CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

In The Supreme Court of South Carolina
From the Court of Appeals

APPEAL FROM CHARELSTON COUNTY

Court of Common Pleas

Kristi Harrington, Circuit Court Judge
Dennis Markley, Circuit Court Judge

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

Dawn Caldwell,
Individually and in her capacity as an Officer of the Isle of Palms Police Department

South Carolina Law Enforcement Division

Appelate case # 2016-002024

<u>CERTIORARI TO THE SOUTH CAROLINA SUPREME COURT</u>

Important points of the case that are undisputed and unconsted

- At no time, in no document, or filing has I.O.P. or S.L.E.D. disputed, explained, or justified the actions taken, or the wrongs committed against plaintiff Lynd and his property. Each defendant has only complained of technicalities to avoid having to face the facts!!! This is exactly why persons are rioting in the streets over the police conduct, and the Courts condone of it, or failures to act upon it. Be informed; I have turned the documents over to the ACLU for guidance or action they deem appropriate.

- Plaintiff Lynd was a crime victim whose property was recovered by I.O.P. but Lynd was never notified in any form of the recovery to retrieve them.

- Lynd filed a verified claim with IOP whom in turn turned it over to SLED for investigation; thereby any S.O.Limitation if applicable would be the 3 year for a verified claim

- IOP's failure to notify Lynd to retrieve the property and the subsequent disappearance of the property is conversion under South Carolina statutes, of which over a dozen apply.

- There is no S.O.L. of conversion/theft under South Carolina law.

- Lynd hired counsel; in S.C. paid a retainer of 25,000 and the funds were not returned, and counsel failed to fulfill the contract and the COA allowed them to withdraw without filing a single document.

- The trial court errored original by

- Appling the a sol time limit,

- in doing so used the wrong standard, (2 year)

- Miscalculated the start date to the 2 year standard it wrongfully applied

- the 2 year date fell on a sat, the case filed the following Monday

- The trial court held the hearings over 1 year apart,

- Lynd tried to appeal the first ruling, the COA clerk would not accept it,
    - because there was an attorney of record,

- the case was still ongoing and they would not accept appeal till a final ruling on all parties

- COA clerk Kitchens interfered with plaintiffs filings in an attempt to impede the appeal so as to favor IOP and SLED, failed to set motions for hearings, failed to investigate facts of non-notice, intentionally returned motion and filing fees refusing to accept payments to make filings late,

- Chief Justice of the COA meet exparte with IOP's counsel then tried to limit plaintiff Lynd's scope of appeal by declaring Lynd could not file certain points in the brief, denying Lynd's right to preserve grounds.

- COA justice demanded a new brief, Lynd filed a new amended brief, and clerk again refused paymneent, the Chief justice declared it was not adequate and dismissed appeal, Lynd filed a rehearing, the clerk refused to set it

- Lynd made a formal civil rights complaint to the COA, it was filed, and the COA has failed or refused to act on the complaint

- Lynd has made numerous filings with the Supreme Court of the coa clerk's errors only to have the Supreme Court clerk contact the COA clerk and have them correct it, but the S.C. clerk then refuses the filing Lynd made but keeps the $100 dollar filing fee. Lynd has paid the Sup CT clerk 900 dollars and hasn't had a hearing yet.

NOW COMES DAVID Lynd who hereby files this Writ of Certification to appeal the order filed and entered, and filed on 8-24-18. This ordered entered is an alleged final order. The rehearing was finally heard after order from the Supreme Court and denied on 7-10-18. That denial of the motion to rehear order was appealed by Writ of Certification to the South Carolina Supreme Court on 8-8-18 and fees paid, it was not filed till 8-14-18, The COA continued on and dismissed the appeal in its entirety by order dated 8-24-18. Claiming grounds that Lynd did not file the amended brief ordered in the 7-10-18 order currently before this court. Lynd filed a

motion to rehear that dismissal, the COA clerks refused to file it, stating it was not available to be reheard. The C.O.A. has issued the remitter without the filed rehearing being ruled on.

David Lynd hereby files this notice of Writ of Certification to the South Carolina Supreme Court, on the grounds.

(1) Where there are novel questions of law.

State statute says failure to give proper notice on titled property before destruction, is an act of conversion,
Conversion is theft and no statute of limitations exists in S.C, for that.
But the civil courts hear such complaints and try to imply a civil S.O.L. time table.

The time table applied is incorrect as well, as the 3yr SOL would apply due to I.O.P. filing the claim with its insurance company, and hiring counsel to represent it in that insurance claim. That clearly makes it a verified claim,. I.O.P. ACTED ON THE CLAIM FILED by acts and admission verified the claim.

(2) Where there is a dissent in the decision of the Court of Appeals.

In this instance there are several dissents and misapplications of the precedents. This court in **Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004** tried to reconcile those in its ruling but the courts fail to adhere to that opinion, and the COA refuse to adhere to it concerning the filing of post judgment motions.

(3) Where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court.
Same as above the Court of Appeals has seen and been provided that ruling but have ruled against it in its order despite numerous case law, this is done in a case against the City Police and SLED's failure to act. Trying to claim notice of appeals should have been filed when the clerks refused to accept it till the case had ended.

This goes on to be proven by a new order 19 months later that the clerks again refused to accept notice of appeal on.

(4) Where substantial constitutional issues are directly involved.
The failure to act and follow the statutes governing destruction of titled property is a direct an unequivocal equal protection and due process violation.

The case is Lengthy spans years of conduct involves numerous state and city agencies, multiple parties, multiple counsels, and multiple fillings and conflicting orders. The length of the petition mirrors that, due to cause and effect of the lengthy proceeding.

Now comes David Lynd whom hereby files this writ of certification to the South Carolina Supreme Court on the dismissal in-part order dated 3-22-18 of the above named appeal, and the subsequent remitter sent to the trial court while rehearing's were filed, that went unheard. The Writ should be heard due to the nature of the case, and the ongoing Federal Civil rights cases involving the respondents and their actions.

The Supreme Court needs to hear the case now, no longer can the COA refuse to act, then upon filing with this court make the COA act sending plaintiff back down to the COA, only to harassed again, defrauded out of more fees, when no attempt to hear the appeal is ever going to happen.

See the attached motion below : to remove the case to this Supreme Court.

This involves S.C. statues that were not followed, that were ignored, and even lied about their requirements and wording, and the resulting required by law and legal remedy directly outlined in the statue was ignored. This is a theft/conversion by S.C. city and state, government agencies as outlined in the statutes.

