

CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

**In The Supreme Court of South Carolina
From the Court of Appeals**

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

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

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

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

South Carolina Law Enforcement Division

Appellate case # 2016-002024

CERTIORARI TO THE SOUTH CAROLINA SUPREME COURT

RECEIVED
SEP 27 2018
S.C. SUPREME COURT

NOW COMES DAVID Lynd who hereby files this Writ of Certification to appeal the order filed and entered, and filed on 8-24-18. This ordered entered is an alleged final order. The rehearing was finally heard after order from the Supreme Court and denied on 7-10-18. That denial of the motion to rehear order was appealed by Writ of Certification to the South Carolina Supreme Court on 8-8-18 and fees paid, it was not filed till 8-14-18, (??) That writ is currently pending before this court, while this is pending and the Court of Appeals having a copy of the filing, and showing on its docket, The COA continued on and dismissed the appeal in its entirety by order dated 8-24-18. Claiming grounds that Lynd did not file the amended brief ordered in the 7-10-18 order currently before this court. Lynd filed a motion to rehear that dismissal, the COA clerks refused to file it, stating it was not available to be reheard.

David Lynd hereby files this notice of Writ of Certification to the South Carolina Supreme Court, on the grounds

1. That Lynd Did file the amended brief, but noted it was virtually unchanged due to preserved grounds for further appeal.
2. The order is currently stayed while pending before this court.
3. A COA Justice cannot make a preemptive order that denies a parties right to preserve matters on appeal. That is what the 7-10-18 order did. It denied and forbade appellant Lynd from preserving matters on appeal. A due process violation.
4. Lynd filed a motion to rehear the 8-24-18 dismissal but the clerks refused to file it, stating it could not be filed on the technical dismissal

ARGUMNET

The filing of the writ stays the further action by the COA and the remitter to the trial court. In this counties entire History of Juris prudence, there is no precedent for an appeals court Justice to state prior to a final appeal brief being filed that particular ground and facts, to a specific party, IOP, (a party in the case) cannot be briefed, nor argued, regardless of its interconnection to the other parties. This particular Justice is retaliating due to a federal Civil rights violation, and should have been recused due to his ties to IOP and its counsel. Instead is making just outlandish, and ludicrous, rulings and orders in an attempt to avoid the facts and I.O.P.'s response ever being made in writing.

As stated that order 7-10-18 whether valid or invalid is before the South Carolina Supreme Court and therefore the parts and paragraphs on that order pertaining to its retracting matters from the brief is currently on appeal, and stayed.

Even if, the contents being appealed by a party as stated, cannot be restricted by order to exclude all reference to a party, if all 3 parties issues are the same and were all dismissed on the same fact argued by the party in question. The trial courts 3 dismissals based the last two parties dismissal by SJ, on the 1st parties SJ dismissal, so the 1st parties dismissal has to be detailed as to

1. How that is incorrect or inaccurate, and
2. How all 3's dismissal are based on the exact same falsely manufactured dated incorrectly calculated.
3. How the time was incorrectly calculated.
 - a. the SOL time was a 3yr not a 2yr calculation due to a verified claim,
 - b. even the 2yr calculation was done incorrectly,,, the magic date IOP claims is 5-18-13, 2 yrs from the date filed, and the judge calculated from there. But 5-16-13 letter IOP referenced and bases its calculation on, 2yrs later falls on a Saturday 5-16-13, and the case was filed on Mon 5-18-15 see transcripts pg 6, line 11-13. *Attached*

State v. Life Ins. Co. of Georgia, 175 SE 2d 203 - SC: Supreme Court 1970

Additionally, it is established in this State that where there is any doubt as to which of two statutes of limitation applies, **the doubt must be resolved in favor of the longer period.** We quote the following from Scovill v. Johnson, 190 S.C. 457, 3 S.E. (2d) 543 (1939).

"Strictly speaking, a statute of limitation when applicable is not a defense to an action, but when pleaded, which it must be in order for a defendant to benefit therefrom, is a bar to the action. A limitation statute is a statute of grace, permitting the avoidance and evasion of the liability; and while given recognition when pleaded, it has never been favored by the Courts.

"If there is any doubt as to which of two statutes applies, that doubt must be resolved in favor of the longest period, according to the great weight of authority."

