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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 2010-CP-08-4453

RECEIVED
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Ct. of Appeals

L.G. Elrod

Appellant,

v.

Berkeley County Sheriff's
Department and H.
Wayne Dewitt,

Respondent,

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
L.G. ELROD,)
)
Plaintiff,)
)
v.)
)
BERKELEY COUNTY, BERKELEY)
COUNTY SHERIFF'S DEPARTMENT,)
AND H. WAYNE DEWITT,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-08-04453

ORDER

FILED
2011 JUN 16 PM 1:14
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

Presiding Judge:	Deadra L. Jefferson
Date of Hearing:	April 26, 2011
Plaintiff's Attorney:	Pro Se
Defendants' Attorney:	G. Wade Cooper, Esquire
Court Reporter:	Anne Meyer

The instant matter came before the Court on April 26, 2011 on the Defendants' Motion to Dismiss with prejudice pursuant to Rule 12(b)(6), SCRPC. Present at the hearing were the Plaintiff, who appeared *pro se*, and G. Wade Cooper, Esquire, who appeared on behalf of the Defendants. For the reasons set forth below, the Defendants' Motion is granted as to Defendant Berkeley County and denied as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt.

FACTUAL BACKGROUND

The Plaintiff alleges that on or about January 10, 2008 and January 15, 2008, the Defendant sent two (2) squad cars and Sheriff's deputies from Berkeley County Sheriff's Department to Plaintiff's property and restrained Plaintiff from his property while Comcast Cable worked on their equipment on Plaintiff's property. (Compl. ¶¶ 6, 9.) Plaintiff alleges that

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AKA

the Defendant did this without court order or any legal papers of any kind. (Id.) Plaintiff further alleges that this was done after Comcast Cable was put on trespass notice by Attorney Mary Leigh Arnold. (Compl. ¶ 6.)

Plaintiff initiated this action by the filing of a Summons and Complaint on December 16, 2010 which sets forth causes of action for False Imprisonment and Unlawful Detention-Abuse of Process. On January 11, 2011, the Defendants, in lieu of an Answer, filed Defendants' Notice of Motion and Motion to Dismiss pursuant to Rule 12(b)(6), SCRPC on grounds that the Complaint fails to state facts sufficient to constitute a cause of action. The basis of Defendants' Motion is the Defendants are governmental entities as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., and are barred by the applicable statute of limitations.

STANDARD OF REVIEW

According to South Carolina law, "[u]nder Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action." Brazell v. Windsor, 376 S.C. 83, 87, 655 S.E.2d 736, 737 (2007), rev'd on other grounds, 384 S.C. 512, 682 S.E.2d 824 (2009). Furthermore, "[t]he decision to grant a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth in the complaint." Id. at 87, 655 S.E.2d at 737-38. In ruling on a motion to dismiss, the trial court must determine "whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." Id. at 87, 655 S.E.2d at 738. Accordingly, "if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory," a South Carolina court must refuse to grant a motion to dismiss. Id.

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CONCLUSIONS OF LAW

The Tort Claims Act is the exclusive remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b). A governmental entity means the State and its political subdivisions. Id. at § 15-78-30(d). Defendants Berkeley County and Berkeley County Sheriff's Department are governmental entities as defined by Section 15-78-30(d). Likewise, Defendant Dewitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992).

The Defendants argue that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, all Defendants should be dismissed with prejudice for failure to file the Summons and Complaint within the applicable time period. Section 15-78-110 provides in relevant part, "[A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered" S.C. Code Ann. § 15-78-110.

The Plaintiff argues that Section 15-3-540 should apply, which provides that actions against sheriffs, coroners or constables, upon a liability incurred by virtue of an act or omission while acting in their official capacity, must be brought within three (3) years. S.C. Code Ann. § 15-3-540(1); see also Allen v. Fidelity and Deposit Co. of Maryland, 515 F. Supp. 1185 (D.S.C. 1981), aff'd, 694 F.2d 716 (4th Cir. 1982). However, to the extent the wrongful acts of a sheriff, coroner, or constable fall within the South Carolina Tort Claims Act and are committed in their official capacity, they are shielded from liability. S.C. Code Ann. § 15-78-20(b). A sheriff, coroner, or constable will not be personally liable for a tort unless their actions were not within

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the scope of their duties. Id. § 15-78-70(b). Therefore, if the sheriff was acting in an official capacity and his actions were within the scope of his duties, he would be subject to the two (2) year statute of limitations from the date of discovery of loss as provided in Section 15-78-110 rather than the (3) year statute of limitations period provided in Section 15-3-540. The Plaintiff contends that Section 15-3-540 is the applicable statute because the Defendants, though acting in their official capacity at the time of the incident, were not acting within the scope of their duties.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A review of the Complaint indicates Plaintiff's alleged loss occurred between January 10, 2008 and January 15, 2008. (Compl. ¶¶ 6, 9.) A verified Complaint was not filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. This action was filed more than two (2) years but less than (3) years after the date of alleged loss was or should have been discovered.

The Court finds that Section 15-78-110 applies to Defendant Berkeley County as it is a governmental entity subject to the South Carolina Tort Claims Act. See Allen, 515 F. Supp. at 1189 ("By the clear language of the statute, Section 15-3-540 would not apply to an action brought against the County of Aiken.").¹ The Plaintiff's deadline for filing this action against Defendant Berkeley County expired on or before January 16, 2010 pursuant to Section 15-78-110. Therefore, the instant action against Defendant Berkeley County is barred by the statute of limitations and should be dismissed with prejudice.

The Court finds that the applicable statute of limitations as applied to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt is determined by whether the

¹ The wrongful acts alleged in the Complaint are those of the Berkeley County Sheriff, Defendant Dewitt, and the Sheriff's deputies whom he sent to the Plaintiff's property. According to South Carolina case law, Sheriffs and deputies are state, not county, officials. See Edwards v. Lexington County Sheriff's Dep't, 386 S.C. 285, 288 n.1, 688 S.E.2d 125, 127 n.1 (2010); see also Cone, 308 S.C. at 112, 417 S.E.2d at 525; Heath v. Aiken County, 295 S.C. 416, 368 S.E.2d 904 (1988) (holding that deputies act as the sheriff's agent and are not employees of the county). Accordingly, the County of Berkeley may not be held liable for the acts of the Sheriff and his deputies.

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5 [Signature]

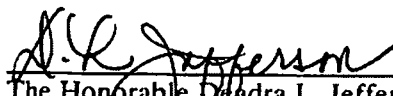
Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. In ruling on a motion to dismiss, the trial court must determine "whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." Brazell, 376 S.C. at 87, 655 S.E.2d at 738. Accordingly, "if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory," a South Carolina court must refuse to grant a motion to dismiss. Id. Moreover, "where the allegations of the complaint give rise to competing inferences on a question of material fact, dismissal of the case under Rule 12(b)(6) is not appropriate." Osprey, Inc. v. Cabana Ltd. P'ship, 333 S.C. 323, 332, 509 S.E.2d 275, 279 (Cl. App. 1998), overruled on other grounds by I'On, LLC v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000). The Court finds that the allegations in the Complaint give rise to competing inferences on a question of the material fact of whether the Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. As such, the Defendants' Motion to Dismiss is denied as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt.

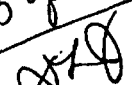
CONCLUSION

Based on the analysis set forth above, the Defendants' Motion to Dismiss with Prejudice is GRANTED as to Defendant Berkeley County and DENIED as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt.

IT IS SO ORDERED.

June 14, 2011
Charleston, South Carolina in Chambers


The Honorable Dandra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

5 5 of 5
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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. ELROD,

Plaintiff,

v.

BERKELEY COUNTY, BERKELEY
COUNTY SHERIFF'S DEPARTMENT,
AND H. WAYNE DEWITT,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-08-04453

**ORDER DENYING DEFENDANTS'
MOTION TO RECONSIDER**

Presiding Judge:

Date of Hearing:

Plaintiff's Attorney:

Defendants' Attorney:

Court Reporter:

Deadra L. Jefferson

April 26, 2011

Pro Se

G. Wade Cooper, Esquire

Anne Meyer

HARRY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

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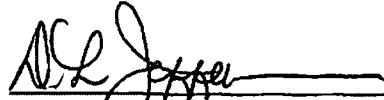
FILED

THIS MATTER is before the Court on the Defendants' Motion to Reconsider pursuant to Rules 52, 59, and 60, SCRCF. Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), SCRCF, filed January 11, 2011, was decided by the Court after a non-jury motion hearing on April 26, 2011. A Court Order granting Defendants' motion as to Berkeley County and denying the motion as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt was filed on June 16, 2011 and received by counsel for the Defendants on June 20, 2011. The Defendants' Motion to Reconsider, as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt, was filed on June 23, 2011 and received by the Court on June 23, 2011.

1 of 2
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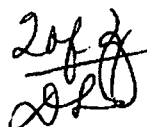
Having considered the Defendants' Motion, the timeliness of the Motion, as well as the various interests balanced by the Court at the time of the ruling, the Defendants' Motion to Reconsider is hereby denied.¹

IT IS SO ORDERED.


The Honorable Deadra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

6/28, 2011
Charleston, South Carolina at Chambers

¹ This Motion is disposed of without the necessity of a hearing and decided on the record and briefs. Rule 59(f), SCRCP; Pollard v. City of Florence, 314 S.C. 397, 444 S.E.2d 534 (Cl. App. 1994).



STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiffs,

Versus

Berkeley County Sheriff's Department, and H.
Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) C/A No. 10-CP-08-4453

) **ORDER GRANTING DEFENDANTS'**
) **MOTION FOR SUMMARY JUDGMENT**

Presiding Judge:

Date of Hearing:

Plaintiff's Attorney:

Defendants' Attorney:

Court Reporter:

Hon. Roger M. Young

May 9, 2012

M. Brooks Derrick, Esquire

G. Wade Cooper, Esquire

Anne Myers

The instant matter came before the Court on May 9, 2012 on the Defendants' Motion for Judgment on the Pleadings / Motion for Summary Judgment pursuant to Rule 12 (c) and Rule 56, SCRPC, respectively.¹ Present at the hearing were the Plaintiff and his counsel, M. Brooks Derrick, Esquire, as well as G. Wade Cooper, Esquire, appearing on behalf of the Defendants. In addition to oral arguments on the record, both parties presented affidavits and exhibits for the Court's consideration. For the reasons set forth below, the Defendants' Motion is granted.

FACTUAL BACKGROUND

The Plaintiff alleges that on or about January 10, 2008 and January 15, 2008, the Defendant Sheriff did send Berkeley County Sheriff's Deputies to Plaintiff's property and unlawfully restrained Plaintiff while allowing a third party – Comcast Cable – to restore power to its cable box on a utility pole located on Plaintiff's property. Plaintiff initiated this action by the filing of a Summons and Complaint on December 16, 2010 which sets forth causes of action

¹ Defendants' Motion for Judgment on the Pleadings was heard by the Court on January 17, 2012. During the hearing, matters outside the pleadings were presented by the non-moving party. Counsel for Defendants moved on the record pursuant to SCRPC Rule 12 (c) that the motion should be treated as one for summary judgment and disposed of as provided in Rule 56. As Plaintiff was, at the time, prosecuting the matter *pro se* and in order to allow the parties reasonable opportunity to present all pertinent material, this Court continued the motion for summary judgment to the next available term of court.

Emil:
HWPB
GWC
MBW

FILED
2012 MAY 21 PM 3:24
CLERK OF COURT
BERKELEY COUNTY

R

for False Imprisonment and Unlawful Detention – Abuse of Process. Defendants filed the instant motion pursuant to Rule 12 (c) and Rule 5, SCRCP, on the grounds that the Defendants are a governmental entity (Sheriff's Office) and employee of a governmental entity (Sheriff) as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., who were at all times acting within the course and scope of their official duties with respect to Plaintiff's claims, and as such, Plaintiff's action is barred by the applicable two (2) year statute of limitations.

STANDARD OF REVIEW

Summary judgment is appropriate when there is "no genuine issue as to any material fact and...the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). "Where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no 'genuine issue for trial.'" Matsushita Electrical Industrial Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574 (1986). A fact is deemed "material" if proof of its existence or nonexistence would affect the disposition of the case under the applicable law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). An issue of material fact is "genuine" if the evidence offered is such that a reasonable jury might return a verdict for the non-movant. Id. at 257.

The party seeking summary judgment shoulders the initial burden of demonstrating to the district court that there is no genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Once the movant has made this threshold demonstration, the non-moving party, to survive the motion for summary judgment, may not rest on the allegations averred in the pleadings; rather, he must demonstrate that specific, material facts exist which give rise to a genuine issue. Id. at 324. The existence of a mere scintilla of evidence in support of the plaintiff's position is insufficient to withstand the summary judgment motion. Anderson, 477 U.S. at 252. Accordingly,

when Rule 56(e) has shifted the burden of proof to the non-movant, he must provide existence of every element essential to his action which he bears the burden of adducing at a trial on the merits.

CONCLUSIONS OF LAW

The Tort Claims Act is the exclusive remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b). A governmental entity means the State and its political subdivisions. Id. at § 15-78-30(d). Defendant Berkeley County Sheriff's Department is a governmental entities as defined by Section 15-78-30(d). Likewise, Defendant Dewitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992).

The Defendants argue that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, summary judgment should be granted and all Defendants dismissed with prejudice for Plaintiff's failure to file the Summons and Complaint within the applicable time period. Section 15-78-110 provides in relevant part, "[A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered" S.C. Code Ann. § 15-78-110.

