

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEL FROM CHARLESTON COUNTY  
Danial Hall, Circuit Court Judge

\_\_\_\_\_  
Case No 2018-001125  
\_\_\_\_\_

**RECEIVED**  
SEP 04 2018  
SC Court of Appeals

Theodore Wagner.....Appellant

v.

Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike  
Davis....Respondent

\_\_\_\_\_  
**BRIEF OF APPELLANT**  
\_\_\_\_\_

Date: Aug 31 2018

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**From U.S. Constitution**

**Article 6, 2 paragraph** (Pg. 18)

**First Amendment, Fifth Sentence:** Used only reference.

**Seventh Amendment:** The Right of Trial By Jury Shall Be Preserved. That is why I kept repeating TRIAL BY JURY DEMANDED. (Pg. 31)

**Ninth Amendment:** I Theodore Wagner Retain My Right to The Truth, The whole Truth, and Nothing but the Truth be placed on the record about me. (Pg. 3, 18, 20, 22)

**From S.C. Constitution**

**ARTICLE 1, SECTION 2, Fifth Sentence:** “The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances”. (19)

**ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** (19)

**ARTICLE III. LEGISLATIVE DEPARTMENT, SECTION 26.** Oath of office. (19)

**ARTICLE VI. OFFICER, SECTION 5. Form of oath.** (19)

**(B) Statement of Issues on Appeal:** **Page Number:** (4)

**(C) Statement of the Case:** **Page Number:** (5)

**(D) Standard of Review: Cases must be presented to show that Constitutional Challenge Must Be Heard!** **Page Number:** (10)

**(E) Argument:** **Page Number:** Start on (17)

**Exhibits: Are Numbed DVD Was for Court Audio / Video Just listen.**

I included these because as a poor person I gave a lot of the Evidence to Kenneth Good and the Court when I Filed it on DVD. You can look for it and Find it. I also want to use it in my Book about

the Corruption of the Judaical System and as Mike Davis said on the day we met, "You would have to have 5 million Dollars to stand a chance of beating me. I can buy my way out of it". On January 21, 2018 I thought we would be friends for ever so I did not pay attention.

**DVD Exhibit. (P. 33, Line 15)** Then he wants me to explain it. I had a right to have a **Trial by Jury** hear it. You can't explain and understand the traumatizing effects with out listing the the evidence I was denied. **I Demanded as of Right a Trial By Jury.** Many are just Mike and myself. Some show the Trauma Triggered when Mike Davis does another stupid.

**(Exhibit 1, 8 Pages) Constitutional Challenge with Proof of Restricted Delivery. (Pg. 20, 21)**

**(Exhibit 2, 16 pages) I believe there were more. (R. pp. 33-38) (Pg. 7, 19, 25)**

**(Exhibit 3, 3 pages) Called a Status Conference and used to send me back to Prison. (Pg. 7)**

**(Exhibit 4, 10 pages) (R. p. 41, Line 19-21) Mike Davis continues Terror and the Government covers it up. (Pg. 10)**

**(Exhibit 5, 2 pages) The signed by Judge Hall, Dismissal per SCRCF 41 B (Pg. 35)**

**(Exhibit 6, 2 pages) For medical Records. (Pg. 38)**

**(F) Conclusion: Page Number: (Pg. 39)**

**(B) Statement on Issues on Appeal**

**May be stated in question form:**

**1. Does a Constitutional Challenge Have To Be Addressed when properly Filed and served on the South Carolina Attorney General Redistricted Delivery? (Page 21)**

**2. Once a Judge on the Bench during Court sees Evidence of a Felony Crime that has been Committed and he is holding the Evidence can he Complicity Enable and aid in the Facilitation in the Ongoing Cover up of this Felony Crime? (Pg. 25)**

**3. Does a Judge who aided in and was part of a Criminal Conspiracy of the sentencing of a**

person have the right to sit in judgment of a case of those same issues in a Civil Case? (Pg. 33)

4. Was I wrongly kicked out of Court on May 8, 2018 by Judge Hall using SCRCP 41 B?

(Pg. 35)

5. Can a person who has Evidence from From a Licensed Mental Health Doctor who states he Suffers from Metal Disorders be denied the Assistance of a Court Appointed Attorney as defined in the United States Constitution and the South Carolina Constitution? (Pg. 36)

6. Does It violate the Constitution (s) to for the Government or it's Departments to make laws, case laws, rules, procedures, etc. that Oppress witnesses from appearances that will prove a part of your Grievance? (Pg. 37)

7. Can the Court rule to change your Grievance Filed to protect Wrongdoers? (Pg. 37)

8. Can a lawyer demand you supply a second set of copies of evidence he already received?

(Pg. 38)

### **(C) Statement of the Case**

**This whole case against Mike Davis Terrorizing me has to do with the Evidence Shown to Mike Davis on January 21, 2014 for and hour and a half that proves he knew I am Innocent and uses the Government Conspiracy to Terrorize me. All of the 6 inch stake of papers he looked at are relevant. The Defendant's Lawyer had lots of them and they were clearly explained to him and how they are relevant. (R. P. 29 Lines 7-9) The Evidence has to be included in this Appeal to explain the Appeal. This includes the Audio Recording of Mike saying he hopes I sue the &\*^% out to the them 2 hours after meeting him. (The Federal Government!) (DVD Exhibit)**

On January 22, 2014 I was going to prison for exercising my First Amendment Right for a Grievances Guaranteed in the 5<sup>th</sup> Sentence of the First Amendment. I did not have to go to prison but I would not give up my First Amendment Right For a Redress of my Grievance that I was never Guilty and the Government Conspired to Cover Up the Truth to protect other people. I had no Family or

Friends I could trust to handle my Disability check while I was in prison. All my roommate Aaron talked about was how much he loved his girlfriend Holly and was clear soon after I moved in he was going to be moving out with her. Even the day before I left for prison he was talking about moving out with her. I feared I would come back and find he had used my disability to rent an apartment West Ashley as they kept saying. At that time he also was not very trust worthy. He had a Millionaire friend Mike Davis he had just met and a Millionaire will not steal from a person getting 700.00 Dollars a month in Disability so I ask Aaron Satcher to ask Mike Davis over the next night so I could talk to him. He Did. I am on the Sexual Registry for something my wife Andrea Crisel, also know in the Government Cover up as Victim A, did when she was 20 years, 1 month, 16 days old and I had nothing to do with it. (I have included a DVD Disk with Mike Davis and I talking on the day we met. I am giving him my pin number, card, etc. and Mike saying he hopes I sue the \$\*%# out of the Government after listing to and looking at the Evidence closely an hour and half Mike tells me he believes I am innocent and the Government set me up. I will be showing you less than 1 % of that Evidence Mike Davis looked at that night and a video on record after he broke in my window and stood over my bed while I slept. Mike Davis got a 12 year State Stalking Sentence after years of this and still beat more. That is part of my Appeal of Constitutional Challenge is Government Power to Cover up.

But to understand the fight to prove I am Innocent and meeting Mike Davis on January 21, 2014 you have to know part of what I told Mike that night.

