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The South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, [SC]. 29201

APR 22 2019

SC Court of Appeals

January 19<sup>th</sup> (2018).

Re: [42 U.S.C.] 407(a)-(b).

1.) This document is being promulgated in order to redress the State of South Carolina's refusal to acknowledge a (fourth amendment) to the U.S. Constitution false arrest and subsequent refusal to legal adherence under [42 U.S.C.] 407(a). Section 407 mandates the legal right of any person to any future [SSDIB] payments under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, [garnishment], or other [legal] process, or to the operation of any bankruptcy or insolvency law.

2.) This [SSDI] beneficiary had no recorded earnings for (2012-13). In order to post bail after the (1<sup>st</sup>) arrest under section 16-11-620, (bond money) was deducted from this Appellant's U.S. Treasury account. The amount of \$ {470.00} was acquired from [SSDIB] payments. The bench trial held in (2012), convicted Appellant on both counts of trespass with (44) days' time served.

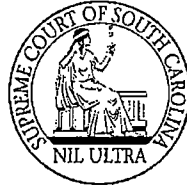
3.) In accordance with [42 U.S.C.] 407(b); No other provision of law, enacted before, on, or after April 20, (1983), may be construed to limit, supersede, or otherwise modify the provisions of this section [except] to the extent that it does so by express reference to this section. Careful review of all documentation issued after the correspondence dated December 11<sup>th</sup> (2017) fails to supersede the provisions of [42 U.S.C.] 407(a)(b). Because of the financial limitations involving payments under [SSDIB], [legal] process involves (ADA) litigation.

4.) All previous documentation is now required as evidence and all (postage) paid is considered as [legal] process under [42 U.S.C.] 407(a)(b). I've enclosed several document(s) that previously were submitted to attempt an Appeal against the (2012) (false) arrests by SB[PD]. This is (ADA) litigation as referred to in the (documentation).

5.) Under [42 U.S.C.] 12203(a); No person shall discriminate against any individual because such individual has opposed any act or practice made (unlawful) by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an (investigation), proceeding, or hearing under this chapter. Accordingly, the original Appeal process was rejected and the ("PCR") application was submitted on September 10<sup>th</sup> (2014) with the Court of Common Pleas for the Fifteenth Judicial Circuit. Previous (documentation) explains why this application is required under a (fourth amendment) to the U.S. Constitution after a (false) arrest.

6.) (ADA) litigation developed from careful application of statutory process and then furthered (documentation) promulgated to utilize the U.S. district court. A State shall not be immune under the (eleventh amendment) to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State in accordance with [42 U.S.C.] 12202. Section 504 of the Rehabilitation Act of (1973) has not produced college credit except fundamental algebra requirements taken in (1997) at Metropolitan State University, at the time of enrollment the unsubsidized Stafford loan default was beginning the (6<sup>th</sup>) year prior to the pay off in (2007).

[2]-Mr. Michael L. Sgro; *Mr. Michael L. Sgro*..... Executed on (04/18/19).



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA  
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1231 GERVAIS STREET  
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January 31, 2019

~~Mr. Michael Louis Sgro,  
505 N. Kings Hwy,  
Myrtle Beach SC 29577~~

Re: Michael Sgro v. State of South Carolina  
Lower Court Case No. 2012CP2609486

Dear Mr. Sgro:

This responds to your notice of appeal dated January 25, 2019.

Please be advised that nothing in the South Carolina Appellate Court Rules allows for the filing of successive notices of appeal. Since a notice of appeal has already been filed in the above case with the South Carolina Court of Appeals, and that appeal has been dismissed and remitted to the circuit court,<sup>1</sup> no action will be taken on your notice of appeal by this Court.

If your intent is to seek some further appellate review in the above case, I call

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<sup>1</sup> Before the Court of Appeals, the Appellate Case Number was 2017-002492. Your attempt to seek review of the decision of the Court of Appeals in this case was dismissed by this Court on May 24, 2018, in Appellate Court Case Number 2018-000926.

your attention to the Rules of the Supreme Court of the United States.<sup>2</sup>

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: ~~Maronee-Elizabeth Pitcher, Esquire~~

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<sup>2</sup> These rules are available at [www.supremecourt.gov/filingandrules/rules\\_guidance.aspx](http://www.supremecourt.gov/filingandrules/rules_guidance.aspx).

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APR 22 2019

SC Court of Appeals

Office of the Attorney General  
Johnny-Ellis James Jr.  
(PCR) Division  
P.O. Box 11549  
Columbia, [SC]. 29211

March 28<sup>th</sup> (2017):

(3) pages on Hennepin County Court file no. [P1-94-60161].

1.) Section 504 of the Rehabilitation Act of (1973) has developed into a (24+) year civil action with a State for punitive damages and [SSDIB] payments under [42 U.S.C.] 12202. Educational attainment in the State of South Carolina did not occur. A State shall not be immune under the (eleventh amendment) to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

2.) This matter comes before the court by way of application for post-conviction relief ("PCR") filed 10<sup>th</sup> of September (2014). Appellant is (ADA) entitled under [42 U.S.C.] 12203(a)(b). No person shall discriminate against any individual because such individual has opposed any act or practice made (unlawful) by this chapter or because such individual made a (charge), (testified), (assisted), or (participated) in any manner in an (investigation), (proceeding), or (hearing).