The Plaintiff argues that S.C. Code Section 15-3-540 should apply, which provides that actions against sheriffs, coroners or constables, upon a liability incurred by virtue of an act or omission while acting in their official capacity, must be brought within three (3) years. S.C. Code Ann. 15-3-540(0; *see also* Allen v. Fidelity and Deposit Co. of Maryland, 515 F. Supp. 1185 (D.S.C. 1981), *aff'd*, 694 F.2d 716 (4th Cir. 1982). However, to the extent the wrongful acts of a sheriff, coroner or constable fall within the South Carolina Tort Claims Act and are committed in their official capacity, they are shielded from liability. S.C. Code Ann. § 15-78-20

(b). A sheriff, coroner, or constable will not be personally liable for a tort unless their actions were not within the scope of their duties. Id. § 15-78-70 (b). Therefore, if the sheriff was acting in an official capacity and his actions were within the scope of his duties, he would be subject to the two (2) year statute of limitations from the date of discovery of loss as provided in Section 15-78-110 rather than the (3) year statute of limitations period provided in Section 15-3-540. The Plaintiff contends that Section 15-3-540 is the applicable statute because the Defendants, though acting in their official capacity at the time of the incidents, were not acting within the scope of their official duties.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A review of the Complaint indicates Plaintiff's alleged loss occurred between January 10, 2008 and January 15, 2008. (Compl. ¶¶ 6, 9.) A verified Complaint was not filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. This action was filed more than two (2) years but less than (3) years after the date of alleged loss was or should have been discovered.

The Court finds no evidence in the record that the Defendants were acting in any capacity other than their official capacities as Sheriff and Sheriff's deputies of Berkeley County. Likewise, the Court can find no evidence in the record to reasonably suggest that Defendants were acting outside of the scope of their official duties with regard to the Plaintiff and these two incidents on January 10, 2008 and January 15, 2008. Plaintiff contends that the Sheriff, and by extension, deputy sheriffs, are precluded from responding to requests for service by citizens and businesses involving civil disputes with another. The Court finds this argument unpersuasive. In this instance, the record reflects that although there was an apparent civil dispute between Plaintiff and Comcast Cable concerning an agreement over use of the utility pole, the Sheriff and Deputy Sheriff's were merely responding to calls for service and acting in such manner as to ensure the safety of all. The Court finds that the Sheriff and Deputies with Berkeley County



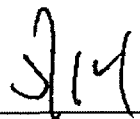
Sheriff's Office were at all times acting in their official capacities and within the course and scope of their official duties.

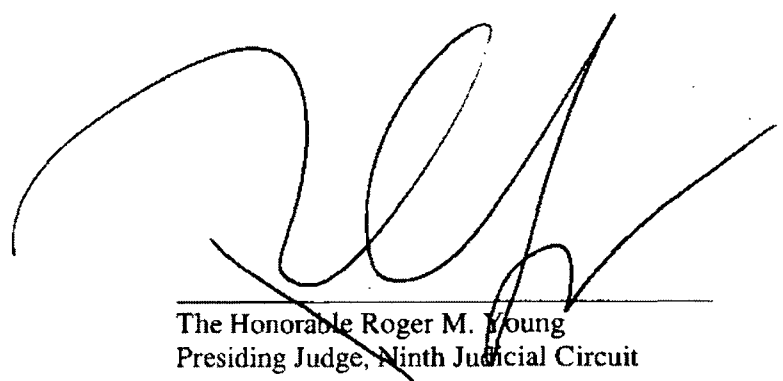
Furthermore, a careful review of the Plaintiff's Complaint appears on its face to be dispositive of this issue as well. Paragraph 3 states, "That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law. (Compl. ¶ 3)(emphasis added). Upon review of the record, the Court agrees and finds that the Sheriff and Berkeley County Deputies were at all times acting in their official capacities and within the course and scope of their official duties. Therefore, the Court finds the two (2) year Tort Claims Act statute of limitations is applicable to Defendants in this case. As such, summary judgment is appropriate as a matter of law as there is no genuine issue as to any material fact. Plaintiff's action is time barred as it was filed more than two (2) years after the date the loss was or should have been discovered.

CONCLUSION

Based on the analysis set forth above, the Defendants' Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.


_____, 2012
Charleston, South Carolina



The Honorable Roger M. Young
Presiding Judge, Ninth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

L.G. ELROD

PLAINTIFF

VS

BERKELEY COUNTY, BERKELEY COUNTY
SHERIFF'S DEPARTMENT AND
H. WAYNE DEWITT

DEFENDANT(S)

IN THE COURT OF COMMON PLEAS
CASE NO.

COMPLAINT

FALSE IMPRISONMENT

UNLAWFUL DETENTION-
ABUSE OF PROCESS

JURY TRIAL DEMANDED

20 CP-08
FILED
2010 DEC 16 PM 12:20
CLERK OF COURT
SOUTH CAROLINA

THE PLAINTIFF WOULD RESPECTFULLY SHOW THAT:

1. That the parties hereto, subject matter hereof, and all matters and things hereinafter complained of are within the jurisdiction of this court.
2. That the plaintiff, L.G. Elrod, (hereinafter plaintiff) is a citizen and resident of the county of Berkeley, State of South Carolina.
3. That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law.
4. That the defendant, Berkeley County Sheriff's Department, (hereinafter defendant) is a government entity organized under the laws of the state of South Carolina, that said defendant, as part of its governmental functions, operates a police department known as the Berkeley County Sheriff's Department.
5. That the defendant Berkeley County, (hereinafter defendant), is a government entity organized under the laws of the State of South Carolina.

FIRST CAUSE OF ACTION

FALSE IMPRISONMENT

6. The defendant, on or about January 10, 2008 and January 15, 2008, did send two (2) squad cars and deputies from the Berkeley County Sheriff's department with them, without a court order or any legal papers and restrained Plaintiff from going on his own private property while Comcast Cable worked on their equipment on Plaintiff's private property. This was done after Comcast Cable was put on "trespass notice," and a "cease and desist" notice from attorney Mary Leigh Arnold was given to Comcast Cable.

7. The restraint, by defendant was intentional as they met with Comcast Cable at another location and brought them, with two (2) squad cars, to Plaintiff's property for the sole purpose of restraining Plaintiff while Comcast Cable worked on Plaintiff's property.

8. The restraint was unlawful as Defendant sent two (2) squad cars, with deputies, from the Berkeley County Sheriff's department with them to restrain Plaintiff without a court order or any legal papers.

Wherefore, Plaintiff prays for judgment against Defendant for actual damages, special and consequential damages, punitive damages on each and every cause of action, for the cost and disbursements of this action, together with such other and further relief as this court deems just and proper.

SECOND CAUSE OF ACTION

UNLAWFUL DETENTION- ABUSE OF PROCESS

9. Defendant did, on or about January 10, 2008 and January 15, 2008, send two (2) squad cars from Berkeley County Sheriff's department and unlawfully detained plaintiff each time with the threat of the plaintiff being locked up if he came on his own private property where Comcast Cable was working and trespassing. This was done without any court order or any legal papers of any kind.

Wherefore, Plaintiff prays for judgment against Defendant for actual damages, special and consequential damages, punitive damages on each and every

cause of action, for the cost and disbursements of this action, together with such other and further relief as this court deems just and proper.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "L. G. Elrod", is written over a horizontal line.

L.G. Elrod
307 Elrod Drive
Goose Creek, SC 29445
843-553-4669

DECEMBER 16, 2010

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiffs,

Versus

Berkeley County, Berkeley County Sheriff's
Department, and H. Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

)

) NINTH JUDICIAL CIRCUIT

)

) C/A No. 10-CP-08-4453

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) **DEFENDANTS' NOTICE OF MOTION**

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TO: L.G. ELROD, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the Defendants in this action (hereinafter "the Defendants"), will move before the United States District Court, at a time and place to be arranged with the Court and parties involved, for an Order dismissing this action with prejudice pursuant to Rule 12 (b)(6) on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. Defendants' motion is based on the grounds that, pursuant to the South Carolina Tort Claims Act, Plaintiff's claims are barred by the applicable statute of limitations.

Defendants Berkeley County and Berkeley Sheriff's Department are governmental entities as defined by the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-10, et seq.. Likewise, under South Carolina law, Defendant DeWitt, as Sheriff of Berkeley County, is considered an "arm of the state." *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992), adopting the District Court's holding in *Gulledge v. Smart* 691 F.Supp. 947 (D.S.C. 1988) (holding that South Carolina sheriffs are state officials for Eleventh Amendment purposes), *aff'd mem.*, 878 F.2d 379 (4th Cir. 1989). The Tort Claims Act is the exclusive civil remedy available for any tort committed by a governmental entity, its employees or its agents. S.C. Code Ann. §15-78-20 (b). The provisions of the Tort Claims Act establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official

duty, must be liberally construed in favor of limiting the liability of the State. S.C. Code Ann. §15-78-20 (f). Any action brought pursuant to the Tort Claims Act is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered. S.C. Code Ann. §15-78-110.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A careful review of the Complaint indicates that Plaintiff's alleged "loss" occurred sometime between January 10, 2008 and January 15, 2008. (See Complaint, paragraphs 6 and 9). Upon information and belief, no verified claim was filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. Thus, this action was filed well more than two (2) years after the date of loss was or should have been discovered. Plaintiff's deadline for filing this action against these entities expired on or before January 16, 2010. Defendants contend, therefore, that the instant action is barred by the statute of limitations and respectfully request that all causes of action be dismissed with prejudice.

Respectfully submitted

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Hugh W. Buyck (S.C. Bar # 66462)
G. Wade Cooper (S.C. Bar # 69692)

Attorneys for the Defendants
Berkeley County, Berkeley County Sheriff's
Department, and H. Wayne Dewitt

January 7, 2011
Mt. Pleasant, South Carolina
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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BERKELEY) NINTH JUDICIAL CIRCUIT
)
L.G. Elrod,) C/A No. 10-CP-08-4453
)
)
Plaintiffs,)
)
Versus) **DEFENDANTS' NOTICE OF MOTION**
) **AND MOTION TO RECONSIDER**
)
)
Berkeley County, Berkeley County Sheriff's)
Department, and H. Wayne Dewitt,)
)
)
Defendants.)

TO: L.G. ELROD, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the Defendants in this action (hereinafter “the Defendants”), will move before the Circuit Court as soon as counsel may be heard pursuant to Rules 52, 59 and 60 SCRPC for reconsideration of its Order dated June 14, 2011, denying dismissal of Defendants Berkeley County Sheriff’s Department and Sheriff H. Wayne DeWitt.

PROCEDURAL ISSUES

This matter was originally brought through issuance of a Summons and Complaint dated December 16, 2010, concerning events that occurred on January 10, 2008 and January 15, 2008. (attached). Defendants filed a Motion to Dismiss in lieu of an Answer pursuant to Rule 12(b)(6) SCRPC on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. The basis of Defendants' motion is that the Defendants are governmental entities as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., acting in their official duties and within the scope of their employment, and, as such Plaintiff's action is time barred by the applicable statute of limitations. Plaintiff argued that the three year statute of limitations found in S.C. Code Ann. § 15-3-540 should apply.

A hearing was held on the matter on April 26, 2011 with both parties presenting oral arguments. On June 14, 2011, the Court issued a written Order in which it granted Defendants motion to dismiss as to Berkeley County, but denied the motion as to Berkeley County Sheriff's

Department and Sheriff DeWitt.¹ Defendants present the following memorandum, respectfully requesting reconsideration of the Court's denial of the motion to dismiss Sheriff's Department and Sheriff DeWitt.

ARGUMENT & LEGAL ANALYSIS

Notwithstanding any provision of law, the South Carolina Tort Claims Act is the exclusive and sole remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b), and 15-78-200. Defendant Berkeley County Sheriff's Department is a governmental entity as defined by Section 15-78-30(d). Likewise, Defendant DeWitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992). The provisions of the Tort Claims Act must be liberally construed in favor of limiting the liability of the governmental entity and its employees while acting within the scope of their official duty. S.C. Code Ann. §§ 15-78-20(f) and 15-78-200.

As the Court correctly notes in its Order, Defendants take the position that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, all Defendants should be dismissed with prejudice for Plaintiff's failure to file the Summons and Complaint within two years of the alleged tort. Section 15-78-110 provides in relevant part, "[A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered" S.C. Code Ann. § 15-78-110. There is no doubt that Plaintiff filed his Summons and Complaint more than two years outside of the statute of limitations provided by the Tort Claims Act.

¹ The Order was filed on June 16, 2011 and received by counsel for Defendants on June 20, 2011.

As the Court correctly concludes, the applicable statute of limitations (2 or 3 years) as applied to Defendants Sheriff's Department and Sheriff DeWitt is determined by whether the Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. In ruling on a motion to dismiss, the trial court must determine "whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." Brazell v. Windsor, 376 S.C. 83, 87, 655 S.E.2d 736, 738 (2007), rev'd on other grounds, 384 S.C. 512, 682 S.E.2d 824 (2009). Furthermore, "[t]he decision to grant a Rule 12(b)(6) motion to dismiss *must be based solely upon the allegations set forth in the complaint.*" Id. at 87, 655 S.E.2d at 737-38. (emphasis added).

Reviewing Paragraph 3 of Plaintiff's Complaint, he specifically states, "That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law. (Complaint, para. 3)(emphasis added). Nowhere in the Complaint does he attribute any wrongful act on the part of Sheriff DeWitt, rather it is clear he is merely suing the Sheriff as the administrator charged with the responsibility over the Sheriff's Department. More importantly, nowhere in the Complaint does Plaintiff state that Sheriff DeWitt was acting in any other capacity than his official capacity and nowhere does he allege that Sheriff DeWitt was acting outside the scope of his official duties. On the contrary, Plaintiff explicitly states that he is suing Sheriff DeWitt in his official capacity as Sheriff and that "at all times" Sheriff DeWitt was "acting within the scope of his employment." Therefore, in taking the allegations of Plaintiff's Complaint in their most favorable light, the two year Tort Claims Act statute of limitations applies and this action must be dismissed against Sheriff DeWitt.