The court seems to be applying some hidden standard as if appellant Lynd is a criminal which had his property impounded and destroyed due to arrest. **Appellant Lynd is not that! Lynd was a Crime victim that had his property stolen in Texas, and subsequently recovered in S.C. but was never notified it was in South Carolina to retrieve it**. Appellant Lynd is a victim! And has victim rights under federal law under both **due process that's been denied here, and equal protection that has been denied here.**

So this appeal is a cross complaint under both civil and criminal law. Writ of cert is needed to determine what is the correct path, that the lower courts must follow, **when a S.C. statute was not followed, and the statutory remedy was not applied**.

Does the conversion fall under a civil statute if a mandamus type request for enforcement of the statute be needed in a civil court? or does it fall under the criminal statute which has no statute of limitations? **S.C. has long held no S.O.L. under the criminal code and can seek prosecution and restitution years later**.

In this instance the respondents have being trying to apply civil time limit statues to what was a criminal act under the S.C. statute as conversion.

This in-part dismissal of this appeal based on a parties motions is in contradiction to the standing and most current precedents set by the South Carolina Supreme Court, ***Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court ,*** and the case will be moving on to the S.C. Supreme Court and Federal Court, both in the future and some current ongoing. For these reasons **it is in all parties' best interest to have a decision on the applications of the precedents in question, and the conflict of those being presented.**

In this instance Lynd while represented by a licensed S.C. Law firm answered the motion, lost and filed (by counsel) what was ruled as a post judgement remedies rule 59/60 motion. **This was done by counsel not pro-se Lynd,** any errors in procedure fall on the licensed S.C. lawyer, pro-se Lynd could not have been at fault.

Nor could an appeal be untimely after Lynd instructed counsel to file the appeal under ever existing SC precedent.

Both counsel and The C.O.A. clerk Jenny Kitchens Stated that a interlocutory or piecemeal appeal was not allowed, that the appeal could only be filed after the case was over. Subsequently when Lynd did try and appeal pro-se the clerk of the C.O.A. would not accept the appeal due to Lynd (again) being represented by licensed counsel. The COA clerks even sent counsel numerous letters demanding he respond, then allowed counsel to withdraw from the case without notice to pro-se Lynd or him being allowed to file an answer.

This matter involves the time limit for a post judgment remedy, and new trial, and the exact precedents of this court : see below

> ***RULE 54, (b) Judgment Upon Multiple Claims or Involving Multiple Parties.***
>
> *In the absence of such determination and direction, any order or other form of decision, however designated,* ***which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties***

> **Hagood v. Sommerville, 607 SE 2d 707 - SC: Supreme Court 2005**
>
> *An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually* ***is considered an interlocutory order from which no immediate appeal is allowed****. Tatnall v. Gardner, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct.App.2002)*

The issue in this matter involves 3 parties all filing the same summary judgement motion, but getting 3 separate hearings and 3 separate rulings. Lynd asked counsel and the chief clerk at the COA if each had to be appealed separately and was emphatically told NO!

Herein lies the 1st part of the Writ, the either correct or misapplication of the precedents, when it was CRYSTAL CLEAR pro-se Lynd was making a good faith effort

to file a timely appeal, and was denied that by an error by a licensed S.C. Attorney. Which is clearly covered in the case law below.

Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004

(Quoted below)

These conflicts also are in contradiction of C.O.A opinions, and are not consistent. And are in direct contradiction to the clerk's office procedure of acceptance and filings of appeals, on motions and multiple orders. The chief Justice signed an order dismissing in part all the relevant parts of the appeal in a guise to protect the Government entities named in the cause. This dismissal is not based on fact, nor on precedent. Matter of fact the order actual states one of the cases that stands in appellants favor, as a ground for non-dismissal. The order itself contradicts the orders own result. The order clearly states under

SC code 14-3-330(1) and Lancaster v fields 305sc if there is a final judgement and the party timely files his notice of intent to appeal from that judgment under sec 14-3-330(1) this court can review an intermediate order or decree necessarily affecting the judgment not before appealed from.

It is evident Lynd appealed the case, the motion to dismiss was filed by Isle of Palms stating that the order of 2015 was not appealed, and thereby should be dismissed, as the justice stated in this order, that can be appealed after the final judgment.

It boils down to a loop hole the court can use to dismiss what it chooses, and hear what it chooses. This appeal was dismissed in part stating it was not timely filed with a notice of appeal, even though the appellant's attorneys involved, and the clerks of both the trial court and Mrs Kitchens of the C.O.A stated it was not an interlocutory appeal and appellant must wait till the case was final before appealing any part of it. This was also verified by the Coordinator Mrs. Frierson herself. All of this is covered in Rule 54. And the precedents covering it.

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Piecemeal appeals should be avoided and most errors can be corrected by the remedy of a new trial.

Now as well as those attempts to appeal it; and being told to wait, appellant also was informed of the Supreme Court precedents that clearly state the appeal must wait till all matters are decided on all parties, and all post-trial motions have been heard and ruled on,

Elam v. South Carolina Dept. of Transp., 602 SE 2d 772 - SC: Supreme Court 2004

After studied review, we reject the rationale and result reached by the Court of Appeals in the present case and in *Matthews.* We conclude a party usually is free to file an initial Rule 59(e) motion, regardless of whether the previous JNOV/new trial motions were made orally or in writing, without unnecessary concern the repetition of an issue or argument made in a previous motion will result in a subsequent appeal being dismissed as untimely. In essence, we view the use of oral or written JNOV/new trial motions, followed by an initial Rule 59(e) motion**, as part and parcel of a party's "single bite at the apple" in presenting his case to the trial court.**

Fourth, South Carolina appellate courts do not recognize the "plain error rule," under which a court in certain circumstances is allowed to consider and rectify an error not raised below by the party. *Dykema v. Carolina Emergency Physicians, P.C.,* 348 S.C. 549, 554, 560 S.E.2d 894, 896 (2002); *Kennedy v. South Carolina Retirement System,* 349 S.C. 531, 25*25 564 S.E.2d 322 (2001). **Our mandatory preservation requirements make it doubly important that litigants generally be freely allowed to file a first, written Rule 59(e) motion without concern a later appeal will be deemed untimely.**

