

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
(In The Supreme Court)

APPEAL FROM KERSHAW COUNTY

Court of Common Pleas

William B. Seals, Jr. Circuit Court Judge

Case No. 2017-002514

James Teal Appellant

V.

Edwards Telecommunications, Inc.

and

Leroy Smith, Director of the Dep't of Public Safety

of which Leroy Smith, Director of the

Dep't of Public Safety is the Respondent.

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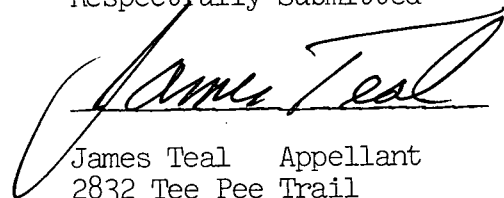
JUN 12 2018

SC Court of Appeals

AMENDED

(INITIAL BRIEF OF APPELLANT)

Respectfully Submitted



James Teal Appellant
2832 Tee Pee Trail
Elgin, S.C 29045
(803) 457-5820

Pete Balthazor, Esquire
P.O. Box 11412
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STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

James Teal Appellant

V.

Edwards Telecommunications, Inc.

and

Leroy Smith, Director of the
Dep't of Public Safety

Respondent, which is Leroy Smith,
Director of the Dep't of Public
Safety

IN THE COURT OF APPEALS
IN THE SUPREME COURT

Case No: 2017-002514

STATEMENT OF ISSUES ON APPEAL

1. STATUTE OF LIMITATIONS: Appellant was not informed by Medical staff of need for total knee replacement until Oct.05-15. Appellant, extremely diligent in the care of said injury, was in physical therapy, with repeat trips for x-rays. All in good faith until Oct.05-15. Statute of limitations Defence ID, 314 SC at 128, 442 S.E 2d at 170.
2. HANDICAP ISSUE: Appellant was disabled in 2010, falling 25' and suffering a spinal burst. Due to what conditions Appellant had and received due to the accident on 09-11-14. Appellant has to suffer with continuous disabling life style. Appellants hospital visits Sept.09-14, Dec.01-14 and Oct.05-15. Appellant asserts Statute 15-3-60.
3. ISSUES OF CONTRIBUTORY NEGLIGENCE: Is it reasonable for two violators, to violate the Sovereignty of one victim? Is protocol of timeliness a factor when cable lines are being dropped across a two lane, 45mph, with large, permitted, scheduled transports to follow? Is the duty of the Respondent to assure Safety for the general public to be safe in these situations?

Is the Respondents scope of duty to investigate accidents fairly and accurately of facts, to protect the innocent? Does contributing to any offence set common purpose and reason for action? Statute 56-5-950(b).

4. Issue Of Immunity By Tort Acts: Does the General Assembly find total immunity for State entities desirable? Do the Tort Acts protect the victim from the wrongdoer and provide liability for wrongful acts by a Tortfeasor? Is the General Assemblys Public policy of the State to ensure a orderly transition from sovereign immunity to qualified and limited liability? Statute 15-78-20(a)(b) and Statute 15-78-70(a)(b).

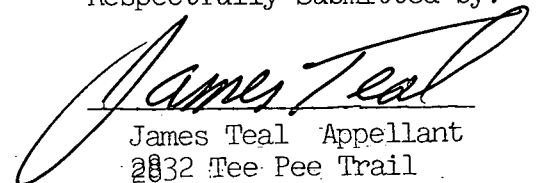
5. Issue Of Appellant Being Charged: Is the Appellant being charged as the violator, when all safety laws are ignored by both Defendants, is Negligence per se? Does the Respondent owe the Appellant a Duty of Care, requiring that a individual act reasonably to mitigate foreseeable risks. Would the incident have occurred in the ordinary course of events if not for the Gross Negligence of the Respondant? Is one without any regard to fault or Negligence held to strict liability and a Breach of Duty or absolute Negligence? Appellant asserts Res ipsa Loquitur and Statutes 56-5-950(b) - Statute 56-5-2530 - Osha 29CFR 1926 Subpart G.