Likewise, as to Defendant Berkeley County Sheriff's Department, Plaintiff's Complaint states only that it "is a governmental entity organized under the laws of the State of South Carolina, that said defendant, as part of its governmental functions, operates a police department known as the Berkeley County Sheriff's Department." (Complaint, para. 4). Nowhere in the Complaint does Plaintiff state that Sheriff's Department, by and through its deputies, was acting in any other capacity than its official capacity. Nowhere does he allege that the Sheriff's Department, by and through its deputies, was acting was acting outside the scope of its official duties. Simply put, Plaintiff's Complaint fails to state that either Defendant was acting in any other capacity than their official capacity and fails to state that either Defendant was acting outside the scope of their official duties.

"The decision to grant a Rule 12(b)(6) motion to dismiss *must be based solely upon the allegations set forth in the complaint.*" Brazell at 87, 655 S.E.2d at 737-38. (emphasis added). As to whether "reasonable" inferences can be deduced from the facts alleged in Plaintiff's Complaint, Defendants contend that even when taken in the light most favorable to the Plaintiff, they do not give rise to a competing inference as to whether the Sheriff and his deputies were acting within their official capacity and whether their actions were within the scope of their duties. Again, as to Sheriff DeWitt, Plaintiff is explicit and clear that Sheriff DeWitt was acting within his official capacity, as he alleges no "action" on the part of the Sheriff whatsoever. He is equally clear that Sheriff DeWitt was at all times within the scope and course of his employment. As to Sheriff's Department, the only facts alleged are that deputies, on two separate occasions, were dispatched to Plaintiff's address to allow Comcast to work on their equipment. Aside from the plain language of the Complaint, the only reasonable inferences to be deduced therefrom are that the deputies were acting in their official capacities as Sheriff's deputies and that they were acting within the scope of their employment as deputies of Berkeley County Sheriff's Department.

CONCLUSION

Plaintiff's action is barred by the statute of limitations as to all Defendants and Defendants respectfully request that the Court reconsider its decision as expressed in its June 14, 2011 Order.

Respectfully submitted

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Hugh W. Buyck (S.C. Bar # 66462)
G. Wade Cooper (S.C. Bar # 69692)

Attorneys for the Defendants
Berkeley County, Berkeley County Sheriff's
Department, and H. Wayne Dewitt

June 22, 2011
Mt. Pleasant, South Carolina
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CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by ☒ mailing, ☐ emailing, ☐ facsimile, or ☐ hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 22 day of JUNE, 2011.



STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

☐ Plaintiff,

Versus

Berkeley County Sheriff's Department, and H. Wayne
Dewitt,

☒ Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) CASE NO. 10-CP-08-4453

) DEFENDANTS' MOTION FOR JUDGMENT ON THE
) PLEADINGS

check box above indicating submitting party

Pro Se Plaintiff:

L.G. Elrod
307 Elrod Drive
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Defendants' attorney:

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☒ MOTION HEARING REQUESTED (attach written motion and complete SECTION I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II AND III)

SECTION I: Hearing Information

Nature of Motion: Motion for Judgment on the Pleadings

Estimated Time Needed: 15 minutes

Court Reporter Needed: YES ☒ NO ☐

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order -

I hereby move for relief or action by the court as set forth in the attached proposed order.

G. Wade Cooper
Signature of Attorney for ☐ Plaintiff ☒ Defendants

10/27/11
Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$25

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached
order.

☐ Other: _____

JUDGE

CODE: _____

DATE: _____

CLERK'S VERIFICATION

DATE FILED

Collected by: _____
(print name)

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED-AMOUNT DUE: _____

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiffs,

Versus

Berkeley County Sheriff's Department, and H.
Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) C/A No. 10-CP-08-4453

) **DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR JUDGMENT ON THE
PLEADINGS**

15-78-20
15-78-200

TO: L.G. ELROD, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the Defendants in this action (hereinafter "the Defendants"), will move before the Circuit Court, at a time and place to be arranged with the Court and parties involved, for an Order dismissing this action with prejudice pursuant to Rule 12 (c) on the grounds that Plaintiff's Complaint is time barred by the applicable statute of limitations as prescribed by the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-10, *et seq.* On its face, Plaintiff's Complaint identifies the Defendants as such:

3. That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law. (emphasis added).

4. That the defendant, Berkeley County Sheriff's Department, (hereinafter defendant) is a governmental entity organized under the laws of the state of South Carolina, that said defendant, as part of its governmental functions, operates a police department known as the Berkeley County Sheriff's Department. (emphasis added).

Defendant Berkeley Sheriff's Department is a governmental entity as defined by the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-10, *et seq.* Likewise, under South Carolina law, Defendant DeWitt, as Sheriff of Berkeley County, is considered an "arm of the

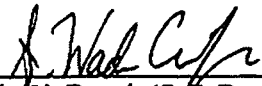
state." *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992), adopting the District Court's holding in *Gulledge v. Smart* 691 F.Supp. 947 (D.S.C. 1988) (holding that South Carolina sheriffs are state officials for Eleventh Amendment purposes), *aff'd mem.*, 878 F.2d 379 (4th Cir. 1989). The Tort Claims Act is the exclusive civil remedy available for any tort committed by a governmental entity, its employees or its agents. S.C. Code Ann. §15-78-20 (b) and § 15-78-200. The provisions of the Tort Claims Act establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State. S.C. Code Ann. §15-78-20 (f). Any action brought pursuant to the Tort Claims Act is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered. S.C. Code Ann. §15-78-110.

Plaintiff filed the instant action against Defendants on December 16, 2010. A careful review of the Complaint indicates that Plaintiff's alleged "loss" occurred sometime between January 10, 2008 and January 15, 2008. (See Complaint, paragraphs 6 and 9). Upon information and belief, no verified claim was filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. Thus, this action was filed well more than two (2) years after the date of loss was or should have been discovered. Plaintiff's deadline for filing this action against these entities expired on or before January 16, 2010. Defendants contend, therefore, that the instant action is barred by the statute of limitations and respectfully request that judgment be entered on the pleadings and that all causes of action be dismissed with prejudice.

Respectfully submitted,

[signature page follows]

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Hugh W. Buyck (S.C. Bar # 66462)
G. Wade Cooper (S.C. Bar # 69692)

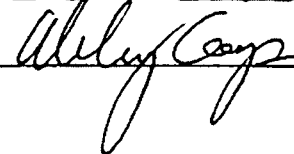
Attorneys for Defendants
Berkeley County Sheriff's Department, and
H. Wayne Dewitt

October 27, 2011
Mt. Pleasant, South Carolina

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by ☒ mailing, ☐ emailing, ☐ facsimile, or ☐ hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 27 day of October, 2011.



STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OR COMMON PLEAS
2010-CP-08-04453

L.G. ELROD,

Plaintiff,

V.

BERKELEY COUNTY SHERIFF'S
DEPARTMENT, et al.,

Defendants.

TRANSCRIPT OF RECORD

May 9, 2012
Moncks Corner, South Carolina

B E F O R E:

THE HONORABLE ROGER M. YOUNG, JUDGE

A P P E A R A N C E S:

Mr. M. Brooks Derrick, Esquire
Representing the Plaintiff

Mr. Gordon Wade Cooper, Esquire
Representing the Defendants

Anne Bouley Meyer, RPR
Circuit Court Reporter

1 THE COURT: Okay. We got a motion for summary
2 judgment?

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: All right, go head.

5 MR. COOPER: I'm Wade Cooper here on behalf of
6 the defendants in this case, who are the Berkeley
7 County Sheriff's Department, and H. Wayne Dewitt as
8 Sheriff of Berkeley County.

9 To my right is Mr. Brooks Derek who is now
10 representing Mr. Elrod, who until recently had been
11 proceeding pro se.

12 Judge, back in January you heard a motion that I
13 had filed, a motion for judgment on the pleadings.
14 Basically our argument, since the case was filed, was
15 that the case was filed too late.

16 Mr. Elrod has sued over two incidents in which
17 Berkeley County Sheriff's Deputies were called out to
18 his property. One of which occurred on January 10th,
19 2008. Actually two on that same day, January 10th,
20 2008. And another five days later on January 15th,
21 2008.

22 The deputies were called out to initially by the
23 request of Mr. Elrod due to his claim that Comcast
24 Cable was trespassing on his property in order to fix a
25 cable box on a utility pole that he had switched off.

1 Later that afternoon, Comcast Cable requested sheriff's
2 deputies to escort them back to the property as the
3 work to switch the box back on had not been completed
4 earlier, it was to avoid a confrontation with Mr.
5 Elrod.

6 The work was completed that afternoon, and five
7 days later Comcast was again alerted that Mr. Elrod had
8 switched the box off. They again requested, due to
9 threats made by Mr. Elrod five days earlier, requested
10 an escort from Berkeley County sheriff's deputies who
11 responded and the box was turned back on.

12 Mr. Elrod filed this case in Berkeley County on
13 December the 16th, 2010. I filed a motion to dismiss
14 based on the fact that the defendants in this case fell
15 within the tort claims act, and that 15-78-110
16 establishes a two year statute of limitations.

17 Mr. Elrod, based upon the date of the incidents
18 I gave you and the date that the complaint was filed,
19 filed it almost three years, but not yet three years,
20 after the incidents. And thus our argument was that
21 the statute of limitations inherent in the tort claims
22 act barred Mr. Elrod's action.

23 As I understand it, the opposition to our
24 motion, the statute of limitation argument, is that
25 there is a competing statute, statute 15-3, I believe,

1 540, which allows actions against sheriffs and
2 constables to be brought within three years. And it's
3 specific to the fact that those actions must be against
4 sheriffs and constables acting outside of the scope of
5 their official duties.

6 So the question then before the Court is whether
7 or not, based on the evidence established so far in the
8 record, supports the fact that the defendants, the
9 sheriff and the two deputies, were acting outside of
10 the scope of their official duties when they responded
11 to these two incidents back in 2008.

12 Should the Court find that they were acting
13 within the scope of their official duties, then they
14 would be covered by the tort claims act. The Court has
15 already issued an order, Judge Jefferson, establishing
16 the fact that there was no verified complaint filed
17 within a year. And these actors were found to be
18 within the scope of their official duties, then the two
19 year statute of limitations would apply.

20 If, on the other hand, they were found to be
21 outside of the scope of their official duties, this
22 other statute, 15-3-540, would allow the plaintiff
23 three years and thus his complaint was timely filed.

24 So I initially filed what you heard in January,
25 it was a motion for judgment on the pleadings.

1 Basically saying, Your Honor, take a look at what the
2 plaintiff has alleged in this case, and specifically
3 looking at, and not outside of, the complaint.

4 Which states that the sheriff, H. Wayne Dewitt,
5 at all times mentioned herein was the sheriff employed
6 by defendant Berkeley County Sheriff, who was acting
7 within the scope and course of his employment, and
8 under color of state law.

9 So my argument has been that the complaint, on
10 its face alone, is alleging that the sheriff is being
11 sued in his official capacity, acting within the course
12 and scope of his employment, i.e., his official duties
13 as the sheriff. And thus the two year statute of
14 limitations inherent to the tort claims act is
15 applicable.

16 There are no allegations in the complaint
17 specifically stating that the sheriff was acting at any
18 time outside of the scope of his official duties.
19 There are no allegations specific to the complaint that
20 either of the deputies were acting outside of the scope
21 of their official duties.

22 Nonetheless, at the last hearing discussion
23 began with Mr. Elrod where we were discussing
24 affidavits and incident reports, things outside of the
25 pleadings. The rule, I believe it's rule 12(c), motion

1 for judgment on the pleadings, if the Court is to
2 consider or if matters are brought up in the hearing
3 outside of the pleadings, then it basically converts to
4 a motion for summary judgment.

5 Mr. Elrod was not prepared at that time to argue
6 a motion for summary judgment. The Court continued
7 that motion and here we are today.

8 So this is a converted motion for judgment on
9 the pleadings, converted to a motion for summary
10 judgment. I would point out, Your Honor, that we have
11 filed, a long time ago I filed the affidavits two
12 deputies, Deputy Timmons (phonetic), and Deputy McVoy
13 (phonetic). There is an affidavit with each of their
14 incident reports that they authored attached to each
15 affidavit.

16 More recently I filed an affidavit from Sheriff
17 Dewitt. All three are consistent in that they state
18 that each of the three were at all times acting within
19 the course and scope of their official duties as
20 sheriff and as deputies, deputy sheriffs of the
21 Berkeley County Sheriff's Office.

22 So it is our position that there is no genuine
23 fact, material fact in evidence in this case. There is
24 nothing on the record to prove that these three
25 individuals were acting in any other capacity than in

1 their official duties as sheriff and sheriff's deputies
2 in this case.

3 As such, the tort claims act establishes the two
4 year statute of limitations. And plaintiff's action is
5 time barred as a result because it was filed more than
6 two years, almost three years after the incidents at
7 issue.

8 THE COURT: What was the date it was filed?

9 MR. COOPER: December 16th, 2010.

10 THE COURT: Okay.

11 MR. COOPER: Last evening I was provided, and I
12 understand the Court was as well, a memorandum opposing
13 the summary judgment argument. I have discussed this
14 with Mr. Derek, and I think we have both agreed that
15 that is the issue before the Court; is whether based on
16 the record there is evidence to support the plaintiff's
17 contention that these individuals were acting outside
18 of the course and scope of their official duties.

19 THE COURT: Okay.

20 MR. COOPER: I would just point out that the two
21 cases cited by and provided to the Court, the McCall
22 case and the Allen case, both provided by the
23 plaintiffs in support of their motion, one of those,
24 the Allen case, preceded the tort claims act by about
25 five years. And that the McCall case, actually both

1 Allen and McCall, the Court upheld the lower court's
2 ruling that the actions were time barred against
3 sheriffs and sheriff's deputies.

