

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEL FROM CHARLESTON COUNTY  
Danial Hall, Circuit Court Judge

**RECEIVED**

MAY 13 2019

SC Court of Appeals

Case No. 2015-CP-10-4166  
Appellant Case No 2018-001125

Theodore Wagner.....Appellant

v.

Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike  
Davis....Respondent

**Response to Respondent's Briefs May 1, 2019**

**I Invoke RULE 82 (c) Removal to Federal Courts**

Date:

*Theodore Wa*  
*May 9<sup>th</sup> 2019*

*Theodore Wagner*

Theodore Wagner, Pro Se  
General Delivery - Homeless  
557 East Bay Street  
Charleston, SC 29403  
Pro Se for the Appellant

Kenneth G. Goody, Jr., Attorney  
4 Carriage Lane, Suite 204  
Charleston, South Carolina 29407  
Attorney for Respondent

## Among Issues for Federal Court

### **Supremacy Clause of the United States Constitution invoked by Response to Respondent to by Answered by Federal Court under RULE 82 (c) Removal to Federal Courts.**

Because of the Damage done to me mentally by the Defendant and the Ongoing Conspiracy he did join I am unable to Defend My Constitutionally Protected Rights Properly. I need a Constitutional Lawyer Appointed. Period! I am Pro Se Indigent and do not have the money. Period! I am Indigent!

I am using the top of the old Brief as the Panic is to Extreme and the Medications are not helping much.

(1) **Trial By Jury Demanded** was on the top of every Complaint sense the very first one served on the Defendants and is covered under the Supremacy Clause of the U.S. Constitution. Kenneth Goode brings up on May 1, 2019, *Did the trial court abuse its discretion by dismissing Appellants Case under Rule 14 (b) of the South Carolina Rules of Civil Procedure?* I move this to Federal Court under **RULE 82 (c)** as **RULE 41, DISMISSAL OF ACTIONS; NON-SUIT (b) Involuntary Dismissal**: is in violation and Unconstitutional under the Supremacy Clause of the Fifth Sentence of the First Amendment of the U.S. Constitution and as Stated in Article 1, Section 2 of the South Carolina Constitution. Rule 41 is us Unconstitutional under the Supremacy Clause and as stated in many Federal Cases including **Marbury vs. Madison, 1 CRANCH 137 - Law Repugnant to the Constitution is Void. This is now a Federal Court Decision.** Once a **Trial By Jury is Demanded** a trial court does not have the Right to Rape me of this Right!

(2) The Supremacy Clause of the U.S. Constitution's Ninth Amendment protects My Right to The Truth, The whole Truth, and Nothing but the Truth be placed on the record. On the day of the meeting of Mike Davis he read and went over my whole presentation of this Right and the Reason I met Mike Davis is because when Federal Judge Duffy tried to blackmail me into giving up this Right I would not so Federal Judge Duffy sent me to prison. **The whole reason I met Mike Davis** was the Ongoing Federal Conspiracy to cover up that my wife Andrea was 20 years, 1 month, 16 days old, on June 25, 1999. When Mike started his Terrorism of me he knew he was aiding in an Ongoing Federal Conspiracy. The Respondent's Brief and my Response to his Brief gives me the Right to invoke **RULE 82 (c) Removal to Federal Courts**.

**Ninth Amendment: I Theodore Wagner Retain My Right to The Truth, The whole Truth, and Nothing but the Truth be placed on the record about me.**

On December 19, 2016 I Filed "**Constitutional Challenge for a Full and Fair Redress of the Truth etc.**", Docket No. 2015-CP-10-4166 in this Case. I repeated this Right to Judge Hall in Court on May 7, 2018 that **I Reserved this Constitutionally Protected Right at (Pg. 68, Lines 11-15)** The word Truth is used 14 times that day.

**Judge Hall in Court took the Evidence to this Ongoing Federal Crime to the back on May 7, 2018.** After examine it he came out and said Andrea would have to testify but she would have to be sequestered. I agreed. Kenneth Goode said that Andrea was in the hall and had spoken to her with her **Federal Government Representative** who should not have been at a **State Civil Court Preceding to aid in the Ongoing Federal Cover Up of Federal Felony Crimes.** The next morning I am Involuntarily denied The Supremacy Clause of the U.S. Constitution's Ninth Amendment using the Unconstitutional *Rule 14 (b) of the South Carolina Rules of Civil Procedure* to deny my **Trial by Jury Demanded** in violation of the Supremacy Clause of the United States Constitution. The Respondent's

further participation in this Ongoing Federal Conspiracy on his Brief of May 1, 2019 forcing me to Respond to this Ongoing Federal Conspiracy invokes **RULE 82 (c) Removal to Federal Courts.**

All the **Evidence of the Ongoing Federal Conspiracy** that Mike Davis examined or was a part of along with the Constitutional Challenge Filed on December 19, 2016 I Filed "**Constitutional Challenge for a Full and Fair Redress of the Truth etc.**", Docket No. 2015-CP-10-4166 in this Case was Notarized and Mailed on April 8, 2019.