The doctrine of equitable tolling is articulated with exactitude:

The time requirements in lawsuits between private litigants are customarily subject to equitable tolling if such tolling is necessary to prevent unfairness to a diligent plaintiff. However, equitable tolling, which allows a plaintiff to initiate an action beyond the statute of limitations deadline, is typically available only if the claimant was prevented in some extraordinary way from exercising his or her rights, or, in other words, if the relevant facts present sufficiently rare and exceptional circumstances that would warrant application of the doctrine.

These issues all revolve around the I.O.P. SJ motion and its ruling, and the facts determining that ruling, without its inclusion to explain everything, from impound to destruction and how the time was calculated, it is impossible to make sense of the issue. Much less the fact it flies in the face of this Court's precedents.

Another matter At issues is the COA's own catch 22 it has created. It is claiming as referenced in the prior Writ, that all the parties are separate appeals, but has concluded them in a single appeal case, **has refused the subsequent and separate notices of appeal**, or attempts at appeals of each trial order, but makes a single ruling and order, in turn tries to manipulate or imply that, that Single order as to being separate matters and having separate parts, some

appealed by Writ others not. That is the only assumption that can be made as to its continuing on with a total dismissal.

Another is the issue of a final order , request by the clerks office almost 2 yrs after the case had ended, AND AFTER LYND'S INITIAL BRIEF was filed. It in turn violated Lynds due process and equal protection. Parties against Lynd were allowed to go back to the court without a hearing or notice, get a new order signed almost 2 yrs after the fact, AND AFTER READING LYND'S BRIEF, ARGUMENTS, AND CASE LAW, and get a trickily worded order to counter those arguments, worded **stating facts that were never argued in court, by either motion or oral argument.** The motions and transcripts show what was argued, what they got the judge to sign was not those facts.

The COA, and the Clerks are literally MINING ever thing they can for technical issues to find, in a concerted and combined effort to avoid having the matter be one of record. They have at every turn tried to undermine the case to create an outcome in which I.O.P.'s Police Dept, and S.L.E.D. the state Police will never have to answer and document their responses showing its failures and lies.

The facts of what happened are clear,

1. The jet skies were impounded by I.O.P
2. I.O.P. failed to notify Lynd By cert. Mail as required by statute
3. I.O.P. allegedly destroyed the jet skies without proper notice
4. I.O.P. can show no record of the destruction, or whereabouts of the jet skies
5. I.O.P. turned the claim into it's ins. company
6. I.O.P. then turned the claim over to S.L.E.D. for investigation
7. Those claims clearly demonstrate a verified claim under the statute
8. Det. Caldwell admitted under oath the statues were not followed as required
9. S.L.E.D. started an investigation on the claim
10. S.L.E.D. took a sworn statement from Det. Caldwell
11. S.L.E.D. investigators never contacted lynd by any means, letter, email, phone, etc.
12. S.L.E.D closed the investigation without ever completing it
13. S.L.E.D closed it to secretly investigate Caldwell,

14. Prior to arresting Caldwell S.L.E.D and I.O.P **conspired** to transfer Caldwell out of the I.O.P police dept to avoid IOP's name being in the arrest.
15. SLED never reopened the investigation after arrest to complete it
16. I.O.P. committed conversion/theft of the jet skies
17. Conversion/theft has no statute of limitations

PRAYER

First the order requesting an amended new brief is currently appealed before this court # 2018 001485, and subsequently under rule cannot be dismissed till a ruling by the Suprmem Court and a subsequent order/s.

Second The order demanding issues, facts, and grounds be excluded so as to not be heard is a clear violation of rights, and is a clear over reach of a single justice authority for personal reasons. Not any reason based in the law. *See attached appeal brief*

FORMAL REQUEST TO REMOVE THE CASE TO THE **SOUTH CAROLINA SUPREME COURT**

The South Carolina Supreme Court needs to take **command and control and jurisdiction of the case** for a once and for all final determination. No matter the outcome from lower courts one or more of the parties will eventually bring the matter before the South Carolina Supreme Court again and again. The matter involves malfeasance by 2 different law enforcement agencies of this state. Involves rulings that fly directly in the face of this court's precedents, by COA justices that claim they do not have to follow precedents that do not agree with. It involves law enforcement agencies cover-ups, records altering, conspiracy, and clear and concise civil rights violations. Ongoing Civil Rights litigation, failures to recuse, ex-parte communication and concise scheme to avoid a permeant record of those agencies response to the facts and claims.