4 THE COURT: Okay.

5 MR. DEREK: Your Honor, I think that defendants'
6 counsel has encapsulated the issue that we are facing
7 here; is whether or not it's a three year statute of
8 limitation or two year statute of limitations.

9 I disagree with the defendants' counsel in that
10 there certainly is a genuine issue of material fact as
11 to whether or not the sheriff's department was acting
12 within the scope of their official duties at the time.

13 THE COURT: How so? They got called out.

14 MR. DEREK: The issue that was surrounding the
15 call-out was a civil dispute between Comcast and Mr.
16 Elrod.

17 THE COURT: Yeah, but they were asked to escort
18 these people on because they were worried about their
19 safety. It might have been they weren't investigating
20 a crime, but they were still acting in their capacity
21 as sheriff's deputies, correct?

22 MR. DEREK: I think that they were definitely
23 acting in their capacity as sheriff's deputies, but I
24 don't know if the actions of settling a civil dispute
25 on private property encapsulates whether or not they

1 were acting in their official duties.

2 Is it an official duty for an officer to
3 intervene with a civil dispute. And in their police
4 reports that both the deputies put forward, in those
5 report themselves it states that it was a civil matter
6 that they were out on call for.

7 THE COURT: Yeah, but sheriff's deputies can go
8 and respond to civil disputes, get involved in things
9 like that and still be acting within the scope of their
10 official duties.

11 Do you understand, if you prevail on this you
12 don't get to sue the county anymore, you are just suing
13 these people as individuals?

14 MR. DEREK: I understand that, Your Honor.

15 THE COURT: Usually -- okay. You really don't
16 have much of a choice to argue otherwise, I suppose,
17 because of the statute of limitations.

18 MR. DEREK: I would just raise the issue again
19 that whether or not the police responding to a civil
20 call is in their official duties would be a question
21 for the jury and not a question for today.

22 Thank you, Your Honor.

23 THE COURT: All right.

24 MR. COOPER: Your Honor, if I could briefly
25 respond. I'm looking at the two incident reports that

1 are -- that Mr. Derek is referencing. I guess in
2 essence the dispute between Mr. Elrod and Comcast, and
3 I don't think we need to get involved with what that
4 was, but basically it was a verbal agreement that
5 Comcast had, or its predecessor had, with Mr. Elrod to
6 have a box on the utility pole on his property. And he
7 had been receiving cable for 20-some-odd years for free
8 because of it.

9 And some channels got switched off. And there
10 was a dispute between Mr. Elrod and Comcast.

11 Now as Judge Jefferson pointed out, Mr. Elrod
12 why don't you sue Comcast, sounds like a dispute
13 between you and them. And it is my understanding that
14 he did so in Charleston County and that case was
15 settled. I'm not familiar with the settlement.

16 But the report by Deputy McVoy states, and I
17 will quote, Deputy informed the suspect, in this case
18 that's Mr. Elrod, that the verbal agreement between him
19 and Comcast was a civil matter. And that the only
20 reason deputies were on scene was because of the
21 threats that he had made towards Comcast workers
22 earlier.

23 So there is reference to a civil matter, but the
24 deputy points out that whatever agreement Comcast had
25 with Mr. Elrod, that that's not for them to decide.

1 They were there at the request initially of Mr. Elrod
2 because of suspected trespassing. And then
3 subsequently at the request of Comcast on two separate
4 occasions, the 10th and the 15th, because of threats to
5 their safety.

6 And obviously I think everyone is aware that one
7 of the first duties of a deputy, or of any law
8 enforcement officer, is to protect and serve. And in
9 that respect, I think it's very clear throughout the
10 record that both deputies and the sheriff were doing
11 their best to keep any sort of physical confrontation
12 from occurring and that was it.

13 They didn't get involved with the agreement
14 between Comcast and Mr. Elrod. They were simply there
15 on site to make sure that the earlier threats of
16 violence did not come to bear.

17 MR. DEREK: Your Honor, I would disagree with
18 that position. I think that they certainly were there
19 trying to settle the civil matter. Whether or not
20 there were threats made by Mr. Elrod would also be a
21 question for the jury.

22 And I think they were there escorting Comcast on
23 to private property to allow Comcast to make money on
24 the service to 20 or 30 or 40 or 50 different houses
25 that that box was servicing.

1 THE COURT: Didn't you allege that in the
2 complaint, that they were acting in their capacity,
3 official capacity?

4 MR. DEREK: He did allege in the complaint
5 official capacity.

6 THE COURT: Okay. Well why isn't that
7 dispositive?

8 MR. DEREK: I believe once we take the
9 affidavits and other evidence outside of the complaint
10 and the motion for summary judgment, that it raises a
11 genuine issue of material fact as to whether or not
12 they were acting within the scope of their official
13 duties while under their official capacity.

14 THE COURT: All right. Well it's pretty clear.
15 I think the evidence is uncontroverted based on what I
16 have heard and the affidavits that have been submitted,
17 that at all times they were acting within their
18 official capacity.

19 Even if they were responding to a call that
20 involved a civil matter between those two, they were
21 always called out because they work for the sheriff's
22 office, and they were sheriff's deputies and they were
23 responding to a request to assist by a customer that
24 was -- or an employee who was going out to work.

25 Now the fact that those folks might have had

1 some sort of dispute between the two of them and it
2 might have been civil in nature, doesn't mean that that
3 converts whatever the Berkeley County Sheriff's
4 officers were doing when they were responding to a call
5 to assist.

6 I think that just stretches the definition of
7 acting outside of your course of official duties beyond
8 its intended meaning. So I think the defendant's
9 motion for summary judgment should be granted. And
10 give me a chance to, if you would, prepare an order and
11 send that to me and send it to opposing counsel. Send
12 it to the Charleston office.

13 MR. COOPER: Thank you, Your Honor.

14 THE COURT: All right.

15 MR. DEREK: Your Honor, is that the sheriff
16 himself personally as well? Or is that just the
17 Sheriff's Department?

18 THE COURT: Yes. Well technically you sued the
19 sheriff because they were the head of the Sheriff's
20 Department. It doesn't even say on here that he
21 was sued individually. But to the extent that he was
22 sued individually, he was not acting outside the scope
23 of his authority, to the extent that he was sued in his
24 capacity as the sheriff, and that's the proper party to
25 name when you are suing the Sheriff's Department,

1 you're entitled to summary judgment because it's
2 outside the statute of limitations.

3 Either way he wins.

4 MR. DEREK: Thank you, Your Honor.

5 (Whereupon, the proceedings in this matter
6 before the Court were adjourned.)

7 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER,
Official Court Reporter for the Ninth Judicial
Circuit of the State of South Carolina, do hereby
certify that the foregoing is a true, accurate, and
complete transcript of record, and of all the
proceedings had and evidence introduced in the above
captioned case, relative to appeal, in the Circuit
Court for South Carolina, on the indicated date.

I do further certify that I am neither
of kin, counsel, nor interest to any party hereto.

--- Anne Bouley Meyer ---

Anne Bouley Meyer, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
L.G. Elrod,	)	C/A No. 10-CP-08-4453
	)	
	)	
Plaintiff,	)	
	)	
Versus	)	
	)	
Berkeley County, Berkeley County Sheriff's	)	
Department, and H. Wayne Dewitt,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF
RANDAL TIMMONS**

FILED
2011 APR 21 PM 2:11
CLERK OF COURT
BERKELEY COUNTY, SC

PERSONALLY APPEARED before me, Randal Timmons, who, being duly sworn,
deposes and says as follows:

1. My name is Randal Timmons. Although I am currently employed with the Moncks Corner Police Department, I was employed with Berkeley County Sheriff's Department for approximately seven years. I was an employee of Berkeley County Sheriff's Department in January, 2008, during the timeframe of the events alleged in Plaintiff's Complaint.

2. I am familiar with the facts of this case and have reviewed the Complaint filed by the Plaintiff. I authored two Incident Reports relative to my interactions with Plaintiff. (both attached).

3. On January 10, 2008, at approximately 12 pm, I was dispatched to Elrod Drive in response to a call received from Plaintiff about his not wanting Comcast employees on his property. Apparently, Plaintiff, or someone at his direction, had disabled service to the Comcast server box located on the utility pole located at the corner of his property.

4. Restoration of service was of high importance due to the fact that, in addition to numerous households' loss of cable television and internet, telephone service had also been disabled which included access to emergency services such as 9-1-1.

5. When Comcast employees approached the property to work on the server box, Plaintiff became belligerent and stated that if we arrested him "we would have problems." Rather than provoke the Plaintiff further and have the situation escalate, I convinced Comcast to attempt to come back a later date. (See Incident Report #1 for further details).

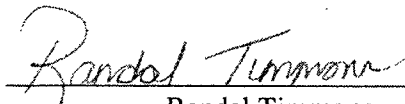
6. Five days later, on January 15, 2008, two other officers and myself again responded to Plaintiff's address in reference to a request by Comcast Cable to have officers on scene as Comcast placed a lock on its server box disconnect so that it could not be disabled again. (See Incident Report #2 for further details).

7. I stand behind each and every additional detail of my attached Incident Reports.

8. At all times relative to my interaction with the Plaintiff, and which is the subject of his Complaint, I was acting as an employee of the Berkeley County Sheriff's Department and within the scope of my official duties as a Berkeley County Sheriff's Deputy.

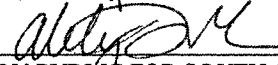
9. At no time did I act in a grossly negligent manner towards Plaintiff, nor did I act or fail to act in such a manner as to violate his constitutional rights.

WHEREFORE AFFIANT SAYETH NOT!


Randal Timmons

SWORN TO BEFORE THIS

21 day of April, 2011.


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 06/2015

Incident Report #1

(January 10, 2008)

AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

MCIC

200801001318

NO. N
EXT. N

EVENT		INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. INFORMATION (INF)		RECD JAN 14 2008		☐ YES ☒ NO	☐ YES ☒ NO			Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Org. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Of.
2.		CHGO JAN 17 2008		☐ YES ☒ NO	☐ YES ☒ NO			
3.				☐ YES ☒ NO	☐ YES ☒ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)							ZIP CODE	WEAPON TYPE
233 ELROD DRIVE, GOOSE CREEK							29445	
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME IN HR. CLOCK	DISPATCH TIME	LOCATION NO.	
01/10/2008	10:00		01/10/2008	11:00	01/10/08 11:13	12:13	4/235	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE SEX AGE	ETH.	DAYTIME PHONE
ELROD, LG.					☒ S ☐ O ☐ U	W M 71	N	(843) 553-4669
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.	
307 ELROD DR			GOOSE CREEK		SC	29445		
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE SEX AGE	ETH.	DAYTIME PHONE
ELROD, LG.					☒ S ☐ O ☐ U	W M 71	N	(843) 553-4669
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
		GRY						
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.	
307 ELROD DR			GOOSE CREEK		SC	29445		
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN — COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO								
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE:								
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ *J — This Jurisdiction. S — State. O — Out of State. U — Unknown								
☐ SUSPECT		NAME (LAST, FIRST, MIDDLE)			RACE	SEX	AGE	ETH.
☐ RUNAWAY								
☐ WANTED		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
☐ WARRANT		ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.
☐ ARREST								
☐ JAIL		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE:			APPROVED NEAR OFFENSE SCENE ☐ YES ☒ NO ☐ DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
☐ SURMONS		TOTAL # ARRESTED						
ON 01/10/2008 DEPUTY RESPONDED TO THE ABOVE LOCATION IN REFERENCE TO COMPLAINANT NOT WANTING COMCAST ON HIS PROPERTY OR CONDUCTING SERVICES ON THEIR SERVER BOX LOCATED ON POWER POLE ON THE CORNER OF HIS RESIDENCE. UPON ARRIVAL COMPLAINANT HAD HIS VEHICLE PARKED IN FRONT OF THE POLE AND WAS SEATED ON THE TAILGATE. DEPUTY SPOKE WITH MR ELROD WHO WAS VERY DISTURBED AND ADAMANT THAT COMCAST WAS NOT GOING TO CONDUCT SERVICES. DEPUTY ASKED COMPLAINANT IF COMCAST COULD PARK THEIR WORK TRUCK ON THE ROADWAY, EXTEND THEIR BUCKET TO THE POLE AND CONDUCT SERVICES IN THE PRESENCE OF OFFICERS ON SCENE AND ELROD AGREED. UPON HAVING COMCAST APPROACH THE RESIDENCE ELROD QUICKLY DECLINED THE AGREEMENT. THE COMPLAINANT BECAME BELLIGERENT AND STATED THAT, "IF WE ARRESTED HIM WE WOULD HAVE PROBLEMS. " AT THAT TIME DEPUTY CONVINCED COMCAST TO ATTEMPT TO COME BACK AT A LATER DATE. NOTHING FURTHER AT THIS TIME.								
JURISDICTION OF TRAFFIC LAW ENFORCEMENT AGENCY					JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
TYPE (GROUP)								TOTAL VALUE
STOLEN								
DAMAGED								
BURNED								
RECOVERED								
SEIZED								
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED ☐		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER ☐		EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER ☐
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINED COOPERATION. 5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
TIMMONS, RANDAL		01/10/08		124	DREW, CASSANDRA		01/11/08	
THOMAS, TABATHA		01/10/08		159	FOLLOW-UP INVESTIGATION ☐ YES ☒ NO ☐ OFFICER			

AGENCY I.D.
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

200801001318

NCIC

NO. ENTD.
N N

☐ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 1 PAGES

REFERENCE: INFORMATION REPORT

VICTIM: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER TIMMONS IS INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED
☐ YES ☒ NO