6. Issue of FOIA: Does a certified letter sent to the Executive Director, Kevin Swhedo, with no response, set a standard of discord and silent agreement and Gross Negligence, contributing to Appellants action? At Summary Judgement, Appellant attempted to bring the aforesaid letter in as exhibit, but was unable to proceed. The aforesaid letter was sent certified with receipt, for presentation to the Court for "CLARITY and Evidence of Facts." Is the Affidavit submitted by Respondant, with the aforesaid letter mentioned, handed down to the Respondants Dep't, deserve clarity of letters content? Is a half-truth as worthy as unmutated truth?

7. OSHA ISSUE: Why, was a investigation by OSHA not worthy of a investigation when all safety laws were violated, four injured go to the hospital and \$33,000.00 in damages. Why, was this accident in a work zone, permitted by a State entity, with Appellant charged unlawfully, held in secret from OSHA's :
8. Court Procedure error: Appellants error in Court procedure was not to confuse or delay. The groundwork was set when Appellants counsel filed a consent order to be relieved from Appellants case. This act caused a a confused time for Appellant. Appellant filed the Amended Complaint with information given to Appellant by a staff employee in the Kershaw Clerks office. Appellant was told he had to file a Amended Complaint after the Motion to bring in the Respondant. Another half-truth to make Appellant stumble. Appellant has previously, with Court Transcript as witness, charged trickery by disinformation with aforesaid office. Appellant was not asking for legal advice, but did want truthful Court procedure. Appellant has been subjected to undermining of Appellants case since 09-11-14, by all involved in Appellants case. Appellant asserts that the Court procedure was corrected and is hopeful that the Honorable Court will understand.

In all due respect and consideration, Appellant wants the Honorable Court to know that Appellant suffered a Summary Judgement without counsel and was handicapped, with a hearing impairment, hindering Appellants defence.

Respectfully Submitted by:



James Teal Appellant
2832 Tee Pee Trail
Elgin, S.C 29045
(803) 457-5820

Pete Balthazor, Esquire

STATEMENT OF THE CASE

On September 11-2014 Appellant was involved in a work zone accident and was charged as the violator. Appellant commenced action on June 29-2016 against Edwards Telecommunications, Inc. for Negligence for being illegally parked with rear bumper projected out into Appellants lane. Appellant on October 05-2015 was informed he had to have his left knee replaced. Appellant claimed bodily injuries to left knee, right hip and neck. Appellant finally obtained counsel on January 15-2017. Unknown to Appellant, counsel filed a Amended Complaint on January 23-2017. Thus setting a Court procedure error by Appellant as Appellant Amended the Complaint to bring in the Dep't of Public Safety. Appellant with dis-information, given to Appellant by a staff employee at Kershaw county clerks office Amended his complaint on August 07-2017, without a consent order. Appellant after this, Amended the complaint on September 21-2017 with a consent order and Motion to implead Leroy Smith, Director of the Dep't of Public Safety, with the claim of Contributing to the Negligence.

Counsel for the Respondant filed a Motion to strike and dismiss on Oct. 02-17 Summary Judgement heard the Motion on Oct. 24-17 and dismissed Appellants case against Leroy Smith, Director of the Dep't of Public Safety. Appellant filed the Notice of Appeal on December 07-2017.

ARGUMENT

1. STATUTE OF LIMITATIONS: The discovery of Appellants knee injury was by staff at Palmetto Health Orthopedics on October 05-2015. Appellant asserts Discovery of injury Defence. Appellants injury to left knee was a slow degenerative injury that started slowly, but surely on September 11-2014. Hospital records with dates will confirm Appellants claim. ID., 314 SC at 128, 442 S.E at 170.

