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State of South Carolina  
Appeal Case Number  
County of Horry

(2012) # CP2609486

Notice of Appeal  
Criminal Appeal in the  
Magistrate/Municipal Court

Mr. Michael Louis Sgro,  
Appellant,

-vs-

State of South Carolina and  
Town of Surfside Beach,  
Appellate (s).

**RECEIVED**

JAN 11 2018

SC Court of Appeals

Jessica E. Kinard  
Staff Attorney  
S.C. Bar No. # [77889].

Judge G. Blanton  
[14-DE-J-0054].

I declare under penalty of perjury under the laws of the United States; this is ADA designated litigation, document #(1) is (true and correct) under [28 U.S.C.] 1746.

Mr. Michael L. Sgro; Mr. Michael L. Sgro Executed on (01/09/18).

## Statement of Case and the Facts

The State of South Carolina contravened the [legal process] under the (sixth amendment) to the U.S. Constitution's application to the States through the (fourteenth amendment) guarantee to an accused the right to a speedy trial. The court must consider four factors, the 4-part balancing test.

- (1.) Length of delay;
- (2.) Reason for the delay;
- (3.) The Appellant's assertion of the right;
- (4.) Prejudice to the Appellant.

(1.) Length of Delay; Magistrate Judge G. Blanton overruled Rule 65, [SCRCF] and detained the Appellant without bail under S.C. Code Ann. 17-25-10 (1976). No person shall be punished for an offense unless duly and legally convicted thereof in a court having competent jurisdiction of the cause and of the person. This infringes the Appellant's entitlement to protection pursuant to [42 U.S.C.] 12203(a)(b).

(a). Surfside[PD] instigated cognizable discrimination under ADA Title [II]. If any person shall be or stand committed or detained for any crime, he shall be entitled to the writ of habeas corpus under section 17-17-10. Officer Butler violated the (fourth amendment) to the U.S. Constitution, arrest by a police officer acting with malice and reckless indifference cognizable under section 1983. Officer Butler, while acting under color-of-state-law knowingly and deliberately arrested Appellant without probable cause under section 16-11-620.

(2.) Reason for the Delay; Hon. Larry B. Hyman Jr. contravened the Double Jeopardy clause of the (fifth amendment) to the U.S. Constitution which prohibits anyone from being prosecuted twice for substantially the same crime. Section 17-25-10. No person shall be punished for an offense unless duly and legally convicted thereof in a court having competent jurisdiction of the cause and of the person. S.C. Code Ann. 16-11-620 (1976) states; "On conviction, be fined not more than \$ {200.00} dollars or be imprisoned not more than thirty (30) days. The State of South Carolina dismissed with prejudice the case no. #(2014)-CP-26-6015 Initial Appeal Brief and then rejected a ("PCR") application.

(3.) Appellant's assertion of the right; Magistrate Judge G. Blanton barred further action at law after holding a bench trial on the (44<sup>th</sup>) day of incarceration under section 16-11-620. Whenever a municipal court or a magistrates court shall have acquired jurisdiction by reason of a person committing an act which is alleged to be in violation of a municipal ordinance and which is in violation of the criminal law of this State a conviction or an acquittal by the first court acquiring jurisdiction shall be a complete bar to a trial by another court for the same alleged unlawful act or acts pursuant to S.C. Code Ann. (17-23-20) (1976). Substantive law defines the remedy and the right, while the law of procedure defines the modes and conditions of the application of one to the other. The bench trial contravened Appellant's right to a signed request for trial by jury, the Appellant was convicted on (2) counts of trespass prior to a trial by jury held (in absentia).

(4.) Prejudice to the Appellant. Amendment [VII]. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of (trial by jury) shall be preserved, and no fact tried by a jury shall be otherwise reexamined in an Court of the United States, than according to the rules of the common law.

Case no. # 35552GG provides clear and convincing evidence that the State's misconduct was willful, wanton, or with reckless disregard. There is a genuine issue of material fact, Appellant is entitled to judgment as matter of law. A person aggrieved by judgment or decree, as requirement for right to appeal, when judgment or decree operates on his rights of property or bears directly upon his interest and constitutes substantial grievance. A State shall not be immune under the (eleventh amendment) to the Constitution of the United States from an action in Federal or State court of competent jurisdiction.

