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SC Court of Appeals

**STRITZINGER v SOUTH CAROLINA, ET ALL**

2018-2162

IN THE COURT OF APPEALS

Columbia, South Carolina

Introductory Brief on The Merits  
(On a Request for a De Novo or Plain Error Review)

On Appeal from 5<sup>th</sup> Judicial Circuit Cause - 2018CP4002738

**ORAL ARGUMENT REQUESTED**

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Pro-SE



## **I. Issues before the Court**

- A. Is an Issue with Verizon and the US Government a case which should be set in US District Court under 28 USC 1332, or directly in a US Court of Appeals under Local Rule 15 (Reviews of Orders of an Institution).
- B. Should issues with National Security involving Orders of the President of the United States be set in the US Supreme Court under original Jurisdiction. (See Article III – Section II) of the US Constitution.
- C. Is the South Carolina Circuit Court a County Court of law?
- D. Does the Circuit Court have appellate and original jurisdiction over Probate Cases as well as being the highest trial court in South Carolina?
- E. Can the Circuit Court consolidate multiple appeals, and other original actions or cross claims from multiple proceedings?
- F. Did the Clerk of Sumter County make an error in this case?
- G. Should the 5<sup>th</sup> Judicial Circuit Court Consolidate two appeals with three other original matters?
- H. Can the Circuit Court proceed without respect to lower court decisions by Magistrate, and Probate Courts in South Carolina.
- I. Did the Clerk of the Court in Richland County make an error which represents plain error?

## **II. PARTIES**

### **APPELLANT**

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### **APPELLEES**

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2) State of South Carolina via Court Appointed Probate Facilitator

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### III. **RULINGS OF THE LOWER COURT**

Order 1 - The chief Judge of the court(Hood) delayed the proceeding while denying a consolidated motion which allowed consolidated proceedings to occur, then reset another related motion with another Judge from the Circuit Court(Kelly) on temporary issues, and a trial schedule.

Order 2 - Magistrate Mauer ruled that issues with Verizon must be set outside a county court of law (presumably) the circuit court of South Carolina, or a Federal Court.

Order 3 - K. Kelly Order - The circuit court ruled that there was no appellate action, and that a summons was not served properly under SCR3, and SCR4.

#### Other Orders

- The US District Court – Texas Western refused to set a hearing on the merits in the cause of Stritzinger v Verizon.
- The US District Court of South Carolina refused to serve a summons in related cases over several years.
- The US Supreme Court refused to review this cause on Original Jurisdiction despite an action taken by President Obama personally.
- The Circuit Court of Virginia after issuing a summons for a cause also refused to set a hearing due to probate matters in cause CLI4-4663.

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**V. REFERENCES**

South Carolina References

South Carolina Statute – 62-1-302 – Jurisdiction of the Probate Court

Cannon v Georgia Attorney Generals Office – SC Court of Appeals

Other References

Stritzinger v Verizon – US Court of Appeals for the 5<sup>th</sup> Circuit – 14-50090

ACLU v CLAPPER – US Court of Appeals for the 2<sup>nd</sup> Circuit – 14-42

US v DAVIS – US Court of Appeals for the 11<sup>th</sup> Circuit – 12-12928

RILEY v CALIFORNIA – US SUPREME COURT – (573 U.S. \_\_)

CARPENTER v UNITED STATES – US SUPREME COURT – (No. 16-402, 585 U.S. \_\_\_\_)

US v KARO – US SUPREME COURT - 468 U.S. 705

US v KNOTTS – US SUPREME COURT - 460 U.S. 276

KLAYMAN v OBAMA – US COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA – 14-5004

US Laws

Patriot Act

Freedom USA Act

Stored Communications Act

Verizon GSA Awards – Networx GSA Contract

ATT GSA Award – Firstnet Bid

US Code  
28 USC 1332 – Jurisdiction over Claims  
28 USC 1441 – Removal – Subject Matter  
28 USC 1442 – Removal – US Government Officer  
Executive Orders – NSTAC – 12382, 12472

