

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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JUN 03 2019

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

J. C. Nicholson, Jr, Circuit Court Judge

Appellate Case No. 2017-002621

JOHN GILBERT SINGLETARY

APPELLANT,

V.

THE STATE,

RESPONDENT.

APPELLANT'S MOTION TO ACCEPT OUT OF TIME
AND SUBSTITUTE REPLY BRIEF

Appellant respectfully seeks leave from this Honorable Court to substitute the enclosed Proposed Substitute Reply Brief as his Reply Brief in this matter and to accept this "out of time." Counsel for Appellant mistakenly used the date the Court received the Respondent's brief, May 20, 2019, to calculate the ten day period within which to file a Reply Brief, rather than using the date the Respondent mailed the brief to the Court. Thus, the Reply brief was filed late by approximately six

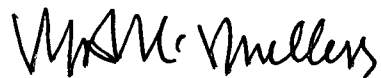
days. This was an honest error, and counsel for Appellant simply misread the rule governing the time to file a reply brief.

Appellant learned of this on May 31, 2019, and is filing this Motion on the same date.

In addition, Appellant moves this Court will accept the following "Reply" to Respondent's brief, and substitute it for the Reply brief filed on May 30, 2019. This request is made not for the purpose of delay, but instead to clarify Appellant's position so that counsel has properly conveyed that position to the Court. Appellant submits that allowing this extension of time and this substitution of the proposed brief for the one filed May 30, 2019 will give the Court a more accurate, candid statement of the facts, would serve to further the ends of justice, would cause no lengthy delay, and in no way prejudices Respondent.

The Proposed Substitute Reply Brief is included with this Motion so that, should the Court allow substitution, there will be no further delay.

Respectfully submitted,



Michael D. McMullen
1720 Main Street, Suite 301
Columbia, South Carolina 29201
Phone: 803-252-4433
S.C. Bar # 65483
Attorney for Appellant

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J. C. Nicholson, Jr, Circuit Court Judge
Trial Court Case No. 2017-CP-10-03226

Appellate Case No. 2017-002621

John Gilbert Singletary,..... Appellant,

v.

The State,Respondent.

APPELLANT'S PROPOSED SUBSTITUTE REPLY BRIEF

Michael D. McMullen
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Phone: 803-252-4433
Attorney for Appellant

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ARGUMENT IN REPLY

Appellant's initial brief alleged Appellant had no notice whatsoever from the Municipal Court as to the disposition of his case prior to May 26, 2017. This reply brief is intended to clarify that assertion.

Respondent correctly points out in its brief that, as a matter of fact, Appellant had obtained a "Case History" report that contained an entry claiming he had forfeited bond or been tried in absentia on May 4, 2010, and this notation was entered two days later. Although Appellant received the case history report sometime in 2015 or 2016, he did not receive it because of any action on the Court's part; it contained numerous inaccuracies, and Appellant, after many previous requests to the Municipal Court, had to file a FOIA request finally to obtain this. More important was the fact that this was insufficient to constitute official notice; that is, it is not a "disposition sheet" from the Municipal Court from which he could appeal.

By "disposition sheet," the receipt of which would trigger the ten-day deadline to file an appeal, Appellant contends this must be either an Order from the Municipal Court or a copy of the ticket, itself, signed by the trial judge, documenting the disposition of his case. This belief is grounded in the fact that either an Order of the court or the signed ticket showing the disposition are the only documents SLED will accept as an official record of a case's disposition. Absent that, Appellant contends he lacked anything official to appeal. He contends the case history is unreliable, as stressed in the initial brief.

He made the same points in a previous filing with the lower court, set out as Exhibit A. Indeed, the attachments to Exhibit A reveal a ticket that has been altered numerous times and an incident report claiming the undercover officer was a juvenile, among many other inaccuracies.

