosecution must turn over all evidence that might exonerate the defendant (exculpatory evidence) to the defense. It is a *violation of constitutional due process* for prosecution to withhold evidence. (*Giglio v. United States*, 405 U.S. 150 (1972)), in which the Court held that the prosecution's failure to inform the jury of certain agreements was a failure to fulfill the duty to present all material evidence to the jury (*United States v. Agurs*, (1976) No. 75-491(d)) The proper standard of materiality of undisclosed evidence, and the standard applied by the trial judge in this case, is that if the omitted evidence creates a reasonable doubt of guilt that did not otherwise exist, *constitutional error* has been committed. Pp. 112-114. The prosecution's duty to disclose (under Brady) does *not require a request* by the defense. (*Kyles v. Whitley* 514 US 419 (1995))-- shows that the Brady Rule is not limited to evidence known only to the prosecutor—but applies to *evidence known to other agents on the persecution team, E.G. the police, etc.*

In addition, If photos of my *animals and their body condition (as taken on the unwarranted search on Friday, May 13, 2016)* had been properly presented to Judge Duffie; even *with Mr. McNeil's Affirmation*, they would have clearly shown that *none* of my animals were actually malnourished or diseased *as claimed* in the complaint—and *no warrant* would likely have been issued.

The photos of my short-haired dogs, in particular, would have shown beyond a reasonable doubt that *no warrant or seizure was proper*, when based on the assertion that my animals *weren't "being taken care of"*; and the resources, in time and expense, of the many officers of the Court that have been utilized thus far would have been *completely unnecessary*.

CONCLUSIONS AND REQUESTS FOR RELIEF

Inasmuch as Appellant believes that all the forgoing evidence shows conclusively and without reasonable doubt that Colleton County officers of the court and several contracted animal activists (collectively known as Colleton County for the purpose of this case) did, on several occasions and on many levels—disrupt and destroy her former quiet, peaceful, and fruitful life and retirement without valid reason and against current law; the following relief and restitution is requested of this Court:

1) Full monetary restitution for the value of both her breeding livestock actually seized, kept, and disposed of beyond the Appellant's reach; *and* those animals that would reasonably have been produced and sold by on-going breeding activity for the next 10 years *only*, as per the Appellant's Exhibit (AC # 7) Such information was derived from her records *and* the records of the County at the time of seizure. (The extra hands-on assistance in the form of Appellant's friend Kim and her daughter to make this *much* larger breeding output happen was already mostly in place, but never utilized because of the seizure and disposal of Appellant's animals.)

Namely, the sum of \$5,147,150.00 is requested, (five million, one hundred forty seven thousand, one hundred fifty dollars) to be ordered by this Court to be paid to Appellant by Colleton County. This could serve as punitive damages as well, in regard to Appellant's suddenly destroyed health, income, reputation, peace of mind, and general well-being; as well as her standing in the community in which she will spend the rest of her life, and incidentally, also spend her income. However, If the Court feels that a further sum in penalty would be appropriate, Appellant would beg your consideration in this as well.

2) A re-affirmation by this Court of Appellant's on-going right of Grandfathering of her property, inasmuch as she did *not* willingly remove her animals from the premises which she (and they) had

occupied continuously for nearly a quarter of a century, until they were seized; and a right of complete privacy and protection against trespass in the future as was *not* afforded her during this disputed action. Jefferson Davis put *my* fondest desire quite adroitly in a message before the Confederate Congress in 1861: “All we ask is to be let alone.”

3) A public retraction of the scurrilous claims in print and on TV (to as many of the national outlets as the story went to) of the so-called “deplorable” physical condition of the animals in my care, as fully repudiated by (AC# 3 & 4) which was composed *entirely* from the records of the County on their *Magistrate Court Exhibit #9*. This would need to be issued by the six people who made the most damaging and erroneous remarks; namely former Animal Control Director Reggie McNeil; Former Lead Case Detective Jodi Taylor; the director of the Hilton Head Animal Shelter, Tallulah Trice, Hilton Head Humane Society and Spay/Neuter Clinic affiliate Nancy Foard, Colleton County Sheriff Andy Strickland, and Beaufort Animal Shelter head, Cindy Gerhoffer.

This will not change the minds of everyone who read, watched, and listened to the initial releases—but it would go far toward the deep pain Appellant feels whenever she runs across some of these reports online, and hopefully at least, change the minds of the many residents in *this* County to whom the Appellant has sold pet puppies in the past nearly quarter century.

4) A full Expungement of the legal records of the Appellant in this State, in regard to this entire search and seizure operation—at both the misdemeanor and criminal levels, and destruction of all of the “evidence” collected by the county pertaining to this action.

5) The name of, and all particulars related to, the person and the complaint of the original complainant who started this action. My peace of mind demands it.

For the reasons stated, this Court should *reverse the judgments* of the circuit court, and grant Appellant

This restitution and relief, and any other reliefs you see fit to bestow.

Lynne Van House
12-1-17

FROM:

Lynne Van House

19897 Augusta Hwy

Round O, SC 29474

RECEIVED

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SC Court of Appeals

TO:

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Clerk: Jenny Abbott

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