On the morning of June 25, 1999 my 20 year old wife left to go to Folly Beach with her friends and said she would not be home that night. Andrea was a Freak and said they were going to have an Orgy that night at some other place, she never did it at our house. As she was 20 years younger than I was she never aloud me to hang out with her friends. I invited 22 year old Candice Christensen to come over, lay out, have dinner, and spend the night. NO SEX. About 6:30 pm. Andrea comes in with 3 friends, 2 boxes of rubbers, and ask to use the camera. Two of her friends I met that day, and

proceeded to have her party in our house. This ran my guest 22 year old Candice Christensen off when Andrea went down on Barbie. Years later on February 28, 2002, 2 days after beating up our roommate for tagging my wife I was arrested for her party and refused all request to see the Affidavits and Warrants. I am on the Sexual Registry for 2 of the 4 tapes 20 year old Andrea made that night. The Government Conspired to cover up her age and it has never been put on the Record that Andrea was an Adult or that it was her party and only friends, who made these 4 tapes. They still call Andrea a Victim when you can't be a victim of my charge I am on the Registry for, **Title 18, USC Section 2251 (a)**. Andrea did this by herself and the Government Cover Up and puts me on the Registry. ( Judge Hall took these pages to the back and knows of this Ongoing Conspiracy to cover up Andrea's age just as Mike Davis and Kenneth Goode has seen and knows of it.) **(R. PP. 33-38)**

Furthermore, my lawyers who conspired with the prosecution to set me up and refused to defend me got Detective William Crews of the Charleston County Sheriffs Department off from years of assaulting children as young as 10 years old and he has no record and is not on the Registry. ( Judge Hall took these to the back and all named have seen these also. Notice Andy Savage's stamp on the bottom of the page and the news paper article given to Judge Hall and all.) **(Exhibit 2, 16 pages)**

I also told Mike Davis how angry it made me that my Lawyers said I could not make Candice Christensen come in and testify. Andrea met her at La Petit Day Care where Andrea worked. She was not an Escort. Candice was a specialized call Girl for police, lawyers, at least 1 judge I wrote about in my Diaries, and very rich Charleston business men. We stopped being friends because I caught her teaching Andrea how to be a Call Girl. But I demanded to my Lawyers they bring her in to testify about that one day, June 25, 1999 and Mike Davis knew it. There are a 1000 stories that were in those Diaries y'all stole of mine. I'll stop.

In 2014 Michael Rhett Dehart of the United States Attorneys Office **(Exhibit 3, 3 pages)** The

called it a Status Conference almost a year after I was out of prison and had been a perfect probationer. I say to Judge P. Michael Duffy of the Federal Department of Justice, "*They still haven't admitted Andrea was born May 9, 1979. Victim A. I happened on June 25<sup>th</sup> 1999. She was 20 year, 1 month, 16 days old. She is the only person that had sex with anybody. I never had sex with anybody.*" Judge Duffy then sent me back to prison for 45 days using a Status Conference 1 year after my release to punish me because I refused to stop filing law suits to put the Truth that I am Innocent on the Record. I force Judge Duffy to take a copy of all of Exhibit 2 and more. They both Conspired to lie to Facilitate this cover up at that Court Hearing to send me to prison again as my only crime was exercising my First Amendment Right For a Redress of my Grievance that **I am Innocent and am Denied Justice. That is how I met Mike Davis and showed him all the evidence to show the Government crimes.** After talking to my Probation Officer and other things the prison refused to talk to me saying the Legal Department advised them not to get involved in my case. Something is wrong with it. I was never evaluated.

I was hoping to be friends with Mike Davis. Aaron Satcher and Mike Davis were the ones who had an ending of friendship when Mike Davis contacted Aaron's Family, Pastor, Girlfriend Holly, and Aaron said I was not allowed to have Mike around our apartment ever again. March 30, 2014.

Until May 4, 2014 I thought this is none of my business except Mike should leave Aaron alone as it had been 2 months sense Aaron told him to go away and it was getting worse. On May 4, 2014 Mike Davis broke into our apartment through the window, **broke into my room as I slept**, and when I caught him a few minutes later, **Mike told me he had been standing over my bed.** Aaron told me not to call the police. He just wanted Mike to go away. At this point I did also.

On Friday, June 6, 2014 I answer the door while Aaron is at work and Mike Davis who lives in Summerville, South Carolina and drives to Downtown Charleston to Stalk Aaron serves Aaron with a Retraining Order for harassment. It names me in it, that I am Gay and more. Now he has involved me

and I start the “**Chronology of Michael (Mike) Steven Davis Staking of Aaron Satcher**” which has the hundreds of times Mike Davis Terrorized and Threatened Aaron and myself and was used to get Mike Davis's City of Charleston Conviction by Prosecutor Lucka.

On July 1, 2014 and September 11, 2014 witnesses saw Mike Davis slice my bike tires. City of Charleston Investigator Brown said he is going to keep getting off with high priced lawyers. I will only get a solid conviction with a picture of him doing it.

It had got so bad everyday that I put in Surveillance Cameras inside and out and laid in Panic all the time.

It got so bad for me I had to start going to a Mental Counselor for counseling and medications. I finally got my First doctor visit on May 15, 2015. Aaron had a girlfriend to talk to, I did not.

Around June 7, 2015 Prosecutor Lucka of the City of Charleston put in a request to have Mike Davis's Consent Order his lawyer bought him Revoked that was for Terrorizing Aaron and me. Roommate is named in the paperwork. He only got 30 days house arrest at which time he continued to use the Internet to Terrorize me and it got worse.

It had got so bad over the years that on June 19, 2015 both Aaron and I filed complaints. Theodore Wagner FBI Complaint against Mike Davis is I1506191313123701

Mike Davis gets off of 30 day house arrest at 12:00 Midnight on July 18, 2015.

On July 19, 2015 about 3:40 am in the morning Aaron is coming home from work and sees Mike Davis in the back roads of our neighborhood. He calls the police. I look at the surveillance cameras. It shows Mike Davis putting up a poster and then after getting caught by Aaron coming back to get it. I give them to Inspector Brown the next morning. We joked that that was a lot of money not wasted. It is on the DVDs supplied I had for Court and is included here.

I am so bad off by now and remembering Mike Davis laughing at me saying you would have over 5 million dollars to stand a chance suing him the night he said he believed I was Innocent adds to

my Trauma. **I live in Trauma and Panic.** It takes days to do anything when you live in Trauma and Panic but on July 29, 2015 I Filled this suit. He just buys an expensive lawyer and laughs it off.

Mike Davis pleads guilty and gets 12 years suspended to baby probation. I Still Suffer Every Day! Having to remember all of this to write this causes Trauma. No one should have to pay for something for the rest of their life for something someone else does.

Even after Mike Davis had a Permanent Restraining Order, 21 days later he did it again and the Government protected him even with all the evidence in front of them. That was why I subpoenaed his Probation Officer **Agent Matthew Johnson**. Nothing I was going to ask the probation officer was protected. (Exhibit 4, 10 pages) (R. p. 41, Line 19-21) It does show Mike Davis Committed a Crime after the 21 days after a Permanent Restraining Order and his Lawyer and Probation Officer covered up. Agent Johnson had the Authority and power to follow up on that. If Mike had been poor he would have. It would not have violated (R. p. 41, Line 19-21) to have him testify. I Challenge that Law also!

This is less than 1 % of what was on the **Chronology** I had for Court. As I am not a Lawyer and the only way I know how to present the case to a Jury was in Chronological order in 35 pages of the years to terror against me by Mike Davis.

#### **(D) Standard of Review**

**The Standard of Review for the Constitutional Challenge are clearly stated in the cases used. Once the Constitutional Challenge is made a Judge has a Duty to see it is addressed. As the Constitution is to protect The People from the Government I worded my Challenges for The People to Address. Presenting these cases makes it harder to turn a blind eye to them. DUTY!**

**Anton v. South Carolina Coastal Counsel, 469 S.E. 2d. 604 at 605 (S.C. 1996)**

**“Where there is a conflict between the statute and the State Constitution, the Constitution**

overrides the Statute.” State v. Whitener, 225 S.C. 244, 81 S.E. 2d. 784 (1954)

**CARTER VS. CARTER COAL CO., 298 US 238 (1936)**

[14][15] And the Constitution itself is in every real sense a law—the lawmakers being the people themselves, is whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess, the Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible, "**We the People of the United States**," it says, "**do ordain and establish this Constitution...**" Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly—"**This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;... shall be the supreme Law of the Land;...**" The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, **must apply the supreme law and reject the inferior statute**

[298 US 297]

**whenever the two conflict.** In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, *Adkins v. Children's Hospital*, 261 U.S. 525, 544, 67 L. ed. 785, 790, 43 S.Ct. 394, 24 A.L.R. 1238; **but their opinion, or the court's opinion, that the**

statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry, A. I. a Schechter Poultry Corp, v. United States, 295 U.S. 495, 549, 550, 79 L. ed. 1570, 1590, 1591, 55 S. Ct. 837, 97 A.L.R. 947.

