FINAL BRIEF

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Georgetown County
Court of Common Pleas

Steven H. John, Presiding Circuit Court Judge

Case No. 2015 – CP – 22 -00483

Willie Singleton — Appellant

V

CITY OF GEORGETOWN JANET GRANT, INDIVIDUALLY AND AS AN EMPLOYEE OF THE CITY,RICKY MARTIN,INDIVIDUALLY,AND AS AN EMPLOYEE OF THE CITY,ROBERT O'DONNELL , INDIVIDUALLY AND AS MAGISTRATE FOR THE CITY OF GEORGETOWN — **RESPONDENT**

FINAL BRIEF OF APPELLANT

Willie Singleton, Pro Se
501 North Congdon Street
843-359-6363
Georgetown, SC 29440

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ISSUES

I DID THE JUDGE ERR ORDERING A SUMMARY JUDGEMENT TO THE DEFENDANT WITH HIS FINDING OF FACTS THAT HIS RULING WAS BASED ON THE FACT THAT THE APPELLANT CONCEDED THAT NO TAKING OR CONDEMNATION OCCURRED?

II DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS ? WHEN IN THE APPELLANT SECOND CAUSE OF ACTION THE APPELLANT CHARGED THE DEFENDANTS FOR ABUSE OF POWER AND BEING DEPRIVED OF THE CONDENATION PROCESS?

III DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS ON THE SIXTH CAUSE OF ACTION WHEN THE FEDERAL COURT REMANDED THE SIX CAUSE OF ACTION BACK TO THE STAE COURT?

IV DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS WHEN THE FEDERAL COURT REMAINED ALL STATE CHARGES TO THE STATE COURT?

V DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS.WHEN THE FEDERAL COURT REMANDED THE EIGHTH CAUSE OF ACTION TO THE STATE COURT?

VI DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS? STATING AS A FINDING OF FACT AS TO; ACCORDINGLY, EVEN IF THE APPELLANT PLED A GROSS NEGLIGENCE CAUSE OF ACTION, SUCH ALLEDGED ACTIONS ARE ENCOMPASSED IN S.C. Code Ann. § **15-78-60 AND RESONDENTS ARE, THEREFORE, IMMUNE FROM LIABILITY. ADDITIONALLY, RESPONDENTS, JANET GRANT, RICKY MARTIN AND ROBERT O DONNEL CANNOT BE SUED INDIVIDUALLY PURSUANT TO 15-78- 70 (a) OF THE CODES OF LAWS OF SOUTH CAROLINA AS AMENDED?**

VII DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS AS TO THE DEFENDANTS SETTING FORTH AN ARGUMENT BASED ON THE PERCEPTION OF THE CASE?

VIII DID THE JUDGE ERR RULING THE RESPONDENT JANET GRANT WAS NOT NEGLIGENT IN WRITING AND ISSUEING A TICKET THAT WENT OUTSIDE THE SCOPE OF THE DEFENDANT, OFFICIAL DUTY REQUESTING THAT THE APPELLANT REMOVE THE HOUSE FROM THE LOT OWNED BY THE APPELLANT?.

IX DID THE JUDGE ERR RULING THAT THE RESPONDENT JANET GRANT WAS AMMUNE FROM PROSECUTION AND THAT THE TICKET WRITTEN BY THE RESPONDENT JANET GRANT WAS NOT THE LAW OF THE LAND OF GEORGETOWN BASED ON THE BOGUS FINE AND THE REQUEST TO DEMOLISH THE STRUCTURE AND THEREFORE DOES NOT CONSTITUTE GROSS NEGLIGENT AND SHOULD NOT HAVE BEEN TAKEN

LITTERLY BY THE APPELLANT AS TO THE AMOUNT OF PAYMENT AND REMOVING THE HOUSE FROM THE LOT?

Facts of the case

1. In 1995 the Appellant purchased the property and at the time the property contained a commercial building and two homes.

2. Attorney Robert O Donnell prepared the legal documents for the contract of sale and the papers were executed by attorney Robert O'Donnell .

3 Robert O Donnell failed to file the contract of sale of the sale of the two lots with the County of Georgetown or the city of Georgetown.

