

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 23 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 (01/22/18).

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, [SCRCP] 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 (44th) 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 07th, (2016).

I declare under penalty of perjury under the laws of the United States; this is ADA designated litigation and is true and correct under [28 U.S.C.] 1746. Whenever the U.S. Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this sub-chapter, or that any group of persons has been denied any of the rights granted by this sub-chapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court under [42 U.S.C.] 3614(a).

Housing has become a serious problem in the U.S. and the [SSDIB] payment is an insufficient income, involuntary servitude is the result of an attempt at paying for a rental unit. This conduct is barred under the (thirteenth amendment) to the U.S. Constitution and is defeating the purpose of title [II] under [20 CFR] 404.508. A civil action under this paragraph may be commenced not later than the expiration of (18) months after the date of the occurrence or the termination of the alleged discriminatory housing practice under [42 U.S.C.] 3614(b)(1)(B).

On September 10th (2014), an application for post-conviction relief (“PCR”) was filed with the Court of Common Pleas of Horry County. A trial court must establish an Appellant did not have legal cause and good excuse for entering premises after warning. Entering premises after having been warned not to do so requires that no cause can exist in which any person can enter premise after warning not to do so under S.C. Code Ann. 16-11-620 (1976).

Section 16-11-620 legal cause and good excuse is binding, therefore a cause must exist in order to substantiate trespass after warning. Positive implications involving the actions of an Appellant cannot involve criminal intent other than the act of entering premises after having been warned not to do so. The Appellant must have adequate cause; without this, a mere presence on premise necessary for an arrest will stand up in court. Legal cause and good excuse gives explanation and indicates an awareness or purpose for the questioned action.

An Appellant must establish a positive intention after warning against entering premises, a lack of good cause for this action would deter a reasonable person from committing trespass after the warning under section 16-11-620. The (unlawful) act of entering premise after warning not to do so is justified, the owner of the premises is the beneficiary of a whole life insurance policy which is owned by the Appellant and homelessness is (unlawful) under [42 U.S.C.] 2000a-3.

Syllabus-

The explanation of good cause against the (1st) false arrest is as follows: The Appellant walked to the [MB] Post Office and returned with a check which he cashed at the property owner's Bank. Appellant gave notification to local law enforcement of entitlement under ADA Title [II]. Prior to the (1st) section 16-11-620 false arrest, accommodations were vacated for the month. During the (1st) false arrest, Appellant was claiming personal belongings left @ (615 4th Ave. N.).

During the (1st) arrest, Appellant was returning to premises to locate personal belongings. The Appellant lost (1) weeks accommodations after the (2nd) arrest attempting to discuss (false arrest) under section 16-11-620 with the owner. The owner had previously allowed (615 4th Ave. N.) use for the Appellant to obtain a State of South Carolina State ID. Prior to (2012 false arrests), police never arrest Appellant under S.C. Code Ann. (16-11-620) (1976).

In (1998), the State of South Carolina civilly committed Appellant after the owner petitioned under S.C. Code Ann. (44-17-580) (1976). The State refused the Appellant's right to the writ of habeas corpus under section 44-22-20. The owner used Appellant to perform yard-work pursuant to section 44-17-580(B). This establishes a foundation, no person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under [42 U.S.C.] 12203(a).

After release from (1st) incarceration the Appellant signed a request for jury trial form. Judge G. Blanton coerced an agreement to a bench trial by threats of further incarceration to secure release of Appellant after (2nd) arrest. 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 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 treasurer 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 under S.C. Code Ann. 16-5-60 (1976). In (2012), Judge G. Blanton convicted on both counts under section 16-11-620 during a bench trial he held after (44) days of incarceration. A fine of \$ {470.00} dollars seized as bail money had also been obtained pursuant to [42 U.S.C.] 407(a). It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected under [42 U.S.C.] 12203(b).

The (fifth amendment) to the U.S. Constitution creates a number of rights relevant to both criminal and civil proceedings. 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 under section 17-23-20. 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".

The Double Jeopardy clause to the (fifth amendment) on the U.S. Constitution clause reads: re-prosecution for the same offense following conviction and multiple punishments for the same offense if the offenses have identical statutory elements, or one is a lesser statutory offense, then the inquiry must cease, and the subsequent prosecution is barred. The question is whether the individual acts are prohibited or the course of action which they constitute is. If each act is punishable separately, there can be but one penalty.