SUBJECT LOCATED
☐ YES ☒ NO

☒ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER

DATE

UNIT
NUMBER

WADFORD, GRESHA

01/17/08

BLANCHARD, MELISSA

01/17/08

8

THOMAS, TABATHA

01/10/08

159

FOLLOW-UP
INVESTIGATION

☐ YES ☒ NO

OFFICER

Incident Report #2

(January 15, 2008)

AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

200801092023

NCIC

INQ. N
EXTD. N

EVENT	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
	1. INFORMATION ONLY (INF)		☒ YES ☐ NO	☐ YES ☐ NO	Highway/Road/Alle		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc. Profile ☐ Other ☐ Unknown ☐ Police Off.	
	2. REC'D JAN 18 2008		☐ YES ☐ NO	☐ YES ☐ NO				
	3.		☐ YES ☐ NO	☐ YES ☐ NO				
VICTIM NO. 1	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE	WEAPON TYPE	
	233 ELROD DRIVE, GOOSE CREEK					29445		
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME	24 HR. CLOCK	LOCATION NO.
	01/15/2008	13:30		01/15/2008	14:30	01/15/08	14:35	4/235
SUBJECT NO. 1	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
	CANNON, DAVID, MICHAEL		1 2 3		☒ J S O U	W	M	39
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
	113 ELAINE STREET		GOOSE CREEK		SC	29445	4/235	
SUBJECT NO. 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
	COMCAST CABLE		1 2 3		☒ J S O U			
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
	4400 BELLE OAKES DRIVE		N.CHARLESTON		SC	29405	STATE	
NARRATIVE	VISIBLE INJURY (MCT. 1) ☐ YES ☒ NO EXPLAIN — COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE: TWO-MAN VEN. ☐ ONE-MAN VEN. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J — This Jurisdiction, S — State, O — Out of State, U — Unknown							
	SUSPECT NAME (LAST, FIRST, MIDDLE) ELROD, LOUIE, G RACE W SEX M AGE 71 ETH. N DATE OF BIRTH 12/06/36 HEIGHT 509 WEIGHT 176 HAIR GRY EYES BRO FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. ADDRESS 307 ELROD DR CITY GOOSE CREEK STATE SC ZIP CODE 29445 LOCATION NO. 4/235 SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO DATE/TIME OF OFFENSE DATE/TIME OF ARREST DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE: TOTAL # ARRESTED							
	ON 01/15/2008 LT. MCELVOGUE, PFC. COLLINS AND THIS DEPUTY RESPONDED TO 233 ELROD DRIVE IN REFERENCE TO A CIVIL MATTER. COMCAST CABLE CONTACTED THE BERKELEY COUNTY SHERIFF'S OFFICE FOR OFFICERS TO STANDBY AT PEARL AND ELROD DRIVE IN REFERENCE TO SERVICES THAT NEEDED TO BE CONDUCTED FOR THEIR COMPANY. LT. MCELVOGUE ADVISED MR. ELROD THAT COMCAST CABLE WAS THERE TO PUT A LOCK ON THEIR DISCONNECT SWITCH DUE TO THE FACT THAT NOBODY WILL BE ABLE TO CUT SERVICES OFF AND WAS NOT GOING TO REMOVE ANY EQUIPMENT. MR. ELROD ADVISED LT. MCELVOGUE THAT HE WANTED TO GO AND GET HIS CAM CORDER SO HE COULD DO A VIDEO OF THE WORK BEING DONE WHICH HE DID. MR. ELROD & JERRY WILLIAMS CAME ON SCENE BUT DID NOT GET INVOLVED COMCAST CABLE COMPLETED THEIR WORK AND LEFT THE SCENE. LT. MCELVOGUE ADVISED MR. ELROD FOR HIM NOT TO TOUCH COMCAST CABLES EQUIPMENT.							
	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY							
PROPERTY EST.	TYPE (GROUP)		STOLEN		DAMAGED		BURNED	
ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED UNDER 18	
							☐ EX-CLEAR UNDER 18	
							☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH, 2. ☐ NO PROSECUTION, 3. ☐ EXTRADITION DENIED, 4. ☐ VICTIM DECLINES COOPERATION, 5. ☐ JUVENILE - NO CUSTODY				REPORTING OFFICER(S)				DATE
TIMMONS, RANDAL				01/15/08				UNIT NUMBER
				124				SGT. DREW
								OFFICER
								70

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiff,

Versus

Berkeley County, Berkeley County Sheriff's
Department, and H. Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

)

) NINTH JUDICIAL CIRCUIT

)

) C/A No. 10-CP-08-4453

)

)

)

)

)

)

)

)

)

**AFFIDAVIT OF
CLIFFORD C. McELVOGUE**

FILED
2011 APR 21 PM 2:12
CLERK OF COURT
BERKELEY COUNTY, SC

PERSONALLY APPEARED before me, Clifford C. McElvogue, who, being duly sworn,

deposes and says as follows:

1. My name is Clifford C. McElvogue. Although I am currently serving with the National Guard, I have been employed with the Berkeley County Sheriff's Department for approximately seven and one-half years.

2. I am familiar with the facts of this case and have reviewed the Complaint filed by the Plaintiff. I authored an Incident Report relative to my interactions with Plaintiff. (attached)

3. On January 10, 2008, at approximately 9 pm, I was dispatched to meet with a representative from Comcast Cable in reference to their request for an escort to 224 Elrod Drive in order to restore service to their equipment which had apparently been disabled by Plaintiff.

4. Restoration of service was of high importance due to the fact that, in addition to numerous households' loss of cable television and internet, telephone service had also been disabled which included access to emergency services such as 9-1-1.

5. It is my understanding that Plaintiff had threatened Comcast employees earlier that day, during their attempts to restore service to Comcast equipment, that he would "do whatever it takes" to prevent anyone from trespassing onto his property. Apparently, the utility pole at issue is located on Plaintiff's property, approximately 5 to 6 feet from the public roadway.

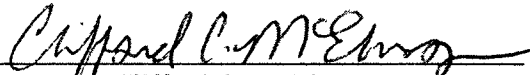
6. Although Plaintiff arrived on scene and confronted myself and the Comcast employees, service was eventually restored. Plaintiff advised myself and those around me that when we left, service would again be disrupted. I advised Plaintiff that further vandalizing property that was not his could result in criminal charges. Plaintiff stated that he "did not care if he went to jail."

7. I stand behind each and every additional detail of my attached Incident Report.

8. At all times relative to my interaction with the Plaintiff, and which is the subject of his Complaint, I was acting as an employee of the Berkeley County Sheriff's Department and within the scope of my official duties as a Berkeley County Sheriff's Deputy.

9. At no time did I act in a grossly negligent manner towards Plaintiff, nor did I act or fail to act in such a manner as to violate his constitutional rights.

WHEREFORE AFFIANT SAYETH NOT!


Clifford C. McElvogue

SWORN TO BEFORE THIS

21 day of April, 2011.


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 06/2015

AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

200801001385

NO. 1

N N

EVENT		INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. INFORMATION ONLY (INF)				☐ YES ☒ NO	☐ YES ☒ NO	Residences/Homes		☐ Business ☐ Financial Inst. ☐ Government ☐ Relg. Org. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2.				☐ YES ☒ NO	☐ YES ☒ NO			
3.				☐ YES ☒ NO	☐ YES ☒ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)							ZIP CODE	WEAPON TYPE
233 ELROD DRIVE, GOOSE CREEK							29445	
INCIDENT DATE		24 HR. CLOCK		DATE		24 HR. CLOCK		LOCATION NO.
01/10/2008		11:00		01/10/2008		20:58		4/235
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE	SEX	AGE
MCKEOWN, JONATHAN.				☒ YES ☐ NO		W	M	32
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.
4400 BELLE OAKES		N.CHARLESTON		SC		29418		S
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE	SEX	AGE
COMCAST CABLE,				☒ YES ☐ NO		J	S	U
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.
4400 BELLE OAKES DRIVE		N.CHARLESTON		SC		29405		S
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO ☐ EXPLAIN -								
COMPLAINANT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO								
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE:								
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DEFECTIVE/EXP. ASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ *J - This Jurisdiction. S - State. O - Out of State. U - Unknown								
SUBJECT		NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE	ETH.	DATE OF BIRTH
☐ RUNAWAY		ELROD, LOUIE. G		W	M	71	N	12/06/36
☐ WANTED		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
☐ WARRANT								
☐ ARREST		ADDRESS		CITY		STATE		ZIP CODE
☐ JAIL		307 ELROD DR		GOOSE CREEK		SC		29445
☐ BARRIERS		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK ☐ DRUGS: ☐ YES ☒ NO ☐ UNK ☐ TYPE:		APPROVED NEAR OFFENSE SCENE ☐ YES ☒ NO ☐ DATE/TIME OF OFFENSE		DATE/TIME OF ARREST		
		TOTAL # ARRESTED						
ON 1/10/08 THIS DEPUTY WAS DISPATCHED TO THE BALL FIELD ON LUCY DRIVE TO MEET WITH COMCAST CABLE IN REFERENCE TO GIVING THE COMPLAINANT A ESCORT TO 224 ELROD DRIVE IN ORDER TO CONDUCT SERVICE TO THEIR CABLE BOX. THE COMPLAINANT REQUESTED A ESCORT DUE TO THE SUSPECT MAKING THE COMMENT THAT HE WOULD DO WHATEVER IT TAKES TO PREVENT ANYONE FROM TRESPASSING ON HIS PROPERTY. THIS DEPUTY, PFC SAUNDERS, THE COMPLAINANT AND SEVERAL WORKERS FROM COMCAST ARRIVED ON SCENE, THE COMPLAINANT QUICKLY USED HIS BUCKET TRUCK AND EXTENDED TO THE POLL TO ATTEMPT TO RESTORE SERVICE TO SEVERAL FAMILIES THAT WERE OUT CABLE, INTERNET, AND PHONE SERVICE. WHILE THE COMPLAINANT WAS WORKING ON THE BOX DEPUTY OBSERVED THE POLE BEING APPROXIMATELY 5 TO 6 FEET IN THE GRASS FROM THE HIGHWAY. THE COMPLAINANT OBSERVED THE SUSPECT DRIVING UP IN HIS TRUCK, THE COMPLAINANT THEN LOWERED HIS BUCKET TO PREVENT A CONFRONTATION WITH THE SUPSECT. THE								
JURISDICTION OF FIRST LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE (GROUP)				TOTAL VALUE				
STOLEN								
DAMAGED								
BURNED								
RECOVERED								
SEIZED								
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED ☐		APPROVED UNDER 18 ☐ APPEARS - NO CUSTODY ☐		
☒ YES ☐ NO ☐		☒ YES ☐ NO ☐		☐ UNFOUNDED		☐ APPEARS - NO CUSTODY		
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ APPEARS - NO CUSTODY								
REPORTING OFFICER'S		DATE		UNIT NUMBER		APPROVING OFFICER		DATE
MCELVOGUE, CLIFFORD		01/11/08		C115		GEIGER, JAMES		01/11/08
FOLLOW-UP INVESTIGATION		☐ YES ☒ NO ☐		OFFICER				

Certified True Record for This County
BERKELEY COUNTY, SC
Date: 2-17-11
Berkeley County Sheriff's Office

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 8 5

NCIC

INQ. ENFD.
N N

☒ ORIGINAL REPORT ☐ MODIFIED ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	PAGE 2 OF 2 PAGES
---	--	---	--	---	-------------------

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINTANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			IDENTITY	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #											
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY											
	☐ WANTED											
	☐ WARRANT											
	☐ ARREST											
	☐ JAIL											
	☐ SUMMONS											
	☐											

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINTANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			IDENTITY	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #											
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY											
	☐ WANTED											
	☐ WARRANT											
	☐ ARREST											
	☐ JAIL											
	☐ SUMMONS											
	☐											

NARRATIVE	COMPLAINANT WAS CONCERNED ABOUT THE SUSPECTS ACTIONS DUE TO A PRIOR INCIDENT WITH HIS											
	WORKERS EARLIER THAT DAY. THIS DEPUTY ADVISED THE COMPLAINANT TO CONTINUE WORKING ON THE											
	CABLE BOX DUE TO SEVERAL FAMILIES WOULD NOT BE ABLE TO CALL 911 IF THEY HAD A EMERGENCY. THE											
	SUSPECT ARRIVED AT THE LIGHT POLE AND JUMPED OUT OF HIS TRUCK HOLDING A CAM CORDER, THE SUSPECT											
	WALKED UP TO DEPUTY AND GOT APPROXIMATELY 2 INCHES FROM DEPUTIES FACE AND STARTED RECORDING.											
	THIS DEPUTY ADVISED THE SUSPECT TO STEP BACK OUT OF DEPUTIES FACE, THE SUSPECT PROCEEDED TO											
	GET CLOSER TO DEPUTY WITH THE RECORDER. THIS DEPUTY USED A OPEN HAND AND PUSHED THE CAMERA											
	OUT OF DEPUTIES FACE, INFORMING HIM THAT HE COULD RECORD AT A DISTANCE BUT NOT IN DEPUTIES FACE.											