2. APPELLANTS HADICAP ISSUE: Appellant was disabled in 2010, suffering a 25' fall, resulting in a spinal burst. Appellant landed on his face and chest, also leaving Appellant with a severe hearing loss. The spinal burst led to the T6-T10 fusion. Appellant has back spasms and cramps that disables Appellant, leaving Appellant with a disabled life style. Appellant asserts Statute 15-3-60, with three disabilities on Sept. 11-2014.
3. ISSUE OF CONTRIBUTORY NEGLIGENCE: One violator and one Tortfeasor against victim with no recourse. Does violating all Safety Laws in the MUTCD make a violator? Does the Officer charging Appellant, observing all this discord, qualify the Officer as a Tortfeasor? Does this aforesaid Officer removed from Law Enforcement have utmost credibility with the Honorable Court? Appellant, Responding to the Dismissal of Appellants case has charged a silent agreement between party(s), known and not known to Appellant, to place and keep fault on the Appellant. Appellant is charging Conspiracy against Appellant, through actions and non actions, of Respondant.
4. ISSUE OF IMMUNITY BY TORT ACTS: Appellant asserts that that the TORT ACTS were enacted to protect the Sovereignty of the people from the wrongdoer and to protect the State and its Entities from unqualified claims. Appellant Contributing to this accident was in the wrong place at the wrong time and by the Tortfeasor was subjected to outrageous Government conduct, Appellant asserts 648 and Statute 15-78-70(b).
5. ISSUE OF APPELLANT BEING CHARGED: Was the aforesaid Officer placing the fault on the Appellant, because he was'nt versed in Safety Laws, or was the Officer protecting Respondant and the State Entity that permitted the work zone crew on our highways? Appellant has had to bear the brunt of this discord, with injuries and fianancial loss for too long, with no help.
6. ISSUE OF FOIA: Three FOIA requests, one Certified letter, with receipt, to the Executive Director. Would request for the video, of the aforesaid Officer

making the charge on Appellant, with his cruiser parked directly in front of the work vehicle, be unreasonable to request? Would three requests, three videos received, with none of the three received correct videos requested disappoint and alarm anyone involved? Why, did this happen? Does Certified Letter, with receipt, with no response give cause to alarm Appellant? Does the drag on time, with letter giving Notice of litigation, give cause for the continued non-action, by the Executive Director? Is the Honorable Court going to make this State Entity aware of the Sovereignty of the people they have sworn to protect? Would one video received, showing all the discord and with two Officers making a true Statement of Gross Negligence having occurred, been enough for Respondant to go into action to prevent what is happening now? Is a true accounting of the aforesaid discord, on film, by way of FOIA, more worthy than a thousand words? Appellant asserts the Affidavit is a half-truth, as witness of aforesaid letter.

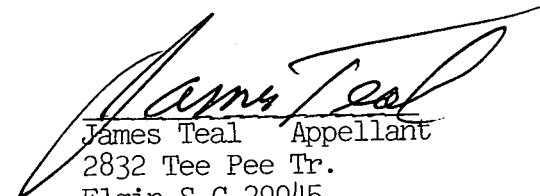
7. OSHA: Would OSHA if given the chance to a investigation on their own been enough to drain this swamp?
8. ISSUE OF COURT PROCEDURE: Appellants apology for this error is sincere and Appellant is hopeful that the Honorable Court will understand a gauntlet placed on Appellant having no counsel. These errors will never happen again.

CONCLUSION

Appellant is requesting the Summary Judgement that scratched at the tip of Appellants case, be returned to the lower Court, to vindicate the Honorable and the Appellant.

Date June 11-2018

Pete Balthazor, Esquire


James Teal Appellant
2832 Tee Pee Tr.
Elgin, S.C 29045
(803) 457-5820

References To Record

Issue of Appellant charged: Transcript P.12-Lines 21-25
P.13-Lines 1-6 - P.15-Lines 12-15.