4. That failure to file the sale of the property was an egregious error on the part of Robert O Donnell.

5. Robert O Donnell prepared the last will and testament for Mr. Alford, Sr.in 1996 probated the will for the family.

6. Robert O Donnell prepared all the deeds of distribution for the property in Mr. Alford, Sr. estate.

7. 0 Donnell place tax parcel 5-22-27 to Alex Alford, Jr. and 5-22-26 in trust Mr. Alex Alford, Jr. and Mrs. Cleo Alford in violation of the previous sale of the property considering that Mr. Alex Alford Jr. no longer held an interest in either property.

8. In 2003, 5-22-26 was sold for delinquent taxes. Because of O Donnell s failure to properly file the sale of the property to Mr. Singleton, the Appellant was never notified of the delinquent taxes on the property.

9. After the sale of the property in 2003 for failure to pay taxes, the Defendant O Donnell created two lots from lot 5-22-26 in violation of the laws and regulations of the city of Georgetown.

10. That the lot failed to comply with the zoning ordinance of the City. The lot failed to meet all requirements, was never surveyed in compliance with the ordinances and was not submitted to the RMC s office or accepted by the Assessor s office for the County of Georgetown.

11. At the time O Donnell now serves as the Municipal Judge for the city of Georgetown and has been for many years.

12. Due to this background of Mr. O Donnell s failures regarding the property the fact that Mr. O Donnell has now violated the Appellant s constitutional rights as an employee of the City of Georgetown does not permit him to escape liability under any Immunity Statue in South Carolina or Federal Government.

13. After these acts Mr. O Donnell then created tax parcel numbers of 5-22-26-00 and 5-22-26-01 without proper surveys or approval of the appropriate authorities.

14. After creating legal descriptions for the properties Mr. O Donnell transferred the tax parcel 5-22-26-01 to Mr. Singleton.

15. The property that was fraudulently transferred to Mr. Singleton at this time was 1/3 the size that was supposed to be transferred to the Appellant in 1995.

16. The original property 5-22-26 remained in the name of Mrs. Cleo Alford.

17. The Appellant, Mr. Singleton delivered to Mr. O Donnell in 2007 a letter explaining the problem with the fraudulent transfer. O Donnell never responded to the Appellant inquires.

18. Mr. Singleton the Appellant also explained the problem to Mrs. Alford. Mrs. Alford informed the Appellant that she would inquire and transfer the property to the Appellant.

19. Cleo Alford then transferred the Appellant 5-22-26-00 by Quick claim deed.

20, In 2010 the City of Georgetown contacted the Appellant on several occasions demanding a clean tax parcel on 5-22-26-00 and the removal of his structure.

21. The City at **NO** [emphases added] time contact the owner of 5-22-27, Frank Swinney requesting a clean tax parcel.

22. In 2012 Mr. O Donnell who was serving as the City Judge found the Appellant guilty of violating the City of Georgetown property Standards.

23. The Appellant appealed the case to the Circuit Court and the Court of Appeals.

24. At all times the Appellant was singled out for prosecution by the City of Georgetown and ultimately found guilty due to his knowledge of O Donnell and his role in the fraudulent transfer of property.

25, The selective prosecution of the Appellant was based on his race and rights to free speech.

26. The lots owned by the Appellant are naturalized lots and are therefore not require to be mowed.

27. However, the Defendants ultimately decided to harass and prosecute the Appellant for exercising his right to free speech and his race.

28. That the property which is the subject of this action was a naturalized lot that was untouched for twenty {20} years with an unoccupied house on lot.

29, The Code Enforcement Officer for the City of Georgetown gave notice that the house had to be demolished and removed from the property, and after time a municipal citation was issued for noncompliance .

30. The Defendant, Janet Grant issued the Appellant a citation.

31. Janet Grant is not properly license in the State of South Carolina to issue of the building codes in South Carolina.

32. Grant is only permitted to cite the Appellant for a limited number of items and fines.

33. Grant exceeded the amount of fines per law.

34. Grant was specifically ordered by the State to not do building inspection.

35. Mr. Martin was the only individual authorized to issue the citation for demolition of the house.

36. Mr. Martin permitted Janet Grant to violate the rights of the Appellant.

37. Mr. Martin had full knowledge of the action of Janet Grant of the actions of Janet Grant and permitted her to issue the citation that were against the law.