The act of conversion by IOP has no set statute of Limitations, and the final determination of conversion must be made by this court.

The conversion statutes clear state any Justice in the state of South Carolina, can enter a finding of conversion against I.O.P. and they matter is ended. The value is already determined by I.O.P., it would be the value plus interest, and all parties can part ways. **Lynd requests the South Carolina Supreme Court issue that conversion ruling.**

The minute technical issues, that factual do not exist, **CANNOT** outweigh the gross negligent technical issues committed by I.O.P., failure to notify, conversion, statutory duties under the law, fraud, all of which I.O.P. ignored. S.L.E.D.'s failure to complete the investigation, administrative closure, conspiracy with I.O.P. to transfer Caldwell, all issues that are clear and concise acts, not some made up technical issue they claim Lynd has made.

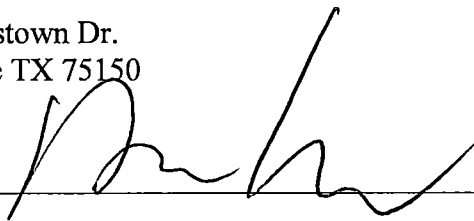
Those 'technical' issues everyone seems to want to pretend never happened, they are not going to go away. It is what the public outcry country wide is about.

APPENDIX

1. 8-24-18 dismissal order
2. Motion to rehear ~~order~~ *Dismissal*
3. pg 6 transcripts
4. Screenshot of COA docket showing knowledge of writ filing
5. Appeal brief

Thank you.

David S. Lynd
Plaintiff
2605 Rustown Dr.
Mesquite TX 75150

A handwritten signature in black ink, appearing to read 'D. Lynd', is written over a horizontal line.

Parties

Appellant

David S. Lynd
Plaintiff
2605 Rustown Dr.
Mesquite TX 75150

Counsel for respondents

Timothy Domin
126 Seven Farms Dr.,
Ste. 200
Charleston SC 29492

Dorsel, Christopher Thomas
3 Wesley Drive
Charleston SC 29407

Morrison, David Leon
7453 Irmo Dr.,
Ste. B
Columbia SC 29212

CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

**In The Supreme Court of South Carolina
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**APPEAL FROM CHARELSTON COUNTY
Court of Common Pleas**

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

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

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

South Carolina Law Enforcement Division

PROOF OF SERVICE

I hereby certify that the above named parties were served this reply by **U.S.P.S. mail on 9-22-2018** to the address on file with the court shown below.

A handwritten signature in black ink, appearing to read 'David Lynd', is written over a horizontal line.

David Lynd

Timothy Domin
126 Seven Farms Dr.,
Ste. 200
Charleston SC 29492

Dorsel, Christopher Thomas
3 Wesley Drive
Charleston SC 29407

Morrison, David Leon
7453 Irmo Dr.,
Ste. B
Columbia SC 29212

App ①

The South Carolina Court of Appeals

David Scot Lynd, Appellant,

v.

Dawn Caldwell, in her individual capacity as an officer
of the Isle of Palms Police Department, and South
Carolina Law Enforcement Division, Respondents.

Appellate Case No. 2016-002024

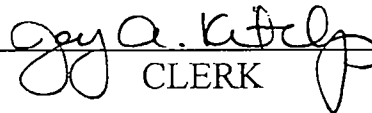
The Honorable Kristi Lea Harrington
Charleston County
Trial Court Case No. 2015CP1002824

ORDER

Appellant has failed to file an amended brief as required by the Court's March 22, 2018 and July 10, 2018 Orders. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

David Scot Lynd
James Jordan Johnson, Esquire
Timothy Alan Domin, Esquire
Christopher Thomas Dorsel, Esquire
David Leon Morrison, Esquire
Sandra J. Senn, Esquire

FILED

August 24, 2018

APPEAL IN A CIVIL CASE
THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case#: 2016-002024

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

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

Case No. 2015CP1002824

David Scot Lynd

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

South Carolina Law Enforcement Division

NOTICE OF ERROR AND REQUEST FOR CORRECTION AND
REHEARING

Now comes David Lynd who notifies the court of error by the clerks. The clerk's office issued an order for the court, dated 8-24-18, that arrived in the mail 9-6-18;

stating Appellant has failed to file an amended brief and the appeal has been dismissed.