Fifth, civil procedure and appellate rules should not be written or interpreted to create a trap for the unwary lawyer or party, but a careful consideration of this issue has led us to conclude that is precisely the effect of an unwarranted expansion of *Quality Trailer*. *Cf. Gamble v. State,* 298 S.C. 176, 379 S.E.2d 118 (1989)

If a party is unsure whether he properly raised all issues and obtained a ruling, he must file a Rule 59(e) motion or an appellate court may later determine the issue or argument

> is not preserved for review. But in filing the motion, he may unwittingly forfeit the right to an appeal if an appellate court later determines the Rule 59(e) motion was unnecessary because he already had raised the issue and obtained a ruling. **We strive to avoid an interpretation of procedural rules which routinely would place a party between the proverbial rock and a hard place.**[5]
>
> We reaffirm the principles set forth in *Coward Hund,* 336 S.C. 1, 518 S.E.2d 56; *Quality Trailer,* 349 S.C. 216, 562 S.E.2d 615; and *Collins Music,* 353 S.C. 559, 579 S.E.2d 524. We reverse the Court of Appeals' order in the present case and overrule the Court of Appeals' opinion in *Matthews,* 357 S.C. 594, 594 S.E.2d 177. We conclude SCDOT timely served its notice of appeal after receipt of written notice of entry of the order denying its Rule 59(e) motion.

> it appropriate for a party to make a "motion for reconsideration" under Rule 59(e) even though the rule mentions only a "motion to alter or amend a judgment." **This view holds true even when a party mislabels a post-trial motion**. *See Blair v. Equifax Check Services, Inc.,* 181 F.3d 832, 837 (7th Cir.1999) (Rule 4(a)(4), FRAP, restates long-accepted practice of considering motions for reconsideration, a practice independent of any appellate rule);

So the order in question seems to state the appellant Lynd should have filed a notice of appeal on each individual order, even though a post-trial motion was filed**. The SC Supreme Court is clear that is not the case**.

> *doubly important that litigants generally be freely allowed* ***to file a first****, written motion* ***without concern a later appeal will be deemed untimely.*** And ***,*** *civil procedure* ***and appellate rules should not be written or interpreted to create a trap for the unwary lawyer or party, but a careful consideration of this issue has led us to conclude that is precisely the effect of an unwarranted expansion of Quality Trailer*** ,

this also holds for the Motion appellants attorney filed and mislabeled, that error is not grounds to dismiss an appeal, nor applicable as an error on pro-se appellant Lynd.

Appellant Lynd is clearly and indisputably in the "trap" the Supreme Court speaks of in its numerous precedents. **All the while CLEARLY AND UNECOVICALLY MAKING A GOOD FAITH EFFORT TO PURSUE JUSTICE AND PERFECT AN APPEAL**. And the

final order closing the case was not entered till 3-22-18. That final order is entered after IOP had already filed the motion to dismiss.

How can a motion to dismiss be filed before the final order is even issued, MUCH LESS BE GRANTED on the grounds the appeal was filed late!!!!!!!

Be advised under their interpretation and the order dismissing the appeal, then the final order, an entirely new appeal would have to be started on the final order date of 3-22-2018. Lynd in protection mode filed a notice of appeal on that order, the COA refused to accept it. Therefore creating another round of appeals to the Supreme Court.

This is clearly what is happening here. The court must also remember appellant Lynd is pro-se now, BUT!! **at the times being discussed (the 2015 and 2016 orders) Lynd was represented by counsel.** NOT ONLY REPRESENTED BY COUNSEL, but refused by the COA clerk's office to file any documents **because he was represented by counsel**.

This is a matter of record in this appeal, where the clerk sent pro-se Lynd letters claiming he COULD NOT FILE DOCUMENTS OR NOTICES **because** he has a counsel of record. *(see appendix)* At the same time the clerk was sending demand letters to the counsel of record demanding they respond. Unknowingly the Law firm had gone under and was disbanded!

THIS IS A MATTER OF THIS APPEAL COURT RECORD. EASILY VERIFIED!!! You cannot have your cake and eat it too scenario, the clerk of the COA cannot tell Lynd not to file, and then the court dismiss due to not filing, **that is just ridiculous on its face.**

This exact contradiction in one opinion to another*, so the ruling 'desired'* can be entered **is why the public is protesting in the streets**. This case it is clear, Lynd is correct, and Isle of Palms and SLED are at fault and liable for damages, and massive civil rights violations of

both due process and equal protection. **It is also clear this is not the desired outcome the courts want** and are deeply seeking any form of technicality that it can apply to make it go away.

This is so simple! The conversion committed by Isle of Palms and SLED is a criminal matter, THERE IS NO STATUTE OF LIMITAYTIONS IN SCOUTH CAROLINA ON THAT CRIME. No amount of digging and word play can make some defunct civil precedent apply to dismiss the case **and the criminal theft/conversion.** REMEMBER THIS IS NOT APPELLANTS OPINION THAT IT HAPPENED BUT FACT, ADMITTED TO FACT, IN BOTH ORAL AND WRITTEN DEPOSITIONS!

The act complained of and remedy sought is conversion/theft according to S.C. statute, and this act is admitted to by the officer in question in 3 separate statement's 2 under oath. Those acts have NO STATUTE OF LIMITATIONS NOR A FILING DEADLINE.

Appellant Lynd as stated earlier was represented by counsel thru both the 2015 order, the 2016 order, and the post trial motion and order. Even up too and thru the initial notice of appeal to the COA clerk's office. THIS APPEALS COURT granted the motion to allow counsel withdraw itself.

Under no precedent can the C.O.A. after its own clerks numerous times made request to the attorney of record without a response, can the hold a pro-se appellant making a good faith appeal, to alleged errors and time limits errors that Counsel of Record ***(an officer of the courts***) might have made. Even if the court disregards every single argument on the post-trial motions, or interlocutory appeal filings, these failings were done by counsel, **NOT! pro-se appellant Lynd. Every precedent that exists in South Carolina, clearly state that an attorney that fails to file a timely notice of appeal if not the fault of the client or now pro-se applicant.**

There is no justification of this dismissal if the error was made by counsel, when pro-se Lynd was clearly wanting and seeking to appeal. Appellant Lynd even when represented by

counsel called clerks and administrators to verify what his counsel was stating that the appeal had to wait for a final judgment. Now the court wants to counter the precedents and state Lynd fails in his attempt to appeal, on counsel of record's alleged error, even though the clerks would not file, and even refused Lynd's first filing attempts.