38. Mr. Martin was fully aware that Mrs. Grant s issuance of citation was a violation of the LLR rules and regulation.

39. Even though the fines were in violation of the Department of Labor Licensing and Regulation rules and regulation and violated the Appellant s Civil Rights, O Donnell enforced those fines even though not permitted by law.

40. The citation required monetary fines and possible jail time.

41. State law requires a properly license building official to order the demolition of any building after going through a process prescribe by law. In the past, the code enforcement officer was issued a cease and desist order by the State of South Carolina for engaging in the practice of building code enforcement in this State without being properly licensed as required by law and the City of Georgetown pled guilty and entered into a consent agreement for violating of S.C. Code of Laws (1976 as amended) with the respect to demolition of another home in the City of Georgetown owned by this Appellant..

42. The Defendant, Robert O Donnell actions of holding a trial on part of the ticket, (a violation of not cutting the grass) and excessive fines against the Appellant is a violation of the law.

43. The Defendants actions have caused the Appellant to suffer great mental and emotional stress as a direct and proximate result of such actions.

Arguments

I DID THE JUDGE ERR ORDERING A SUMMARY JUDGEMENT TO THE DEFENDANT WITH HIS FINDING OF FACTS THAT HIS RULING WAS BASED ON THE FACT THAT THE APPELLANT CONCEDED THAT NO TAKING OR CONDEMNATION OCCURRED? The respondent stated that The United States District Court for South Carolina previously conceded he had no viable taking claim and that there had been no condemnation of the structure on lot. [ROA page 3 & 4] The respondent is correct that the Appellant conceded there was not a condemnation of the structure on the lot. The charges brought by the Appellant was that the Appellant was ordered to remove the structure on the lot without a condemnation of the structure ROA [page 53, 56 & 57]. Condemnation of a structure is a procedure that creates a paper trail that is required by state law before a structure can be ordered removed. The State law has a procedure of Law which must be follow to legally condemn or ordered the removal of any building. That process was not followed however the ticket that Singleton paid was based on removal of the building. The first, second, Third and fifth causes of action were all premised on the city requiring the condemnation/demolition of the structure and or taking of the structure and or taking. When in fact the complaint of the Appellant charged that respondent never applied the condemnation process when they ordered the house demolish ROA [page 53-57]. The first, second, third causes of action in the Appellant complaint charges the exact opposite of what the judge states in his facts he used to makes his ruling ROA [page 53- 55] .The Appellant charge in the first causes of action that the respondent failed and refuse to properly follow the procedures as set forth in the law in directing the Appellant to demolish the structure without a condemnation process ROA [page 52 - 53] The Appellant second cause of action. That the Appellant was deprive of Due Process of Law by respondent failure to give him notice and an opportunity to be heard and failing to follow prescribe statutory procedures governing condemnation and demolition of alleged dilapidated properties before ordering demolishing under the color of law. The respondent action of wrongfully denying Appellant the use of his property and ordering demolishing of the same

without following statutory procedures applicable to such action amount to an abuse of power and Gross Negligence. It is clear that the Appellant is charging that the respondent ordered the structure demolish without a condemnation process, which is required by law. ROA [page 131& 132, 247 &248] The Appellant third cause of action states R0A [page]. The respondent failed to follow prescribed statutory procedures necessary to effectuate condemnation of Appellants property which is a prerequisite to the removal of any building. That the respondent conduct in improperly ordering the demolishing of the house without adherence to such procedure was the proximate cause of Appellants being deprived of the protection granted to him under the law. The respondent contend that [gross negligent] is the remaining cause of action. And that gross negligent is related to their intentional failure and conscious failure to notify him of the hearing. The Appellant contends that the contend that the respondent action in all of the above is gross negligent.

II DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS ? WHEN IN THE APPELLANT SECOND CAUSE OF ACTION THE APPELLANT CHARGED THE DEFENDANTS FOR ABUSE OF POWER AND BEING DEPRIVED OF THE CONDENATION PROCESS? The respondents has conceded that they the respondent ordered the structure to be removed and a condemnation of the structure was not done ROA [page] In the judge order for summary judgment for the respondent, the judge stated that his reason for ordering summary judgment for the respondent was that the Appellant conceded the city never initiated a condemnation process. One of the Appellant`s charges in his second cause of action ROA [page 131 & 132] was that the respondents deprive him of the condemnation process. The appellant has always conceded that there was not a condemnation process done which according to state law is illegal when ordering a structure demolish, Clearly abuse of power and gross negligence by the respondents. The Respondent has admitted that they never did a condemnation of the structure, the judge has ruled that because the Respondents did not demolish the building, they cannot be charged with ordering the structure demolish by way of a ticket by Janet Grant ROA [page 140 & 145] .The condemnation is a process that all cities

in the state of SC must adopt to demolish a structure. The Appellant was not allowed that process.

III DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS ON THE SIXTH CAUSE OF ACTION WHEN THE FEDERAL COURT REMANDED THE SIX CAUSE OF ACTION BACK TO THE STAE COURT? The Appellant contend that the Respondents has conceded to the violation of state laws In failing to follow administrative procedure as set forth in the law violated the Appellant`s rights violated the Appellant`s constitutional right to property free of harassment from the government. Ordering the demolishing of the same without following proper stature and procedures. ROA [page, 31, 132, 145, 52 to 57] . The Respondents used illegal means to demolish structures in the city of Georgetown, they issued tickets ROA [page 159, -131, & 132, 9, 210 to, 218, 221, 223, 225, 232, 235, 239] ordering the removal or demolition of structured, with full knowledge that a condemnation process was required by state law to order those structures removed. The Appellants received a ticket of the same, he refuse to demolish his structure and challenged the order of the ticket. The respondents realizing their illegal plan was revealed. They tried the Appellant without him being present, for half of the ticket which was a violation of not cutting the yard. The Respondents drop the violation of the Appellant not removing the structure. The ticket ROA [page 129, 130, 135] was poison from its beginning.

IV DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS WHEN THE FEDERAL COURT REMAINED ALL STATE CHARGES TO THE STATE COURT? The judge in his finding of facts which he based his ruling states. ROA [page 125 & 126] . The Appellant in his seventh cause of action charged the Respondents with selective enforcement. The judge in his order for summary judgment, statement of fact is incorrect. The Appellant in his seventh cause of action ROA [page125 & 126] charge the Respondents as followed. That the actions of all Respondents in failing to follow the proper procedures as described by law for the condemnation and demolition of property violated the Administrative process act, violation of the Plaintive constitutional rights, failure to provide the Appellant the due process of law as prescribed by the law was negligent. That each Respondent

acted willfully to violate the Appellant s property rights, constitutional rights, Failure to follow the procedures by law and failed and refuse to protect the Appellant. NO where in the Appellant seventh cause of action ROA [page 57 & 58] did the Appellant charge the Defendants with selective enforcement The Appellant believe the actions of the Respondents to be grossly negligent.

V DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS.WHEN THE FEDERAL COURT REMANDED THE EIGHTH CAUSE OF ACTION TO THE STATE COURT? The Appellant did not charge the Respondents in the eighth cause of action under the United State Code Section 1983. The Appellant eighth cause of action in the complaint states. R0A [page 58] That the Respondents violated Appellant rights of equal protection under the law using selective enforcement, the Appellant ROA [page 58] lot TMS # 05-00-22-026 is adjoining TMS# 05-00-22-027 without a physical separation such as fencing or natural boundary and both are naturalized lots for over twenty years, yet the Respondents wrote a citation on one lot and not the other ROA [page 58] . There are countless lots located within the city of Georgetown that were not the subject of this type of enforcement ROA [page 58]. The Appellant charge such conduct was outside the scope of the official duties of such officials employed, agents, and servants. Lost of freedom far excess of what is prescribe and allowed by the city of Georgetown code of ordinance and S.C. codes of law (1976, as amended) for non- compliance to the bogus order to demolish the house ROA [page 58 & 50] .The fines were more than double those allowed by law. That Respondents engaging in issuing bogus and inflated fines ROA [page 59] with the possibility of loss of Freedom far excess of what is prescribe.