### D.O.C. vs. HELLER, 554 US 570 (2008)

#### 1. Operative Clause.

a. **"Right of the People"** The first salient feature of the operative clause is that it codifies a "right of the people." The unamended Constitution and the Bill of Rights use the phrase "right of the people" two other times, in the **First Amendment's Assembly-and Petition Clause** and in the Fourth Amendment's Search-and- Seizure Clause. **The Ninth Amendment used very similar terminology ("the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people")**. *All three of these instances unambiguously refer to individual rights, not "collective" rights, or rights that may be exercised only through participation in some corporate body.*

Three provisions of the Constitution refer to **"the people"** in a context other than "rights"-the famous preamble ("We the people"), § 2 of Article I (providing that **"the people"** will choose members of the House), and **the Tenth Amendment (providing that those powers not given the Federal Government remain with "the States" or "the people")**. *Those provisions arguably refer to "the people" acting collectively-but they deal with the exercise or reservation of powers, not rights. Nowhere else in the Constitution does a "right" attributed to "the people" refer to anything other than an individual right.*

What is more, in all six other provisions of the Constitution that mention **"the People,"** the term unambiguously refers to all members of the political community, not an unspecified subset. As we said in *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265, 110 S. Ct. 1056, 108 L. Ed. 2d 222 (1990):

[4] "'[T]he people' seems to have been a term of art employed in select parts of the Constitution....

[Its used] sugges[t] that '**the people**' protected by the Fourth Amendment, and by the **First** and Second **Amendments**, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."

### **MARBURY vs. MADISON, 1 CRANCH 137 (5 US 137) (1803)**

From these, and many other selections which might be made, it is apparent, that the framers of the constitution

[1 Cranch 180]

contemplated that instrument as a rule for the government of courts, as well as of the legislature.

**Why otherwise does it direct the judges to take an oath to support it?** This oath certainly applies in an especial manner, to their conduct in their official character. How immoral to impose it on them, if they were to be used as the instruments, and the knowing instruments, **for violating what they swear to support!**

The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative opinion on this subject. It is in these words: **"I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as, according to the best of my abilities and understanding agreeably to the constitution and laws of the United States."**

Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government? **If it is closed upon him, and cannot be inspected by him?**

If such be the real state of things, this is worse than solemn mockery. **To prescribe, or to take this**

**oath, becomes equally a crime.**

It is also not entirely unworthy of observation, **that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned;** and not the laws of the United States generally, *but those only which shall be made in pursuance of the constitution, have that rank.*

*Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.*

**OLMSTEAD VS, UNITED STATES, 277 US 438, June 4, 1928**

When these unlawful acts were committed, they were crimes only of the officers individually, The government was innocent, in legal contemplation; for no federal official is authorized to commit a crime on its behalf. When the government, having full knowledge, sought, through the Department of Justice, to avail itself of the fruits of these acts in order to accomplish its own ends, it assumed moral responsibility for the officers' crimes. Compare the Havana (United States v. The Havana) 189 U.S.435, 465,47 L. ed 901, 903, 32 Sup. Ct Rep. 593; O'Reilly de Camara v. Brooke, 209 U.S. 45, 52, 52 L. ed. 676, 678, 28 Sup. Ct. Rep. 137. And if this court should permit the government, by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the government itself would become a lawbreaker.

Will this court, by sustaining the judgment below, sanction such conduct on the part of the Executive? The governing principle has long been settled, It is that a court will not redress a wrong when he who invokes its aid has unclean hands. The maxim of unclean hands comes [277 US 484] from courts of equity. But the principle prevails also in courts of law. Its common application is in civil actions between private parties. Where the government is the actor, the reason for applying it are even

more persuasive. Where the remedies involved are those of the criminal law, the reasons are compelling.

The door of a court is not barred because the plaintiff has committed a crime. The confirmed criminal is as much entitled to redress as his most virtuous fellow citizen; no record of crime, however long, makes one as outlaw. The court's aid is denied only when he who seeks it has violated the law in connection with the very transaction as to which he seeks legal redress. Then aid is denied despite the defendant's wrong. It is denied in order to maintain respect for law; in order to promote confidence in the administration of justice; in order to preserve the judicial process from contamination, the rule is one, not of action, but of inaction. It is sometimes [277 US 485] spoken of as a rule of substantive law. But it extends to matters of procedure as well. A defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself. It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself.

**Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent, teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means – to declare that the government may commit crimes in order to secure the conviction of a private criminal – would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.**

**Pollock vs. Farmers' Loan & Trust Co., 157 US 429 (1895)**

Since the opinion in Marbury v. Madison, 5 US 137, 1 Cranch, 137, 177, [2: 60, 73], was delivered, it has not been doubted that it is within judicial competency, by express provisions of the Constitution or **by necessary inference and implication, to determine whether a given law of the United States is or is not made in pursuance of the Constitution, and to hold it valid or void accordingly.** “ If,” said Chief Justice Marshall, “both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. **This is of the very essence of judicial duty.**” And the Chief Justice added that the doctrine “**would subvert the very foundation of all written constitutions.**” Necessarily the power to declare a law unconstitutional is always exercised with reluctance; **but the duty to do so**, in a proper case, **cannot be declined**, and must be discharged in accordance with the deliberate judgment of the tribunal in which the validity of the enactment is directly drawn in question. [157 US 555]

### **USA vs. BUTLER, 297 US 1 (1936)**

[6][7] There should be no misunderstanding as to the function of this court in such a case. It is sometimes said that the court assumes a power to overrule or control the action of the people's representatives. This is a misconception. *The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate the judicial branch of the government has only one duty, - to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is to announce its considered judgment upon the question.*

[297 US 63]

The only power it has, if such it may be called, is the power of judgment. This court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the Constitution; and, having done that, its duty ends.

[8] The question is not what power the federal Government ought to have **but what powers in fact have been given by the people**. It hardly seems necessary to reiterate that ours is a dual form of government; that in every state there are two governments, -the state and the United States. **Each State has all governmental powers save such as the people, by their Constitution, have conferred upon the United States, denied to the States, or reserved to themselves**. The federal union is a government of delegated powers. It has only such as are expressly conferred upon it and such as are reasonably to be implied from those granted. In this respect we differ radically from notions where all legislative power, without restriction or limitation, is vested in a parliament or other legislative body subject to no restrictions except the discretion of its members.

**SCHICK VS. UNITED STATES, 195 US 65 (1904)**

If there be any conflict between these two provisions, the one found in the Amendments must control, under the well-understood rule that the last expression of the will of the lawmaker prevails over an earlier... .

**Reid vs. Covert, 354 US 1 (1957)**

[7] **This Court has constantly reiterated that the language of the Constitution where clear and unambiguous must be given its plain evident meaning**. See, e. g. *Ogden v Saunders* (US) 12 Wheat 213, 302, 303, 6 L ed 606, 636, 637; *Lake County v Rollins* 130 US 662, 670, 67, 32 L ed

1060, 1063, 9 S Ct 651. In *United States v Sprague*, 282 US 716, 731, 732, 75 L ed 640, 643, 644, 51 S Ct 20, 71 ALR 1381, the Court said:

“The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition. ... The fact that an instrument drawn with such meticulous care and by men who so well understood how to make language fit their thought does not contain any such limiting phrase ... is persuasive evidence that no qualification was intended.”