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE						
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.		STATE			
	☐ FOUND	☐ BOAT	YEAR OF REGISTRATION		YEAR OF EXPIRATION		YEAR MAKE TYPE	
	☐ TOWED	☐ LICENSE PLATE	MODEL		STYLE		COLOR BRAND NAME CALIBER	
	☐ SUSPECT	☐ SECURITIES/BOWNS, STOCKS	MIC NO.		DENOMINATION		ISSUER SECURITIES DATE	
	☐ VICTIM	☐ ARTICLE	MISCELLANEOUS					

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)							TOTAL VALUE
	STOLEN							
	DAMAGED							
	BURNED							
	RECOVERED							
	SEIZED							
	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADJ. CLOSED	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ APPREHENDED UNDER 18	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER	
MCELVOGUE, CLIFFORD		01/11/08		C115		GEIGER, JAMES		

FOLLOW-UP INVESTIGATION		OFFICER	
☐ YES ☒ NO			

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 8 5

NCIC

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☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY
PAGE 3 OF 3 PAGES			

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)										VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #											#1	#2	#3						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
	☐ RUNAWAY																			
	☐ WANTED	ADDRESS																		
	☐ WARRANT	CITY																		
	☐ ARREST	STATE																		
	☐ JAIL	ZIP CODE																		
	☐ SUMMONS	LOCATION NO.																		
	☐	DAY PHONE																		
VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)										VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #											#1	#2	#3						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
	☐ RUNAWAY																			
	☐ WANTED	ADDRESS																		
	☐ WARRANT	CITY																		
	☐ ARREST	STATE																		
	☐ JAIL	ZIP CODE																		
	☐ SUMMONS	LOCATION NO.																		
	☐	DAY PHONE																		

THE SUSPECT BECAME ANGRY AND ADAMANT THAT COMCAST WAS NOT GOING TO TURN THE CABLE BACK ON.

AFTER SPEAKING WITH THE COMPLAINANT THE COMPLAINANT INFORMED DEPUTY THAT THE SUSPECT HAD BEEN AND STILL IS RECEIVING FREE CABLE FROM COMCAST BECAUSE THEY HAD THEIR BOX ON A BERKELEY ELECTRIC POLE ON HIS PROPERTY. DEPUTY CONFRONTED THE SUSPECT ABOUT THE DEAL BETWEEN HIM AND COMCAST. THE SUSPECT STATED THAT WHAT THE COMPLAINANT STATED WAS TRUE, THE SUSPECT STATED THAT COMCAST REMOVED TWO CHANNELS FROM HIS PLAN AND HE STATED THAT WAS A BREACH OF CONTRACT. DEPUTY INFORMED THE SUSPECT THAT THE VERBAL AGREEMENT BETWEEN HIM AND COMCAST WAS A CIVIL MATTER AND THE ONLY REASON DEPUTIES WERE ON SCENE WAS BECAUSE OF THE THREATS THAT

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
STATUS	TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
☐ STOLEN	☐ VEHICLE				
☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.		STATE	
☐ FOUND	☐ BOAT	YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
☐ TOWED	☐ LICENSE PLATE	MODEL		STYLE	COLOR
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	NIC NO.		DENOMINATION	ISSUER
☐ VICTIM	☐ ARTICLE	MISCELLANEOUS		SECURITIES DATE	

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)					TOTAL VALUE
	STOLEN					
	DAMAGED					
	BURNED					
	RECOVERED					
	SEIZED					
	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ ADJ. CLOSED	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY					
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
MCELVOGUE, CLIFFORD	01/11/08	C115	GEIGER, JAMES	01/11/08		
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO						

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 8 5

NCIC

NO. EXT.
N N

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 4 OF 4 PAGES
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ SUBJECT #	ADDRESS										
	☐ RUNAWAY	CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE					
☐ WANTED	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASHT. ☐ ALONE					
☐ WARRANT	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
☐ ARREST	☐ SUBJECT NO. _____ USING ALCOHOL: ☐ NO ☐ YES											
☐ JAIL	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK.											
☐ SUMMONS												

HE MADE TOWARDS COMCAST WORKERS EARLIER. THE COMPLAINANT INFORMED DEPUTY THAT SERVICE WAS RESTORED AND THEY WERE DONE. MR. ELROD BECAME ANGRY AGAIN YELLING WHEN YOU LEAVE THAT CABLE WILL BE OFF AGAIN NO MATTER WHAT I HAVE TO DO. DEPUTY ADVISED THE SUSPECT THAT IF HE VANDALIZED PROPERTY THAT WASN'T HIS HE COULD BE CHARGED. THE SUSPECT YELLED BACK AT DEPUTY STATING THAT HE DIDN'T CARE IF HE WENT TO JAIL BECAUSE THAT WAS HIS POLE. DEPUTY, AND COMCAST CREW LEFT THE SCENE WITHOUT FURTHER INCIDENT. THE COMPLAINANT STATED THAT HE WOULD ADVISE HIS VICE PRESIDENT OF THE INCIDENT AND LET THEM HANDLE IT

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
---	--	--	--

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE	SERIAL AND/OR OWNER APPLIED NO.		STATE	
	☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
	☐ FOUND	☐ BOAT	MODEL		STYLE	COLOR
	☐ TONED	☐ LICENSE PLATE	NHC NO.		DENOMINATION	ISSUER
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS			SECURITIES DATE	
	☐ VICTIM	☐ ARTICLE	MISCELLANEOUS			

TYPE GROUP						TOTAL VALUE
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES	☐ NO	☒ YES	☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ AMENABLE - NO CUSTODY						
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
MC ELVOGUE, CLIFFORD	01/11/08	C115	GEIGER, JAMES	01/11/08		
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO			OFFICER			

AGENCY I.D.
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

200801001385

NOIC

NO. ENTD.
N N

☐ ORIGINAL
REPORT
☐ WORKING
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 1 PAGES

REFERENCE: INFORMATION REPORT

SUSPECT: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER CC MCELVOGUE INCORRECT. THE
CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT
LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED
☒ YES ☐ NO

SUBJECT LOCATED
☒ YES ☐ NO

☒ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)

DATE
01/17/08

UNIT
NUMBER

APPROVING OFFICER

DATE
01/17/08

UNIT
NUMBER
8

WADFORD, GRESHA

BLANCHARD, MELISSA

FOLLOW-UP
INVESTIGATION ☐ YES ☒ NO OFFICER

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO.: 2010-CP-08-4453
L.G. ELROD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	AFFIDAVIT OF
	)	JERRY R. WILLIAMS
BERKELEY COUNTY SHERIFF'S	)	
DEPARTMENT and H. WAYNE	)	
DEWITT,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, Jerry R. Williams, being first duly sworn, deposes and says that:

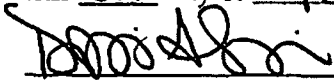
1. The contents of this statement are true and stated under the penalty of perjury.
2. I make these statements based on my own personal knowledge.
3. On January 10, 2008, my dad, L.G. Elrod, and I posted a "no trespassing" sign on his property at 233 Elrod Dr., Goose Creek, South Carolina.
4. On January 10, 2008, after we posted the "no trespassing sign," I witnessed the Berkeley County Sheriff's Department restrain L.G. Elrod, without a court order, in order to allow Comcast Cable Company to trespass and work on his private property.
5. On January 15, 2008, I again witnessed the Berkeley County Sheriff's Department restrain L.G. Elrod, without a court order, in order to allow Comcast Cable Company to trespass and work on his private property.

[Signature block on following page.]

This 21 day of April 2012.


Jerry R. Williams

Sworn to and subscribed before me,
this 21 day of April 2012.


Notary Public for South Carolina
My Commission Expires: 6/03/2017

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

) THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 2010-CP-08-4453

L.G. ELROD,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S
DEPARTMENT and H. WAYNE
DEWITT,

Defendants.

AFFIDAVIT OF L.G. ELROD

PERSONALLY APPEARED before me, L.G. Elrod, being first duly sworn,
deposes and says that:

1. The contents of this statement are true and stated under the penalty of perjury.
2. I make these statements based on my own personal knowledge.
3. In early January 1991, Storer Cable put a box on my private property at 233 Elrod Dr., Goose Creek, South Carolina to service about 15 to 20 customers in the area.
4. When I discovered this, I informed them that they were not allowed to use the property, as they didn't have an easement or permission.
5. On January 9, 1991, the company offered to provide television service at my home at 307 Elrod Dr., Goose Creek, South Carolina in exchange for the use of my property at 233 Elrod Dr., Goose Creek, South Carolina, and I agreed.

6. Years later, Comcast bought Storer Cable and continued to use the property, and I continued to receive television in exchange for the use of my property.

7. In December 2007, some of my channels began to turn off, and I called Comcast to let them know the situation.

8. The customer service lady informed me that all of my channels were being turned off, and when I told her of our agreement, she said I needed to speak with Mr. Anthony Douglas who was out of town for a week.

9. When I spoke to Mr. Douglas, he told me that I wasn't going to be getting "free" television service anymore, and I told him that my service was not "free." The service was provided for me in exchange for the use of my property, and through that use, Comcast was able to provide service to 15 to 20 customers and was making money by doing so.

10. He said they were going to remove the box when they decided where to reroute the lines.

11. I told him he needed to leave my service on as long as they used my private property, and he wouldn't agree.

12. At the end of our conversation, I informed him that if they didn't turn my service back on they were in breach of the agreement and couldn't use my private property any longer.

13. More importantly, I was going to turn the service off on the box, and they wouldn't be able to access the box to turn the service back on.

14. On January 10, 2008, my son, Jerry Williams, helped me put a "No Trespassing" sign by the pole that the cable box was on, and I wrote Comcast Cable, my initials, and took pictures.

15. Then, I turned the box off.

16. Later that day, Comcast arrived at the property and tried to get on the property to access the cable box, and I told them they were on trespass notice and couldn't come on the property without a court order.

17. Then, I called Berkeley County Sheriff's Department and told them Comcast was on trespass notice and trying to get on the property

18. I requested a deputy to advise them that they needed a court order to get on the property as it was private property and they had been put on trespass notice.

19. Deputy Randal Timmons came out, talked to them, and asked me to let them on the property. I told him no.

20. Following that conversation, he spoke with Comcast again, and they left.

21. Days later, I learned through his incident report that he told them to come back later instead of telling them that they needed a court order.

22. Later that day (January 10, 2008), 2 squad cars, and several deputies from the Berkeley County Sheriff's Department came out with their lights flashing to assist Comcast.

23. Deputy Clifford McElvogue informed me that this equipment belonged to Comcast, and they were going to work on it. He then told me that if I interfered with Comcast, the Sheriff's Department would "lock me up."

24. The Sheriff's Department restrained me with the threat of jail while Comcast worked on my private property right over the "No Trespassing" sign.

25. I requested Deputy Clifford McElvogue to provide me with the court order authorizing their actions, but I was ignored.

26. When the Sheriff's Department left, Deputy Clifford McElvogue informed me that if I tampered with the Comcast equipment they would come back and "lock me up."

27. After this incident, I called Sheriff H. Wayne DeWitt at his office and asked him for an explanation as to why he sent deputies out to my private property to restrain me on a civil matter without a court order.

28. He informed me that some of the customers had their phone service with Comcast, and when the service was turned off, they could no longer access the 911 service.

29. I told him that this was a civil matter and that the Sheriff's Department should not be involved with civil matters. Moreover, the 911 service had not been interrupted.

30. In addition, when I requested this information, Lieutenant Clifford McElvogue told me that the 911 service had in fact not been interrupted.

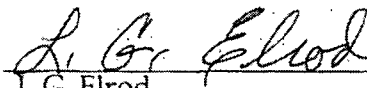
31. On January 14, 2008, Attorney Mary Leigh Arnold faxed a Cease and Desist from any further trespass to Comcast.

32. On January 15, 2008, I turned the box off again as the service to my home had not been restored.

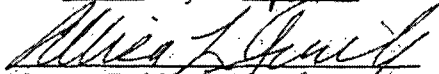
33. And again, Berkeley County Sheriff's Department sent out squad cars and deputies, without a court order, to restrain me while Comcast trespassed and worked on my private property directly above the "No Trespassing" sign.

34. And this time, I was recording with my audio/video camera.

This 24 day of April 2012.


L.G. Elrod

Sworn to and subscribed before me,
this 24th day of April 2012.



Notary Public for South Carolina
My Commission Expires: 4-20-2019

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiffs,

Versus

Berkeley County Sheriff's Department, and H.
Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) C/A No. 10-CP-08-4453

**AFFIDAVIT OF SHERIFF
H. WAYNE DeWITT**

FILED
2012 MAY -4 PM 1:29
CLERK OF COURT
BERKELEY COUNTY, SC

PERSONALLY APPEARED before me, SHERIFF WAYNE DEWITT, who, being duly

sworn, deposes and says as follows:

1. I, Wayne DeWitt, am employed by the Berkeley County Government and am a named Defendant in this case.

2. I was elected Sheriff of Berkeley County in 1994 and continue to hold this position. As the Chief Law Enforcement Officer of Berkeley County, I am responsible for enforcement of County, State and Federal laws.

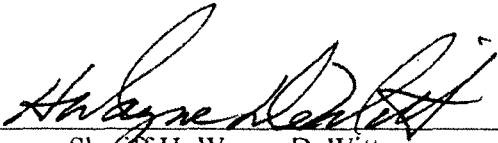
3. I have reviewed the Complaint against me in this case. I have reviewed the Berkeley County Sheriff's Office Incident Reports relative to the Plaintiff's Complaint.

4. Based upon my investigation of the matter, all Berkeley County Sheriff's Deputies who interacted with Plaintiff on January 10 and 15, 2008 were acting in the scope of their official duties as Sheriff's Deputies with the Berkeley County Sheriff's Office. At all times relative to the Plaintiff's Complaint I was acting in the scope of my official duties as Sheriff of Berkeley County.

5. Other than my review of the case materials cited above, I had no personal interaction with Mr. Elrod related to the facts alleged in his Complaint.

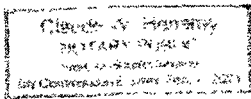
[signature page follows]

WHEREFORE AFFIANT SAYETH NOT.


Sheriff H. Wayne DeWitt

SWORN TO BEFORE THIS
27 day of APRIL, 2012.


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: FEB 4, 2021



STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

L.G. ELROD,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S
DEPARTMENT and H. WAYNE
DEWITT,

Defendants.

) THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 2010-CP-08-4453

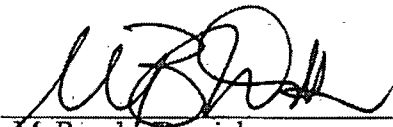
AFFIDAVIT OF M. BROOKS
DERRICK, ATTORNEY FOR
PLAINTIFF

FILED
2012 MAY -9 PM 3:23
MARY P. BRONKH
CLERK OF COURT
BERKELEY COUNTY, SC

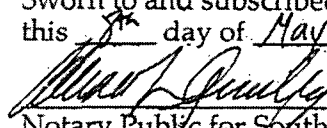
PERSONALLY APPEARED before me, M. Brooks Derrick, being first duly
sworn, deposes and says that:

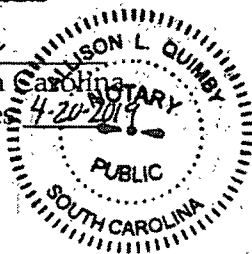
1. The contents of this statement are true and stated under the penalty of perjury.
2. I am the attorney of record for Plaintiff L.G. Elrod.
3. The attached documents are in the possession of the parties.
4. Plaintiff produced the attached documents in response to Defendant First Set of Interrogatories and Requests for Production.

This 8 day of May 2012.


M. Brooks Derrick
Attorney and Counselor for Plaintiff

Sworn to and subscribed before me,
this 8 day of May 2012.


Notary Public for South Carolina
My Commission Expires 4-20-2014



AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

200801091318

NCIC

NO. DATA
N N

EVENT	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPIC VICTIM		
	1. INFORMATION (INF)		☐ YES ☒ NO	☐ YES ☒ NO			☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Rail, Corp. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.		
	2.		☐ YES ☒ NO	☐ YES ☒ NO					
	3.		☐ YES ☒ NO	☐ YES ☒ NO					
VICTIM NO. 1	INCIDENT LOCATION (BUILDING, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE	WEAPON TYPE		
	224 ELROD DRIVE, GOOSE CREEK					29445			
	INCIDENT DATE	8 HR. CLOCK	TO	DATE	24 HR. CLOCK	REPORT DATE	REPORT TIME		
	01/10/2008	10:00		01/10/2008	11:00	01/10/08	11:13		
SUBJECT NO. 1	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE		
	ELROD, LG.			☒ YES ☐ NO	W	M	71		
	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.			
	307 ELROD DR		GOOSE CREEK	SC	29445	4/235			
NARRATIVE	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE		
	ELROD, LG.			☒ YES ☐ NO	W	M	71		
	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.			
	307 ELROD DR		GOOSE CREEK	SC	29445				
PROPERTY EST.	VEHICLE MAKE (MO. 1) ☐ YES ☒ NO ☐ EXPLAIN	COMPLAINANT OF ANY NON-VISIBLE DAMAGE: ☐ YES ☒ NO							
	VICTIM (MO. 1) ☐ YES ☒ NO ☐ EXPLAIN								
	TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/ALARM ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J - This Jurisdiction, S - State, O - Out of State, U - Unknown								
	☐ SUSPECT NAME, LAST, FIRST, MIDDLE	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR
ADMINISTRATIVE	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECuliarITIES, ETC.								
	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.			
	SUBJECT (MO. 1) ☐ YES ☒ NO ☐ EXPLAIN		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST		
	ORIGINAL ☐ YES ☒ NO ☐ UNCL. TYPE		TOTAL # ARRESTED						
ON 01/10/2008 DEPUTY RESPONDED TO THE ABOVE LOCATION IN REFERENCE TO COMPLAINANT NOT WANTING COMCAST ON HIS PROPERTY OR CONDUCTING SERVICES ON THEIR SERVER BOX LOCATED ON POWER POLE ON THE CORNER OF HIS RESIDENCE. UPON ARRIVAL COMPLAINANT HAD HIS VEHICLE PARKED IN FRONT OF THE POLE AND WAS SEATED ON THE TAILGATE. DEPUTY SPOKE WITH MR ELROD WHO WAS VERY DISTURBED AND ADAMANT THAT COMCAST WAS NOT GOING TO CONDUCT SERVICES. DEPUTY ASKED COMPLAINANT IF COMCAST COULD PARK THEIR WORK TRUCK ON THE ROADWAY, EXTEND THEIR BUCKET TO THE POLE AND CONDUCT SERVICES IN THE PRESENCE OF OFFICERS ON SCENE AND ELROD AGREED. UPON HAVING COMCAST APPROACH THE RESIDENCE ELROD QUICKLY DECLINED THE AGREEMENT. THE COMPLAINANT BECAME BELLIGERENT AND STATED THAT, "IF WE ARRESTED HIM WE WOULD HAVE PROBLEMS." AT THAT TIME DEPUTY CONVINCED COMCAST TO ATTEMPT TO COME BACK AT A LATER DATE. NOTHING FURTHER AT THIS TIME.									
JURISDICTION OF DEPT. LAW ENFORCEMENT AGENCY JURISDICTION OF RECEIVING LAW ENFORCEMENT AGENCY									
TYPE (GROUP) STOLEN DAMAGED SUSPECT RECOVERED RECEIVED									
Subject IDENTIFIED ☐ YES ☒ NO Subject LOCATED ☐ YES ☒ NO ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH, 2. ☐ NO PROSECUTION, 3. ☐ EXTRADITION DENIED, 4. ☐ VICTIM DECLINES COOPERATION, 5. ☐ AMBIGUOUS - NO CLARITY REPORTING OFFICER'S DATE APPROVING OFFICER DATE UNIT NUMBER DATE UNIT NUMBER									
TIMMONS, RANDAL 01/10/08 124 DREW, CASSANDRA 01/11/08 THOMAS, TABATHA 01/10/08 159 FOLLOW-UP INVESTIGATION ☐ YES ☒ NO OFFICER									

EXHIBIT
2

K2C	
DEL	END
N	N

68

AGENCY I.D.
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

200801001318

NCC

NO.	DATA
N	N

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIM	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDER	☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1 OF 1 PAGES

REFERENCE: INFORMATION REPORT

VICTIM: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER TIMMONS IS INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

☐ SUBJECT IDENTIFIED ☐ YES ☒ NO		☐ SUBJECT LOCATED ☐ YES ☒ NO		☒ ACTIVE ☐ ADJ. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 14 ☐ ARRESTED 15 AND OVER		☐ CH-CLEAR UNDER 14 ☐ CH-CLEAR 15 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DATA		2. ☐ NO PROSECUTION		3. ☐ EXONERATION DEEDED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY	
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER				
WADFORD, GRESHA	01/17/08		BLANCHARD, MELISSA	01/17/08	8				
THOMAS, TABATHA	01/10/08	159	FOLLOWUP INVESTIGATION ☐ YES ☒ NO	OFFICER					

INCIDENT REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 8 8

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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~~REC'D JAN 15 2008~~

EXHIBIT
2

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER										NO.	
2 0 0 8 0 1 0 0 1 3 8 5										NO.	EXT.
										N	N

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 2
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENSES	☐ ADDITIONAL RECOVERED PROPERTY	

VICTIM #	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM OR SUSPECT VS. PERPETRATOR		ASSIGNED	AGE	SEX	RACE	DOB	DOB								
	SUBJECT	HEIGHT	WEIGHT	HAIR	EYES	PHYSICAL MARKS, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.													
	ALIASES	CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE											
	WANTED																		
	WARRANT																		
	ARREST																		
JAIL	VICTIM NO.	VEHICLE MARKS		☐ NO	☐ YES	COMPLAINANT OF NON-VEHICLE DAMAGE		☐ NO	☐ YES	VICTIM USING ALCOHOL		☐ NO	☐ YES	☐ UNKNOWN	TWO-MAN VEHICLE		☐ DETECTIVE/PLASMA	☐ ALONE	
	EXPLAN																		
	SUBJECT NO.	USING ALCOHOL		☐ NO	☐ YES	USING DRUGS		☐ NO	☐ YES	TYPE		☐ UNKNOWN	ONE-MAN VEHICLE		☐ OTHER	☐ ASSISTED			

COMPLAINANT WAS CONCERNED ABOUT THE SUSPECTS ACTIONS DUE TO A PRIOR INCIDENT WITH HIS WORKERS EARLIER THAT DAY. THIS DEPUTY ADVISED THE COMPLAINANT TO CONTINUE WORKING ON THE CABLE BOX DUE TO SEVERAL FAMILIES WOULD NOT BE ABLE TO CALL 911 IF THEY HAD A EMERGENCY. THE SUSPECT ARRIVED AT THE LIGHT POLE AND JUMPED OUT OF HIS TRUCK HOLDING A CAM CORDER. THE SUSPECT WALKED UP TO DEPUTY AND GOT APPROXIMATELY 2 INCHES FROM DEPUTIES FACE AND STARTED RECORDING. THIS DEPUTY ADVISED THE SUSPECT TO STEP BACK OUT OF DEPUTIES FACE. THE SUSPECT PROCEEDED TO GET CLOSER TO DEPUTY WITH THE RECORDER. THIS DEPUTY USED A OPEN HAND AND PUSHED THE CAMERA OUT OF DEPUTIES FACE. INFORMING HIM THAT HE COULD RECORD AT A DISTANCE BUT NOT IN DEPUTIES FACE.

JURISDICTION OF DEPUTY LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERED LAW ENFORCEMENT AGENCY	
STATUS	TYPE	VIN AND/OR LICENSE NO.	SEAT NO. AND/OR REG. NO.
☐ STOLEN	☐ VEHICLE	SERIAL AND/OR CHASSIS/APPLIED NO.	STATE
☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION
☐ FOUND	☐ BOAT	YEAR	MAKE
☐ TOWED	☐ LICENSE PLATE	MODEL	STYLE
☐ SUSPECT	☐ SECURITIES-BONDS, STOCKS	COLOR	BRAND NAME
☐ VICTIM	☐ ARTICLE	NO. NO.	DECLARATION
		DAUER	SECURITY DATE
MISCELLANEOUS			

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)							TOTAL VALUE			
	STOLEN										
	RECOVERED										
	FOUND										
	SUSPECT										
	ARTICLE										
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADJ. CLOSED		APPREHENDED UNDER 18		EN-CLEAR UNDER 18	
☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRAJURISDICTION DECEIT 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY				APPROVED OFFICER				DATE			
MCELVOGUE, CLIFFORD				01/11/08				C115 GEIGER, JAMES			
				FOLLOWUP				OFFICER			
				DATE				DATE			

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	200801001385	NCO	INC. N	INTL. N
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☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIM	☐ ADDITIONAL STOLEN PROPERTY	PAGE 3
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENSES	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUSPECT		RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	VICTIM #										
	SUSPECT #										
	PLANNED										
	WANTED										
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.		DAY PHONE		EVENING PHONE	
VICTIM NO. _____ VEHICLE PLATE NO. _____		COMPLAINANT OF NON-VEHICLE INJURY		VICTIM USING ALCOHOL		TWO-MAN VEHICLE		DETECTIVE/PLAINT		ALONE	
EXPLAIN		COMPLAINANT OF NON-VEHICLE INJURY		DRUGS		ONE-MAN VEHICLE		OTHER		ASSISTED	
SUBJECT NO. _____ USING ALCOHOL		USING DRUGS		TYPE		UNK.					

VICT/SUBJ. I.D. OVERFLOW	COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUSPECT		RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	VICTIM #										
	SUSPECT #										
	PLANNED										
	WANTED										
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.		DAY PHONE		EVENING PHONE	
VICTIM NO. _____ VEHICLE PLATE NO. _____		COMPLAINANT OF NON-VEHICLE INJURY		VICTIM USING ALCOHOL		TWO-MAN VEHICLE		DETECTIVE/PLAINT		ALONE	
EXPLAIN		COMPLAINANT OF NON-VEHICLE INJURY		DRUGS		ONE-MAN VEHICLE		OTHER		ASSISTED	
SUBJECT NO. _____ USING ALCOHOL		USING DRUGS		TYPE		UNK.					