3.) The Court of Common Pleas for the Fifteenth Judicial Circuit determined the (2) successive prosecutions or punishments for the "same offense" isn't applicable under the Double Jeopardy clause of the (fifth amendment) to the U.S. Constitution. The Appellant is claiming false arrest(s) under the (fourth amendment) to the U.S. Constitution. While acting under the color-of-State-law Officer Butler knowingly and deliberately arrested Appellant without probable cause pursuant to Rule 65 of the South Carolina Rules of Civil Procedure.

(a) No temporary injunction shall be issued without notice to the adverse party.

(b) No temporary restraining order shall be granted without notice of motion for the order to the adverse party unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon.

4.) Every temporary restraining order granted without notice shall be endorsed with date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall be served, together with a summons and complaint in the event no summons and complaint have previously been served in the action; upon the adverse party in accordance with the provisions of Rule 4; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed (10) days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is granted without notice, the motion for a temporary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary order shall proceed with the application for a temporary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

5.) Police Department discrimination and false arrest(s) under the (fourth amendment) to the U.S. Constitution establish a genuine issue of material fact; the Appellant is entitled to judgment as a matter of law. S.C. Code Ann. (16-11-620) (1976) states, "on conviction, be fined not more than \$ {200.00} dollars or be imprisoned not more than thirty (30) days". Magistrate Judge G. Blanton coerced an arbitrary and capricious bench trial after (44) days of incarceration and the right to trial by jury was contravened subsequent to signing a request for jury trial. Magistrate Judge G. Blanton threatened to further incarcerate prisoner in order to coerce prisoner's consent to his bench trial.

6.) If any person shall be or stand committed or detained for any crime, he shall be entitled to the writ of habeas corpus under section 17-17-10. The State of South Carolina did not prevent their sentencing court from prescribing greater punishment than the legislature intended under section 17-23-20. Substantive law defines the remedy and the right, while the law of procedure defines the modes and conditions of the application of one to the other.

7.) The Double Jeopardy clause in the (fifth amendment) to the U.S. Constitution prohibit(s) anyone from being prosecuted twice for substantially the same crime. A person "aggrieved" by judgment or decree, as requirement for right to appeal, when judgment or decree operates on his rights of property or bears directly upon his interest and constitutes substantial grievance, denial of some personal or property (right), or imposition on party of burden or obligation. It shall be (unlawful) to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any (right) granted or protected by this chapter under [42 U.S.C.] 12203(b).

8.) The State of South Carolina issued an erroneous ruling in favor of the prosecution pursuant to section 16-11-620. Case no. # 35552GG provided clear and convincing evidence a state action was willful, wanton, or with reckless disregard. Applicant's claims that he was not in violation of the cited statute and has pending Federal litigation, or that his arrest was false are not cognizable claims for post-conviction relief under any of the statutory grounds. The U.S. Supreme Court has curbed discretion in [Blockburger v. United States].

9.) Blockburger is the exclusive means by which courts determine if cumulative punishment(s) are adequate under the Double Jeopardy clause. If each act is punishable separately, there can be only one punishment. Test is whether the individual acts are prohibited or the (course of action) which they constitute is. Whereas, at common law a single episode of criminal behavior warrants only one prosecution, no matter how many wrongful acts have been committed during a criminal episode.

10.) The (prosecution) has the burden of demonstrating each offense has at least one mutually exclusive element. The Court said that the government may prosecute an individual for more than one offense stemming from a single course of conduct only when each offense requires proof of a fact the other does not. Re-prosecution for the same offense following conviction and multiple punishments for the same offense after application of the Blockburger test reveals the offenses have identical statutory elements, or one is a lesser statutory offense, inquiry must cease, and the subsequent prosecution is barred.

11.) If anyone offense subsumed by another, such as a lesser included offense, the two offenses are deemed the same, punishment is allowed only for one. The Blockburger test requires court(s) to examine the (elements) of each offense as they are delineated by statute, without regard to the actual evidence that will be introduced at trial. Several other methods have been used by court(s) to determine whether successive prosecutions are for the same offense.

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12.) The Court finds application must be summarily dismissed because Applicant failed to state the claim is cognizable under the Uniform Post-Conviction Procedure Act. Post-conviction relief is a proper avenue of relief only when an applicant mounts a collateral attack that challenges the validity of his conviction or sentence. The case challenged under the (fourth amendment) to the U.S. Constitution. The conviction or sentence violates the U.S. Constitution or the Constitution or laws of the State.