Butler v. State, 334 SE 2d 813 - SC: Supreme Court 1985

> *The United States Supreme Court's decision in Strickland, supra, is clearly the preeminent authority for all other courts, state and federal, in determination of appeals arising out of allegations of lawyer incompetence.*
>
> *Writing for the majority of the court, Justice O'Connor defines the standard for judging ineffectiveness,* ***then cautions against hindsight and second-guessing review by appellate tribunals:***
>
> *The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.*

In this instance it is clear, counsel failed to file a notice of appeal on the 2015 order, and thereby defendants claim, forfeited appellants Lynd's right to appeal, and was specifically instructed too, not only did counsel not file it but gave a lengthy explanation as to why it was not due to be filed. **Appellant Lynd relied on that, and believed a licensed office of the court.** So at no time did appellant Lynd fail to timely file a notice of appeal. Appellant Lynd even did his own inquires with the clerks to verify those statements. To all parties it was not due till the case was closed. **Here failure to proper file a notice to preserve a parties right to appeal fails the standard in *Strickland* , doubly so when specifically asked or inquired by client**.

The effect of counsel's failure to appeal was that Becton lost his ability to protect his "vital interests at stake."

This doubled the injustice when you count in the court claiming the post-conviction motion also filed by counsel is claimed to be untimely as well. Again an error by counsel that swore to his client it was not time to file it. **These are not errors by appellant Lynd but counsel a SC bar licensed attorney and attorney of record on the case.**

The C.O.A. is confusing the motions and filings at the trial level done by counsel with Pro-se Lynd's filings to appeal.

> ***US v. Peak, 992 F. 2d 39 - Court of Appeals, 4th Circuit 1993***
>
> *However effective or ineffective Peak's counsel was before the judgment of conviction,* ***his failure to file the requested appeal deprived Peak of the assistance of counsel on direct appeal altogether***
>
> *We touched on this issue in Becton v. Barnett, 920 F.2d 1190 (4th Cir.1990). In remanding a dismissed ineffectiveness claim based, in part,* ***on a failure to file a notice of appeal,*** *we said (920 F.2d at 1195):*
>
> ***The effect of counsel's failure to appeal was that Becton lost his ability to protect his "vital interests at stake."***
>
> ***Becton v. Barnett, 920 F. 2d 1190 - Court of Appeals, 4th Circuit 1990***
>
> . ***He alleged further that counsel assured him that there was still time to appeal as the ten day period for appeal had not yet run. However, no appeal was ever filed.***
>
> ***In order for the appeal as of right to be adjudicated in accord with due process of law, the appellant must have the effective assistance of counsel. Evitts v. Lucey, 469 U.S. 387, 396, 105 S.Ct. 830, 836, 83 L.Ed.2d 821 (1985)***
>
> ***US v. Poindexter, 492 F. 3d 263 - Court of Appeals, 4th Circuit 2007***
>
> *In preparation for the appellate phase of the case, an attorney in an appeal waiver case still owes important duties to the defendant. First and foremost, the attorney, as recognized in Flores-Ortega,* ***has the duty to respect the appellate wishes of his client by filing a timely notice of appeal if he is unequivocally instructed to do so.***
>
> ***Skinner v. Westinghouse Elec. Corp., 668 SE 2d 795 - SC: Supreme Court 2008***

The issue and complaints of respondent all and always make this false claims that appellant Lynd is somehow at fault and failed to do this or that, when in reality they all 3 know it **was Lynd's attorney not appellant Lynd** that might have failed in what they are using for grounds in their motions. **Even though clerks and others all claim it was filed the correct and proper way to have filed the appeal**. They rehash this lame claim of technical issues, instead of stating the facts and admitting to the original errors and conversion.

NEVER IN THIS MOUNTAIN OF FILINGS has I.O.P. stated why they are not liable for the conversion of the property in question, why they didn't send the required certified letters, nor the truthful disposition of the property.

Never once have the offered the statutory restitution or compensation. Never once have they even so much as apologized for their error and loss it caused.

Yet everyone in the justice system wants to claim the public outcry and riots in the streets, over the police and courts misconduct, and failures to act on such misconducts, is hogwash, exaggerated, and non-existent. *But right here is the proof.*

Sled administratively closed the investigation of IOP's actions, for what was to be a brief time period, to secretly watch and investigate Det. Caldwell.**; This ENTIRE MATTER falls in SLEDS lap!!! All they had to have done** was reopen the Investigation enter a finding of conversion based on Det. Caldwell's admission under oath, and order the restitution and Interest. **That was the law, the statue, S.C. procedure, and the right and just thing to do**. Everyone could have gone their separate ways and no case would have ensued.

This entire case, appeal, and years of filings is due to SLED"s single employee, that closed and refused to reopen the investigation!! It is that simple and cut and dried! Even at this stage of the **case SLED still has that duty to fulfill,** and could end the entire matter, they know it, their counsel knows it, the courts know it, but everyone's refuses to admit it. The preverbal elephant in the room. This court has a mandamus duty, and the jurisdiction to order that action, a mandamus action ordering the statutory remedy be applied and followed.

This is one of the main reasons this should be heard every justice on the court will be summarily held or tied to this ruling, that once again lets a corrupt

police officer and a corrupt Police dept off the hook, without justice to the public, and therefore should hear the facts and enter a consent or dissent on the outcome.

The individual notices of Appeal on each and every order is not the procedure the C.O.A. clerks follow, this case is an example thru this process every party has complained that a separate appeal on the 2015 order was required. As example the 2-26-18 order, issued after this appeal has already started and proceeded would also require its own separate notice of appeal.

Appellant Lynd did file that separate notice of appeal on the 2-26-18 order mailed 3-6-18, the clerk's office refused to file or accept it an issue a separate appeal case number and just list it as a generic filing in the current case, shown on the docket as filed 3-8-18 "notice of appeal".. But according to the chief Justices order in question here, every order by the trial court requires its own separate appeal.

Appellant Even going so far as to have Mrs Kitchens, call, The head clerk of the COA in a phone call; 4-4-18 at 4:57 p.m. EST from ph# 803-734-1891 stated I did not get a separate appeal on the filing or every order filed, nor an appellate case number on that filing to even proceed on, and don't show it as a notice of appeal.

