

FORM 13
BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM LAURENS COUNTY
Court Of Common Pleas

Frank R. Addy, Jr, Circuit Court Judge
Case No. 2017CP3000008

Mosi A Bundu And Malcolm DJ Watts, Appellants

v.

Ricky Chastain, as Laurens County Sherriff, Michal Gainey, Socrates D. Ledda, as
Laurens City Police Chief, John Doe (s) , and Laurens City Police Department
Respondents'

Appelate Case No. 2017-001831

[INITIAL] BRIEF OF APPELLANT

Russell W. Harter, Jr.
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Attorney for the Sheriffs Department

James D. Jolly, Jr.
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Attorney for the City

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FEB 28 2018

SC Court of Appeals

TABLE OF AUTHORITIES

Table Of Authorities----- ii
Statement of Issue on Appeal----- 1
Statement of Case----- 1
Facts----- 1

Arguments

1. **The Case was filed before March 4, 2017 before the statute of limitations was up. The attorneys of record sent appellants answers/ they answered. The summons and complaint which was combined. An assistant clerk noted that they answered, thus one would assume they knew they were summoned and a complaint had been lodged..... 2.**

 2. **The case was dismissed due to 16 (b) which the courts have found to be misused in many instances and does not afford a plaintiff due process, Mr. Harter Jr. followed me out of court on the second hearing that was allowed and stated that “he went to the clerks office and asked was a summons on file/ had one been clocked. He knew fully well that unlike criminal cases where most forms are available; in civil court they can be written or typed. Plaintiff can show literature where summons and complaints can be/ are sometimes combined. The case was not dismissed with prejudice as it could have been for plaintiffs not showing up but was re-instated due to a request based on illnesses. The appeals court has the filed case with “summons and complaint” typed in the document clocked..... 2**
- Conclusion..... 3**

STATEMENT OF ISSUES ON APPEAL

1. Plaintiffs are not aware that judge Addy saw the filing and noted that It stated summons or complaint or considered that both attorneys of record had sent answers and interrogatories; at least Mr. Jolly did so
2. The trial court erred by not allowing plaintiffs due process, this case is is not frivolous and a statement provided to one plaintiff by the county sheriffs office brings into question many facts that are untrue about the nature of officers that “deep” on a dropped 911 call, that did not come from Laurens county. The owner of the verizon phone works at at Clemson University and has worked there for 25 or more years and was not in Laurens county the morning of the raid. There are other issues around what is in the police statement.

STATEMENT OF THE CASE

On the morning of March 5th around 1:00 AM , the Laurens county sheriffs department surrounded Clemson street, Mock Street and Lee streets. The statement said that the dropped call was at 200 Mock Street. The resident denied making any 911 call. He indicated that someone jumped his back yard fence and ran up the back side of all the homes on Mock street. No officers entered his home, he indicated that he did not hear gunshots and that was a ruse for something else. His name is said to be Dennis Buchanan. He has since moved and it seems that the police were looking for him at some point after the incident. Another resident noted in the police statement said no officers approached her as claimed in the statement.

FACTS

Salient facts can be found in the police statement that plaintiff has. The officers may very well have been standing on a meth lab when they claim they hear shots fired. A subsequent resident has told plaintiff that the city cleaned a room of hers up for meth contamination. The paperwork for that can be obtained via FOIA. Or she can be subpoenaed to testify. She lives in 204, plaintiff lives in 206, residents in 208 were told to go back into their homes, how could the police isolate what they claim was gun fire and enter my resident without a warrant. Which flies in the face of equal protection under the law. Mr Harter has mentioned and opened the door on a previous case filed by me regarding assault rifles aimed at me, my being placed in cuffs and a squad car in 2012 which plaintiff thinks can be discussed if this case is sent back to lower court or tried in appeals court. Plaintiff thinks that the officers knew who I was and of this past case. Testimony by my grandson also a plaintiff and his children’s mother will show that an officer entered my bedroom where she was under the covers nude, after holding an assault rifle (s) on my grandson who had on

gym shorts with no pockets and was of no threat. That they handled and unloaded a 12 gauge shot gun legally owned by myself, unloaded and reloaded. It is said that it was clarified that it was not sot gun fire that is claimed to have been heard.

Argument In Reply

Without sounding restating the issue or making redundant arguments which have been set forth in their opening brief, in a cursory man. The appellants offer the following points of clarification.

A summons and complaint was issued to which was answered and a 16(b) dismissal based on a claim of no summons is factually incorrect. There was no dismissal with prejudice. The police report and other facts can be offered at trail.

- 1. Plaintiffs were denied their 14th amendment rights of equal protection under the law.**
- 2. With that many officers, a warrant should have been obtained; they could have remained in place until one was obtained. Which would have been for every house on this street as well as the ones mentioned on Lee street where**
- 3. no homes were entered. Title 16 speaks to this warrantless entry.**
- 4. Excessive force which can be claimed if a gun/ assault rifle is aimed at a citizen when it is clear they are not a treat. Non –contact excessive force 52 U, Rich. L. Rev.**

TABLE OF AUTHORITIES

The 14th amendment / clause 1868

52 U. Rich L. Rev.

26366 State V, Weaver S.C. Code Ann. § 17-13-140 (2003

Desroches v. Caprio 156 F. 3d 571, 576 n. 2 (4th Cir. Paraphrasing a New Jersey
Quote there can be no discounting of important principles of our government as
mere platitudes v. T. L. O. 469 U.S. 325 (1985)

1, Because Respondents answered and a combined summons and complaint was typed out, filed and clocked. They cannot use 16(b) to deny plaintiffs due process

Because the apartments were so close and plaintiff had his grandson guarding his home, which is a duplex, because no other home was entered. There was/is a clear and compelling case of unequal protection under the law, especially when they told 208 to "go back into their home"

For the reasons tated, this court should reverse the judgment of the circuit court.

February 25, 2018

Respectfully Submitted,

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Proof of Service Letter

This letter is to indicate proof of service to The Attorneys of record and Respondents
~~Ruby Clayton, Gentry Ledda, Michael Grant, Loren Koppie~~
~~James A. Jolly Jr. 1305 N Blvd Anderson S.C. Russell W. Hester 14 Laurens Ave~~
named in the civil case 2017CP3000008. It is being mailed by US postal service on this
date

*James A. Jolly Jr.
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February 26, 2017 . TK appellate number for this case is 2917-001831.

Respectfully

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