The Appellant has constructed a plausible claim for granting a ("PCR") for a false arrest under the (fourth amendment) to the U.S. Constitution, the imposition of any fine defeats the purpose of title II under [20 CFR] 404.508. This is a (fifth amendment) to the U.S. Constitution violation, meeting the requirements for granting ("PCR") relief. The return of the \$ {470.00} dollar fine is mandatory under section 17-27-20(A). The State of South Carolina Attorney General is guilty of preventing Appeal no. #CP269486 from effectively reversing this State action.

In (1997), this [SSDIB] claim was transferred from the State of Minnesota to South Carolina after the claimant completed the required time period under [42 U.S.C.] 405(c)(1)(B). The "time limitation" of (three) years, three months, fifteen days was established in the State of Minnesota with a trial work period attempted under [20 CFR] 404.1592. Every civil action commenced against the United States shall be barred unless the [complaint] is filed within (six) years after the right of action first accrues. The action of any person under legal disability at the time the claim accrues may be commenced within (three) years after the disability ceases.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with any person because of his (handicap) because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling shall be fined or imprisoned under [42 U.S.C.] 3631(a). During the Medicare and [SSDIB] waiting period of two years and five months, Medicare recorded a series of attacks which were related to the ADA Commerce clause; Title [III].

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter. After the first nine months of residency, the State of South Carolina re-committed this claim under S.C. Code Ann. 44-17-580 (1976). The result of this forced treatment prevented the normal function of the claimant and the basic ability of a U.S. citizen to defend the bill of rights under the U.S. Constitution.

In (1994), the civil action by the State of Minnesota violates the core rights of a U.S. citizen as well as the (sixth amendment) to the U.S. Constitution to have the Assistance of Counsel for his defense. The civil commitment process under Minn. Stat. 253B.07 involves the county attorney and the defense of the proposed patient's counsel. The HCMC (ER) record continued a deliberate and premeditated process of insurance fraud. In (1990), the Appellant had moved to the State of Minnesota to attend college while on delayed entry to the U.S.A.F.

Earnings records for the (four) year period following the issuance of a (2nd) Pell Grant supply the potential for the motivation after being issued a unsubsidized Stafford loan. Evidence used to convict is inadmissible and ineffective under Minn. Stat. 169.121. The (nine) month period after the issuance of the unsubsidized Stafford loan and subsequent unlawful conviction establish the basis of legal argument against the U.S. Government. Disregard for the deliberate damage to the Appellant's educational attainment and career development occurred under Minn. Stat. 169.121.

In October of (1991), no further positive accomplishment was established. The work record is indicative of premeditated disability under [42 U.S.C.] 1320A-7b. The (1st) Pell Grant created legally binding transcripts, the U.S. Department of Education can't condone transcripts obtained after the issuance of the (1st) Pell Grant. Educational attainment for this under graduate is too low to warrant the issuance of Federal funding State of Minnesota.

In (1990), U.S.A.F. delayed entry isn't plausible, this is simply a foolhardy attempt at receiving financial aid after the traditional time period was exhausted for earning a college degree. This is a challenge to the undergraduate's integrity and the rationale is one of mental retardation. Earnings and financial records were sufficient to warrant leaving the area in order to prevent the petitioner from coercing a disability, records for this (defaulted) undergraduate are evidence that the State acted with premeditated forethought and malice. All records were indicative of downward social drift and feeble attempt at living in the Twin Cities after student loan (default).

In (1991), an auto loan required income equivalent to the earnings recorded during the summer, attempting full-time college coursework was irrational. All housing was difficult to obtain, after this period the last (2) physical addresses required earnings to furnish the dwellings. Petitioner's contribution and employment created a false sense of security which the petitioner employed to coerce the Appellant.

The Appellant had maintained the original bank account first opened in (1990) which was used to process academic transactions and pay earned. A tight, frugal mind-set is dangerous causing a sharp transition in reasoning. This spendthrift mind-set causes poor orientation which is the focus of bad decision making where nothing is gained except a dare devil's wish to excel at keeping the on running account of trial and error.

The (2nd) car was driven for one year, the result was an automobile unfit for the winter months and a plan suited for an insurance accident. The petitioner maintained the same low wage saga as was normal during the (1980)'s. The driving records for this period in each State are the same, a fool could never keep this type of record. The bank records are conclusive of a fraud racket and the high level risk not found in higher education.

The last license plate was on the (2nd) car when the last coursework at Community College was attempted. The work records beginning in (1988) are indicative of an attempt to arrange a plot to kill this (defaulted) undergraduate. HCMC did a good job of hiding the fact a (2nd) car was left in the HCMC parking lot while the owner stayed in Catholic Charities. During the stay, The Grapes of Wrath provided reading material while in the basement and may have prompted current ADA research in the State of Florida.