**The Ninth Amendment of the United States Constitution states** (This is from my Constitutional Challenge.)

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**I Theodore Wagner retain the Right to have the Government tell the Truth, the whole Truth, and nothing but the Truth about me.** May 8, 2018 (R. p. 98, Line 11-15)

I clearly put this in my Constitutional Challenge and there is no Doubt that it was properly served in the State Of South Carolina. All of these **Standards of Review** would back up not only my Constitutional Challenge must be heard before enforcing anything that Oppresses my Rights Guaranteed in the U.S. And S.C. Constitution but all Judges have a Duty to do so.

**Article 6, paragraph 2**, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; **and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.**”

This is included to insure that as best I can as a layman that my Constitutional Challenge for the

Under the Ninth Amendment is backed by the United States Constitution that I be given a TRIAL BY JURY DEMANDED and I Retained the Right The Truth, the whole Truth, and nothing but the Truth be put on the Record about me. With Andrea's Testimony under Oath the Affidavit to the State Search Warrant by a Child Molesting Police Officer, Detective William Crews, would have been Proved a Lie and Void! But I was Raped of that.

**U.S. vs Colkey, 899 F.2d. 299 (4th Cir 1990)** Omissions in Warrant Affidavit, and Franks. (Exhibit 2, 16 Pages) Judge Hall took to the back to look at and Mike Davis looked at on the Day of our meeting, January 21, 2014. Detective William Crews, Sex Offender, Committed Perjury on the whole Warrant affidavits on February 28, 2002. The State Search Warrant would have been VOIDED if Andrea had been allowed to Testify.

This is in my State Constitutional Challenge But as I don't totally under stand these Rules and these are State Authorities I used to Demand Nothing the Courts can Lawfully do to Oppress me from putting these Crimes on the Record and the Truth on the Record to clear my name I include them

**United Mine Workers of America, vs. Illinois State Bar Asso. et al, 389 US 217**

**UNITED MINE WORKERS OF AMERICA  
vs.  
ILLINOIS STATE BAR ASSOCIATION et al.  
1967.**

[3][4] We start with the premise that the rights to assemble peaceably and to petition for a redress of grievances are among the most precious of the liberties safeguarded by the Bill of Rights. These rights, moreover, are intimately connected, both in origin and in purpose, with the other First Amendment rights of free speech and free press. "All these, though not identical, are inseparable." Thomas v Collins, 323 US 516, 530, 89 L ed 340, 440, 65 S Ct 315 (1937). The First Amendment would, however, be a hollow promise if it left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, or assembly as

such. We have therefore repeatedly held that laws which actually affect the exercise of these vital rights cannot be sustained merely because they were enacted for the purpose of dealing with some evil within the State's legislative competence, or even because the laws do in fact provide a helpful means of dealing with such an evil. *Schneider v State*, 308 US 147, 84 L ed 155, 60 S Ct 146 (1939); *Cantwell v Connecticut*, 310 US 296, 84 L ed 1213, 60 S Ct 900, 129 ALR 1352 (1940)

**Challenge of The Right to The Truth, The whole Truth,  
and Nothing but the Truth. (Properly Filled and Served.)**

**(Exhibit 1, 5 pages) with proof of Restricted Deliver not honored by the Government.**

**ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** Privileges and communities; due process; equal protection of laws. "The privileges and communities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

**ARTICLE III. LEGISLATIVE DEPARTMENT, SECTION 26.** Oath of office.

Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, **and all members of the bar, before they enter upon the practice of their profession,** shall take and subscribe the following oath: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed), and that **I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God."**

**ARTICLE VI. OFFICER, SECTION 5. Form of oath.**

Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, **and all members of the bar,** before they enter upon the practice of their profession, **shall** take and subscribe the following oath: "I do solemnly swear (or affirm) that I am duly qualified, according

to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed), and that I will, to the best of my ability, discharge the duties thereof, **and preserve, protect, and defend the Constitution of this State and of the United States. So help me God."**

Before I was ever charged S.A. Cynthia McCants of the F.B.I. had contacted my wife Andrea first and knew Andrea was 20 years old on June 25, 1999. McCants then contacted Detective William Crews of the Charleston County Sheriffs Department to Conspire with Detective Crews to get the Warrant. The whole State Search Warrant Affidavit was based on perjured testimony.

### **(E) Argument**

#### **1. Does a Constitutional Challenge have to be Addressed when properly Filed and Served on the South Carolina Attorney General Redistricted Delivery? (Exhibit 1, 5 pages)**

When James Madison wrote the Ninth Amendment he did not believe the Bill of Rights Rights cover all of the individual protections that he believed citizens needed, and certainly the 10 that were approved did not either. Madison believed that the government would take any right we had not specifically said they could not have. He was right.

It states that there are certain rights listed in the Constitution, but that does not mean that there aren't other rights that the people have that are not listed.

The Ninth Amendment of the United States Constitution states (As in my Constituional Challenge)

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

**I Theodore Wagner retain the Right to have the Government tell the Truth, the whole Truth, and nothing but the Truth about me.**

**In DOC vs. Heller, 554 US 570 - Operative Clause - Right of "The People" clearly shows that I have the the right to retain this right to not only the Government tell the Truth about me but also**

other persons like Mike Davis who use the Internet, Posters, and Verbal to spread things he knew not to be true about me to knowingly cause me harm and Trauma. **Trial By Jury Demanded.**

In 4 Government Documents I can prove the Government committed an intentional cover-up under 18 U.S.C. § 1503 by U.S. Attorney Dehart and S.A. Cynthia McCants before the Grand Jury in 1999. These were carried to the back by Judge Hall for Examination before he came back and said Andrea had to be put on the stand. These were shown to Mike Davis on January 21, 2014 just before he made the Audio provided that shows Mike Davis knew I was innocent when he stated Terrorizing me.

As I am not guilty and got my own Lawyer to admit withholding evidence from me. My Lawyer is suppose to protect my Constitutional Rights and make sure the Government tells the Truth about me, not help them Frame me. I have been fighting to prove the Truth in this Case ever sense. I had not been Sentenced and Ann Walsh was let go after admitting it in court to with holding Evidence. (Appendix ) I was then given Andy Savage. I wanted a **Trial by Jury** to prove I was innocent. I showed him the proof the Detective William Crews of the Charleston County Sheriffs Department committed perjury to get the Warrants. The State of South Carolina has now covered up their part and Sealed the Records. You have the power to Unseal them and prove the Truth. Andy said he would put nothing on the recorded that would discredit Detective Crews. Andy Savage defended Detective Crews of Crimes I showed to Judge Hall. In this case on May 7, 2018 Judge Hall after looking at the same evidence that proved the Government Crime that Mike Davis looked at on January 21, 2014 he said Andrea whole have to Testify under oath one the Stand. Andrea Looking at these Documents and telling the Truth would have cleared my name not in this Court but the Transcript of her Testimony would have cleared my name!

My "**Constitutional Challenge for a Full and Fair Redress of the Truth etc.. - TRIAL BY JURY DEMANED** – was Filed on December 19, 2016. I have made First and Ninth Amendment

Challenges in Federal Courts a number of times and the Courts use Unconstitutional Laws to throw them out. Each time I got closer. Last time in Theodore Wagner v. State of South Carolina, 15-CP-10-1303 I was thrown out without prejudice and not allowed to counter argue because The South Carolina Attorney's Office said I sent it Certified Mail, but not Restricted Delivery. I send a copy of all with the Copy of the Receipt "Restricted Delivery". I ask the Post Office Clerk to stamp it on top of the card but she said she could not. She was very careful to put it on the edges of both sides of the card. You can see the check mark at "**Signature Confirmation Restricted Delivers**". An "**E. Smith**" signs for it. It is a Government scam to Oppress poor people and it did hurt me.

In my Challenge I am clear that I am Challenging the Court of Laws made in Violation of Article 1, Section 2 of the South Carolina Constitution and / or actions used in Violation of Article 1, Section 2 of the South Carolina Constitution's 5<sup>th</sup> Mandate that states "**5) The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances**".