VI DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS? STATING AS A FINDING OF FACT AS TO; ACCORDINGLY, EVEN IF THE APPELLANT PLED A GROSS NEGLIGENCE CAUSE OF ACTION, SUCH ALLEDGED ACTIONS ARE ENCOMPASSED IN S.C. Code Ann. § **15-78-60 AND RESONDENTS ARE, THEREFORE, IMMUNE FROM LIABILITY. ADDITIONALLY, RESPONDENTS, JANET GRANT, RICKY MARTIN AND ROBERT O DONNEL CANNOT BE SUED INDIVIDUALLY PURSUANT TO 15-78- 70 (a) OF**

THE CODES OF LAWS OF SOUTH CAROLINA AS AMENDED? In this case the lower court ruled that the Defendant's were immune from suit and did not give a reason or there immunity other than the fact that they were government employees. In the pasts the courts have used the Virginia, law and determine that the governmental action were in furtherance of the masters business. However in this case no such determination was made. Case law is very clear as to how and when a defense of immunity can be used.

State law is also very that state employees do not have blanket immunity based solely on the fact that they are governmental employees. If this ruling is allowed to stand it would away with South Carolina Tort Claims Act and bring back sovereign immunity. The Appellant in his eighth cause of action ROA [page 58-59] the Appellant charge the Respondents with going outside the scope of their official duties. 15-78-60 and 15-78-78 (a) of the codes of laws of South Carolina does not protect the Respondents once they go outside the scope of their official duties in concert with exceptions to waiver of immunity. S.C. Code Ann. § 15-78-60 (17) *employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude;* you must conclude that not every action that a governmental entity does falls within the scope of the "Tort Clams Act" but only those actions of an "employees, while acting within the scope of official duty The Trial Court improperly granted summary judgment to Respondents stating that Respondents are immune from liability pursuant to the exception to waiver of governmental immunity under the South Carolina Tort Claims Act ROA [page 125 & 126]. The immunity provided by the Act is an affirmative defense. Frazier v. Badger, 361 S.C. 94, 101, 603 S.E.2d 587, 590 (2004). Generally, an affirmative defense may not be asserted in a motion to dismiss unless the allegations of the complaint demonstrate the existence of the affirmative defense. Spence v. Spence, 368 S.C. 106, 123, 628 S.E.2d 869, 878 (2006). However, [m]ost courts allow such defenses to be raised in a motion to dismiss when there is no disputed issue of fact raised by an affirmative defense, or the facts are completely disclosed on the face of the pleadings, and realistically nothing further can be developed by pretrial discovery or a trial on the issue raised by the defense.

"A trial court's grant of a motion to dismiss will be sustained only if the facts alleged in the complaint do not support relief under any theory of law." McEachern v. Black, 329 S.C. 642, 647, 496 S.E.2d 659, 661 (Ct. App. 1998). Doe v. Marion, 361 S.C. 463, 470, 605 S.E.2d 556, 560 (Ct. App. 2004), cert. granted, Apr. 19, 2006.

The facts are disputed and the individual named defendants did not established its entitlement to immunity as a matter of law.

The circuit court judge erred in finding as a matter of law that the defendants' actions are "protected by immunities." Because immunity under the TCA is an affirmative defense. The

Respondent on the whole of the record failed to prove as a matter of law that it was entitled to this immunity. The TCA "is the exclusive civil remedy available for any tort committed

Governmental Immunity

In Frazier v. Badger, 361 S.C. 94, 101, 603 S.E.2d 587, 590 (2004). Badger argues that he is immune from tort actions stemming from conduct within the scope of his official duties pursuant to South Carolina Code Ann. section 15-78-70 (Supp. 2005), but that section specifically provides that government employees may be liable in tort actions:

(a) This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity. An employee of a governmental entity who commits a tort while acting within the scope of his official duty is not liable therefor except as expressly provided for in subsection (b).

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

In this case the lower court simply said all defendants were immune. Immunity under the statute is an affirmative defense that must be proved by the defendant at trial. Tanner v. Florence City-County Bldg. Comm'n, 333 S.C. 549, 552, 511 S.E.2d 369, 371 (Ct. App. 1999).

I recognize that whether an act is within the "scope of employment" may be determined by implication from the circumstances of a particular case. Hamilton v. Miller, 301 S.C. 45, 48, 389 S.E.2d 652, 653 (1990); Wade v. Berkeley County, 330 S.C. 311, 319, 498 S.E.2d 684, 688 (Ct. App. 1998). In Prince, the court held that the course of someone's employment requires some "act in furtherance of the employer's business." 304 S.C. at 246, 403 S.E.2d at 647. But that was not the case here.