As **Federal Judge Micheal Duffy** was a party, To: **Administrative Office of the United States Courts**, U.S. Department of Justice, One Columbus Circle, NE, Washington, DC 20544.

As **Assistant U.S. Attorney Rhett Dehart** was a party, To: **Office of Professional Responsibility**, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Room 3266, Washington, DC 20535-0001.

As **Special Agent Cynthia McCants of the Federal Bureau of Investigations** was a party, To: **Office of Inspector General**, U.S. Department of Justice, Inspection Division, 950 Pennsylvania Avenue, NW, Room 4706, Washington, DC 20530.

**S.C. State Judge Hall** viewed the evidence of this Federal Felony Crime Andrea was a part of with the Federal Court Cases that prove it was a Felony on May 7, 2018 before coming back into the courtroom and stating that Andrea did have to Testify Under Oath to these facts on the stand. Same Evidence Mike Davis looked over and much more as I am only allowed to put the Federal part in my Federal Grievance and Petition.

The Respondent's Brief of May 1, 2019 forcing me to Respond to his misdirection invokes **RULE 82 (c) Removal to Federal Courts** and all the **Evidence of the Ongoing Federal Conspiracy** that Mike Davis examined, the reason we met, and Mike Davis used with Malice and Forethought to cause me further Pain and Trauma knowing full well of the Evidence of the Ongoing Conspiracy and my Innocence.

(3) Meeting Mike Davis and Aaron never wanting to be part of my Law Suit: When I moved in with Aaron on October 1, 2013 Aaron did not know Mike Davis. Aaron was in an intense sexual relationship with Holly Hildenbrand. That is he talked about was leaving me with the apartment and moving out to live with Holly. Holly and Aaron talked openly to my about them moving out and getting a place together. Just before I was going to prison because Federal Judge Duffy said if I did not stop trying to put the truth on the record he was going to send me in for mental Evaluation. He had the Evidence of this Ongoing Conspiracy in front of him and is a part of it.

Fear of going to prison and leaving Aaron with my bank card only to come back and find he had used my money to move out with Holly Hildenbrand had me in a panic. I ask him to ask this millionaire he had recently met over so I could ask him to handle my money. A millionaire does not steal 700.00 Dollars for someone on Disability. This conversation is on Audio Recording Filed with the Court on DVD in this case and is Evidence the Respondents want covered up.

One of the first things Aaron Satcher brought up when I got back from prison was how much he wanted to move out with Holly Hildenbrand and how Mike Davis had got him hooked on cocaine. He did not mention until a week later how Mike Davis Roofied him the first time and how Mike uses drugs as an old man to get young men to have sex with him. Aaron wanted to end any contact with Mike Davis. That is when mike threatened to kill Aaron, called Aaron's Mother, Father, Sister, Pastor, Holly Hildenbrand, Aaron's Boss, Coworkers, Friends from years past using Facebook and following Aaron every movement all day and night for years and years. Aaron never wanted to be a part of my Lawsuit. He just wanted Mike Davis to leave him and his new girlfriend who knew all about his Psychopathic stalker, Miah Bundy, alone. After Mike was sentenced for a State Charge of Stalking, 21 days later he went after Miah. Mike Davis and Aaron Satcher never had a relationship any more than Kenneth

Goode and I are in a Relationship as Aaron never cared for Mike, Mike just got Aaron hooked on Cocaine.

Mike Davis and my meeting only had to do with the Federal Felony Crimes and the Ongoing Conspiracy by the Federal Government to cover up that crime that **My Wife Andrea was 20 years, 1 month, 16 days old on June 25, 1999** and Mike Davis Knowingly using this Ongoing Conspiracy of a Federal Felony Crime to cause me a lifetime of Pain and Trauma.

The Respondent's Brief causing this Response to put the Truth, the whole Truth, and nothing but the Truth on the Record has Invoked the Right of **RULE 82 (c) Removal to Federal Courts** and all the **Evidence of the Ongoing Federal Conspiracy** that Mike Davis examined, the reason we met, and Mike Davis used with Malice and Forethought to cause me further Pain and Trauma knowing full well of the Evidence of the Ongoing Conspiracy and my Innocence and my Supremacy Clause Constitutional Challenge be heard in Federal Court of the Protected Right under the Supremacy Clause of the U.S. Constitution's Ninth Amendment protects My Right to The Truth, The whole Truth, and Nothing but the Truth be placed on the record.