The Appeals Court's order and implication of how it should have been done, is in conflict to how the clerk's office operates, a hypothetical is this;

if appellants Lynd's counsel at the time of the 2015 order, had actually filed a notice of appeal, then subsequently the following two parties each receiving separate orders over ayear later would have been required to have a separate notice of appeal filed. All based on the exact same fact, *(with motions actually copied from each other)* So while the appeal on the 2015 is progressing, new appeals of the 2016 would have to have been started.

So under either scenario,

one the 2016 would be added to the ongoing 2015 appeal,

or the 2015 would be added to the new and current 2016 appeals.

None are outlined in the rules but truthfully **Neither exists it would be based on 'how" the clerk of the court accepted and filed them.** So the entire argument of filing dates and separate appeals is moot when the clerk's office will not and does not file them that way. Clearly evident by the 2nd notice of appeal, not being accepted and filed separately from the current case.

That is exactly what Appellant Lynd encountered when discussing it with counsel at the time of the 2015 order, and with the clerk and administrator the following day. Mrs. Frierson can corroborate this entire matter as she was c.c. on most of it. All stated you do not file individual appeals on each order, only on the final order, which was never entered.

That final order was entered only after Lynd's initial brief outlined that it was never entered by the court. A sever breach of ethics.

So the dismissal of the trial case parts against I.O.P. , S.L.E.D. and Dawna Caldwell leaving only the post judgment motion to appeal is incorrect and not the normal procedure, and flies in the face of court precedent, it is a clear due process violation, and clearly even if deemed correct not the fault of Lynd but ineffective assistance of counsel. ***lost his ability to protect his "vital interests at stake."***

These repeated filing deadlines that are alleged missed are the fault of counsel, if the court uses them, saying as appellant they were missed file dates, that falls on counsel, and Lynd now Pro-se is not subject to suffer that counsels errors, it is the courts own created catch 22. If the court claims they are filing errors they are the fault of counsel of record, **and are acts committed by counsel that denied the client his right to appeal.** That without question meets the ineffective assistance of counsel standard in *strickland*, and does so allegedly on several

different occasions of missed dates. **It cannot be both;** it cannot be errors on filing but not be an error by paid counsel, an error of the most basic, timely filing of documents.

It is also quiet insulting to appellant, and the public that everyone up to the Chief justice is dictating statues and laws, and this so called **strict adherence** to it**, but somehow there is no adherence strict or otherwise to the statues violated that caused this case in the first place**. Statue that still have jurisdiction even as this appeal proceeds!!

That is why an Supreme Court decision is needed to determine who, whom, and what entity failed in enforcing the conversion after it was confessed too: this falls upon all the justices of the court, and all should have a say and an opinion on the record.

> ***SECTION 56-5-5940. Seizure, sale or disposal of vehicle in violation of article constitutes conversion.***
>
> ***(a) Seizure, sale, or disposal of an abandoned or derelict motor vehicle in a manner inconsistent with the provisions of this article shall constitute conversion for which the owner shall have redress in any court of competent jurisdiction.***

There is no time limit under this statue and the ones that follow; that issue being what the original trial order being claimed was not timely appealed was based on. It makes the filing time statue the respondents argued a moot point. **They filed a summary judgment motion on a time limit that didn't exist and had a sympathetic judge grant it based on civil statute of Limitations standard not the conversion statute**. that does not exist on this act.

Thereby putting appellant Lynd in a system loop of appeals, filings, and technicalities, claiming time limit failures, on a matter that had **no time limit to begin with.**

ODD!! Out of all the these rulings, and determining all these technical issues; nobody seems to see the most relevant one!!

A technical point that makes all the others a moot point.

It is also quiet insulting to appellant, and the public that everyone up to the Chief justice is dictating statues and laws, and this so called **strict adherence** to it**, but somehow there is no adherence strict or otherwise to the statues violated that caused this case in the first place**. Statue that still have jurisdiction even as this appeal proceeds**!! And have no STATUTE OF LIMITATIONS!!!**

SECTION 56-5-5660. Repealed by 2012 Act No. 242, Section 7, eff December 15, 2012.

Former Section 56-5-5660 was entitled "Application for and issuance of disposal authority certificates" and was derived from 1962 Code Section 46-490.16; 1972 (57) 2459; 2004 Act No. 269, Section 6.

South Carolina Code 56-5-5660. Application for and issuance of disposal authority certificates

(A) Any person or unit of government upon whose property or in whose possession is found an abandoned vehicle, or any person who is the owner of a vehicle whose title certificate is faulty, lost, or destroyed, may apply to the sheriff or chief of police of the jurisdiction in which the vehicle is located for authority to sell or give the vehicle to a demolisher.

(B) The application must give the name and address of the applicant, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment, or that the title of the vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant must execute an affidavit stating that the facts alleged are true and that no material fact has been withheld.

(C) If the sheriff or chief of police determines that the application is executed in proper form, and demonstrates that the vehicle has been abandoned upon the property of the applicant, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed in accordance with Section 56-5-5630, the sheriff or chief of police must follow the procedure set forth in Section 56-5-5660(D) for issuance of disposal authority certificates.

(D) If the application demonstrates that the vehicle is not abandoned but that the applicant appears to be the rightful owner, the sheriff or chief of police must give the applicant a certificate of authority to sell or give the vehicle to any demolisher for demolition, wrecking, or dismantling. A disposal authority certificate may contain multiple listings. The demolisher must accept such certificate in lieu of the certificate of title to the vehicle.

Conversion

n. a civil wrong (tort) in which one converts another's property to his/her own use, which is a fancy way of saying "steals." Conversion includes treating another's goods as one's

own, holding onto such property which accidentally comes into the convertor's (taker's) hands, or purposely giving the impression the assets belong to him/her. This gives the true owner the right to sue for his/her own property or the value and loss of use of it, as well as going to law enforcement authorities since conversion usually includes the crime of theft.

Conversion is a wrongful act and has been defined as the unauthorized assumption in the exercise of the right of ownership over goods or personal chattels belonging to **another to the exclusion of the owner's rights. *Owens v. Andrews Bank & Trust Co., 265 S.C. 490, 220 S.E. (2d) 116 (1975). Powell v. A.K. Brown Motor Co., 200 S. C. 75, 20 S.E.2d 636 (1942)***.Conversion may arise by some illegal use or misuse, **or by illegal detention of another's chattel**. Id. Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified***. Id; 89 C.J.S. Trover and Conversion § 23 (1955).*** **To establish the tort of conversion, it is essential that the plaintiff establish either title to or right to the possession of the personal property. *Oxford Fin. Cos. v. Burgess, 303 S.C. 534, 402 S.E.2d 480 (1991). A* claim for conversion can be based on an unauthorized detention of property,** after demand. Castell v. Stephenson Finance Co., 244 S.C. 45, 135 S.E. (2d) 311 (1964). **Punitive damages are recoverable in conversion cases in the event it is determined the defendant's acts have been willful, reckless, and/or committed with conscious indifference to the rights of others**. Hunt v. Jordan, 286 S.C. 340, 333 S.E. (2d) 569 (Ct. App. 1985).