VII DID THE JUDGE ERR GRANTING SUMMARY JUDGEMENT TO THE RESPONDENTS AS TO THE DEFENDANTS SETTING FORTH AN ARGUMENT BASED ON THE PERCEPTION OF THE CASE? Summary Judgement is the means by

which parties can request dismissal of cases that may not meet the legal requirements of the cause of action set forth in the party's complaint. Summary judgement is only appropriate when the both requirements of rule 56(c) have been met. It is clear from Cleotex Corp that the moving party must meet both burdens in order to be granted the derisive and final rendering decision of summary judgement. 1 First the moving party must show that the record including deposition, written discovery, and affidavits if submitted show that there is no genuine issue of material fact. A genuine issue of material fact is where a genuine dispute is shown to exist if sufficient evidence is presented such that a reasonable fact finder could decide the issue in favor of the non-moving party.2 The burden of presenting that the record contains no genuine issue of material fact is a high one and must not be merely assumed by the court to have been met simply because the moving party has made a motion for Summary Judgement. Furthermore, Summary Judgement should be granted *only* where it is perfectly clear that no issue of fact is involved and inquiry into the facts is not desirable to clarify the application of the law.3 An issue of material fact is defined as genuine if a reasonable jury could return a verdict for the non-moving party based on the facts presented on the element at issue. 4 If, and only if the moving party has shown that no genuine issue of material fact exists in the record as it stands at the time of the hearing 5 it may then go to attempt to satisfy its second burden of proof. The second burden of proof for the moving party is met only if the moving party shows that the record (in which no genuine issues of material fact exist), even if read in light most favorable to the non-moving party, affording the non-party every factual and legal inference in its favor as required in *Anderson v. Liberty Lobby, Inc.,* U.S. 242,255 (1986), presents a factual scenario.

VIII DID THE JUDGE ERR RULING THE RESPONDENT JANET GRANT WAS NOT NEGLIGENT IN WRITING AND ISSUEING A TICKET THAT WENT OUTSIDE THE SCOPE OF THE DEFENDANT, OFFICIAL DUTY REQUESTING THAT THE APPELLANT REMOVE THE HOUSE FROM THE LOT OWNED BY THE APPELLANT?. The ticket issued to the Appellant ordered that the Appellant remove the house on the lot and clear the lot from lot line to lot line ROA [page 248], the Respondent has conceded that she did not have the authority to order the Appellant to remove the house from the lot. The Appellant contends that Respondent action was outside the scope of their official duty

and grossly negligent ROA [page 31-132, & 145]. State law only gives the Building official authorization to order a structure removed after a condemnation has been carried out. The Respondent Mrs. Grant which ordered the structure removed without a condemnation process was not a building official therefore unauthorized and negligent and outside the scope of her official duties. Mrs. Grant was disciplined by the state she was and ordered to cease and desist from acting as a building official. ROA [page 204] . The Appellant was given a postponement on the trial to allow the LLR to conduct a hearing against Mrs. Janet Grant to determine if she violated a cease and desist order given to her by the state ROA [page 204] . The Defendants had the trial before the decision by the LLR They only charged the Appellant for not cutting the lot which voided out the hearing of the LLR. At the trial while the Appellant not present the Defendants tried the Appellant on part of the ticket 'failure to cut the lot ROA [page159, 164]. Which was gross negligent .The Defendant Mrs. Grant was always aware that she was outside the scope of her official duties, ordering the Appellant to remove the structure.

IX DID THE JUDGE ERR RULING THAT THE RESPONDENT JANET GRANT WAS AMMUNE FROM PROSECUTION AND THAT THE TICKET WRITTEN BY THE RESPONDENT JANET GRANT WAS NOT THE LAW OF THE LAND OF GEORGETOWN BASED ON THE BOGUS FINE AND THE REQUEST TO DEMOLISH THE STRUCTURE AND THEREFORE DOES NOT CONSTITUTE GROSS NEGLIGENT AND SHOULD NOT HAVE BEEN TAKEN LITTERLY BY THE APPELLANT AS TO THE AMOUNT OF PAYMENT AND REMOVING THE HOUSE FROM THE LOT?