**I Beg this Court forgive me for chopping off and old brief for this Response Brief but it has got to the point it is hard to go to soup lines and doctor appointments much less defend my Constitutionally Protected Rights Pro Se as an Indigent.**

#### (A) TABLE OF CONTENTS

<b>Table of Contents:</b>	<b>Page Number:</b>	<b>(2)</b>
<b>Cases used: (alphabetically arranged)</b>	<b>Page Number:</b>	<b>(2)</b>
<b>Anton v. South Carolina Coastal Counsel, 469 S.E. 2d. 604 at 605 (S.C. 1996) -</b>		
<b>Constitution overrides the Statute.</b>	<b>Page</b>	<b>(9)</b>
<b>CARTER VS. CARTER COAL CO., 298 US 238 - Shall be the Supreme Law of the Land</b>	<b>Page</b>	<b>(10)</b>
<b>DOC vs. Heller, 554 US 570 - Operative Clause - Right of the People.</b>	<b>Page</b>	<b>(11)</b>
<b>Marbury vs. Madison, 1 CRANCH 137 - Law Repugnant to the Constitution is Void.</b>	<b>Page</b>	<b>(13)</b>
<b>Olmstead vs. United States, 277 US 438 - Through the Department of Justice, to avail</b>		
<b>itself of the fruits of these acts.</b>	<b>Page</b>	<b>(14, 29)</b>
<b>Pollock vs. Farmers' Loan &amp; Trust Co. 157 US 429 - To declare a law unconstitutional but</b>		

<b>the duty to do so.</b>	<b>Page</b>	<b>(15)</b>
<b>Schick vs. United States, 195 US 65 - Amendments must control.</b>		
<b>USA vs. Butler, 297 US 1 (1936)</b>	<b>Page</b>	<b>(16)</b>
<b>U.S. vs. Colkley, 899 F.2d. 299 (4<sup>th</sup> Cir. 1990) - Omissions in Warrant Affidavit</b>		<b>(19)</b>
<b>United Mine Workers of America, vs. Illinois State Bar Asso. et al, 389 US 217 (1967)</b>	<b>Page</b>	<b>(19)</b>
<b>Statutes:</b>	<b>Page Number:</b>	
<b>RULE 41, DISMISSAL OF ACTIONS; NON-SUIT (b) Involuntary Dismissal:</b>		<b>(Pg. 35)</b>
<b>Other authorities cited:</b>	<b>Page Number:</b>	
<b>From U.S. Constitution</b>		
<b>Article 6, 2 paragraph</b>		<b>(Pg. 18)</b>
<b>First Amendment, Fifth Sentence: Used only reference.</b>		
<b>Seventh Amendment: The Right of Trial By Jury Shall Be Preserved. That is why I kept repeating <u>TRIAL BY JURY DEMANDED.</u></b>		<b>(Pg. 31)</b>
<b><u>Ninth Amendment: I Theodore Wagner Retain My Right to The Truth, The whole Truth, and Nothing but the Truth be placed on the record about me.</u></b>		<b>(Pg. 3, 18, 20, 22)</b>
<b>From S.C. Constitution</b>		
<b>ARTICLE 1, SECTION 2, Fifth Sentence: "The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or <u>any department thereof for a redress of grievances</u>".</b>		<b>(19)</b>
<b>ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.</b>		<b>(19)</b>
<b>ARTICLE III. LEGISLATIVE DEPARTMENT, SECTION 26. Oath of office.</b>		<b>(19)</b>
<b>ARTICLE VI. OFFICER, SECTION 5. Form of oath.</b>		<b>(19)</b>

<b>(B) Statement of Issues on Appeal:</b>	<b>Page Number:</b>	(4)
<b>(C) Statement of the Case:</b>	<b>Page Number:</b>	(5)
<b>(D) Standard of Review: Cases must be presented to show that Constitutional Challenge Must Be Heard!</b>	<b>Page Number:</b>	(10)
<b>(E) Argument:</b>	<b>Page Number:</b>	Start on (17)

**Exhibits: Are Numbered DVD Was for Court Audio / Video Just listen.**

I included these because as a poor person I gave a lot of the Evidence to Kenneth Good and the Court when I Filed it on DVD. You can look for it and Find it. I also want to use it in my Book about the Corruption of the Judaical System and as Mike Davis said on the day we met, "You would have to have 5 million Dollars to stand a chance of beating me. I can buy my way out of it". On January 21, 2018 I thought we would be friends for ever so I did not pay attention.