Issue of Contributing: Transcript P.11-Lines 3-8 - P.12-
Lines 17-25 - P.13-Lines 1-6 - P.7-Lines 13-18 - P.14-Lines 19-20
P. 15-Lines 1-6 - P.18-Lines 1-6.

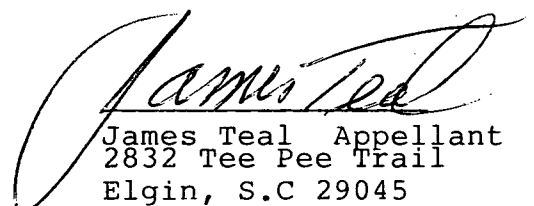
Issue of FOIA: Transcript P.13-Lines 7-13 - P.15-Lines 7-19.

Issue of Appellants Court Procedures: Transcript P.5-Lines 18-25
P.6-Lines 1-12 - P.18-Lines 19-21 - P.20-Lines 10-22.

Issue of exhibit attempted by Appellant: Transcript P.8-Lines 23-24
P.9-Lines 1 - P.15-Lines 7-19.

Issue of Appellants hearing impairment: Transcript P.8-Lines 14-15
P.16-Lines 3-11 - P.17-Lines 9-11.

Issue of handicaps and injuries to Appellant: Transcript P.15
lines 20-25 - P.16-Lines 1-2.


James Teal Appellant
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Peter Balthazor, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge

Civil Action No. 2016-CP-28-00583
Appellant Case No. 2017-002514

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JUN 12 2018
SC Court of Appeals

James Teal _____ Appellant.

V.

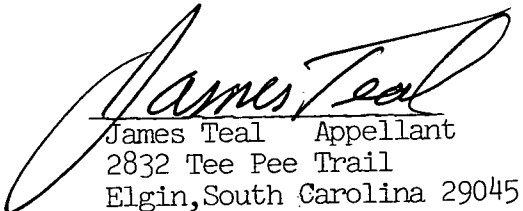
Edwards Telecommunication, Inc. and Leroy Smith, Director of the Dep't
Of Public Safety, Defendants, Of which Leroy Smith, Director of the
Dep't of Public Safety is the _____ Respondant.

CERTIFICATE OF SERVICE

I hereby certify that I have served the Appellants Amended Initial
Brief, Amended Designation of Matter and Caption and Title, to be
included in the Record On Appeal upon the below named party by a copy
of the same in the U.S. Mail, first class postage prepaid, to the address
below:

Pete Balthazor, Esquire
P.O. Box 11412
Columbia, S.C. 29211

Date June 11, 2018


James Teal Appellant
2832 Tee Pee Trail
Elgin, South Carolina 29045

June 11, 2018

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JUN 12 2018

SC Court of Appeals

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1320 Senate Street
Columbia, South Carolina 29201

Re: James Teal, Appellant V. Edwards Telecommunications, In. and
Leroy Smith, Director of the Dep't of Public Safety; Defendants,
Of which Leroy Smith, Director of the Dep't of Public Safety is
the Respondant.

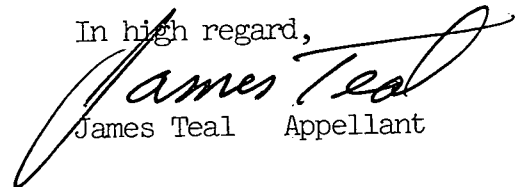
Civil Action No: 2016-CP-28-00583
Appellant Case No: 2017-002514

Ms. Kitchings:

Please find enclosed the original and one copy of Appellants
Amended Initial Brief, Amended Designation of Matter and Amended Caption
and Title to be included in the Record on Appeal with a Certificate of
Service in the above referenced matter.

Please contact me if necessary and thank you and your office for
your patience and diligence with this matter.

In high regard,



James Teal Appellant

Enclosures

Cc: Pete Balthazor, Esquire