

Supreme Court of South Carolina  
P.O. Box 11330  
Columbia,[SC]. 29211

May 16<sup>th</sup> (2018).

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Re: Rule 243, (SCACR).

**RECEIVED**

MAY 21 2018

S.C. SUPREME COURT

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MAY 21 2018

The South Carolina Court of Appeals.  
P.O. Box 11629  
Columbia, [SC] 29211.

S.C. SUPREME COURT

May 23<sup>rd</sup> (2017).

Rule 243, (SCACR).

(a) Review by Writ of Certiorari. A final decision entered under the Post-Conviction Relief Act shall be reviewed by the Supreme Court upon [petition] of either party for a writ of certiorari, according to the procedure set fourth in this Rule.

(e) Content of Petition. The [petition] shall contain:

(1) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail.

(2) A concise statement of the case, containing the facts material to the consideration of the questions presented.

(3) A direct and concise argument in support of the [petition]. The argument on each question shall include citation of authority and specific reference to pertinent portions of the lower court record. The total length of a [petition] shall not exceed (25) twenty-five pages.

This U.S. Constitutional injustice has created a serious concern for the lack of redress. Appeal No. 2012CP2609486 was issued in order to file an Initial Appeal Brief for case no. 35552GG. A no. for an appeal was granted in (2012) subsequent to release from (44) days incarceration under section 16-11-620. Appellant claims (fourth amendment) to the U.S. Constitution false arrest by a police officer acting with malice and reckless indifference cognizable under [42 U.S.C.] 1983.

A series of papers equaling (17) pages has been mailed to the ("PCR") Division for the State of South Carolina Attorney General's Office. The papers comprise a summary of the circumstances or questions of consideration in regard to S.C. Code Ann. 44-17-580 (1976). The (17+) pages are on flash-drive, this SSA fraud took place in (1997). The State of Minnesota transferred [SSDIB]- (ER) claim no. #[P1-94-60161] under penalty of [42 U.S.C.] 1320a-7b.

Hennepin County Medical Center was considered to be exempt from liability regardless of the criminal penalties involving. Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a Federal health care program (as defined in subsection (f) of this section), shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under the program, be guilty of a felony and upon conviction thereof fined not more than \$ {25,000.00} dollars or imprisoned for not more than five years or both.

In (1994), the trial court authorized the hospital for (items) or (services) for which payment is recorded. Inpatient treatment and involuntary use of neuroleptic medications qualify as (items) or (services). The State of South Carolina re-committed under section 44-17-580 in (1998).

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. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State pursuant to [42 U.S.C.] 12202. C.A. No. 6:08-1405-[GJK] was filed in US. district court, SSA returned their withholding under [42 U.S.C.] 1990.

[4]-Mr. Michael L. Sgro; *Mr. Michael L. Sgro* Executed on (05/17/18).

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).

Jessica E. Kinard  
Staff Attorney  
S.C. Bar No. # [77889].

Judge G. Blanton  
[14-DE-J-0054].  
[28 CFR] 16.34.

Mr. Michael I. Sgro  
505 N. Kings Hwy.  
Myrtle Beach, [SC]. 29577;

*Mr. Michael I. Sgro*

Executed on (05/17/18).

## 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. SB[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 suspects (fourth amendment) to the U.S. Constitution protection after suspect was placed in handcuffs. Officer Butler continued a discriminatory false arrest pattern by a police officer acting with malice and reckless indifference cognizable under section 1983. Proper motive doesn't exist for Officer Butler's actions, this arrest while acting under color-of-state-law proves Officer Butler knowingly and deliberately arrested a Appellant without probable cause under section 16-11-620.

