

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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DEC 19 2018
SC Court of Appeals

**APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS**

Marvin H. Dukes III, Master in Equity & Special Circuit Court Judge

CASE NO. 2018CP0701080

JOSEPH C. SUN **Appellant**

v.

THE STATE OF SOUTH CAROLINA **Respondent**

**MOTION FOR ORDER TO ALLOW MAGISTRATE COURT
TO HEAR PENDING MOTION FOR NEW TRIAL**

Appellant Joseph Sun timely served and filed his Notice of Appeal after his conviction at the Beaufort County Magistrate Court on April 20, 2018. On September 10, 2018, prior to the Circuit Court denied his motion to reconsider the affirmance of the verdict and sentence, Appellant filed a Motion for New Trial pursuant to South Carolina Rules of Criminal Procedure, Rule 29(b), on the ground of after-discovered evidence at the Beaufort County Magistrate Court. A copy of the motion for new trial is attached herewith as Exhibit.


Appellant has now served and filed his Notice of Appeal at this court. There has been no action taken at the Magistrate Court as the Notice of Appeal deprived the Magistrate Court jurisdiction to hear Appellant's motion. As shown in the copy of the motion exhibit, officer Mazzone's fabrication of the erroneous and false location of the collision using his excuse of

“simple math and physics” could not be proven false at the trial. His false fabrication was intentional and inexcusable and had likely caused the guilty verdict against the Appellant.

After the trial, Appellant researched and discovered the “theory of momentum” which can prove that Mazzone’s fabrication of his excuse of “simple math and physics” could not possibly cause the location of collision as shown in the TR-310, Exhibit A in the motion filed to be moved to the actual location of the collision as shown in Exhibit B. Therefore, Officer Mazzone’s entire testimony at the Magistrate Court should be stricken and the State’s false evidence, the TR-310 report must be corrected or stricken also. As there was no other evidence in the trial which could prove Appellant’s guilt in the traffic violation, Appellant should be found not guilty.

Wherefore, Appellant Sun prays the court to issue an order to the Magistrate Court to retain jurisdiction on this aforesaid motion for new trial and hold a hearing to determine his motion for new trial which has already been filed.

December 17, 2018.



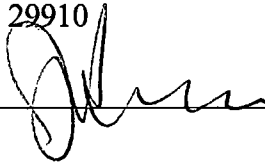
JOSEPH C. SUN
P. O. Box 2543,
Bluffton, SC 29910
843-226-8788

CERTIFICATE OF SERVICE

This is to certify that I have this date served the Respondent a copy of my motion by delivering a copy of same by U.S. Mail with sufficient postage to:

Sarah Fowler, Esq. Office of Beaufort County Solicitor
P. O. Box 1880, Bluffton, SC 29910

This 17th day of December, 2018.



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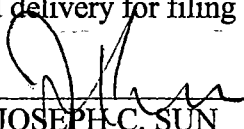
AMENDED CERTIFICATE OF SERVICE

This is to certify that I have this date served the Respondent a copy of my Notice of Appeal by delivering a copy of same by U.S. Mail with sufficient postage to:

Sarah Fowler, Esq. Office of Beaufort County Solicitor
P. O. Box 1880, Bluffton, SC 29910

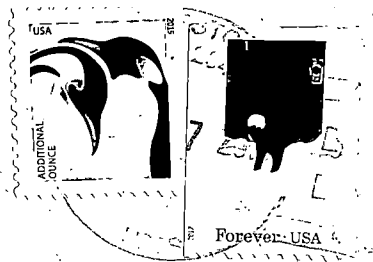
that I have also served the Beaufort County Court of Common Pleas and the Magistrate Court a copy of my Notice of Appeal by hand delivery for filing in person to the courts aforesaid.

This 17th day of December, 2018.



JOSEPH C. SUN
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

J. C. Sun
P. O. Box 2543
Bluffton, SC 29910



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SC Court of Appeals

Clerk, South Carolina Court of Appeals

P. O. Box 11629

Columbia, SC 29211

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