This is an attempt to retaliate for the Civil rights violation filed against chief justice and clerk for the court of appeals. A clear case of have your cake and eat it too.

First that order of March 22, 2018, and July 10, 2018 is currently on appeal with the S.C. Supreme Court, and shows to be on the COA's docket. (*see copy exhibit A, file stamped by the COA clerks upon receipt*)

The Clerks claims all of these appeals are the same appeal and not separate, proof is the docket.

Lynd filed a notice of appeal on the final order as this COA Chief Justice Lockemy is trying to imply is the law, the clerk won't accept it, as a separate appeal.

03/08/2018 Notice of Appeal (Civil) - Second or subsequent (final order issued by lower court)

The court clerk rolled it in to the same appeal. So either this is all the same appeal, and 1 appeal, or if it is different appeals then each order would be a different appeal. It would have to be for this dismissal to stand, the clerks will not file it that way. EVEN thou Lynd filed a separate Notice of Appeal.

2nd, The Amended brief was filed 3-8-18 along with a cover letter of preservation of issue on appeal included in the brief for the S.C.S.C.

along with the civil rights violation. Which is still unacted on!!!!!!!!!!!!

See docket of COA and exhibit B 05/02/2018 Correspondence - Incoming (Other)

Lynd expects a formal investigation by the AG's office initiated as per the court duty.

An objection to the new trial court order, still Unheard!!!!

03/08/2018 Correspondence - Incoming (Other) (Objection to trial court's new order of 2-26-18)

Multiple motions and request are unheard and currently in Limbo, but the clerks claim a 2nd amended brief was due, by an order that is pending in the Supreme Court.

The final brief has not even been requested yet by the clerks because all of this is still pending, much less an out of the blue arbitrary dismissal. It is clear the clerks did this on Lockemy request, because he is trying to cover for Isle of Palms.

AND SAME AS EVERY ORDER IN THIS CASE FROM TRIAL LEVEL, TO COA LEVEL IS ALL DISMISSED DUE TO A TECHNICAL ERRORS, in an attempt to avoid having IOP formally put any response on the record.

This is nothing more than that, a clear and obvious attempt to cover for IOP and Lockemy's buddies at Clawson & Staubes. Because once they have to respond to the conversion committed by IOP, and failure to give Cert. notice, that their officer, Caldwell, has already admitted too, under oath.

No justice can deny Lynd's claim and case, then face the scrutiny afterwards. This is a S.C. statutory requirement of conversion, and notification requirement, that they IOP don't have. And any attempt to file a response and lie is going to get Domin disbarred, so to avoid IOP losing, the courts have to dismiss the case prior to a response from IOP and its counsel.

03/08/2018 Correspondence - Incoming (Requesting Information Regarding Case Status)

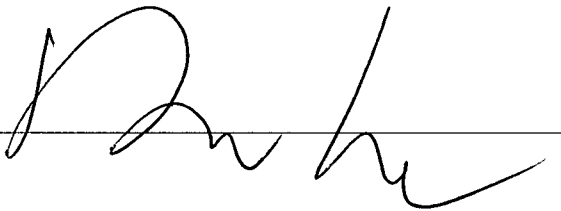
In summary, the orders named in the dismissal are under writ of Cert, to the Supreme Court. This writ tolls the orders of March 22, 2018, and July 10, 2018, and the time to file the amended brief is not currently due, even though it is already filed.

(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No return to a petition for rehearing may be

filed unless requested by the appellate court. Ordinarily, however, rehearing will not be granted in the absence of such a request. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR.

(b) Remittitur. The remittitur shall contain a copy of the judgment of the appellate court, shall be sealed with the seal and signed by the clerk of the court, and unless otherwise ordered by the court shall not be sent to the lower court or administrative tribunal until fifteen (15) days have elapsed (the day of filing being excluded) since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal. If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent pending disposition of the petition by the court. Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired. If a petition for writ of certiorari is filed, the Court of Appeals shall not send the remittitur until notified that the petition has been denied. If the writ is granted by the Supreme Court, the Court of Appeals shall not send the remittitur.