THE SUSPECT BECAME ANGRY AND ADAMANT THAT COMCAST WAS NOT GOING TO TURN THE CABLE BACK ON. AFTER SPEAKING WITH THE COMPLAINANT THE COMPLAINANT INFORMED DEPUTY THAT THE SUSPECT HAD BEEN AND STILL IS RECEIVING FREE CABLE FROM COMCAST BECAUSE THEY HAD THEIR BOX ON A BERKELEY ELECTRIC POLE ON HIS PROPERTY. DEPUTY CONFRONTED THE SUSPECT ABOUT THE DEAL BETWEEN HIM AND COMCAST. THE SUSPECT STATED THAT WHAT THE COMPLAINANT STATED WAS TRUE. THE SUSPECT STATED THAT COMCAST REMOVED TWO CHANNELS FROM HIS PLAN AND HE STATED THAT WAS A BREACH OF CONTRACT. DEPUTY INFORMED THE SUSPECT THAT THE VERBAL AGREEMENT BETWEEN HIM AND COMCAST WAS A CIVIL MATTER AND THE ONLY REASON DEPUTIES WERE ON SCENE WAS BECAUSE OF THE THREATS THAT

JURISDICTION OF TRAFFIC VIOLATION/ARREST	JURISDICTION OF RESIDENT LAW ENFORCEMENT AGENCY
--	---

STATUS	TYPE	VIN AND/OR LICENSE NO.	SEAL NO. AND/OR REG. NO.
☐ STOLEN	☐ VEHICLE	SEAL AND/OR OWNER APPLIED NO.	STATE
☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION
☐ FOUND	☐ BOAT	MOOD	STYLE
☐ TOWED	☐ LICENSE PLATE	COLOR	BRAND NAME
☐ SUSPECT	☐ SECURITY/BONDS, STOCKS	MC NO.	DESCRIPTION
☐ VICTIM	☐ ARTICLE	ISSUED	ACQUISITION DATE
MISCELLANEOUS			

TYPE GROUP	STOLEN	DAMAGED	BURNED	RECOVERED	LOST	TOTAL VALUE

SUBJECT CUSTODIAN	SUBJECT LOCATED	ACTIVE	ADJ. CLOSED	APPROVED UNDER 19	EX-CLEARANCE 19
YES	NO	YES	NO	YES	NO
REASON FOR EXCEPTIONAL CLEARANCE	1. OFFENSE DEATH	2. NO PROSECUTION	3. EXTRADITION DENIED	4. VICTIM DECLINES COOPERATION	5. JUVENILE - NO CUSTODY
REPORTING OFFICER	DATE	LAST NAME	APPROVING OFFICER	DATE	LAST NAME
MCELVOGUE, CLIFFORD	01/11/08	IC115	GEIGER, JAMES	01/11/08	
FOLLOW-UP INVESTIGATION YES NO					

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NSC

2 0 0 8 0 1 0 0 1 3 8

NO.	ENTR.
N	N

☐ ORIGINAL REPORT ☐ MODIFIED ORIGINAL	☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIM ☐ ADDITIONAL OFFENDER	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	PAGE <u>4</u> OF <u> </u> PAGES
VICT/SUBJ. I.D. OVERFLOW ☐ COMPLAINT ☐ VICTIM I ☐ SUSPECT I ☐ WITNESS ☐ WITNESS ☐ APPRENTICE ☐ JAIL ☐ CORRECTIONS	NAME (LAST, FIRST, MIDDLE) _____ DOB _____ SEX _____ RACE _____ AGE _____ DOB _____ SEX _____ RACE _____ AGE _____ HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____ FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL CHARACTERISTICS, ETC. _____ ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ LOCATION NO. _____ DAY PHONE _____ EVENING PHONE _____ ☐ VICTIM NO. _____ VEHICLE BLANK? ☐ NO ☐ YES ☐ COMPLAINT OF NON-VEHICLE BLANK? ☐ NO ☐ YES ☐ VICTIM USING ALCOHOL? ☐ NO ☐ YES ☐ UNK. ☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLAINT ☐ ALONE EXPLAIN _____ CHARGE ☐ NO ☐ YES TYPE _____ CASE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ADMITTED ☐ SUBJECT NO. _____ VEHICLE ALCOHOL? ☐ NO ☐ YES ☐ USING DRUGS? ☐ NO ☐ YES ☐ TYPE _____ CASE			
VICT/SUBJ. I.D. OVERFLOW ☐ COMPLAINT ☐ VICTIM I ☐ SUSPECT I ☐ WITNESS ☐ WITNESS ☐ APPRENTICE ☐ JAIL ☐ CORRECTIONS	NAME (LAST, FIRST, MIDDLE) _____ DOB _____ SEX _____ RACE _____ AGE _____ DOB _____ SEX _____ RACE _____ AGE _____ HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____ FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL CHARACTERISTICS, ETC. _____ ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ LOCATION NO. _____ DAY PHONE _____ EVENING PHONE _____ ☐ VICTIM NO. _____ VEHICLE BLANK? ☐ NO ☐ YES ☐ COMPLAINT OF NON-VEHICLE BLANK? ☐ NO ☐ YES ☐ VICTIM USING ALCOHOL? ☐ NO ☐ YES ☐ UNK. ☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLAINT ☐ ALONE EXPLAIN _____ CHARGE ☐ NO ☐ YES TYPE _____ CASE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ADMITTED ☐ SUBJECT NO. _____ VEHICLE ALCOHOL? ☐ NO ☐ YES ☐ USING DRUGS? ☐ NO ☐ YES ☐ TYPE _____ CASE			
HE MADE TOWARDS COMCAST WORKERS EARLIER. THE COMPLAINANT INFORMED DEPUTY THAT SERVICE WAS RESTORED AND THEY WERE DONE. MR. ELROD BECAME ANGRY AGAIN YELLING WHEN YOU LEAVE THAT CABLE WILL BE OFF AGAIN NO MATTER WHAT I HAVE TO DO. DEPUTY ADVISED THE SUSPECT THAT IF HE VANDALIZED PROPERTY THAT WASN'T HIS HE COULD BE CHARGED, THE SUSPECT YELLED BACK AT DEPUTY STATING THAT HE DIDN'T CARE IF HE WENT TO JAIL BECAUSE THAT WAS HIS POLE. DEPUTY, AND COMCAST CREW LEFT THE SCENE WITHOUT FURTHER INCIDENT, THE COMPLAINANT STATED THAT HE WOULD ADVISE HIS VICE PRESIDENT OF THE INCIDENT AND LET THEM HANDLE IT.				
INVESTIGATION OF THEFT LAW ENFORCEMENT AGENCY				
INVESTIGATION OF RECOVERY LAW ENFORCEMENT AGENCY				
NARRATIVE STATUS _____ TYPE _____ ☐ STOLEN ☐ VEHICLE ☐ RECOVERED ☐ GUN ☐ FOUND ☐ BOAT ☐ TOWED ☐ LICENSE PLATE ☐ SUSPECT ☐ SECURITY/PHONE, STOCKS ☐ VICTIM ☐ ARTICLE	VIN AND/OR LICENSE NO. _____ BOAT HULL NO. AND/OR REG. NO. _____ SERIAL AND/OR OWNER APPLIED NO. _____ STATE _____ YEAR OF REGISTRATION _____ YEAR OF EXPIRATION _____ YEAR _____ MAKE _____ TYPE _____ MODEL _____ STYLE _____ COLOR _____ BRAND NAME _____ CALIBER _____ MFG NO. _____ DESIGNATION _____ ISSUE _____ ACQUISITION DATE _____ MISCELLANEOUS _____			
TOTAL VALUE _____				
SUBJECT IDENTIFIED _____ SUBJECT LOCATED _____ ☐ YES ☐ NO ☐ YES ☐ NO ☐ ACTIVE ☐ AKA CACHED ☐ APPENDED UNDER 16 ☐ EX-CLEAR UNDER 16 ☐ APPENDED 18 AND OVER ☐ EX-CLEAR 18 AND OVER				
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ DETRACTION DURING 4. ☐ VICTIM DECLINED COOPERATION 5. ☐ AVAILABLE - NO CUSTODY				
REPORTING OFFICER(S) _____ DATE _____ LAST NUMBER _____ APPROVING OFFICER _____ DATE _____ NEW NUMBER _____ MCELVOGUE, CLIFFORD 01/11/08 C115 GEIGER, JAMES 01/11/08				
FOLLOWUP INVESTIGATION ☐ YES ☐ NO ☐ OFFICER _____				

AGENCY I.D.
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

200801001385

MCC

REL. EXT.
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☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIM	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

REFERENCE: INFORMATION REPORT

SUSPECT: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER CC MCELVOGUE INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☒ YES ☐ NO	☒ ACTIVE ☐ ADL CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 16 ☐ ARRESTED 16 AND OVER	☐ EX-CLEAR UNDER 16 ☐ EX-CLEAR 16 AND OVER
REASON FOR DISQUALIFIED CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRAJURIS DEATH 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ AVAILABLE - RES CUSTODY				
REPORTING OFFICER WADFORD, GRESHA	DATE 01/17/08	UNIT NUMBER	APPROVING OFFICER BLANCHARD, MELISSA	DATE 01/17/08
FOLLOWUP INVESTIGATION ☐ YES ☒ NO			OFFICER	UNIT NUMBER 8

2023

AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

200801002023

BUIC

NO. ENCL
N N

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1. INFORMATION ONLY (INF)		☒ YES ☐ NO	☐ YES ☐ NO	Highway/Road/Alle		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Org. ☐ Soc. Public ☐ Other ☐ Unknown ☐ Police Of	
2. REC'D JAN 18 2008		☐ YES ☐ NO	☐ YES ☐ NO				
3.		☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE	WEAPON TYPE	
233 ELROD DRIVE, GOOSE CREEK					29445		
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DEPART DATE/TIME	24 HR. CLOCK	LOCATION NO.
01/15/2008	13:30		01/15/2008	14:30	01/15/08	14:35	4/235
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
CANNON, DAVID, MICHAEL				J S O U	W	M	39
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
113 ELAINE STREET		GOOSE CREEK		SC	29445	4/235	
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
COMCAST CABLE, .				J S O U			
HEIGHT	WEIGHT	HAIR	EYES	FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
4400 BELLE OAKES DRIVE		N CHARLESTON		SC	29405	STATE	
VEHICLE PLATE (TYPE 1) ☐ YES ☐ NO EXPLAIN -- COMPLAINT OF ANY NON-VISIBLE DAMAGES: ☐ YES ☒ NO							
VICTIM (NO. 1) USING ALCOHOL: ☐ YES ☒ NO UNL. ☐ DRUGS: ☐ YES ☒ NO UNL. ☐ TYPE:							
THO-SEMI VEH. ☐ ONE-SEMI VEH. ☐ DETECTIVE/CLERK, ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J -- This Jurisdiction. S -- State. O -- Out of State. U -- Unknown							
SUSPECT		NAME, LAST, FIRST, MIDDLE		RACE	SEX	AGE	ETH.
☐ FUGITIVE		ELROD, LOUIE, G		W	M	71	N
☐ WANTED		FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
☐ WARRANT		ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.
☐ ARREST		307 ELROD DR		GOOSE CREEK	SC	29445	4/235
☐ JAIL		SUBJECT (NO. 1) USING ALCOHOL: ☐ YES ☒ NO UNL. ☐ ARRESTED NEAR OFFENSE SCENE: ☐ YES ☒ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
☐ SUBMITTING		DRUGS: ☐ YES ☒ NO UNL. ☐ TYPE:		TOTAL # ARRESTED			
ON 01/15/2008 LT. MCELVOGUE, PFC. COLLINS AND THIS DEPUTY RESPONDED TO 233 ELROD DRIVE IN REFERENCE TO A CIVIL MATTER. COMCAST CABLE CONTACTED THE BERKELEY COUNTY SHERIFF'S OFFICE FOR OFFICERS TO STANDBY AT PEARL AND ELROD DRIVE IN REFERENCE TO SERVICES THAT NEEDED TO BE CONDUCTED FOR THEIR COMPANY. LT. MCELVOGUE ADVISED MR. ELROD THAT COMCAST CABLE WAS THERE TO PUT A LOCK ON THEIR DISCONNECT SWITCH DUE TO THE FACT THAT NOBODY WILL BE ABLE TO CUT SERVICES OFF AND WAS NOT GOING TO REMOVE ANY EQUIPMENT. MR. ELROD ADVISED LT. MCELVOGUE THAT HE WANTED TO GO AND GET HIS CAM CORDER SO HE COULD DO A VIDEO OF THE WORK BEING DONE WHICH HE DID. MR. ELROD & JERRY WILLIAMS CAME ON SCENE BUT DID NOT GET INVOLVED. COMCAST CABLE COMPLETED THEIR WORK AND LEFT THE SCENE. LT. MCELVOGUE ADVISED MR. ELROD FOR HIM NOT TO TOUCH COMCAST CABLES EQUIPMENT.							
JURISDICTION OF THE LAW ENFORCEMENT AGENCY				JURISDICTION OF RECEIVING LAW ENFORCEMENT AGENCY			
TYPE (SHOUT) SILENT SHOUTED SHOUTED SHOUTED SHOUTED				Certified True Record for this County BERKELEY COUNTY, SC Date 11-15-10 Berkeley County Sheriff's Office			
SUBJECT IDENTIFIED		SUBJECT LOCATED		APPROVED OFFICER		DATE	
☒ YES ☐ NO		☒ YES ☐ NO		SGT. DREW		70	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFICER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ ADVISORY - NO CRIMINAL RECORD		DATE		INVESTIGATION		OFFICER	
TIMMONS, RANDAL		01/15/08		INVESTIGATION		OFFICER	



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 2010-CP-08-4453

L.G. Elrod

Appellant,

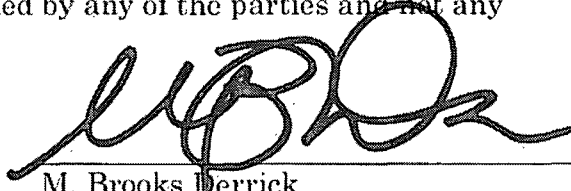
v.

Berkeley County Sheriff's
Department and H.
Wayne Dewitt,

Respondent,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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Attorney and Counselor for Appellant

February 4, 2013

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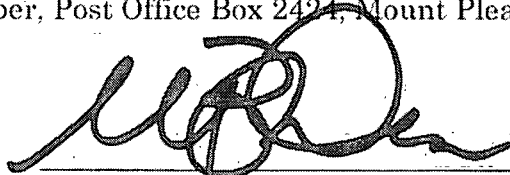
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PROOF OF SERVICE

I certify that I have served the Record on Appeal was served on Berkeley County Sherriff's Department by depositing a copy in the United States Mail, postage prepaid, on November 20, 2012, addressed to their attorney of record, G. Wade Cooper, Post Office Box 2424, Mount Pleasant, South Carolina 29464-2424.



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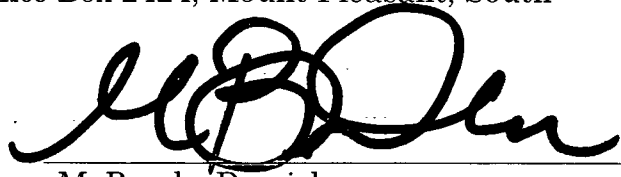
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March 4, 2013

Attorney and Counselor for Appellant

REC-111

MAR 07 2013

SC COURT OF APPEALS