This Challenge is a Challenge of all Laws, Rules Regulation, or Procedures or the lack of that Oppress the **Constitutionally Protected Rights of Redress of Grievances of The People** in Violation of Article 1, Section 2 of the South Carolina Constitution and as Commanded in The First Amendment of the U.S. Constitution.

I reserve this Challenge not only to those named but also to those not named as part of this Ongoing Conspiracy Against Civil Rights. What would be the use to put in the S.C. Constitution as in the First Amendment that you can not make a Law to Oppress Redress of Grievances and then just make Rules, Regulations, or Procedures or the lack of to protect those Constitutionally Protected Rights. S.C. Constitution states "**or any department thereof for a redress of grievances**"

I also make IT KNOWN that I Challenge as being Unconstitutional having to send more than **ONE Unbound Copy** to the Court as it totally Oppressed poor people like myself. You can forward

copies to as many people as you want and they can Waste all the Government Paper they want to print as many copies as they want to lay around.

**This is a State Challenge using the State Constitution.** But I must use the Federal Constitution to prove a point. In the United States Constitution Ratified in 1788, Slavery is legal. The United States Constitution still is The Supreme Law of the Land. That is a fact as stated in Article Six of The United States Constitution.

It also stated that *“No Person held to Service or Labor in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labor, but shall be delivered up on Claim of the Party to whom such Service or Labor may be due.”* Thanks to Father God and persons with Him in their heart the Thirteenth Amendment **VOIDED** that clause when it was Ratified on December 6, 1865. Just as many other Amendments over the years the Thirteenth Amendment **VOIDED** this part of the Constitution. As stated in **SCHICK VS. UNITED STATES, 195 US 65, May 31, 1904**, *“If there be any conflict between these two provisions, the one found in the Amendments must control, under the well-understood rule that the last expression of the will of the lawmaker prevails over an earlier... .”*

On December 15, 1791 **“The Bill Off Rights”** was ratified. The First 10 Amendments of the United States Constitution. I would like to point out that the First Amendment and Article 1, Section 2 of the South Carolina Constitution are basically the same Amendment as Commanded in Article 6 of the United States Constitution.

The **First Amendment** brakes down in 5 very distinct and clear sentenced as I have had several grammarians check. The Fifth Mandate clearly as our own states, **“Congress shall make no law respecting the right of the people to peaceable petition the Government for a redress of grievances”**. As it was Ratified December 15, 1791 approximately 3 years after the Original, *Article.*

*IV., Section. 2., Second Paragraph*, “with such Exceptions, and under such Regulations as the Congress shall make.” was **Voided** on that day and the Government refuses to recognize it. As of December 15, 1791 “**Congress shall make no law respecting the right of the people to peaceable petition the Government for a redress of grievances**”. That would mean that every Law that Congress has made to Oppress the People's Right to Peaceable Petition the Government for a Redress of Grievances is **VOID** made after December 15, 1791. **Marbury vs. Madison, 1 CRANCH 137**, says *that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.* I know. The Government have use them against me for years to cover up the Crimes used to Unlawful put me in prison. You just Refuse to give Redress to any of my Constitutional Challenges.

As this is the United States Constitution and based on Federal Laws I only use this presentation to aid in the Explanation of my State “**Constitutional Challenge for a Full and Fair Redress of the Truth etc.**” which is based on the Ninth Amendment South Carolina does not have in our Constitution.

In this Question “**Does a Constitutional Challenge have to be Addressed when properly Filed and Served on the South Carolina Attorney General Redistricted Delivery?**” (Please keep in mind I am not a Lawyer or a writer and I should not be defending the **Constitutional Rights of The People**. Please keep in mind that is one of the reasons why I keep Petitioning for Lawyer to be appointed to me so the Government can't use the blundering of a Layman to **Oppress the Rights of The People**.) I Make that Re-Petition with this Brief.

All of the Standard of Review shows I was Unconstitutionally denied my Constitutional Challenge as **Pollock vs. Farmers' Loan & Trust Co., 157 US 429** so clearly states, “**but the duty to do so, in a proper case, cannot be declined**”.

**This Constitutional Challenge still has to be heard.**

**2 . Once a Judge on the Bench during Court sees Evidence of a Felony Crime that has been Committed and he is holding the Evidence can he Complicity Enable and aid in the Facilitation in the Ongoing Cover up of this Felony Crime? May 8, 2018 (R. pp. 33-38)**

(Exhibit 2, 16 pages.) Given to Judge Hall on May 8, 2018, Mike Davis, Kenneth Goode, Judge Duffy, and a lot more.

In 4 Government Documents I can prove the Government committed an intentional cover-up under 18 U.S.C. § 1503 by U.S. Attorney Dehart and S.A. Cynthia McCants before the Grand Jury in 1999. These were carried to the back by Judge Hall for Examination before he came back and said Andrea had to be put on the stand. S.A. Cynthia McCants was outside the courtroom with Andrea and Kenneth Goode was in contact with them. These a few of the documents for an hour and a half were shown to Mike Davis on January 21, 2014 just before he made the Audio provided that shows Mike Davis knew I was innocent when he started Terrorizing me. (First Audio on the DVD.)

The covered up was orchestrated by S.A Cynthia McCants of the Federal Bureau of Investigation who was the first to contact **Andrea Lynn (Crisel) Gentry** on February 25 and 26, 2002. Agent McCants knew she wanted to keep Andrea's age off the Record so she had to find a way to avoid using Rule 41 of Federal Rules of Criminal Procedure.

On February 27, 2002, to avoid using Federal Rule 41, S.A Cynthia McCants solicits the aid of Detective William Crews of the Charleston County Sheriffs Department. That way she could cover up Andrea Crisel's age because she no longer was bound by Federal Rules of Criminal Procedure requiring the Federal Search Warrant be issued by a Federal Magistrate or State Court of Record. Detective William Crews of the Charleston County Sheriffs Department can go to a State Magistrate that is very informal and keeps no formal records of the Warrants they issue making it easy to commit perjury to get the Warrants.

[ Detective William Crews of the Charleston County Sheriffs Department's, arrest reports from S.L.E.D for sex crimes against children committed at the same time he committed perjury to get my warrants can be found after this presentation.]

**(Exhibit 2, pg. 1) - I have their dates of Birth and the Dates of the Tapes)**

**The First document;** is page 9 of a **Grand Jury Transcript** from April 9, 2002. I was arrested on February 28, 2002 for Andrea's tapes. In this document,

**Michael Rhett Dehart of the United States Attorneys Office** ask the Question: How do you know that some of the participants were minors?

**S.A Cynthia McCants of the Federal Bureau of Investigation** Answers: I have their dates of birth and we have the date on the video.

S.A Cynthia McCants of the Federal Bureau of Investigation and Michael Rhett Dehart of the United States Attorneys Office continue to lie all the way through there scripted presentation before the **Grand Jury** on April 9, 2002, but have made clear that they know the age of every participant in the tapes.

December 19, 2013 Michael Rhett Dehart of the United States Attorneys Office, Judge P. Michael Duffy of the Federal Department of Justice knowingly committed Perjured Testimony in another Transcripts to Facilitate this Conspiracy and force me to stop trying to put this Evidence on the Record. They sent me to Prison for 45 day and tried to make it more thinking it would make me stop trying to put the Truth on the Record. That is how I met the Sexual Predator convicted of Stalking Michael (Mike) Steven 'Ricky' Davis prompting the use of Social Media. Theodore Wagner vs. Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike Davis. Docket No. 2015-CP-10-4166. Mike Davis Traumatized me to the point I have trouble being around anyone.

With Judge Hall on May 7, 2018 saying he was going to require Andrea to come in and testify

even with all the Federal People standing with Andrea in the State Court and I had given him all these documents and more, I was sure The Truth would be put on the Record. On the morning of May 8, 2018, seconds after Judge Hall entered the Courtroom he threw this Case out. I have to wonder.