Conversion has been defined in our case law as an unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the exclusion of the owner's rights. Ray v. Pilgrim Health & Life Ins. Co., 206 S.C. 344, 34 S.E. (2d) 218, 34 S.E. (2d) 218 (1945). Conversion may arise by some illegal use or misuse, or by illegal detention of another's chattel. Castell v. Stephenson Finance Co., 244 S.C. 45, 135 S.E. (2d) 311 (1964).

Conversion § 84 (1985); McPherson v. Neuffer & Hendrix, 45 S.C.L. (11 Rich.) 267, 281 (1858) **(if a party wrongfully assumes property belonging to another or wrongfully uses it, it amounts to a direct conversion and a demand and refusal are not necessary before bringing an action).**

"An action for conversion may be maintained by persons having the immediate right to possession of the article converted. Indeed, ordinarily**, an immediate right to possession at**

the time of conversion is all that is required in the way of title or possession to enable the plaintiff to maintain his action."

The words maintain his action somehow seems to escape everyone involved in this.As of this filing Lynd still has the right to possession of his property, at no time does that expire, or run some imaginary SOL. It is Lynd's property and must be returned or compensated for.

> ***SECTION 56-5-5635.*** *Law enforcement towing and storage procedures; notification of registered owner; disposition of vehicle and personal property.*
>
> *(B) Within ten days following a law enforcement's towing request, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the sheriff or chief of police a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop****. A person who fails to provide the law enforcement agency with this list forfeits recovery of any storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders by certified or registered mail, return receipt requested, pursuant to Section 29-15-10****. Within ten days of receipt of this list****, the sheriff or chief of police must provide to the towing company or storage facility, the current owner's name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop.*** *The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle* ***must notify by registered or certified mail, return receipt requested, the last known registered owner and all lienholders of record that the vehicle has been taken into custody.***
>
> *(C) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must provide notice by one publication in one newspaper of general circulation in the area from which the vehicle was abandoned which is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles.*
>
> *(D****) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources for the name and address of any owner or lienholder****. For nontitled vehicles, where the owner's name is known****, a search must be conducted through the Secretary of State's Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling***

facility or the Secretary of State. If the vehicle has an out-of-state registration, an application must be made to that state's appropriate titling facility. When the vehicle is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to the sheriff or chief of police in the jurisdiction where the vehicle is stored to determine the state where the vehicle is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle's identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

(E) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to Section 29-15-10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the vehicle. ***Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner's and lienholders' identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five-day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty days after the day the notice is mailed, return receipt requested, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29-15-10.***

(F) After the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration has one opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

(G) ***When a law enforcement agency stores a vehicle at a law enforcement facility, the agency must follow the notification procedures contained in this section and submit vehicle information to a magistrate in the county where the vehicle is stored to provide for the sale of the vehicle at public auction.*** *A law enforcement agency is exempt from paying filing fees in any matter related to the towing and storing of a vehicle.*

The order goes on to list a footnote (1) *claiming " although appellant was unable to inform this court"* again clearly showing the court is aware that now the appellant Lynd, **was at**

the time represented by counsel, and counsel would have received the notice not Lynd. And that counsel refused to forward Lynd his case file, notes or the original documents supplied to counsel.

IOP claims the 2ys Sol had expired prior to Lynd filing suit. That is inaccurate to the facts Lynd had filed a verified claim with the Government entity that claim was forwarded to the insurance company and never action taken on it, nor denied. That verified claim also claimed an act of malfeasance by IOP so was forwarded to SLED for investigation.

When the 'claim' was sent to both the Ins. Co. who hired counsel to defend it, and Sled whom started an official investigation it is clearly a verified claim under the rules. That claim is still un-denied or disallowed. The only time it was even mentioned as to any form of denial was Domin email statement that it was without merit in Feb 2014.

The Sol argument made by IOP references no known date, or instance. (*See transcripts 9-2-15 pg. 4, line13)* IOP references a 'magic date' by going back 2 yrs. from the dater of filing, but IOP does not reference any known notice or certified mail giving notice to Lynd that would start the SOL, as required in the statutes listed below on the impoundment, and destruction of the skis in question. IOP has basically picked a date out of the air stating that any contact prior to that date starts the SOL. That is a jury question and a material fact question that nullifies a Summary judgment in favor of the non-movant.

The SOL limits starts when IOP noticed Lynd according to the statue, and/or notice Lynd of the upcoming destruction, and/or noticed by the salvage/destruction facility they were turned over too. All of these notices are required by South Carolina Statute, IOP did none of them, **and IOP can't claim a statutory argument** when it failed to follow the statutes required in the first place. You cannot ignore dozens of statues and then try and excuse yourself from those errors by claiming you are protected by another statute, a statute that you are manipulating for your own benefit. Especially when the prior statutes, are what invoke the statue you are relying on. This is the exact reason why the public is protesting in the street, *(a Police dept. ignores the rule of law under dozens of statutes, then claims it's not at fault, and manufactures a fault to place on the victim for an excuse and way out, and a court rubber stamps with no evidence.)*

As well as the statutes named below involving the destruction, **not only can IOP not produce those documents required, it cannot even produce an existing salvage company that allegedly destroyed them.** This goes to the original IOP PD file that has yet to be produced; only the altered file has been fwd. to Lynd. The Tracy Waldron memo *(see Lynd's response to IOP's motion for summary Judgment)* clearly references the prior file, but Caldwell altered it, and that altered version is what was fwd. to Lynd.

A summary judgment is granted when no material fact exist, 1) the fact the statues were not followed, 2) no certified letters sent, 3) no impounded documents and 4) title search done, 5) no destruction documents or 6) court order for abandonment 7) nor notices from the alleged salvage yard exist. **The statute calls IOP's failures conversion or theft, and that statute by law does not involve Lynd's filing date. All of these are material facts and questions for the jury! And must be ruled in favor of the non-movant by law.**

The court must weight Non-movant Lynd's extensive due diligence against the time Statutes, and IOP lack of any form of diligence against numerous statutes that as the Governmental Police Dept. must and should know by heart!