**DVD Exhibit. (P. 33, Line 15)** Then he wants me to explain it. I had a right to have a **Trial by Jury** hear it. You can't explain and understand the traumatizing effects with out listing the the evidence I was denied. **I Demanded as of Right a Trial By Jury.** Many are just Mike and myself. Some show the Trauma Triggered when Mike Davis does another stupid.

**(Exhibit 1, 8 Pages) Constitutional Challenge with Proof of Restricted Delivery. (Pg. 20, 21)**

**(Exhibit 2, 16 pages) I believe there were more. (R. pp. 33-38) (Pg. 7, 19, 25)**

**(Exhibit 3, 3 pages) Called a Status Conference and used to send me back to Prison. (Pg. 7)**

**(Exhibit 4, 10 pages) (R. p. 41, Line 19-21) Mike Davis continues Terror and the Government covers it up. (Pg. 10)**

**(Exhibit 5, 2 pages) The signed by Judge Hall, Dismissal per SCRC 41 B (Pg. 35)**

**(Exhibit 6, 2 pages) For medical Records. (Pg. 38)**

**(B) Statement on Issues on Appeal**

**May be stated in question form:**

1. Does a Constitutional Challenge Have To Be Addressed when properly Filed and served on the South Carolina Attorney General Redistricted Delivery? (Page 21)

2. Once a Judge on the Bench during Court sees Evidence of a Felony Crime that has been Committed and he is holding the Evidence can he Complicity Enable and aid in the Facilitation in the Ongoing Cover up of this Felony Crime? (Pg. 25)

3. Does a Judge who aided in and was part of a Criminal Conspiracy of the sentencing of a person have the right to sit in judgment of a case of those same issues in a Civil Case? (Pg. 33)

4. Was I wrongly kicked out of Court on May 8, 2018 by Judge Hall using SCRCP 41 B? (Pg. 35)

5. Can a person who has Evidence from From a Licensed Mental Health Doctor who states he Suffers from Metal Disorders be denied the Assistance of a Court Appointed Attorney as defined in the United States Constitution and the South Carolina Constitution? (Pg. 36)

6. Does It violate the Constitution (s) to for the Government or it's Departments to make laws, case laws, rules, procedures, etc. that Oppress witnesses from appearances that will prove a part of your Grievance? (Pg. 37)

7. Can the Court rule to change your Grievance Filed to protect Wrongdoers? (Pg. 37)

8. Can a lawyer demand you supply a second set of copies of evidence he already received? (Pg. 38)

**(C) Statement of the Case**

**This whole case against Mike Davis Terrorizing me has to do with the Evidence Shown to Mike Davis on January 21, 2014 for and hour and a half that proves he knew I am Innocent and**

**uses the Government Conspiracy to Terrorize me. All of the 6 inch stake of papers he looked at are relevant. The Defendant's Lawyer had lots of them and they were clearly explained to him and how they are relevant. (R. P. 29 Lines 7-9) The Evidence has to be included in this Appeal to explain the Appeal. This includes the Audio Recording of Mike saying he hopes I sue the &\*^% out to the them 2 hours after meeting him. (The Federal Government!) (DVD Exhibit)**

On January 22, 2014 I was going to prison for exercising my First Amendment Right for a Grievances Guaranteed in the 5<sup>th</sup> Sentence of the First Amendment. I did not have to go to prison but I would not give up my First Amendment Right For a Redress of my Grievance that I was never Guilty and the Government Conspired to Cover Up the Truth to protect other people. I had no Family or Friends I could trust to handle my Disability check while I was in prison. All my roommate Aaron talked about was how much he loved his girlfriend Holly and was clear soon after I moved in he was going to be moving out with her. Even the day before I left for prison he was talking about moving out with her. I feared I would come back and find he had used my disability to rent an apartment West Ashley as they kept saying. At that time he also was not very trust worthy. He had a Millionaire friend Mike Davis he had just met and a Millionaire will not steal from a person getting 700.00 Dollars a month in Disability so I ask Aaron Satcher to ask Mike Davis over the next night so I could talk to him. He Did. I am on the Sexual Registry for something my wife Andrea Crisel, also know in the Government Cover up as Victim A, did when she was 20 years, 1 month, 16 days old and I had nothing to do with it. (I have included a DVD Disk with Mike Davis and I talking on the day we met. I am giving him my pin number, card, etc. and Mike saying he hopes I sue the \$\*%# out of the Government after listing to and looking at the Evidence closely an hour and half Mike tells me he believes I am innocent and the Government set me up. I will be showing you less than 1 % of that Evidence Mike Davis looked at that night and a video on record after he broke in my window and stood over my bed while I slept. Mike Davis got a 12 year State Stalking Sentence after years of this and still beat more.