The first issue is based on the maxim fine charged by Mrs. Grant. The fine far exceeded the fine permitted by the City of Georgetown Code of Ordinances If you read City of Georgetown Code of Ordinances, Chapter 11, Article II, Division 2,

Sec. 11-33. Notification procedures. (1) It is unlawful to maintain an unsanitary, unsafe, or unsightly condition upon the premises, and the potential penalties for the violation of local laws; including possible imposition of a fine of five hundred dollars ($500.00) per day of continued violation;

That set's the maxim fine for a violation of this section of the Code of Ordinances, Chapter 11 at $500.00 and when read in conjunction with City of Georgetown Code of Ordinances, Sec. 15-5 it give the maximum fine that the court may impose.

City of Georgetown Code of Ordinances, Section 15-5

Sec. 15-5. Maximum penalties that court may impose.
Whenever the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine or imprisonment, or both, not to exceed the limits set in section 1-16 of this Code.

The last section that would apply is found in the City of Georgetown Code of Ordinances, Section 1-16

City of Georgetown Code of Ordinances, Section 1-16

Sec. 1-16. General penalty.
(a) Code or ordinance violation; abatement. Whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violator of any such provision of this Code or any such ordinance or resolution shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding thirty (30) days, or both. Each day any violation of any provision of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense, except as otherwise may be provided. In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or of any such ordinance or resolution shall be deemed a public nuisance and may be abated by the city as provided by law.

The code enforcement officer either knew or should have known that the fines given were far in excess of the $500.00 maxim allowed by the City of Georgetown Code of Ordinances. Even if the State of South Carolina Code of Law allows a higher fine, so let's look at state law. Code of Laws, South Carolina, 1976, the chapter under municipal courts, § 14-25-65 reveals:

SECTION 14-25-65. Maximum penalties that court may impose; restitution; contempt.

If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an

amount not to exceed the civil jurisdictional amount of magistrates court provided in Section 22-3-10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

According to the law, the court can only impose a fine not more than five hundred {$500.00} the only thing that comes close to the fins impose by Ms. Grant comes from another section of state law. Code of Laws, South Carolina, 1976, the chapter under municipal courts, § 14-1-208 reveals:

SECTION 14-1-208. Additional assessment, municipal court; remittance; disposition; annual audits.

(A) A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended....

The City of Georgetown limits their fines to $500.00 and the Code of Laws, South Carolina limits the fines that the City of Georgetown can charge to $500.00. Now the Code of Laws, South Carolina allows the Court to assess 107.5 percent of the fine as an assessment to the state. Nowhere in that does it allow Mrs. Grant to charge more than $500.00 as the fine. Even if anyone think that can happen, Take $500.00 and add 107.5 percent, that would be a total of $1,035.50 ROA [page 248] Mrs. Grant fines are even in excess of that. Mrs. Grant has charged one hundred seventeen percent {117%} more than the maxim allowed by law and have been doing that for over four {4} years. The ticket is defective on it's face

This is based on City of Georgetown Code of Ordinances, Section 11-26. Public nuisances. The enabling legislation is based on Section 5-7-80 of the Code of Laws, South Carolina, 1976,

South Carolina Code of Laws (1976, as amended) § 5-7-80. Ordinances relating to upkeep of property within municipality.

(1) Any municipality is authorized to provide by ordinance that the owner of any lot or property in the municipality shall keep such lot or property clean and free of rubbish, debris and other unhealthy and unsightly material or conditions which constitute a public nuisance.

(2) The municipality may provide by ordinance for notification to the owner of conditions needing correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions and may provide that the cost of such shall become a lien upon the real estate and shall be collectable in the same manner as municipal taxes.

HISTORY: 1962 Code Section 47-37; 1975 (59) 692.

What is interesting about State Law is the fact that it does not mention anything about houses, trees, shrubbery or things like that. If State law does not mention anything about houses, trees, shrubbery or things like that, how can the code enforcement officer use this section of the City of Georgetown Code of Ordinances to order the demolition of any house within the City of Georgetown?