The court must weight Non-movant Lynd's extensive due diligence against the time Statutes, and the knowledge by IOP of the verified claim, that was both turned over to SLED for investigation and the Insurance co for processing, that is a verified claim under every precedent listed.

The statue and precedents are clear as to the **Suit is barred from being filed!!!!!** Till one of the 3 prongs is meet. And this invokes the 3 year SOL.

So in any argument the 3 yr. statute prevails.

This after the court ILLEGALLY, gave the respondents time to go back to the trial court and get a new order signed over a year after the appeal was started**, and after Lynd's brief was already filed !!!** And they had been served a copy of

Lynd's brief and were able to carefully word the new order to counter that brief. **Oh! so fair and just!** Inexcusable!No cloud over that act.

But the Court can do that, but can't call in the counsel of record to find out why he didn't file the notice of appeal to preserve Lynd's rights, why he allegedly filed the post relief motion late, **or when he received the notice in question**.

The clerks and court canNOT create, out of air, a new order stating facts not presented in the SJ motions nor in the transcripts of the hearing for the appeal. If the facts in the new order were never presented to the court to determine, **HOW??? Did they end up in the signed order???**

The Dismissal order goes on to state the only order left before the court is the post judgment motion order. And that being so a new brief is required, the court clearly failed to view those motions, **in them is every argument listed in the initial brief on file, there is no need to do a new brief**, those arguments are what is in the post judgment motion, even the respondent's response make that claim. So the initial brief covering the basis for the summary judgment is correct because that is the arguments in the post judgment brief, and is need to preserve appeal to the Supreme Court, and is evidence in the federal Civil rights violation.

It appears to be the court, thru that part of the order, is trying to make an excuse or alleviate the parties from having to answer on

1.the conversion,

2.the closing of the SLED investigation, and the

3.certified letter never sent.

Filed objection inserted: full copy in appendix;

OBJECTION TO TRIAL COURTS 'NEW' ORDER OF

2-26-18 FILED 3-2-18

Now comes Appellant Lynd who objects to the late and untimely filing of the trial Courts order.

To allow the defendants to present an order to be signed 22 MONTHS LATER, without a hearing AND AFTER BEING SERVED A COPY OF LYND'S APPEAL BRIEF !!!, or Lynd's input to an agreed order as required is a clear and concise **due process and equal protection violation**. This smacks of ex-parte communication and a clear conspiracy to file an order that conveniently matches the respondent's claims. Claims which Lynd had proven to be false in his brief and in the replies to respondent's motions to dismiss the appeal. Claims which are not mentioned or discussed in the transcripts!

Counsel for Caldwell who was the one caught making false claims and referencing false orders was the person who generated this 'order' for the court to sign, presented it ex-parte, and got it signed 22 months later, just conveniently matching what he lied about, but not the transcripts or record. And HE FAILED to inform the trial court Judge of those facts upon presenting the order to be signed.

Lynd proved in his responses that **DEFENDANTS WERE LYING AND CLAIMING FALSE RECORDS**, and rulings that did not exist, and the lack of the order proved it! Respondents falsely claimed *(in their motions to dismiss)* that the court ruled that the motion was untimely in its order. **WHEN IN FACT** no order was issued, that 'untimely' issue was not in the record or transcripts, Lynd DISPROVED THAT FALSE CLAIM (lie!), only for the appeals court (somehow) to allow them to now generate an order stating that!!!!!!!!! To allow them 22 months later to go back to the court **ex-parte,** and get an order **'worded' the way they need it 'worded'** is beyond outrageous, and is clear due process and equal protection violation. And reeks of a conspiracy,

And if neither the appeal nor motion has been heard by the court yet, who generated this request to the court for an untimely order????? after the briefs, facts and arguments have been seen by respondents, and the loss of the appeal made so apparent. Were the clerks allowed to do this?

THIS IS A CLEAR FEDERAL CIVIL RIGHTS VIOLATION!!

For Christ sake the appeal brief has been filed, and respondents could not defeat it under the law, they tried a lame time issue dismissal, Lynd disproved that, and **PROVED THE REPONDENTS were make false perjured claims in their motions.** The appeal HAS STARTED, and now under this action **the record has been alrtered** or changed and is now different then what Lynd's brief is based on. Come on!

The court instead of admonishing or taking so form of action on the perjury, apparently (by the record) made a request to the trial court to fix the errors pointed too in Lynd's brief that wins Lynd's appeal, thereby altering the Record after Lynd's brief had been filed. Is this the normal way the court handles appeals involving the State of South Carolina, sees the perjury and allows ex-parte/ back hallway discussions to correct so they don't have to rule against them? As simplistic as this request and new order seems, it alters the entire appeal, and violates Lynd's equal protection and due process rights and protection guarantees.

First the form 4 states it does not **End the Case**, the appeals court stated that the form 4 clearly stated it does not end the case in its on request to the trial court, ODD NOW the 'new' order does?

2nd the form 4 did not mention untimely, nor does the record or transcripts, ODD Now the 'new' order does?

The form 4, nor record address the rule 59/60 precedents that Lynd points out in his appeal argument, and responses, for the timely filing of those, **the 'new' order does!** How does the trial court, or the new order address that when it had nothing to do with the argument prior, only after Lynd responses?

Does no Justice on the Court of Appeals find this ODD and convenient??

All this is smoke screen, and a feeble attempt to hope for the COA to take pity on them and find some technicality to cover that they impounded the skies, DID NOT send the required *(by S.C. law)* certified notice of which over a dozen were required, allegedly destroyed them with a fictitious salvage yard, COMMITTED CONVERSION (THEFT) under S.C. own statutes and are trying to dodge their responsibility claiming a time statute that does not apply to CONVERSION!!!!!!!! **There is no statute of limitation on theft/conversion in South Carolina,** for the courts

to apply that to individuals who commit theft,,, but not the government itself is selective prosecution/adjudication.

As Lynd has stated this is respondents attempts to keep throwing paper at a losing cause in hopes pro-se Lynd *(pro-se because this court allowed the attys to keep the funds for an appeal and withdraw)* will make some error or miss, or misfile a response or document.

This is beyond contempable.

NEW ORDER ENTRY

If the court accepts this new order dated 2-26-2018, all respondents motions to dismiss and arguments of untimely filings **most be denied**.