Therefore the writ to the Supreme Court is pending and the appeals court initial brief is not due.

A handwritten signature in black ink, appearing to read 'D. Lynd', is written over a horizontal line.

David scot Lynd

2605 Rustown

Mesquite TX 75150

469-323-1751

dscotly@yahoo.com

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Case#: 2016-002024

APPEAL FROM CHARELSTON COUNTY

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**Kristi Harrington, Circuit Court Judge
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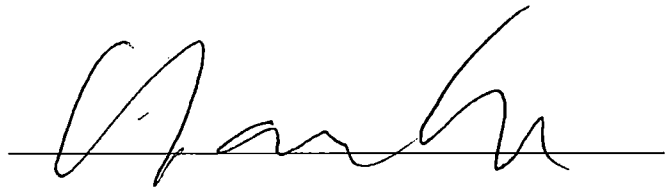
Isle of Palms

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

South Carolina Law Enforcement Division

PROOF OF SERVICE

I hereby certify that the above named parties were served this reply by **U.S.P.S. mail on 9-7-2018** to the address on file with the court shown below.

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David Lynd

Timothy Domin
126 Seven Farms Dr.,
Ste. 200
Charleston SC 29492

Dorsel, Christopher Thomas
3 Wesley Drive
Charleston SC 29407

Morrison, David Leon
7453 Irmo Dr.,
Ste. B
Columbia SC 29212

1 Nobody contacted Lynd that the jet skies had been
2 dropped off...

3 The insurance fraud charge is an attempt to
4 discredit Lynd.

5 The Chief of Police got this letter. He turned it
6 over to SLED for an investigation. SLED came back and
7 said that they found no misconduct, and Lynd was notified
8 by certified mail of the result of the SLED investigation
9 by the Chief of Police, and that letter to him is in the
10 file.

11 Lynd got it because he wrote back and said -- on
12 May 16, again, still outside of our magic date of May 18,
13 SLED didn't do a proper investigation, essentially. He
14 says, quote, I have contacted a dozen or so Charleston
15 attorneys and my attorneys gave me information on some
16 with ongoing suits with the Isle of Palms and others with
17 past suits...

18 They pretty much all say it's a very easy case to
19 win. Quote, Be sure to inform city counsel I tried to
20 handle this without a suit. You chose to have one,
21 closed quote.

22 So that's pretty strong evidence, Your Honor, he
23 knew he had rights in a lawsuit. So why are we here?
24 Well, in the Summer of 2014 when an officer left there
25 were certain discrepancies found in the evidence room.

Apr 4

Appellate Role	Party Name	Former	Attorney(s)
Appellant	David Scot Lynd	N	Self Represented
Respondent	Dawn Caldwell	N	James Jordan Johnson David Leon Morrison
Respondent	Isle of Palms	N	Timothy Alan Domin
Respondent	South Carolina Law Enforcement Division	N	Christopher Thomas Dorsel Sandra J. Senn

Views

Display:

Event Information

Filed Date	Event Information	Doc
08/24/2018	Dispositional Decision - Order	
08/14/2018	Correspondence - Incoming (Other) (In the SC Supreme Court: Petition for Writ of Cert filed regarding the partial dismissal filed July 10, 2018)	
07/10/2018	Correspondence - Outgoing Re: request for rehearing en banc denied	
07/10/2018	Rehearing - Denied	
05/11/2018	Correspondence - Incoming (Other) (In the SC Supreme Court: Order denying certification, review)	
05/02/2018	Correspondence - Incoming (Other)	
05/02/2018	Deficiency - Correction (Motion fee)	
04/30/2018	Correspondence - Outgoing	
04/11/2018	Deficiency - Deficiency Letter Sent (motion fee)	
04/10/2018	Rehearing - Suggestion for Rehearing En Banc (of a Judge's Order)	
04/10/2018	Rehearing - Petition for Rehearing (of a Judge's Order)	
04/06/2018	Correspondence - Outgoing	
03/23/2018	Correspondence - Outgoing (Advising Change in Caption)	