The state action constitutes denial of some personal or property right, or imposition on party of burden or obligation. The lack of available accommodations is classified as discrimination under [42 U.S.C.] 12182(a). Section 17-27-70(c); authorizes the Court to grant a motion by either party for summary disposition of an application when it appears from the pleadings that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

The Court makes the following findings of fact and conclusions of law. The basis for a ruling on Respondent's motion to dismiss under section 17-27-20(A); contravenes Respondent's filing an applicant which may commence a post-conviction relief action on the following grounds:

- 1.) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of the State;
- 2.) That the court was without jurisdiction to impose sentence;
- 3.) That the Sentence exceeds the maximum authorized by law;
- 4.) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.
- 5.) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise held in custody or other restraint; or
- 6.) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief.

The (fifth amendment) to the U.S. Constitution creates a number of rights relevant to both criminal and civil legal proceedings. In criminal cases, the (fifth amendment) guarantees the right to a grand jury, forbids double jeopardy, and protects against self-incrimination. It also requires that "due process of law" be part of any proceeding that denies a citizen "life, liberty or property" and requires the government to compensate citizens when it takes private property for public use.

Amendment [V]. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or navel forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Double Jeopardy Clause of the (fifth amendment) to the U.S. Constitution prohibits anyone from being prosecuted twice for substantially the same crime. Re-prosecution for the same offense following conviction and multiple punishments for the same offense having identical statutory elements, or one is a lesser statutory offense, then the inquiry must cease, and the subsequent prosecution is barred. I, Michael Louis Sgro, do hereby request to [petition] the Final Order of Dismissal signed by Judge William H. Seals, Jr. on March 07<sup>th</sup>, (2016).

Support US:

~~U.S. Code Title 42 Chapter 7 Subchapter II § 407~~

## 42 U.S. Code § 407 - Assignment of benefits

### (a) IN GENERAL

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

### (b) AMENDMENT OF SECTION

No other provision of law, enacted before, on, or after April 20, 1983, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.

### (c) WITHHOLDING OF TAXES

Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this subchapter, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.

(Aug. 14, 1935, ch. 531, title II, § 207, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362, 1372; Pub. L. 98-21, title III, § 335(a), Apr. 20, 1983, 97 Stat. 130; Pub. L. 105-277, div. J, title IV, § 4005(a), Oct. 21, 1998, 112 Stat. 2681-911.)

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Cornell Law School

The South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, [SC]. 29211

November 21<sup>st</sup> (2017).

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Re: U.S. (DOJ) Order 556-73.

To: Clerk of Court; Jenny Abbott Kitchings.

This (document) has been promulgated in order to redress the State of South Carolina and their subsequent refusal to uphold the Double Jeopardy clause under the (fifth amendment) to the U.S. Constitution. Appeals Case No. # (2012)-CP2609486 is evidence concerning (fourth amendment) to the U.S. Constitution false arrests by the Surfside[PD] occurred despite ample warning by the Appellant of protection under ADA Title [II]. In (2012), Officer Butler knowingly and willingly arrested Appellant twice without probable cause under section 16-11-620.

After the (1<sup>st</sup>) arrest, a bond of \$ {470.00} dollars was charged to an [SSDIB] payment before releasing Appellant. ~~Under [42 U.S.C.] 407(a),~~ The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. This bond money was not returned after the bench trial in (2012).

Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured by the Constitution and laws of the United States or by the Constitution and laws of the State 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, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasure of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office in accordance with S.C. Code Ann. 16-5-60(1976).

A State shall not be immune under the (eleventh amendment) to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than the State under [42 U.S.C.] 12202. Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the (premises of another person) after having been warned not to do so or any person who, having entered into the dwelling house, place of business, or on the (premises of another person) without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction, be fined not more than two hundred dollars or be imprisoned for not more than thirty days under S.C. Code Ann. 16-11-620(1976). A request for jury trial was signed prior to the (2<sup>nd</sup>) arrest by Officer Butler. Arrest under case no. #35552GG carried (44) days of incarceration and a fine of \$ {470.00} dollars. I declare under penalty of perjury under the laws of the United States, ADA designated litigation is true and correct under [28 U.S.C.] 1746.