**(Exhibit 2, pg. 2) - Dates of the Tapes. Grand Jury on April 9, 2002.)**

**The Second Document;** is the Indictment given to the Grand Jury on April 9, 2002. S.A Cynthia McCants of the Federal Bureau of Investigation and Michael Rhett Dehart of the United States Attorneys Office are very clear that all 4 videos are from 1999 and they clearly Date 3 of the Videos as June 25, 1999. So now there in no disputing the dates of the tapes as the same 4 people including 20 year old Andrea Gentry are performing sex acts in all 4 Videos.

**(Exhibit 2, pg. 3) Andrea's 10 year driving record with DOB.**

**The Third Document;** is **Andrea Lynn Crisel** now going by **Andrea Lynn Gentry** of Ladson, South Carolina Official 10 Year Driver Record. It clearly has **Andrea Lynn Crisel** on this Government Document and her Birthday is clearly marked. **DOB 5/9/1979**.

Now if you take a Date of Birth of May 9, 1979 and figure it with the Date of the Tapes, June 25, 1999, you get 20 years, 1 month, 16 days old. You do the math. That is an Adult.

**(Exhibit 2, 4) Page 6 of Grand Jury Transcript**

**The Fourth Document;** is page 6 of a Grand Jury Transcript from April 9, 2002. In this document is the proof of the Ongoing Government Cover-up. All 4 of these Documents are Government Documents and 3 of them are from the Grand Jury Hearing on April 9, 2002.

But first you need to understand who everyone is and what transpired on June 25, 1999 to understand. I was with **Candice Christensen** who was 22 year old getting ready for dinner about 6:00 pm. when my wife Andrea comes in the door with 2 large boxed of Trojan Rubbers and 3 of her friends asking if they can play with the camera. My wife is a Freak and an Adult who does what she wants. I

always let her do what she wants or we fight, she wins.

**Victim A:** is Andrea Lynn Crisel Gentry who is 20 years, 1 month, 16 days old on that day. There is a picture of her on the DVDs.

**Victim B:** is Barbie Cribbs. My wife's long time lover I met that day. I had only heard her name but knew they were lover for the last 2 years.

**Victim J:** Is Josh Summers who is Barbie Cribbs boyfriend I met that day.

**Victim D:** Is Drew Sherman or something like that. He is 1 of the 3 Guys who called themselves the Trench Coat Gang in the 1990s that was arrested for planing to copy the Columbine High School massacre at James Island High School. He was my wife Andrea's 19 year old brothers best friend and I believed was 19.

**(Exhibit 2, 4) From the Grand Jury Transcript on April 9, 2002.**

Notice that Cynthia McCants of the Federal Bureau of Investigation and Michael Rhett Dehart of the United States Attorneys Office are very careful to say **Victim A** and never say her age was 20. They do state the age of all 3 of her friends. The question is why did these 2 Federal Government Officers work so hard to **Mislead the Grand Jury** that Andrea Crisel was a minor and a victim. You can not be a Victim if you are over 18 in Title 18, United states Code, Section 2251 (a). They never to this day have admitted that she was a 20 Year Old Adult who threw that party and had sex with every girl and boy there. Andrea was clear on the tapes that it was was her party and I could not have sex with Barbie. I never had sex with anyone, never got undressed, and I never held the camera one time.

**Andrea Crisel worked at La Petite Day Care on Harbor View Road the whole time she was into her Freak with Children.**

**(Exhibit 2, 5) An explanation of 18 U.S.C § 1503.**

This exhibit is clear with the explanation at the bottom that the two Federal Agents did Conspire

to misled the Grand Jury that day that Andrea Crisel, Victim A, was a Minor and a Victim. A Crime.

Olmstead vs. United States, 277 US 438 is clear that the Department of Justice can not avail itself of the fruits of these acts. But in the Robe of a Judge you are looking at it. Do you turn a Blind eye?

(Exhibit 2, 6) Government Transcript of the Plea Hearing on August 14 2002.

Line 2. **The Defendant: yes, I let them use my stuff.** Ann Walsh my Public Pretender had almost been kicked out of the holding cells because I kept telling her I would not lie in court of sign the plea agreement.. It was all lies. Walsh told me I will get a 145 years if I try to fight it and die in prison. I told her it was not the Truth. My wife was 20 years old. She walks in the house after telling me she was not coming home. I am caught naked and yelling to Candice Christensen that there are people in the house as I try to find my close on the floor.

I turn around to see Andrea with 2 big boxes of rubbers. 19 year old Drew who is Andrea's brother's best friend. 2 people who look a lot older than them I meet that day. Andrea ask to use the camera. Normally I say no because they do so much acid and drugs I don't even know they are always falling down. But this camera is permanently mounted and the wires are strapped together to the T.V Set.

Candice and I are almost ready for diner and a movie so it will not bother use. Andrea is my wife and it is half hers. Candice sees Andrea going down on Barbie and runs out the house. I try to make Andrea leave and she will not. I spend the next 12 hours getting drunk trying to deal with other men having sex with my wife in my house. There is a lot of yelling which should be able to be heard on the tape from the kitchen. I did not know their ages and I am not Andrea's daddy.

Still of Exhibit 2-6, line 13 it says (Ms. Walsh conferred with the defendant.) That was a 10 minute yelling match 20 feet from Judge Duffy. I am screaming what I just wrote and I want to go to Trial. I did not do this! This was Andrea's party and I didn't even know these people! I kept yelling, "Your telling me to lie in court!" Walsh kept saying that if I did not say exactly what she told me to say

I would spend 145 years in prison. Do you want to die in prison? Death is a motivator. She said she could not find any proff to anything I said. That was a lie! The whole Courtroom could hear this, including Judge Duffy. I was shaking so bad I gave in.

**(Exhibit 2, pg. 7) The firing of Ann Walsh.**

When I was in the Law library telling someone my story they ask what my Discovery said. I told them that all my lawyers said only Lawyers can look at them and the Defendants are not aloud to. I am not allowed to have any Evidence, My "Will", My Diaries, anything. I caught hell for that. They showed me how to request a discovery. As I learn more and I to it I see that my Discovery I see my Lawyer (s) had been lying to me about everything. Even the couple of Witness statements were all in the same hand writing with words these drug heads would not even know there meaning of. I also found Victim B, Barbie had told me the Truth and drove in from Atlanta to give a statement for me to me Lawyer. Walsh had said she wanted to testify against me. Barbie told everything just as I had and Walsh lied to me about it.

I filed a Grievance I wanted her fired over and over. I finally got a hearing. Ann Walsh lied and lied and lied. Finally I dumped a packet on the table and she admitted to withholding evidence from me. What give my Lawyer the Right to withhold evidence from me. She still would not come clean about the 100 other lies she told me. If I had know I had people willing to come in and tell the Truth about Andrea, especially her best lover, I never would have it Walsh trick me.

**(Exhibit 2, Pg. 8) Attorney Andy Savage Fucks me good!**

After firing Ann Walsh I was given Andy Savage. Good right! I spent a half hour showing him how we can prove I am innocent and Detective William Crews knowingly committed perjury to get the all the Warrants including the search warrant. Andy Savage said to my face he would not put anything on the record that would discredit Detective Crews. I had not got so see any of this until 7 or 8 months after my arrest. Andy tapes all the pages together and said he was only there to sentence me. I told him

I want to go to Trial. Andy said he will not help me.

In this page **(Exhibit 2, Pg. 8)** I am trying to defending myself while Andy Savage makes jokes with Judge Duffy. I did know know he had the Grand Jury Transcript Hearing in front of him and he just laughed at me when I ask him for help. (Exhibits 2, Pages 1,2,and 4.) His stamp is on the bottom. Andy Savage know that Rhett Dehart who was making up lies about me had committed the crime under **18 U.S.C § 1503.**

I said while Andy Savage laughs, (Line 22-25) *"This whole case was to do with age. It is impossible to believe the whole prosecution team did not take "May 9<sup>th</sup>, 2979", and "June 25, 1999" [they screwed up] in the indictment and figure out that Andrea was 20 years old."* Andy Savage knew he was setting up for the drive by. Andy Savage already knew they had figured it out and all of them knew Andrea was an adult.