(2.) Reason for the Delay; Hon. Larry B. Hyman Jr. contravened under Double Jeopardy clause of the (fifth amendment) to the U.S. Constitution which prohibits anyone from being prosecuted twice for substantially the same crime. Further more, 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 under section 17-25-10. The States wording under 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 the Initial Appeals brief with prejudice for case no. #(2014)-CP-26-6015 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 (44<sup>th</sup>) 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 of an application 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. When a state re-prosecutes for the same offense following conviction and multiple punishments for the same offense with identical statutory elements, or one is a lesser statutory offense, the inquiry must cease, and the subsequent prosecution is barred. I, Michael Louis Sgro, do hereby request a Final Order of Dismissal signed by Judge William H. Seals, Jr. on March 07<sup>th</sup>, (2016) and hereby [PETITIONED].

In the United States  
District Court for the State of  
South Carolina.

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Mr. Michael Louis Sgro,  
Plaintiff,

-vs-

United States Government and Social Security Administration,  
Defendant.

Certificate of Service  
Rule 901. Federal rules of Evidence.

[SSDIB] litigation under [42 U.S.C.] 407(a); [other 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, established, or proved by 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 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, [SSDIB] litigation is true and correct under [28 U.S.C.] 1746.

[1]-Mr. Michael Louis Sgro; Mr. Michael J. Sgro Executed on (05/17/18).

# The South Carolina Court of Appeals

Michael L. Sgro, Appellant,

v.

State of South Carolina and Town of Surfside Beach,  
Respondents.

Appellate Case No. 2017-002492

The Honorable Larry B. Hyman, Jr.  
Horry County  
Trial Court Case No. 2012CP2609486

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## ORDER

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Appellant has failed to submit the notice of appeal filing fee, the order challenged on appeal, a proof of service for the notice of appeal and proof of filing the notice of appeal with the lower court clerk of court, as required by Rule 203 of the South Carolina Appellate Court Rules, and letter of this Court dated December 11, 2017. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:  
Michael Louis Sgro  
Maronee Elizabeth Pitcher, Esquire

**FILED**

January 4, 2018

# The South Carolina Court of Appeals

Michael L. Sgro, Appellant,

v.

State of South Carolina and Town of Surfside Beach,  
Respondents.

Appellate Case No. 2017-002492

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## ORDER

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Appellant has filed several documents, which we construe together as a motion to reinstate this appeal. This appeal was dismissed due to Appellant's failure to (1) submit the notice of appeal filing fee, (2) provide a copy the order challenged on appeal, (3) provide proof he served the notice of appeal on Respondent, and (4) provide proof he filed the notice of appeal with the circuit court.

Although Appellant has still not provided this court with a copy of the order on appeal, it appears Appellant is attempting to appeal the circuit court's order of November 5, 2013, which dismissed Appellant's criminal appeal from the magistrate's court. Because this appeal stems from a criminal conviction in the magistrate's court, the \$100.00 notice of appeal filing fee is not required. However, Appellant has still not provided this court with a copy of the circuit court's order, and he has not provided proof that he filed his notice of appeal with the circuit court. Further, although Appellant has now filed proof that he served Respondents with the notice of appeal on February 6, 2018, Appellant's service was not timely pursuant to Rule 203(b)(1) of the South Carolina Appellate Court Rules. *See* Rule 203(b)(1), SCACR (providing the notice of appeal in an appeal from the court of common pleas must be served on all respondents within thirty days of receipt of written notice of the entry of the order). Accordingly, Appellant's motion to reinstate this appeal is denied.

*James Esch* S.J.  
*Paul G. Short, Jr.* J.  
*[Signature]* J.

Columbia, South Carolina

cc:  
Michael Louis Sgro  
Maronee Elizabeth Pitcher, Esquire

**FILED**

March 22, 2018



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 01, 2018

The Honorable Renee Elvis  
PO Box 677  
Conway SC 29528-0677

## REMITTITUR

Re: Michael Sgro v. State of South Carolina  
Lower Court Case No. 2012CP2609486  
Appellate Case No. 2017-002492

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Michael Louis Sgro  
Maronee Elizabeth Pitcher, Esquire