That is part of my Appeal of Constitutional Challenge is Government Power to Cover up.

But to understand the fight to prove I am Innocent and meeting Mike Davis on January 21, 2014 you have to know part of what I told Mike that night.

On the morning of June 25, 1999 my 20 year old wife left to go to Folly Beach with her friends and said she would not be home that night. Andrea was a Freak and said they were going to have an Orgy that night at some other place, she never did it at our house. As she was 20 years younger than I was she never aloud me to hang out with her friends. I invited 22 year old Candice Christensen to come over, lay out, have dinner, and spend the night. NO SEX. About 6:30 pm. Andrea comes in with 3 friends, 2 boxes of rubbers, and ask to use the camera. Two of her friends I met that day, and proceeded to have her party in our house. This ran my guest 22 year old Candice Christensen off when Andrea went down on Barbie. Years later on February 28, 2002, 2 days after beating up our roommate for tagging my wife I was arrested for her party and refused all request to see the Affidavits and Warrants. I am on the Sexual Registry for 2 of the 4 tapes 20 year old Andrea made that night. The Government Conspired to cover up her age and it has never been put on the Record that Andrea was an Adult or that it was her party and only friends, who made these 4 tapes. They still call Andrea a Victim when you can't be a victim of my charge I am on the Registry for, Title 18, USC Section 2251 (a). Andrea did this by herself and the Government Cover Up and puts me on the Registry. ( Judge Hall took these pages to the back and knows of this Ongoing Conspiracy to cover up Andrea's age just as Mike Davis and Kenneth Goode has seen and knows of it.) **(R. PP. 33-38)**

Furthermore, my lawyers who conspired with the prosecution to set me up and refused to defend me got Detective William Crews of the Charleston County Sheriffs Department off from years of assaulting children as young as 10 years old and he has no record and is not on the Registry. ( Judge Hall took these to the back and all named have seen these also. Notice Andy Savage's stamp on the

bottom of the page and the news paper article given to Judge Hall and all.) (Exhibit 2, 16 pages)

I also told Mike Davis how angry it made me that my Lawyers said I could not make Candice Christensen come in and testify. Andrea met her at La Petit Day Care where Andrea worked. She was not an Escort. Candice was a specialized call Girl for police, lawyers, at least 1 judge I wrote about in my Diaries, and very rich Charleston business men. We stopped being friends because I caught her teaching Andrea how to be a Call Girl. But I demanded to my Lawyers they bring her in to testify about that one day, June 25, 1999 and Mike Davis knew it. There are a 1000 stories that were in those Diaries y'all stole of mine. I'll stop.

In 2014 Michael Rhett Dehart of the United States Attorneys Office (Exhibit 3, 3 pages) The called it a Status Conference almost a year after I was out of prison and had been a perfect probationer. I say to Judge P. Michael Duffy of the Federal Department of Justice, *"They still haven't admitted Andrea was born May 9, 1979. Victim A. I happened on June 25<sup>th</sup> 1999. She was 20 year, 1 month, 16 days old. She is the only person that had sex with anybody. I never had sex with anybody."* Judge Duffy then sent me back to prison for 45 days using a Status Conference 1 year after my release to punish me because I refused to stop filing law suits to put the Truth that I am Innocent on the Record. I force Judge Duffy to take a copy of all of Exhibit 2 and more. They both Conspired to lie to Facilitate this cover up at that Court Hearing to send me to prison again as my only crime was exercising my First Amendment Right For a Redress of my Grievance that **I am Innocent and am Denied Justice. That is how I met Mike Davis and showed him all the evidence to show the Government crimes.** After talking to my Probation Officer and other things the prison refused to talk to me saying the Legal Department advised them not to get involved in my case. Something is wrong with it. I was never evaluated.

I was hoping to be friends with Mike Davis. Aaron Satcher and Mike Davis were the ones who

had an ending of friendship when Mike Davis contacted Aaron's Family, Pastor, Girlfriend Holly, and Aaron said I was not allowed to have Mike around our apartment ever again. March 30, 2014.

Until May 4, 2014 I thought this is none of my business except Mike should leave Aaron alone as it had been 2 months sense Aaron told him to go away and it was getting worse. On May 4, 2014 Mike Davis broke into our apartment through the window, **broke into my room as I slept**, and when I caught him a few minutes later, **Mike told me he had been standing over my bed**. Aaron told me not to call the police. He just wanted Mike to go away. At this point I did also.