**(Exhibits 2, Pg. 9 – 15) Are the S.L.E.D. Report from S.L.E.D. For Detective William Crews.**

Exhibits 2, Pg. 9-10 say **2000 thru June 2002.** The youngest of the neighbors girls was 10 years old in 2000. Detective William Crews swore under Oath to Facts I can prove were perjured in my Search Warrant Affidavit on **February 28, 2002** while he was committing these crimes. The Govenment has always known. Now you do too.

**(Exhibit 2, Pg. 16) News paper report for Detective Crews.**

In prison mail is monitored very tightly. This was delivered sealed, no return address, impossible, with no canceled stamp. The large Envelope had 10 copies of this article and nothing else delivered in regular mail.

I added it to my lawsuit for the truth the next day. Crews went from suspended to fired. The funny part is that his Lawyer who sett me up, Andy Savage, is his lawyer and he gets off. Government looks after it's own and the poor man get screwed!

The Question still needs to be answered because now even the aid and clerks who read this has

taken the same Constitutional OATHS. Can you turn a blind eye to a crime. Once a Judge on the Bench during Court sees Evidence of a Felony Crime that has been Committed and he is holding the Evidence can he Complicity Enable and aid in the Facilitation in the Ongoing Cover up of this Felony Crime? This makes my Constitutional Challenge all the more important for this Country as a whole!

3. Does a Judge who aided in and was part of a Criminal Conspiracy of the sentencing of a person have the right to sit in judgment of a case of those same issues in a Civil Case?

(R. pp. 56-58)

Oddly, this starts in February 1980. For my Birthday present my Mother gives me a Reading by Spiritual Advisory Elizabeth Barron. I am told by her to keep Diaries of my life. They are important. I do not believe in this stuff. Six months later the first thing happens as if she had been sitting there watching I started writing everything down. To this day I keep a Diary that includes almost everything.

At my bond hearing Judge Guedalia ask if I want a Preliminary Hearing. Guy Vitetta my Public Pretender says no. I say yes I do. Guy Vitetta says no again. I angrily say yes I want one. I am in solitary confinement and want to know what is going on. Judge Guedalia gives me the form and I file it out. He said within 10 days I will get a Hearing.

Before 10 days I get a call through to Guy Vitetta. He tells me the State said I will not be allowed a Preliminary Hearing. Both my Lawyers say I can not have my Diaries the Government took or the "Will" that expressly says Andrea is my wife and talks of her 4 Sex Tapes that are hers I am on the Registry for and show she was 20 years old when she made them. That when the Government gets a warrant all confiscated property belong to them even if they will prove you innocent. The defendant is not allowed to see any evidence until after you conviction. Only your counsels can see it.

On August 27, 2002 I go to trial. I am in a room with like 30 other people to be sentenced.

There is a Skinny White Man as my Judge. I am in there for like 3 hours. He ask every person the same question. **“Tell me in your own words what happened and the facts of you charges?”**

Guy Vitetta comes in the room to talk to me. I am so excited. I tell him that the State Denied me a Preliminary Hearing but I will finally get to tell my side of the story about Andrea being my wife, an adult, everything. Guy Vitetta leaves. I am the last one called. I am carried in front of this Skinny White Man and he ask me the same Question. Just then Guy Vitetta burst into the courtroom and tells the Judge my case to be heard in front of Judge Jefferson. I argue with Guy that no! I want this Judge to hear my case. I have sat here for hours! The Judge said I have to go to the next courtroom.

The next Courtroom is a shame. Every Question is scripted. If you look at the Falsified Warrants by Detective William Crews of the Charleston County Sheriffs Office that South Carolina conveniently sealed they say 13 threw 17. My Diaries talked in detail of everything in my life including Andrea and myself. I did not touch her until she was the legal age of consent of 16, we were married, and had the exact day with a full description. Why would the State not let me use the Diaries? Only a couple of Questions were ask and were ask where Guy Vitetta kept saying say only yes or no. He set me up from the beginning.

I Filed several time to Unseal the Court Records and was Denied. This Court has the Authority to view my Trumped up Sentencing Records that has Judge D. Jefferson as my Sentencing judge. Just because you Overturned them and sealed them does not give Judge Jefferson the Right to sit in Judgment of me in this Civil case using the same Evidence to prove Mike Davis knew from the first day I met him I was innocent!

February 15, 2017 after my complaints, Judge Jefferson who is the same Judge who unlawfully sentenced me to Prison, then the State Covers it up and seals the Records, Judge Jefferson has a Court Hearing without a Court Reporter. When I told her she had sentence me she checked it and

said she did not. She read out my whole Civil and Criminal history in Court. I kept repeating I had beat them and they have been covered up and sealed. **Judge Jefferson** kept acting stupid. She denied me everything and gave the Defendant's Lawyer what ever he wanted.

This Court has the power to Check to see who the white man Judge was I spent my whole morning in front of on August 27, 2002 before being kidnapped to Judge Jefferson Courtroom to be sentenced on that day and that she heard this case with the same evidence on February 15, 2017.

I want the Truth, the Whole Truth, and nothing but the Truth of what happened on June 25, 1999 put on the Record and that **Mike Davis** knew the Truth and used the Internet and anything else he could to cause permanent Trauma and Harm I will never Recover From! And it was only one page for Mike Davis's Therapist, Not Aaron. When the therapist had to call the police to warn Aaron that they believed Mike was going to kill Aaron. That is why I subpoenaed Sargent Voges. He remembered the whole thing vividly. Transcripts are so screwed up.

#### **4. Was I wrongly kicked out of Court on May 8, 2018 by Judge Hall using SCRPC 41 B?**

The Dismissal Judge Hall signed says "Dismissed per SCRPC 41 B". I never could find that so if it is SCRPC RULE 41, DISMISSAL OF ACTIONS; NON-SUIT (b) ***Involuntary Dismissal***: it is covered in my Constitutional Challenge which Standard of Review shows still has to be heard.

If **South Carolina's Constitution ARTICLE 1, SECTION 2, Fifth Sentence**: "The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances", and I was very careful to put on my Caption **TRIAL BY JURY DEMANDED** as stated in the **Seventh Amendment**: The Right of Trial By Jury Shall Be Preserved, would not the **Standard of Review** I have presented in itself make SCRPC RULE 41, DISMISSAL OF ACTIONS; NON-SUIT (b) ***Involuntary Dismissal***: Unconstitutional.

**I Challenge the Dismissal and this rule as Unconstitutional.**

May 8, 2018 Judge Hall says on (R. p 4, line 15-17) “to be able to communicate that to the jury”. That is not true. I know I am not a Lawyer. That is why I did the 35 pages of the Chronology of the years of Terrorizing of me day after day by Mike Davis and I said had to have a courtroom with a display because a lot of my Evidence is Audio and Videos. Lots are document. There could be no ramblings. This Date this happened. This date this happened. Years of them. No rambling. I Demanded a **Trial by Jury** , not a Judge.

Judge Hall on (R. p 4, line 9-10) “This is certainly not he court or the venue to seek to have a criminal conviction overturned.” My wife's comment on each document I showed her, the judge saw several, placed on a Transcript Record would have confirmed all Mike Davis saw and believed my innocence on January 21, 2014 the reason we met, and she would have to admit I had nothing to do with her party. That would have cleared my name and put the Truth on the Record. This Jury was only do decide if I am permanently traumatized by Mike Davis and who helped him.

May 8, (R. p 3, line 12-18) Judge Hall refers to a case of Ongoing Conspiracy Against Civil Rights against the state dismissed and told I could refile it trying to get the Stet Record of Judge Jefferson unsealed. Then he refers to this Complaint against Civil Rights where I clearly ask for damages for mental anguish and slander. Mike Davis knows I am not gay and I am innocent of my charges. It is a **Trial by Jury** that should look at the Evidence and see if this is true. In the papers the Judge Hall looked at you can see the Government Crimes Mike Davis looked at. Mike saw a lot more.