Virginia Supreme Court Ruling  
Virginia Supreme Court Ruling – Santen v Tuthill – Foreign Court Judgement  
Stritzinger v Verizon – CLI4-4663

## **VI. FACTS**

While Appellant was seeking relief for an employment, and sales contract with Verizon and the US Government respectively which was extraordinarily complex due to emerging legal status of location services, Appellant was sued by his family in four State courts on probate issues. In the first three of these cases (Delaware, Virginia, and Florida) Appellant won in the Superior court on the same sets of facts. In South Carolina he was sued again and served by Richland county based on a perjured or outright false affidavit which the county made no effort to validate, and a cause set in the Probate court via an ex-parte service with an unknown judge.

Appellant has never been served a true copy of the original complaint, never allowed to call witnesses in his defense, or cross-examine experts, furthermore a State Attorney representative Greg Parker, who said he was facilitating a trial on the States behalf held at Palmetto Health Care made no effort to provide any evidence of any kind in his defense.

Appellant is not seeking to argue the facts in this court. Appellant is merely seeking the cause to be reset in the Circuit Court including his cross-claims against Verizon and Bank of America which Chief Inspector Love of the State of South Carolina told Appellant had to be set in the Circuit Court of South Carolina due to the amounts in question and the nature of the relief involved.

Following Chief Inspector Love's ruling, Magistrate Mel Maurer of the Dutch Fork Magistrates office seemed to imply his cause had to be set in a Federal Court of Law or the Circuit Court assuming that a Circuit Court in South Carolina is not a county court of law.

United States Code however under 28 USC 1332 imply that this cause should be set in the District Court of the United States Court system, but the US Constitution requires that issues with United States officers need to be set on original jurisdiction in the US Supreme Court.

Appellant is willing to waive the US Code sections and have a single trial in a South Carolina state court as long as the amounts in question are sufficient, and the judgment binding. To arrive at this distinction the US Government would have to waive its right under 28 USC 1442 to remove a case to Federal Court, as would I. Movant believes this is unlikely, so he is seeking one of two possible relief points. The first is for this court to sign an order of consolidation in South Carolina with all of the parties attached, and then for the court to transfer the cause to US District Court (see 28 USC 1441). The second is for the court to consolidate the cause in the Circuit Court of

South Carolina with the United States Government a party, and let the US Government decide whether they want to remove to Federal Court after a lengthy delay likely. The issue is the lengthy delay has already been more than five years without a jurisdictional ruling by a Judge who could or would.

US District Judges are not required to maintain security clearances, and neither are State Judges. Most judges with security clearances either work for FISA, or somewhere in the US District Court system in Washington. Trying a cause in Washington however would likely be cost prohibitive without electronic filing rights in the US District Court in Washington. This is effectively bar membership which is seldom granted to non-attorney's or attorney's practicing under a limited license(TX) as I am.

In this case a Probate court signed an order on mental health without allowing rebuttal, any evidence, or cross-claims (Smiley). That order was appealed to the Circuit Court of South Carolina in a timely manner and certainly is valid under 2018CP4002738. Appellant however asked the Circuit Court in his original Petition for Writ of Certiorari to consolidate his labor cases, and one additional family law case so that he could have a single trial with a single judge. Otherwise Appellant would have two Probate cases with two Probate judges, and three Circuit Court actions with three additional Probate judges all of which were related to the same sets of facts, and all of which would need to be consolidated anyway. Appellant believes that five judges, plus a consolidation on appeal might take at least two years, and by that time his children will all be adults, and he essentially lost his life. Furthermore, the State of Texas has the same problem, as they have no jurisdiction over the subject matter either, and have refused to set changes in support or other financial decisions by the Chief Judge, because of an appellate ruling entered by the 3<sup>rd</sup> Court of Texas in a special education case which they do not believe they can overturn without lengthy bills of exception. This presents the third circuit court action.