Mr. Michael L. Sgro; Mr. Michael L. Sgro Executed on (01/09/18).

RECEIVED

United States Marshal Service: Kelvin Washington  
U.S. Courthouse  
901 Richland Street, STE 1300  
Columbia, [SC]. 29201

~~2017 OCT 19 AM 9:54~~  
UNITED STATES MARSHALS  
COLUMBIA, SC

October 17<sup>th</sup> (2017).

~~Re: [42 U.S.C.] 1990~~

To: United States Marshal Service.

This research (document) has been procured in order to redress the lack of response by the U.S. Marshal Service to acknowledge the ~~Form USM-285 [legal process]~~. This is a necessary step in a long battle to secure the rights of an ADA designated litigant in U.S. District Court. In (2008), a U.S. Magistrate issued several ~~Marshal-285-forms~~ under a [28 U.S.C.] 1915 grant. This Report and Recommendation claims the document(s) were stolen from the ("Plaintiff").

Cevykus Law Firm was the (3<sup>rd</sup>) Wisconsin court appointed attorney to represent ("Plaintiff") in (2006), no summons has ever been completed on this [SSDIB] fraud claim. ADA designated litigation is the only means possible to correct U.S. Government fraud, the Section 504 of the Rehabilitation Act has not produced any degree during the past (23) years of entitlement. With no law degree, this (document) does not produce any tangible [SGA] and also no earnings.

The acknowledgement by the U.S. District Court for the Middle District of Florida-Orlando Division was received in the mail @ Daytona Beach main post-office in August on (2008). The (document) seemed to indicate the U.S. Magistrate was referring to a (female) pauper. Pursuant to [20 CFR] 416.120(b)(11); Masculine gender includes the feminine, unless otherwise indicated.

The concern over having the (2006) withholding of \$ {6192.00} dollars returned had caused a great amount of hardship and duress. In (2008), the full amount of the [SSDIB] payment was @ \$ {938.00} dollars per month. When the SSA direct deposited this money, the homeless district in Daytona was becoming difficult. Accommodations were secured under [42 U.S.C.] 12182(a).

The State of Florida has imposed a fine of \$ {417.20} dollars against the drivers license, this is a continuation of (fourth amendment) to the U.S. Constitution false arrest. Volusia County seems to think they are above the law, they feel that if this fine was paid, the license could transfer. This case has an Initial Appeals Brief that was filed in a timely fashion in (2011). The U.S. Attorney General has refused to intervene, this refusal violates [42 U.S.C.] 12203(a)(b).

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, ~~shall be liable to a fine in the sum of \$-{1000.00}-dollars, for the benefit of the party aggrieved thereby under [42 U.S.C.] 1990.~~

In (2016), the U.S. Marshal stamped (5) copies of the ~~Form USM-285~~ which were sent to the U.S. Court of Appeals for the Fourth Circuit and No. 04-17-90013 was processed in (2017). The financial situation does not look bright, after (15+) consecutive years there is no earnings record. The garnishment and the ~~(2012)-bond of \$-{470.00}-dollars are tangible~~, this money would make accommodations possible under [42 U.S.C.] 12182(a).

~~Upholding [42 U.S.C.] 407(a)(b) is a crucial point of law, this provision is required in order for the U.S. Government to function.~~ I declare under penalty of perjury under the laws of the United States; ADA designated litigation is true and correct under [28 U.S.C.] 1746.

Mr. Michael L. Sgro; Mr. Michael L. Sgro Executed on (10/17/17).

(a) Review by Writ of Certiorari. A final decision entered under the Post-Conviction Relief Act shall be reviewed by the Supreme Court upon [petition] of either party for a writ of certiorari, according to the procedure set fourth in this Rule.