Thus, the purpose of this Reply Brief is to clarify what counsel for Appellant may have stated imprecisely in the brief of Appellant, inasmuch as it asserts Appellant had no notice of the adverse disposition of his charge until May 26, 2017. This should have been stated differently. A more accurate statement of Appellant's position is that until May 26, 2017, Appellant had never been provided sufficient, reliable, proper notice from the Court in the form of an Order from the Municipal Court or in the form of the ticket, itself, bearing the judge's initials and a detailing the disposition of the charges. So many other inaccuracies on the case history report make it unreliable, and SLED would not accept that report as an official disposition. Simply stated, Appellant contends he never received notice from the court sufficient to trigger the ten-day deadline for filing an appeal until May 26, 2017, and he appealed within ten days of that date.

Respectfully submitted,



Michael D. McMullen
1720 Main Street, Suite 301
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Phone: 803-252-4433
S.C. Bar # 65483
Attorney for Appellant

"EXHIBIT A"

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

THE STATE OF SOUTH CAROLINA

RECEIVED

IN THE COURT OF COMMON PLEAS

JUN 03 2019

CIVIL ACTION COVERSHEET

Respondent(s)

SC Court of Appeals 17 -CP - 10 - 3226

vs.

JOHN GILBERT SINGLETARY

Appellant(s)

Submitted By: Aaron C Mayer, Esq
Address: Mayer Law Practice
2000 Sam Rittenberg Blvd. STE. 2011
Charleston, SC 29407

SC Bar #: 81261
Telephone #: 843-225-7240
Fax #: 888-446-3963
Other:
E-mail: aaron@mayerlawpractice.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Libel (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Permanent Restraining Order (680), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

FILED
2017 JUN 23 PM 2:58
JULIE ARMSTRONG
CLERK OF COURT

Submitting Party Signature:

[Handwritten Signature]

Date: 06/23/2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Common Pleas Case No: 2017-CP-10-3226
Municipal Case No.(s): 70055FB

THE STATE OF SOUTH CAROLINA)
Respondent,)

Charge(s): SOLICITATION

Vs.)

JOHN GILBERT SINGLETARY,)
Appellant,)

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JUN 03 2019
SC Court of Appeals
NOTICE OF APPEAL

FILED
2017 JUN 23 PM 2:55
JULIE J. ARMSTRONG
CLERK OF COURT

The Defendant, John Singletary, hereby gives notice of appeal from the judgment of the North Charleston Municipal Court in the above action, to the Circuit Court of Common Pleas, in the county of Charleston.

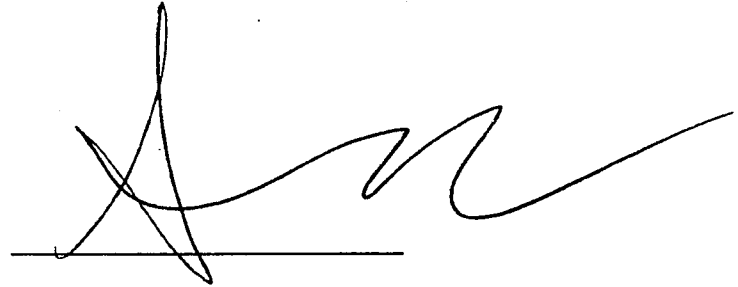
This notice of appeal is made subsequent to personal notice of the denial of Mr. Singletary's Motion for a New Trial which was received on the 19th day of June, 2017.

The appellant's exceptions to the judgment of the Municipal Court are set forth as follows:

Mr. Singletary learned only in 2015 that the City of North Charleston was claiming he had been convicted of this offense. Mr. Singletary had never been provided Notice of a Trial after he had requested the Rule 5 information. Additionally with in about six months after the charge first arose he received a check from the City of North Charleston returning his bond money. Upon hearing that North Charleston claimed this charge was not dismissed he promptly asked the Clerk of Court's office multiple times in 2015 and 2016 for all the disposition documents from this 2010 case. For 18 months he received clerical and docketing type documents only, which failed to show an Order or a Judge's signature. He continued pressing for an actual disposition sheet. Finally he obtained a disposition sheet with a Judge's signature (Exhibit A) on it on May 26, 2017.