The issues on the merits involve National Security issues of location processing on US Soil for Federal Law Enforcement, and certain technologies used by the Intelligence Agencies overseas. Appellant believes that the Smith v Maryland US Supreme Court is now outdated, and will be arguing against that ruling as it is insufficient for the tasks at hand. The reason is the Smith v Maryland ruling did not discuss metadata retention as European Union law does today, nor privacy of US Citizens in general. At the present time for example US local law enforcement personnel can request and receive your entire history on Facebook without a warrant including all of your friends, and all of electronic communications because Facebook has made no effort to safeguard their users privacy. In comparison Apple Computer has a US Supreme Court ruling in Riley v California that cell phones cannot be searched without a warrant, although the Supreme Court did not review of whether images of cell phones could be obtained without one. For example Apple allows you to store backups of your device in their "cloud storage" systems.

The work Verizon was doing for the FBI was for internal security of the FBI, US protective services, and domestic law enforcement across agencies. It is above the clearance of FBI officers themselves, and would go to the general category of Internal affairs. President Barrack Obama, believed the "Internal Affairs" of the FBI was in most cases an offshoot of the US Secret Service, and the Department of Justice. Lorretta Lynch in her organizational chart showed the US Secret Service and the US Marshall's office as direct reports to her own organization. In practice however the FBI, and the US Secret Service may share some technology by generally do not. Furthermore, the US Defense agencies in most cases also do not share technology and have

their "own stacks". As a result the work for the FBI should not be generally construed as something of general use to all agencies as James R. Stritzinger Jr claimed which would be a "fantastical claim". Appellant believes James R. Stritzinger simply told a SC peace officer he was unemployed and homeless which was a lie.

#### VIII. ARGUMENTS

Appellant believes that he used the right form of Appeal (Certiorari) rather than an appeal as of right because of the other original actions which needed to be consolidated in the trial court. Furthermore this court has already ruled in Cannon v Georgia Attorney Generals Office that the Circuit Court could in fact have general jurisdiction over probate matters under the Statute. In this case judicial economy is required to consolidate this action.

Appellant believes the Virginia Supreme Court has already removed restrictions for its Circuit Court's to retry cases from lower tribunals due to a lower standard of evidence. (See Santen v Tuthill – 2014). The Virginia Supreme Court order allows any lower court case including probate actions to be retried "without respect to the original proceedings". In this case, the probate cases (South Carolina v Stritzinger) were actually cross-claims arising out of his own actions for employment relief which were served and tried without the original claims every seeing a single second of court time. In this case the State of South Carolina was clearly prejudicial.

Appellant is not seeking this court to debate the facts, simply to provide an allowance for its highest trial court to consolidate some appellate actions with new issues brought on original jurisdiction in a combined form. This may mean in fact that some issues need to be retried in-line with the Santen Judgment in Virginia.

#### VIII. SPECIFIC ARGUMENTS

- Is an Issue with Verizon and the US Government a case which should be set in US District Court under 28 USC 1332, or directly in a US Court of Appeals under Local Rule 15 (Reviews of Orders of an Institution).

Appellant notes that he requested local relief under Rule 15 from both the 2<sup>nd</sup> Circuit US Court of Appeals, and the 5<sup>th</sup> Circuit US Court of Appeals with a general denial being submitted by the clerk, and not by any specific Justices. **Appellant believes that his conclusion is effectively you have to be a member of the bar to bring an original action in the US Court of Appeals or the US Supreme Court otherwise the clerk's have power over the docketing of any action. They usually give attorneys of the bar the benefit of the doubt, but not pro-se litigants.**

- Should issues with National Security involving Orders of the President of the United States be set in the US Supreme Court under original Jurisdiction. (See Article III – Section II) of the US Constitution.