On Friday, June 6, 2014 I answer the door while Aaron is at work and Mike Davis who lives in Summerville, South Carolina and drives to Downtown Charleston to Stalk Aaron serves Aaron with a Retraining Order for harassment. It names me in it, that I am Gay and more. Now he has involved me and I start the "**Chronology of Michael (Mike) Steven Davis Staking of Aaron Satcher**" which has the hundreds of times Mike Davis Terrorized and Threatened Aaron and myself and was used to get Mike Davis's City of Charleston Conviction by Prosecutor Lucka.

On July 1, 2014 and September 11, 2014 witnesses saw Mike Davis slice my bike tires. City of Charleston Investigator Brown said he is going to keep getting off with high priced lawyers. I will only get a solid conviction with a picture of him doing it.

It had got so bad everyday that I put in Surveillance Cameras inside and out and laid in Panic all the time.

It got so bad for me I had to start going to a Mental Counselor for counseling and medications. I finally got my First doctor visit on May 15, 2015. Aaron had a girlfriend to talk to, I did not.

Around June 7, 2015 Prosecutor Lucka of the City of Charleston put in a request to have Mike Davis's Consent Order his lawyer bought him Revoked that was for Terrorizing Aaron and me. Roommate is named in the paperwork. He only got 30 days house arrest at which time he continued to use the Internet to Terrorize me, Theodore Wagner, and it got worse.

It had got so bad over the years that on June 19, 2015 both Aaron and I filed complaints.

**Theodore Wagner FBI Complaint against Mike Davis is I1506191313123701**

I am so bad off by now and remembering Mike Davis laughing at me saying you would have over 5 million dollars to stand a chance suing him the night he said he believed I was Innocent adds to my Trauma. **I live in Trauma and Panic.** It takes days to do anything when you live in Trauma and Panic but on July 29, 2015 I Filled this suit. He just buys an expensive lawyer and laughs it off.

Mike Davis pleads guilty and gets 12 years suspended to baby probation. I Still Suffer Every Day! Having to remember all of this to write this causes Trauma. No one should have to pay for something for the rest of their life for something someone else does.

Even after Mike Davis had a Permanent Restraining Order, 21 days later he did it again and the Government protected him even with all the evidence in front of them. That was why I subpoenaed his Probation Officer Agent Matthew Johnson. Nothing I was going to ask the probation officer was protected. (Exhibit 4, 10 pages) (R. p. 41, Line 19-21) It does show Mike Davis Committed a Crime after the 21 days after a Permanent Restraining Order and his Lawyer and Probation Officer covered up. Agent Johnson had the Authority and power to follow up on that. If Mike had been poor he would have. It would not have violated (R. p. 41, Line 19-21) to have him testify. I Challenge that Law also!

This is less than 1 % of what was on the **Chronology** I had for Court. As I am not a Lawyer and the only way I know how to present the case to a Jury was in Chronological order in 35 pages of the years to terror against me by Mike Davis.

**(D) Standard of Review**

**The Standard of Review for the Constitutional Challenge are clearly stated in the cases used. Once the Constitutional Challenge is made a Judge has a Duty to see it is addressed. As the Constitution is to protect The People from the Government I worded my Challenges for The**

**People to Address. Presenting these cases makes it harder to turn a blind eye to them. DUTY!**

**CARTER VS. CARTER COAL CO., 298 US 238 (1936)**

[14][15] And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, is whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess, the Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible, "**We the People of the United States,**" it says, "**do ordain and establish this Constitution...**" Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly- "**This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;... shall be the supreme Law of the Land;...**" The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, **must apply the supreme law and reject the inferior statute**

[298 US 297]

**whenever the two conflict.** In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, *Adkins v. Children's Hospital*, 261 U.S. 525, 544, 67 L. ed. 785, 790, 43 S.Ct. 394, 24 A.L.R. 1238; **but their opinion, or the court's opinion, that the**

statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry, A. I. a Schechter Poultry Corp, v. United States, 295 U.S. 495, 549, 550, 79 L. ed. 1570, 1590, 1591, 55 S. Ct. 837, 97 A.L.R. 947.

**D.O.C. vs. HELLER, 554 US 570 (2008)**

**1. Operative Clause.**

a. **"Right of the People"** The first salient feature of the operative clause is that it codifies a "right of the people." The unamended Constitution and the Bill of Rights use the phrase "right of the people" two other times, in the **First Amendment's Assembly-and Petition Clause** and in the Fourth Amendment's Search-and- Seizure Clause. **The Ninth Amendment used very similar terminology ("the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people")**. *All three of these instances unambiguously refer to individual rights, not "collective" rights, or rights that may be exercised only through participation in some corporate body.*

**MARBURY vs. MADISON, 1 CRANCH 137 (5 US 137) (1803)**

From these, and many other selections which might be made, it is apparent, that the framers of the constitution

[1 Cranch 180]

contemplated that instrument **as a rule for the government of courts**, as well as of the legislature.