(e) Content of Petition. The [petition] shall contain:

(1) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail.

(2) A concise statement of the case, containing the facts material to the consideration of the questions presented.

~~(3) A direct and concise argument in support of the [petition].~~ The argument on each question shall include citation of authority and specific reference to pertinent portions of the lower court record. ~~The total length of a [petition] shall not exceed (25) twenty-five pages.~~

This U.S. Constitutional injustice has created a serious concern for the lack of redress. Appeal No. #(2012)CP2609486 was issued in order to file an Initial Appeal Brief for case no. 35552GG. The appeal was granted in (2012) subsequent to a release from (44) days of incarceration under section 16-11-620. Appellant claims (fourth amendment) to the U.S. Constitution false arrest by a police officer acting with malice and reckless indifference cognizable under [42 U.S.C.] 1983.

~~A series of papers equaling (17) pages has been mailed to the ("PCR") Division for the State of South Carolina Attorney General's Office.~~ The papers comprise a summary of the circumstances or questions of consideration in regard to a S.C. Code Ann. 44-17-580 (1976). This documented SSA fraud took place in (1997). The State of Minnesota transferred an [SSDIB] claim processed under the penalty of [42 U.S.C.] 1320a-7b.

Hennepin County Medical Center was considered to be exempt from liability regardless of the criminal penalties involving. Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a Federal health care program (as defined in subsection (f) of this section), shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under the program, be guilty of a felony and upon conviction thereof fined not more than \$ {25,000.00} dollars or imprisoned for not more than five years or both.

In (1994), the trial court authorized the hospital for (items) or (services) for which payment is recorded. Inpatient treatment and involuntary use of neuroleptic medications qualify as (items) or (services). A State shall not be immune under the (eleventh amendment) to the Constitution of the United States from an action in Federal or State court of competent jurisdiction. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State under [42 U.S.C.] 12202.

C.A. No. 6:08-1405-[GJK] was filed in US. District Court after SSA refused to return the State of Wisconsin withholding. This in forma pauperis grant was dismissed without prejudice after an indigence affidavit was signed in (2008). The amount of \$ {6192.00} dollars was returned, rents were paid in (2008). I declare under penalty of perjury under the laws of the United States; ADA designated litigation is true and correct under [28 U.S.C.] 1746.

Mr. Michael L. Sgro, ~~Mr. Michael L. Sgro~~ Executed on (01/09/18).

# The South Carolina Court of Appeals

Michael L. Sgro, Appellant,

v.

State of South Carolina and Town of Surfside Beach,  
Respondents.

Appellate Case No. 2017-002492

The Honorable Larry B. Hyman, Jr.  
Horry County  
~~Trial Court Case No. 2012CP2609486~~

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## ORDER

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Appellant has failed to submit the notice of appeal filing fee, the order challenged on appeal, a proof of service for the notice of appeal and proof of filing the notice of appeal with the lower court clerk of court, as required by Rule 203 of the South Carolina Appellate Court Rules, and letter of this Court dated December 11, 2017. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY *V. Claire Allen, Deputy*  
CLERK

Columbia, South Carolina

cc:  
Michael Louis Sgro  
~~Maronee-Elizabeth Pitcher, Esquire~~

**FILED**

*January 4, 2018*

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MYRTLE BEACH  
505 N KINGS HWY  
MYRTLE BEACH  
SC  
29577-9998  
4561600577

01/09/2018 (800)275-8777 10:08 AM

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Product Description	Sale Qty	Final Price
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BarnSwllw #10 Env	3	\$1.83
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(Unit Price:\$0.61)

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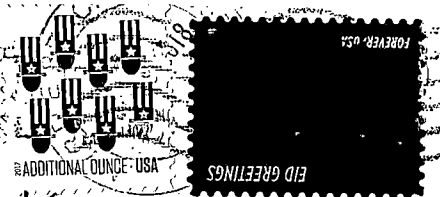
Total	\$1.83
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Cash	\$1.83
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MR. M. L. SGR0  
505 N. Kings Hwy.  
Myrtle Beach, SC 29577



South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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