**5. Can a person who has Evidence from From a Licensed Mental Health Doctor who states he Suffers from Metal Disorders be denied the Assistance of a Court Appointed Attorney as defined in the United States Constitution and the South Carolina Constitution?**

My Medical documents are attached to the RE-Motion for the Appointment of a Lawyer. I do

not think you understand what Post Dramatic Stress Disorder with this much panic is like. I need Help. Even with a medical disorder I have the same Civil liberties as other people who don't Freak out!

**6. Does It violate the Constitution (s) to for the Government or it's Departments to make laws, case laws, rules, procedures, etc. that Oppress witnesses from appearances that will prove a part of your Grievance?**

**(R. pp 40 and around there.)** Even though Exhibit 4 shows at (R. p. 41, line 19-21) that the evidence I had to show the Jury and ask questions to Agent Matthew Johnson I still Challenge South Carolina Code Statute Section 24-21-290 as a in violation of the wording of South Carolina's Constitution Article 1, Section 2 as it does oppress the right of a redress of grievances if that Agent holds any information that may substantiate a persons Grievance. In my case it did not. Agent Johnson saw a crime committed by a man with lots of money and so even though Crystal Huggins was clear in her Facebook message she had loaned her phone too Mike Davis 21 days after a Permanent Restraining Order that was used for a crime. Just like the years he Terrorized me he gets out of it and you have the Evidence to prove it.

**7. Can the Court rule to change your Grievance Filed to protect Wrongdoers?**

As Kenneth Goode so eloquently put it, Mike Davis has no money and is only paying Mr. Goode 5000.00 Dollars to represent him. **Bull Shit.** Mike Davis has a 6000 square foot house. Mike can buy an new car when the police start looking for his car and know it fro sight from all the Stalking over her years. If you listen to the audio recordings Mike sits outside our house on privet property at 3:00 am. and all hours of the night we caught him day and night so he does not HAVE to work. I ask for a **TRIAL BY JURY BEMANDED** for a purpose other than it is a Constitutionally Protected Right. When I put "Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike Davis.." I had a reason. I know Designa Print is an Entity. I know rich people change the name of

there Corporation and transfer the Assets to the new Corporation. Also Over the years Mike Davis has had Lawyers quite when they see how much of an ass he is. He just hires a new one. He has a lot of money hidden or his parents are paying for him to Terrorize people and buy him out of the drug problems like in North Carolina. It is for a **TRIAL BY JURY** to decide not a Judge to protect the RICH.

**8. Can a lawyer demand you supply a second set of copies of evidence he already received?** (Exhibit 6, 2 pages.)

For months I begged my Therapist Megan for copies of my medical records to use in court. The only reason I went to see them is because of Mike Davis Terrorizing me and Nightmares of him standing over my bed and such. She said no. they keep no records so there is none I can get. I ask if I could have a letter at least to file with the Court and use to proof. She said she would Right me a letter. On May 31, 2016 she gave me one to File.

On January 15, 2017 the Lawyer who had kidnapped me to sentence me for a crime I did not commit holds a hearing with no Court Reporter and Grants Kenneth Goode all he ask for and denies me proof Mike planed to commit murder.

On January 18, 2017 I receive the Email. When I show up to Therapy Megan tells me they received it and Corporate was going to fight it. I said they do not have to. I just want a set of copies of anything they give to Kenneth Goode. Megan goes up front and tells the records lady what I said as they do not keep any Records. When I come back they say they are going to send them to Mr. Good as I said it is OK but I will have to pay 180.00 Dollars for a set. I Freaked out yelling that they would give them to him free and make me pay. They arrest people for getting routy in there so I left. I cam back with a copy of my In Forma Pauperis. She said she would send it to Corporate and see what they say. The next week she handed 2 packages.. I never looked at them until just before Court as it triggers

Trauma. Mr. Goode never mentioned it again until the day of Trial making me think he already had received a set. I never minded giving to him because they prove my case and I use them to ask for a aid of a Constitutional Lawyer.

### **(F) Conclusion**

I want the Court Case Remanded back to the Lower Court and the Ninth Amendment Constitutional Challenge Heard that any person, not just me, has a Constitutionally Protected Right to Demand, **I Theodore Wagner retain the Right to have the Government, and all other people, tell the Truth, the whole Truth, and nothing but the Truth about me.** And all Laws made in violation of Article 1, Section 2, to be VOIDED including SCRC 41 b when a Trial by Jury has been demanded.

As the whole reason Mike Davis and I met was this conspiracy that started in February 1999 and Mike viewed all the evidence of that conspiracy just as Judge Hall only saw a few pieces, only a Jury who had the Right to determine after Hearing the Chronology of the years Mike Davis Terrorized me and viewing the Evidence showed Mike on January 21, 2014 if Mike Davis caused my Post Dramatic Stress Disorder and Panic.

I want all persons who were subpoenaed to court to have to testify as to the Truth as they know it. Every one of them was lawfully Served by a Sheriff with the Subpoena signed by Julie Armstrong. They were all filled out when I took them in to be signed and I saw no rule that said a cover letter can not accompany the subpoena.

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEL FROM CHARLESTON COUNTY  
Danial Hall, Circuit Court Judge

Theodore Wagner.....Appellant

v.

Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike  
Davis....Respondent

**Affidavit of Service**

I, Theodore Wagner on this day did place in the to all the same copies of Brief, Leave to  
Supplement the Record on Appeal, Second Motion for Appointment of a Lawyer, Designation of  
Matter to Be Included in The Record On Appeal, Certification, Motion for Permission to Exceed  
Limitations of Length of Briefs, Motion for no Extra Briefs or Cost, Affidavit of Service, at the U.S.

Post Office to:

Clerk, South Carolina Court of Appeals  
To Ms. Jessica Lucas  
Post Office Box 11629  
Columbia, South Carolina, 29211

Kenneth G. Goody, Jr., Attorney  
4 Carriage Lane, Suite 204  
Charleston , South Carolina 29407  
Attorney for Respondent

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**SC Court of Appeals**

Date: Aug 31, 2018

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THE STATE OF SOUTH CAROLINA  
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**Certification**

I, Theodore Wagner, Certify that the Designation of Matter to be Included in the Record on Appeal and The Brief contain no matters which are not irrelevant to the Appeal. There is no way to cover all the Maters Relevant to the Appeal as all the 6 inches of Material I showed Mike Davis on January 21, 2014 are Relevant to the Appeal. Transcript, Mr. Goode's comment on (R. p. 29, line 7-9) makes Everything Relevant. That is the only reason I met Mike Davis on January 21, 2014 and the **DVD Audio of Mike Davis on that night after looking for an hour and a half at all the evidence proves he believes I am innocent of my charges** and in the Government Cover Up. I gave only part to Kenneth Goode but more than enough to prove the Crime and explained it to him as I was going to present it. I showed Judge Hall only a few pieces that prove the Government committed a Crime including 18 U.S.C. § 1503 to put me on the Registry. That makes the DVD Relevant! The Reason I met Mike Davis!

Besides, I feel the Trauma when I receive an Eviction notice because Mike gets Aaron fired. Every time Aaron came in screaming how much he hated Mike **for years** every time Aaron saw Mike Stalking him again, I felt the Trauma! **Panic!** If it caused my roommate Trauma it caused me twice the Trauma. I would shake and Panic! Goode tries to separate the two. Aaron had a girlfriend to dump on. I had to Panic in Trauma in the corner alone. Everything is Relevant!

*Theodore Wagner*

Date: Aug 30<sup>th</sup> 2018

Theodore Wagner, Pro Se  
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Pro Se for the Appellant

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**SC Court of Appeals**

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