**Why otherwise does it direct the judges to take an oath to support it?** This oath certainly applies in an especial manner, to their conduct in their official character. How immoral to impose it on them, if they were to be used as the instruments, and the knowing instruments, **for violating what they swear to support!**

The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative

opinion on this subject. It is in these words: **"I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as, according to the best of my abilities and understanding agreeably to the constitution and laws of the United States."**

Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government? **If it is closed upon him, and cannot be inspected by him?**

If such be the real state of things, this is worse than solemn mockery. **To prescribe, or to take this oath, becomes equally a crime.**

It is also not entirely unworthy of observation, **that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned;** and not the laws of the United States generally, *but those only which shall be made in pursuance of the constitution, have that rank.*

*Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.*

### **OLMSTEAD VS, UNITED STATES, 277 US 438, June 4, 1928**

When these unlawful acts were committed, they were crimes only of the officers individually. The government was innocent, in legal contemplation; for no federal official is authorized to commit a crime on its behalf. **When the government, having full knowledge, sought, through the Department of Justice, to avail itself of the fruits of these acts in order to accomplish its own ends, it assumed moral responsibility for the officers' crimes.** Compare the Havana (United States v. The Havana) 189 U.S.435, 465,47 L. ed 901, 903, 32 Sup. Ct Rep. 593; O'Reilly de Camara v. Brooke, 209 U.S. 45, 52, 52 L. ed. 676, 678, 28 Sup. Ct. Rep. 137. **And if this court should permit the**

**government, by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the government itself would become a lawbreaker.**

Will this court, by sustaining the judgment below, sanction such conduct on the part of the Executive? The governing principle has long been settled, It is that a court will not redress a wrong when he who invokes its aid has unclean hands. The maxim of unclean hands comes [277 US 484] from courts of equity. But the principle prevails also in courts of law. Its common application is in civil actions between private parties. Where the government is the actor, the reason for applying it are even more persuasive. Where the remedies involved are those of the criminal law, the reasons are compelling.

The door of a court is not barred because the plaintiff has committed a crime. The confirmed criminal is as much entitled to redress as his most virtuous fellow citizen; no record of crime, however long, makes one as outlaw. The court's aid is denied only when he who seeks it has violated the law in connection with the very transaction as to which he seeks legal redress. Then aid is denied despite the defendant's wrong. It is denied in order to maintain respect for law; in order to promote confidence in the administration of justice; in order to preserve the judicial process from contamination, the rule is one, not of action, but of inaction. It is sometimes [277 US 485] spoken of as a rule of substantive law. But it extends to matters of procedure as well. A defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself. It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself.

**Pollock vs. Farmers' Loan & Trust Co., 157 US 429 (1895)**

Since the opinion in Marbury v. Madison, 5 US 137, 1 Cranch, 137, 177, [2: 60, 73], was

delivered, it has not been doubted that it is within judicial competency, by express provisions of the Constitution or **by necessary inference and implication, to determine whether a given law of the United States is or is not made in pursuance of the Constitution, and to hold it valid or void accordingly. ... but the duty to do so, in a proper case, cannot be declined**, and must be discharged in accordance with the deliberate judgment of the tribunal in which the validity of the enactment is directly drawn in question. [157 US 555]

**USA vs. BUTLER, 297 US 1 (1936)**

[6][7] There should be no misunderstanding as to the function of this court in such a case. It is sometimes said that the court assumes a power to overrule or control the action of the people's representatives. This is a misconception. *The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate the judicial branch of the government has only one duty, - to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is to announce its considered judgment upon the question.*

[297 US 63]

The only power it has, if such it may be called, is the power of judgment. This court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the Constitution; and, having done that, its duty ends.

**The Ninth Amendment of the United States Constitution states (This is from my Constitutional Challenge.)**

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**Article 6, paragraph 2,** “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; **and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.**”

## **Challenge of The Right to The Truth, The whole Truth, and Nothing but the Truth. (Properly Filled and Served.)**

Before I was ever charged S.A. Cynthia McCants of the F.B.I. had contacted my wife Andrea first and knew Andrea was 20 years old on June 25, 1999. McCants then contacted Detective William Crews of the Charleston County Sheriffs Department to Conspire with Detective Crews to get the Warrant. The whole State Search Warrant Affidavit was based on perjured testimony.