The (defaulted) unsubsidized Stafford was the (1st) loan after leaving Wisconsin in (1990). The bank in Wisconsin had a record of (5) loans paid in full without error when this loan was issued to attend a Minnesota-Community College. The credit records and also the medical records were noteworthy before a (2nd) Pell Grant was issued. The financial structure for the (1st) ten years was too unstable and the risk too high.

The petitioner created a cheap image to make this undergraduate appear better off. The lack of a guidance counselor and no prior coursework was indicative of the setup, initiated after the (2nd) Pell Grant was issued and work was taken with CCP/Pinkerton Security Services. This is strong evidence an insurance hit was the motive. Earnings records for the (6) years were labor intensive and this undergrad needed to earn a degree.

The (1990), Minnesota College setup is evidence towards a recovery under Section 504 of the Rehabilitation Act of (1973). College coursework requires prerequisite College preparatory track in order to develop knowledge and skill. A non-college preparatory track in high school does not give an adequate knowledge base to work from. College testing is required to place the student in the right coursework.

In (2017), (23) years have passed since the attack @ Beta Theta Pi fraternity. In (2007), loan default) was paid off. Now, (10) years have passed and no coursework has been attempted. The U.S. Department of Education has done nothing to make amends after academic institutions have enforced trespass against the protections under the ADA. The U.S.D.A. federal funding for meals @ a Social Service Center is the only source of federal funding available.

Each State has imposed the maximum level of religious observation, the Establishment and the Exercise clause of the (first amendment) to the U.S. Constitution is manipulated to provide basic nutrition. Poor living conditions prevail, the lower strata doesn't provide any opportunity to gain enjoyment, document #(2).

Mr. Michael L. Sgro;-----*Mr. Michael L. Sgro*----- Executed on (01/22/18).

The South Carolina Court of Appeals
P.O. Box 11629
Columbia, [SC]. 29201

January 19th (2018).

Re: [42 U.S.C.] 407(a)(b).

This document is being promulgated in order to redress the State of South Carolina's refusal to acknowledge a (fourth amendment) to the U.S. Constitution false arrest and the subsequent lack of any adherence to U.S. Code. [42 U.S.C.] 407(a); explains 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 [SSDI] beneficiary had no recorded earnings for (2012-13). In order to post bail after the (1st) arrest under section 16-11-620, (bond money) was deducted from Appellant's U.S. Treasury Account. The amount of \$ {470.00} was acquired from [SSDIB] payments. A bench trial held in (2012), convicted Appellant on both counts of trespass with (44) days time served.

In accordance with [42 U.S.C.] 407(b); 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. Careful review of all documentation issued after the correspondence dated December 11th (2017) fails to supersede the provisions of [42 U.S.C.] 407(a)(b). Because of the financial limitations involving payments under [SSDIB], [legal process] becomes an expensive and time consuming process.

All previous documentation is now required as evidence and all postage paid is considered as a [legal process] under [42 U.S.C.] 407(a)(b). Once again, I am enclosing several document(s) that have been previously submitted to attempt an Appeal against the (2012) arrests by Surfside[PD]. The current documentation is referred to as ADA designated litigation.

Pursuant to [42 U.S.C.] 12203(a); No person shall discriminate against any individual because such individual has opposed any act or practice made [unlawful] by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an [investigation], proceeding, or hearing under this chapter. Accordingly, the original Appeal process was rejected and the ("PCR") application was submitted on September 10th (2014) with the Court of Common Pleas for the Fifteenth Judicial Circuit. Previous documentation gives explanation as to why this application is required under a (fourth amendment) to the U.S. Constitution false arrest.

This is formal [legal process]. Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

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

Mr. Michael L. Sgro; ~~Mr. Michael L. Sgro~~ Executed on (01/22/18).

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

01/19/2018 (800)275-8777 10:51 AM

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Product Description	Sale Qty	Final Price
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Purple Heart 1	1	\$0.49
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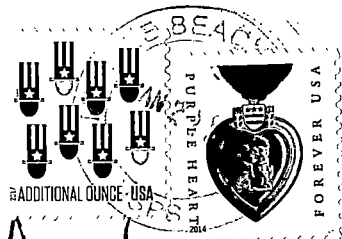
(Unit Price:\$0.49)

Total	\$0.49
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Cash	\$20.00
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Change	(\$19.51)
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MR. M. L. SGRO
505 N. Kings Hwy.
Myrtle Beach, SC 29577



The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29201

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JAN 23 2018

SC Court of Appeals