**Absolutely. The reason is that the FISA court works for the Chief Justice, and is effectively the only court which can handle NSTAC issues other than the Supreme Court itself. Two justices of FISA however denied the review requested.**

- Is the South Carolina Circuit Court a County Court of law?

**Appellant believes that since the Circuit Court includes multiple counties in its jurisdiction it is not a county court of law as ordered by Judge Maurer. Appellant believes therefore by filing his claim in the 5<sup>th</sup> Judicial Circuit, he could in fact have it heard.**

- Does the Circuit Court have appellate and original jurisdiction over Probate Cases as well as being the highest trial court in South Carolina?

**Yes. Appellant believes this court has already held that opinion in Cannon v Georgia Attorney Generals Office – SC Court of Appeals**

- Can the Circuit Court consolidate multiple appeals, and other original actions or cross claims from multiple proceedings?

**Yes it can, but it may take a Motion to Consolidate and a filing for each action on the public docket which is now there by request. Appellant believes he used the right form with a single cause originally, then was persuaded by its administrative manager not to do so.**

- Did the Clerk of Sumter County make an error in this case?

**Yes. The Clerk's office told Appellant she did not know what a Writ of Certiorari was as she was not an attorney, and did not know she was supposed to copy the parties from the lower court cases.**

- Should the 5<sup>th</sup> Judicial Circuit Court Consolidate two appeals with three other original matters?

**Yes, this states statute allows for consolidations or removals to the Circuit Court out of judicial economy. Appellant believes he has demonstrated while that's necessary.**

- Can the Circuit Court proceed without respect to lower court decisions by Magistrate, and Probate Courts in South Carolina.

**Appellant believes no, until this court establishes such a precedent. The State of Virginia however has already argued this point in Santen v Tuthill(2014) and in Virginia any lower court proceeding can be consolidated or retried in the Circuit Court of Virginia.**

- Did the Clerk of the Court in Richland County make an error which represents plain error?

**Yes. The Clerk of the court did not copy the record of the parties from the Probate original case. Had the clerk done so the service of documents, and the parties appearance would not have been in question.**

**IX. RELIEF REQUESTED**

Appellant seeks the court to issue an order of Remand, and Consolidation to the Circuit Court of South Carolina to try this cause under Judge Kelly who has heard partial opening arguments. Appellant suggests the court order the US Government to file any motions to transfer the cause within seven days to avoid undue delay if it wishes to do so under 28 USC 1442.

Appellant believes the remand will include a consolidation of the following circuit court causes:

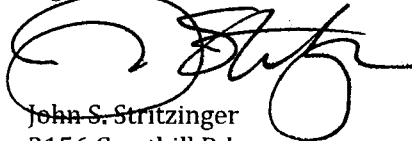
Stritzinger, John	Plaintiff	2018CP4002738	05/21/2018	Served	Common Pleas	Person Inj/Other 399	Richland County Common Pleas
Stritzinger, John S	Appellant	2018CP4006288	12/03/2018	Appeal	Appeal	Probate Court 940	Richland County Common Pleas
Stritzinger, John S	Appellant	2018CP4006289	12/03/2018	Appeal	Appeal	Probate Court 940	Richland County Common Pleas
Stritzinger, John S	Plaintiff	2018CP4006292	12/03/2018	Pending/ADR	Common Pleas	Breach of Cont 140	Richland County Common Pleas
Stritzinger, John S	Plaintiff	2018CP4006293	12/03/2018	Pending/ADR	Common Pleas	Breach of Cont 140	Richland County Common Pleas
Stritzinger, John S	Plaintiff	2018CP4006294	12/03/2018	Pending/ADR	Common Pleas	Breach of Cont 140	Richland County Common Pleas

**Appellant believes that the court grant oral argument in this cause.**

**X. CERTIFICATE OF SERVICE**

This brief was served this 20<sup>th</sup> day of December 2018 to the parties as included. The page limits are well within the requirements set by the State of South Carolina.

Signed



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