

APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case#: 2016-002024

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

**Kristi Harrington, Circuit Court Judge
Dennis Markley, Circuit Court Judge**

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

**Dawn Caldwell,
Individually and in her capacity as an Officer of the Isle of Palms Police
Department**

South Carolina Law Enforcement Division

OBJECTION TO TRIAL COURTS 'NEW' ORDER OF

2-26-18 FILED 3-2-18

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SC Court of Appeals

Now comes Appellant Lynd who objects to the late and untimely filing of the trial Courts order.

To allow the defendants to present an order to be signed 22 MONTHS LATER, without a hearing AND AFTER BEING SERVED A COPY OF LYND'S APPEAL BRIEF !!!, or Lynd's input to an agreed order as required is a clear and concise **due process and equal protection violation**. This smacks of ex-parte communication and a clear conspiracy to file an order that conveniently matches the respondent's claims. Claims which Lynd had proven to be false in his brief and in the replies to respondent's motions to dismiss the appeal. Claims which are not mentioned or discussed in the transcripts!

Counsel for Caldwell who was the one caught making false claims and referencing false orders was the person who generated this 'order' for the court to sign, presented it ex-parte, and got it signed 22 months later, just conveniently matching what he lied about, but not the transcripts or record. And HE FAILED to inform the trial court Judge of those facts upon presenting the order to be signed.

Lynd proved in his responses that **DEFENDANTS WERE LYING AND CLAIMING FALSE RECORDS**, and rulings that did not exist, and the lack of the order proved it! Respondents falsely claimed (*in their motions to dismiss*) that the court ruled that the motion was untimely in its order. WHEN IN FACT no order was issued, that 'untimely' issue was not in the record or transcripts, Lynd DISPROVED THAT FALSE CLAIM (lie!), only for the appeals court (somehow) to allow them to now generate an order stating that!!!!!!!!!! To allow them 22 months later to go back to the court **ex-parte**, and get an order '**worded**' the way they need it

'worded' is beyond outrageous, and is clear due process and equal protection violation. And reeks of a conspiracy,

And if neither the appeal nor motion has been heard by the court yet, who generated this request to the court for an untimely order????? after the briefs, facts and arguments have been seen by respondents, and the loss of the appeal made so apparent. Were the clerks allowed to do this?

THIS IS A CLEAR FEDERAL CIVIL RIGHTS VIOLATION!!

For Christ sake the appeal brief has been filed, and respondents could not defeat it under the law, they tried a lame time issue dismissal, Lynd disproved that, and **PROVED THE REpondents were make false perjured claims in their motions.** The appeal HAS STARTED, and now under this action **the record has been alrtered** or changed and is now different then what Lynd's brief is based on. Come on!

The court instead of admonishing or taking so form of action on the perjury, apparently (by the record) made a request to the trial court to fix the errors pointed too in Lynd's brief that wins Lynd's appeal, thereby altering the Record after Lynd's brief had been filed. Is this the normal way the court handles appeals involving the State of South Carolina, sees the perjury and allows ex-parte/ back hallway discussions to correct so they don't have to rule against them? As simplistic as this request and new order seems, it alters the entire appeal, and violates Lynd's equal protection and due process rights and protection guarantees.

First the form 4 states it does not **End the Case**, the appeals court stated that the form 4 clearly stated it does not end the case in its on request to the trial court, ODD NOW the 'new' order does?

2nd the form 4 did not mention untimely, nor does the record or transcripts, ODD Now the 'new' order does?

The form 4, nor record address the rule 59/60 precedents that Lynd points out in his appeal argument, and responses, for the timely filing of those, **the 'new' order does!** How does the trial court, or the new order address that when it had nothing to do with the argument prior, only after Lynd responses?

Does no Justice on the Court of Appeals find this ODD and convenient??

All this is smoke screen, and a feeble attempt to hope for the COA to take pity on them and find some technicality to cover that they impounded the skies, DID NOT send the required *(by S.C. law)* certified notice of which over a dozen were required, allegedly destroyed them with a fictitious salvage yard, COMMITTED CONVERSION (THEFT) under S.C. own statutes and are trying to dodge their responsibility claiming a time statute that does not apply to **CONVERSION!!!!!!!! There is no statute of limitation on theft/conversion in South Carolina**, for the courts to apply that to individuals who commit theft,, but not the government itself is selective prosecution/adjudication.

As Lynd has stated this is respondents attempts to keep throwing paper at a losing cause in hopes pro-se Lynd *(pro-se because this court allowed the attys to keep the funds for an appeal and withdraw)* will make some error or miss, or misfile a response or document.

This is beyond contemptable.

NEW ORDER ENTRY

If the court accepts this new order dated 2-26-2018, all respondents motions to dismiss and arguments of untimely filings **most be denied**.

This New Order states it ends the case, the prior form 4 clearly states it does not. The court addressed that in its request for an order. Therefore this New order dated 2-26-2018 and filed 3-2-2018 would be the final order of the case, **that starts the statute of limitations for filing a timely appeal**. No prior order ended the case, as the court of appeals acknowledged, and as laid-out in Lynd's briefs and replies to the respondent's motions to dismiss. The case law and precedents support that, without any waiver on that legal position. The final order is the appealable order for all parties. The order dated 2-26-18 ended the case and is an appealable order. By both rule and precedent, regardless of any determination of the motion being a rule 59 or rule 60 motion, the filed order ended the case. The court can accept Lynd's current appeal as timely and move fwd, or Lynd can send a new notice of appeal based on this 'new' order and start the appeal from scratch.

Relevant code: That has no statute of limitations

SECTION 16-5-60. Suits against county for damages to person or property resulting from violation of person's civil rights.

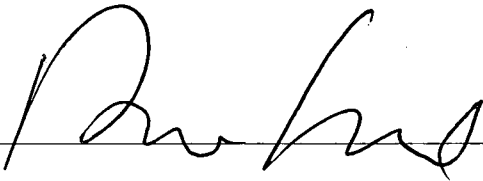
Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, 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.

HISTORY: 1962 Code Section 16-106; 1952 Code Section 16-106; 1942 Code Section 1384; 1932 Code Section 1384; Cr. C. '22 Section 314; Cr. C. '12 Section 324; Cr. C. '02 Section 237; G. S. 2571; R. S. 202; 1871 (14) 561.

SECTION 16-9-10. Perjury and subornation of perjury.

(A)(1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

A handwritten signature in cursive script, appearing to read "David Scot Lynd", is written over a horizontal line.

David scot Lynd

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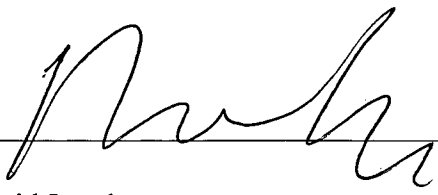
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Individually and in her capacity as an Officer of the Isle of Palms Police
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South Carolina Law Enforcement Division

PROOF OF SERVICE

I hereby certify that the above named parties were served this reply by **U.S.P.S. mail on 3-6-2018** to the address on file with the court shown below.

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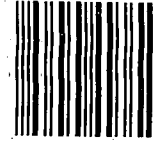
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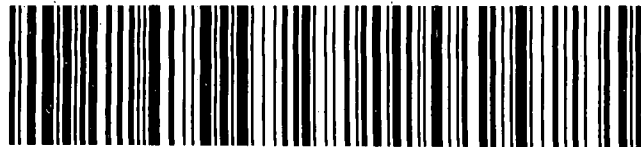
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