13.) Section 17-27-20(a) states; "an applicant may commence a post-conviction relief action on the following grounds". Officer Butler made a false arrest on October 20<sup>th</sup> (2012), arrest occurred (6) months after Appellant returned from State of Florida. Under section 16-11-620; Any person who, without legal cause or good excuse, enters into the dwelling, house, place of business, or on the premises of another person after having been warned not to do so, on conviction, be fined not more than \$ {200.00} dollars or be imprisoned for not more than (30) thirty days.

14.) Under section 16-11-620 clause; legal cause and good excuse are elements concerning this property owner's subsistence check and homelessness. Appellant returned from the Myrtle Beach Post Office prior to the (1<sup>st</sup>) false arrest and cashed a check he received at property owner's bank. The property owner began offering subsistence on May 8<sup>th</sup> (2012) when Appellant returned from the State of Florida in order to secure lodgings. During (1<sup>st</sup>) false arrest, Officer Butler refused an attempt at legal cause and good excuse under section 16-11-620, during (1<sup>st</sup>) arrest Appellant had just returned to (615 4<sup>th</sup> Ave. N.) to collect personal belongings and leave.

15.) Prior to a (2<sup>nd</sup>) arrest, Appellant contacted property owner after release from (1<sup>st</sup>) detention to locate personal belongings confiscated by the SB[PD]. When returning to Myrtle Beach, [SC] Appellant approached property owner and was arrested a (2<sup>nd</sup>) time before he could leave. While leaving to return to his motel room, this Appellant was subjected to a (2<sup>nd</sup>) false arrest pursuant to the (fourth amendment) to the U.S. Constitution.

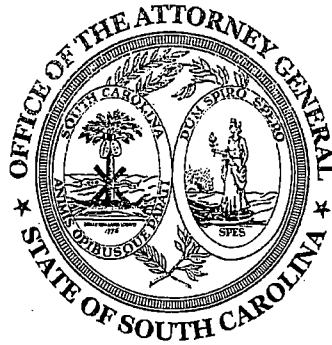
16.) In (1998), the property owner had allowed Appellant to use this address in order to acquire the SC State ID. After acquiring a Myrtle Beach address the Appellant changed the State ID to a SC driver license. Appellant informed the property owner of (ADA) litigation concerning (civil) action under S.C. Code Ann. (44-17-580) (1976). In (1994), [SSDIB] payment was being issued to such individual because he made a charge, testified, assisted, or participated in any manner in an (investigation), (proceeding), or (hearing) under [42 U.S.C.] 12203(a).

17.) During the (1<sup>st</sup>) appearance, Magistrate Judge G. Blanton suppressed Appellant's means of defense under section 16-11-620 clause; legal cause and good excuse. The Appellant is prevented from providing his response with Contempt of Court. South Carolina courts stated; "[t]he powers to punish for contempt is inherent in all courts".

18.) "Criminal contempt requires proof beyond a reasonable doubt. Also, because a person can be sentenced to imprisonment for more than (six) months under South Carolina law, the accused is entitled to a jury trial under the Sixth Amendment." The State of South Carolina is negligently refusing to acknowledge a defense under (ADA) litigation, amount of a bail equaling \$ {470.00} dollars is the legal property of Appellant.

19.) In (2008), C.A. 6:08-1405-[GJK] became first [complaint] granted in U.S. district court on a [SSDIB] claim. U.S. Treasury account payments create direct deposit records that are evidence and a portion of the bail/bond in question deducted. Marshal 285 forms are first mentioned in the Report and Recommendation submitted by a U.S. Magistrate Judge in the State of Florida, forms are subject to a \$-{1,000.00}-dollar fine under [42 U.S.C.] 1990. The Supreme Court of the State of South Carolina received a Marshal 285 form.

[1]-Mr. Michael L. Sgro; Mr. Michael L. Sgro. Executed on (04/18/19).



ALAN WILSON  
ATTORNEY GENERAL

March 14, 2019

Michael L. Sgro  
505 N. Kings Hwy.  
Myrtle Beach, SC 29577

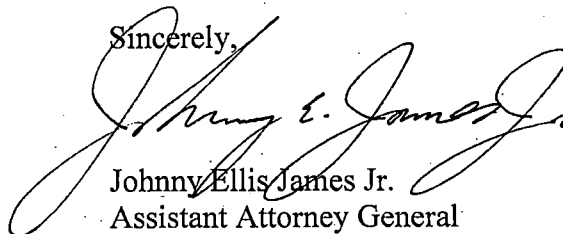
Re: Letter Dated March 28, 2017

Dear Mr. Sgro:

I am in receipt of your letter addressed to Jessica E. Kinard, Esq., dated March 28, 2017. The envelope is postmarked March 4, 2019.

First, Ms. Kinard is no longer employed with this office. Second, I can find no open file or pending matter relating to you in our records. Your prior post-conviction relief action was dismissed by Order of the Honorable William H. Seals, Jr., filed March 15, 2016. Accordingly, I am taking no further action on your letter.

Sincerely,



Johnny Ellis James Jr.  
Assistant Attorney General

MR. M. L. SGR0  
505 N. Kings Hwy.  
Myrtle Beach, SC 29577

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Columbia, SC. 29201



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