In 2009 the City of Georgetown tore down a vacant home at 1929 Front Street. Then the City went on and pled guilty to violating State law in the demolition of the home. As a result of that case the City of Georgetown was required by the State to adopt the proper laws as it relates to demolition of homes in the City of Georgetown. If you look in the City of Georgetown Code of Ordinances, Chapter 5, you will find such a section. For the past few years Mrs. Grant has been ordering the demolition of home, outside the scope of her official duty and outside of the law.

City of Georgetown Code of Ordinances, Chapter 11, Article II, Division 2, Sec. 11-26. Public nuisances.

Sec. 11-26. Public nuisances.
In accordance with Section 5-7-80 of the Code of Laws, South Carolina, 1976, conditions on private property constituting a danger to human life, safety, or health are hereby declared to be public nuisances and hazards to public health. These shall include, but not be limited to, the following:
(1) Unsanitary conditions created by the improper disposal of waste, human or otherwise;
(2) The accumulation of water from any cause, which may promote the breeding of mosquito larvae;
(3) Any building or part of any building which, on account of its condition, its occupancy or use, may endanger life or health;
(4) The discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that may endanger human life or health;
(5) The handling or storage of any material that may endanger life or health;

(6) Any business, industry or individual which causes dust, vapors, gases or any by-product that may be detrimental to life or health or that are obnoxious or objectionable to the esthetic senses;
(7) Any property, whether occupied or vacant, upon which grass, weeds or undergrowth exceeding eighteen (18) inches in height, trash, garbage, offal, stagnant water, building materials, glass, wood, metal or other matter deleterious to good health and public sanitation is permitted or caused to accumulate in any manner which is or may become a nuisance causing injuries or sickness to the public or neighboring property;
(8) Any property which, because of its condition, may promote the breeding or harborage of flies, rats, snakes, vermin or other insects and animals.
(Ord. of 12-15-94)

The respondent wrote several tickets to other citizens of Georgetown requesting that they remove their building and clear the lot from lot line to lot line with a fine above what is allowed by state law. ROA [pages 210, 211, 213, 217, 218, 21, 222, 1223, 225, 323, 235, 23]. The citizens accepted the tickets as law they removed their houses, and cleared the lot from lot line to lot line. The respondent use the tickets as law until the Appellant refuse to honor the ticket as law, when it came to removing the house, The Appellant contend that the request to remove the house made the ticket of a poison tree. The Appellant challenge the ticket as it was written, the Respondent prosecuted the Appellant in his absence on part of the ticket, R0A [page 159, 164] the clearing of the lot.

CONCLUSION

The issue is ripe for review. The summary judgment decision as granted by the lower court is unfair because it attempts to [weigh] the evidence and determine the truth. Something that should be reserved for a jury. The City of Georgetown should not be dismissed from litigation because they were all acting outside the scope of their official duties. State law is also very that state employees do not have blanket immunity based solely on the fact that they are governmental employees and immunity is an affirmative defense that must be proven at trial. As to Janet Grant, Ricky Martin and Robert O Donnell, I was treated differently and that their was no rational basis for the negligence, selective

enforcement, failure to follow the procedure of laws, and violation of my constitutional rights. They also clearly engaged In an, abuse of power and deprive me of due process of law.

The defendants failed to set forth facts in a light most favorable to Appellant as is required by law. Summary Judgement is the means by which parties can request dismissal of cases that may not meet the legal requirements of the cause of action set forth in the party's complaint. Summary Judgement is only appropriate when the both requirements of Rule (56) have been meet. The Defendants failed to do so.

For the reasons stated, it is respectfully submitted that the issues are ripe for review and asking the Court to address them, or in the alternative that the order of the lower court determining that this case falls under the provision of the South Carolina Tort's Clam's Act, and 5he lower court decision should be reversed and the case should be remanded to the circuit court for trial.

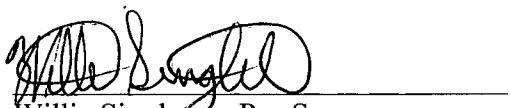
Respectfully submitted,

February 20, 2018

Willie Singleton, Pro Se
501 North Congdon Street
Georgetown, SC 29440 Phone:
843-359-6363

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Reply Brief complies with Rule 211(b), SCACR.



Willie Singleton, Pro Se
501 North Congdon Street
Georgetown, SC 29440
843 359-6363

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