This New Order states it ends the case, the prior form 4 clearly states it does not. The court addressed that in its request for an order. Therefore this New order dated 2-26-2018 and filed 3-2-2018 would be the final order of the case, **that starts the statute of limitations for filing a timely appeal.** No prior order ended the case, as the court odf appeals acknowledged, and as laid-out in Lynd's briefs and replies to the respondent's motions to dismiss. The case law and precedents support that, without any waiver on that legal position. The final order is the appealable order for all parties. The order dated 2-26-18 ended the case and is an appealable order. By both rule and precedent, regardless of any determination of the motion being a rule 59 or ruile 60 motion, the filed order ended the case. The court can accept Lynd's current appeal as timely and move fwd, or Lynd can send a new notice of appeal based on this 'new' order and start the appeal from scratch.

Relevant code: That has no statute of limitations

> **SECTION 16-5-60.** Suits against county for damages to person or property resulting from violation of person's civil rights.

> Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office.
>
> HISTORY: 1962 Code Section 16-106; 1952 Code Section 16-106; 1942 Code Section 1384; 1932 Code Section 1384; Cr. C. '22 Section 314; Cr. C. '12 Section 324; Cr. C. '02 Section 237; G. S. 2571; R. S. 202; 1871 (14) 561.
>
> **SECTION 16-9-10.** Perjury and subornation of perjury.
>
> (A)(1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.
>
> (2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

If those parts are removed from the brief, they cannot be argued on further appeal. But being that is the gist of the case, and if removed from the brief will not be allowed to be argued before the U.S. Supreme Court as a ground, and the upcoming Federal Court, they cannot be removed from the brief. So the need for a new initial brief is moot, the brief on file is needed as

is to preserve the grounds argued in that brief, and are directly correlated to the post judgment motion on file and the grounds in it that this court order is referring too.

Most attorneys familiar with appeals and writs in South Carolina state this should have been removed to the Supreme Court long ago. It is dealing with theft and collusion of two different state sponsored police agencies. Maybe this court should consider doing so, in the name of equity and speediness. To pursue this matter thru a court of appeals that is being frivolous with the law and precedents and wasting valuable time, conspiring and having numerous ex-parte meetings with the chief justice is a travesty and what most protest are about.

Prayer

It is clear fact that the conversion happened.

It is clear fact Lynd was represented by counsel up till the appeal

It is clear fact all errors claimed to base the dismissals on was by counsel, not Lynd.

It is clear fact all state and federal precedents declare Lynd not liable for those errors.

It is clear fact even with the errors Lynd made dozens of attempts to file an appeal, and made a good faith effort to do so.

It is clear fact that the interlocutory appeal was not supposed to be filed by this court prior precedent, and dismissal on that point is error.

It is clear fact the statues outlining conversion do not have a SOL to file a civil suit.

It is Clear fact the statue provide any court or justice can enter a declaratory judgment on the conversion, ordering IOP to pay the damages and the case ends.

APPENDIX

a brief appendix is attached, the COA refuses to send the copies to me and prior counsel is whereabouts unknown and refuses to return my file.

4th Notice of appeal filed on final order of 2018

Clerk letter deny filing of a separate appeal on separate order PROVE MY point, ***case been routinely dismissed due to not filing separate appeals, CLERKS DO NOT ALLOW THAT***

COA clerk letter refusing to accept filings

COA letter instructing Atty of record to respomnd

COA clerk letter assigning case number off notice of appeal, sending it to atty of record

Order of withdraw of counsel 1-20-2017

Form 4 order dated **7-28-2016**

Court orders allowing new order 2-7-2018

New order dated **3-22-2018 20 months after the fact!!!!!!!!!!**

COA clerk letter refusing to accept motion to rehear.

IOP motions

Lynd's pro-se response

FORMAL REQUEST TO REMOVE THE CASE TO THE

SOUTH CAROLINA SUPREME COURT

The South Carolina Supreme Court needs to take **command and control and jurisdiction of the case** for a once and for all final determination. No matter the outcome from lower courts one or more of the parties will eventually bring the matter before the South Carolina Supreme Court again and again. The matter involves malfeasance by 2 different law enforcement agencies of this state. Involves rulings that fly directly in the face of this court's precedents, by COA justices that claim they do not have to follow precedents that do not agree with. It involves law enforcement agencies cover-ups, records altering, conspiracy, and clear and concise civil rights violations. Ongoing Civil Rights litigation, failures to recuse, ex-parte communication and concise scheme to avoid a permeant record of those agencies response to the facts and claims.

The act of conversion by IOP has no set statute of Limitations, and the final determination of conversion must be made by this court.

The conversion statutes clear state any Justice in the state of South Carolina, can enter a finding of conversion against I.O.P. and they matter is ended. The value is already determined by I.O.P., it would be the value plus interest, and all parties can part ways. **Lynd requests the South Carolina Supreme Court issue that conversion ruling.**

The minute technical issues, that factual do not exist, **CANNOT** outweigh the gross negligent technical issues committed by I.O.P., failure to notify, conversion, statutory duties under the law, fraud, all of which I.O.P. ignored. S.L.E.D.'s failure to complete the investigation, administrative closure, conspiracy with I.O.P. to transfer Caldwell, all issues that are clear and concise acts, not some made up technical issue they claim Lynd has made.

Those 'technical' issues everyone seems to want to pretend never happened, they are not going to go away. It is what the public outcry country wide is about.

APPENDIX

1. 8-24-18 dismissal order
2. Motion to rehear order
3. pg 6 transcripts
4. Screenshot of COA docket showing knowledge of writ filing
5. Appeal brief

Thank you.

David S. Lynd
Plaintiff
2605 Rustown Dr.
Mesquite TX 75150

Parties

Appellant

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Plaintiff
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CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

In The Supreme Court of South Carolina
From the Court of Appeals

APPEAL FROM CHARELSTON COUNTY
Court of Common Pleas

Kristi Harrington, Circuit Court Judge
Dennis Markley, Circuit Court Judge

Case No. 2015CP1002824

David Scot Lynd

VS

Isle of Palms

Dawn Caldwell,
Individually and in her capacity as an Officer of the Isle of Palms Police Department

South Carolina Law Enforcement Division

PROOF OF SERVICE

I hereby certify that the above named partied were served this reply by **U.S.P.S. mail on 9-22-2018** to the address on file with the court shown below.

_____

David Lynd

Timothy Domin
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