Curiously, this document provided to Mr. Singletary on May 26, 2017 is a photocopy, not an original, and seems to have about nine fields whited out and written over. Unfortunately, this is one of

several anomalies North Charleston has created in this case. The Incident Report related to this arrest (Exhibit B), simultaneously states that the complainant is a juvenile and in other field of the same document states that she was an undercover officer. Until Mr. Singletary received what purports to be a signed disposition sheet on May 26th of 2017, it was unclear whether an actual conviction had truly occurred.

A handwritten signature in black ink, appearing to read 'A. Mayer', is written over a horizontal line. The signature is stylized and cursive.

Charleston, SC
June 21, 2017

AARON C. MAYER, ESQ
S.C. Bar # 81261
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Charleston, SC 29407
T: (843) 225-7240
F: 888- 446 – 3963
ATTORNEY FOR APPELLANT

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EXHIBITS

JUN 03 2019

UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF North Charleston SC Court of A
 VERSUS
 FIRST NAME John MIDDLE NAME Gilbert LAST NAME Singletary Jr
 STREET AND NO. 4321 Waterview Cr. CITY North Charleston STATE SC ZIP CODE 29418
 STATE LICENSED SC DRIVER'S LICENSE NO. 00804950 CDL YES NO DRI. LIQ. CLASS. D
 VEH. LIC. NO. STATE SC MAKE OF VEH Toyota YEAR 2010 COMM. VEH. YES NO AUTO YES NO 18 PSGR. VEH. YES NO COMB. YES NO
 HAZ. MT. YES NO MOPED YES NO MTRCYCL. YES NO OTHER YES NO

369

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER Min. Cl. STREET AND NO. 2500 City Hall Lane
 DATE OF TRIAL 2 23 2010 TIME OF TRIAL 1300 CITY North Charleston STATE SC ZIP CODE 29405
 VIOLATION - COURT APPEARANCE REQUIRED YES NO YES NO VIOLATION SECTION NO. 13-22
 OWNER OF VEHICLE Solicitation of Prostitution DATE OF ARREST 1 26 2010
 ADDRESS OF OWNER 2500 City Hall Lane DATE OF VIOLATION 1 26 2010

BAIL DEPOSITED Just NAME OF ARRESTING OFFICER Gen. W. He RANK Pfc

DESCRIPTION OF ACCUSED
 RACE B SEX M BIRTH DATE 02 23 1961 HT. 510 HAIR Blk WT 25 YES NO
 COUNTY Charleston NUMBER 10
 DATE BAIL REC'D. 20 BY 227 DISTRICT 6

CASE BEFORE
 MAGISTRATE MUN. COURT
 CIRCUIT COURT FAMILY COURT FEDERAL COURT
 NAME OF TRIAL OFFICER IF DIFFERENT FROM ABOVE
 DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION
 NOLLE PROSSD. GUILTY
 FORFEITED BOND PLED NOLO TENDERE
 TRIAL BY: TRIAL OFFICER JURY

VERDICT OF TRIAL IF ANY
 GUILTY NOT GUILTY
 JAIL SUSPEND FINE 400 AMT. COLLECTED 400 AMT. SUSPENDED

COMMITTED TO: Vehicle Searched Yes Arrest as Result of Collision No
 OFFENSE CODE 94 B.A. LEVEL

CERT. S DATE 5 9 10 70055 FB

DRIVER'S RECORD COPY
 \$ 470.00

DOCKET NO. 20100003762

Cheryl E. Cantelmo
 CLERK OF COURT
 NORTH CHARLESTON, SC
 May 26, 2010

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JUN 03 2019

SC Court of Appeals

G

Case Number:
2010003782

NORTH CHARLESTON POLICE DEPARTMENT

Incident - Media Report

Incident Date: 01/26/2010 1:17 pm to 01/26/2010 1:18 pm Weapon Type:

Location: REMOUNT&HOOVER NORTH CHARLESTON, SC 29408-

Reporting Officer: GLENN, JONATHAN DAVID

Approving Officer: KEVIN VERSETTI

Number Arrested: 1

Date/Time of Arrest: 01/26/2010 1:18 pm

Incident Type:

Completed YES

COMPLAINANT:

JUVENILE COMPLAINANT UNRELEASABLE ADDRESS

VICTIM:

(Business) SOCEITY PUBLIC 2500 CITY HALL LN NORTH CHARLESTON, SC 29408-

Weight: 0

SUSPECT:

SINGLETARY, JOHN GILBERT - JR. 4321 WESTVIEW CIR NORTH CHARLESTON, SC 29418-

Race: AFRICAN AMERICAN Sex: MALE Age: 48

BirthDate: 12/25/1961

Ethnicity: NON-HISPANIC

Height: 511 Weight: 215

Hair: BLACK Eyes: BROWN

Suspect Type: SUSPECT, JAIL

Narrative:

ON JANUARY 26, 2010, THE N.C.P.D. S.P.E.E.D CONDUCTED A PROSTITUTION ENFORCEMENT OPERATION NEAR REMOUNT ROAD AND PILGRIM STREET. AT APPROXIMATELY 1:17 PM, THE SUSPECT WHO WAS DRIVING A BLACK IN COLOR TOYOTA TUNDRA BEARING S.C. LICENSE FMR 182 APPROACHED AN UNDERCOVER OFFICER WHO WAS POSING AS A STREET LEVEL PROSTITUTE. THE OFFICER AND SUSPECT THEN ENGAGED IN A CONVERSATION. DURING THIS CONVERSATION THE SUSPECT SOLICITED THE OFFICER PAYMENT OF \$20.00 FOR THE PERFORMANCE OF STRAIGHT SEX WITH HIM.

OTHER OFFICERS MONITORING THE INCIDENT THEN CONDUCTED A TRAFFIC STOP ON THE SUSPECTS VEHICLE. HE WAS THEN PLACED UNDER ARREST FOR SOLICITATION FOR PROSTITUTION AND LODGED IN THE NORTH CHARLESTON MUNICIPAL ANNEX PENDING A BOND HEARING. THE VEHICLE WAS RELEASED TO THE SUSPECTS BROTHER AT HIS REQUEST. THE INCIDENT WAS CAPTURED ON AUDIO AND VISUAL RECORDINGS.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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J. C. Nicholson, Jr, Circuit Court Judge
Trial Court Case No. 2017-CP-10-03226

Appellate Case No. 2017-002621

John Gilbert Singletary,..... Appellant,

v.

The State,Respondent.

CERTIFICATE OF SERVICE

I certify that I have served the Appellant's Motion to Accept Out of Time and Substitute Reply Brief and Proposed Substitute Reply Brief on counsel of record for Respondent by depositing a copy of the same in the United States Mail, postage prepaid, on May 6, 2019, addressed to Robin L. Jackson, Esq., Senn Legal, Post Office Box 12279, Charleston, South Carolina 29422.



Michael D. McMullen
1720 Main Street, Suite 301
Columbia, SC 29201
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SC Bar #65483

MICHAEL D. McMULLEN
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lawyerinsc@aol.com

May 31, 2019

PHONE: 803-252-4433
FAX: 803-799-4059
mcmullenlawsc.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
JUN 03 2019
SC Court of Appeals

Re: John Gilbert Singletary v. The State
Appellate Case No.: 2017-002621
Motion to Accept Substitute Reply Brief Out of Time

Dear Madame Clerk:

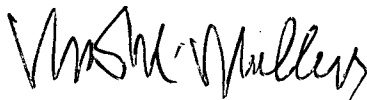
Enclosed for filing please find the following:

- (1) Motion to Accept Substitute Reply Brief Out of Time
- (1) Proposed Substitute Reply Brief of Appellant; and
- (2) Proof of Service.

If you would be so kind, please file the originals. As stated in the Proof of Service, I am serving the Respondent, through counsel, on this date. I ask also that you please return a stamped, clocked-in copy of these to me in the envelope provided.

Thank you for your assistance.

Respectfully submitted,



Michael D. McMullen
Attorney for the Appellant

cc: Robin L. Jackson, Esquire

MICHAEL D. McMULLEN
ATTORNEY AT LAW

1720 MAIN STREET, SUITE 301
COLUMBIA, SOUTH CAROLINA 29201

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JUN 03 2019

SC Court of Appeals

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201