### **(E) Argument**

#### **1. Does a Constitutional Challenge have to be Addressed when properly Filed and Served on the South Carolina Attorney General Redistricted Delivery? (Exhibit 1, 5 pages)**

When James Madison wrote the Ninth Amendment he did not believe the Bill of Rights Rights cover all of the individual protections that he believed citizens needed, and certainly the 10 that were approved did not either. Madison believed that the government would take any right we had not specifically said they could not have. He was right.

It states that there are certain rights listed in the Constitution, but that does not mean that there aren't other rights that the people have that are not listed.

The Ninth Amendment of the United States Constitution states (As in my Constitutional Challenge)

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**I Theodore Wagner retain the Right to have the Government tell the Truth, the whole Truth, and nothing but the Truth about me.**

**In DOC vs. Heller, 554 US 570 - Operative Clause - Right of “The People”** clearly shows that I have the the right to retain this right to not only the Government tell the Truth about me but also other persons like Mike Davis who use the Internet, Posters, and Verbal to spread things he knew not to be true about me to knowingly cause me harm and Trauma. **Trial By Jury Demanded.**

In 4 Government Documents I can prove the Government committed an intentional cover-up under 18 U.S.C. § 1503 by U.S. Attorney Dehart and S.A. Cynthia McCants before the Grand Jury in 1999. These were carried to the back by Judge Hall for Examination before he came back and said Andrea had to be put on the stand. These were shown to Mike Davis on January 21, 2014 just before he made the Audio provided that shows Mike Davis knew I was innocent when he stated Terrorizing me.

As I am not guilty I wanted a **Trial by Jury** to prove I was innocent.

In my Challenge I am clear that I am Challenging the Court of Laws made in Violation of Article 1, Section 2 of the South Carolina Constitution and / or actions used in Violation of Article 1, Section 2 of the South Carolina Constitution's 5<sup>th</sup> Mandate that states “**5) The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances”.**

This Challenge is a Challenge of all Laws, Rules Regulation, or Procedures or the lack of that Oppress the **Constitutionally Protected Rights of Redress of Grievances of The People** in Violation of Article 1, Section 2 of the South Carolina Constitution and as Commanded in The First Amendment of the U.S. Constitution.

As this is the United States Constitution and based on Federal Laws I only use this presentation to aid in the Explanation of my State “**Constitutional Challenge for a Full and Fair Redress of the Truth etc.**” which is based on the Ninth Amendment South Carolina does not have in our Constitution.

In this Question “**Does a Constitutional Challenge have to be Addressed when properly**

All of the Standard of Review shows I was Unconstitutionally denied my Constitutional Challenge as Pollock vs. Farmers' Loan & Trust Co., 157 US 429 so clearly states, “**but the duty to do so, in a proper case, cannot be declined**”.

**This Constitutional Challenge still has to be heard.**

**2 . Once a Judge on the Bench during Court sees Evidence of a Felony Crime that has been Committed and he is holding the Evidence can he Complicity Enable and aid in the Facilitation in the Ongoing Cover up of this Felony Crime? May 8, 2018 (R. pp. 33-38)**

(Exhibit 2, 16 pages.) Given to Judge Hall on May 8, 2018, Mike Davis, Kenneth Goode, Judge Duffy, and a lot more.

In 4 Government Documents I can prove the Government committed an intentional cover-up under 18 U.S.C. § 1503 by U.S. Attorney Dehart and S.A. Cynthia McCants before the Grand Jury in 1999. These were carried to the back by Judge Hall for Examination before he came back and said Andrea had to be put on the stand. S.A. Cynthia McCants was outside the courtroom with Andrea and Kenneth Goode was in contact with them. These a few of the documents for an hour and a half were shown to Mike Davis on January 21, 2014 just before he made the Audio provided that shows Mike Davis knew I was innocent when he started Terrorizing me. (First Audio on the DVD.)

**(F) Conclusion**

**I Invoke RULE 82 (c) Removal to Federal Courts**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEL FROM CHARLESTON COUNTY  
Danial Hall, Circuit Court Judge

**RECEIVED**  
MAY 19 2019  
SC Court of Appeals

Case No. 2015-CP-10-4166  
Appellant Case No 2018-001125

Theodore Wagner.....Appellant

v.

Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike  
Davis....Respondent

**Affidavit of Service**

I, Theodore Wagner on this day did place in the to all the same copies of **Response to  
Respondent's Briefs May 1, 2019, Notice of RULE 82 (c) Removal to Federal Courts**, Affidavit of  
Service, at the U.S. Post Office to:

Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina, 29211

Kenneth G. Goody, Jr., Attorney  
4 Carriage Lane, Suite 204  
Charleston , South Carolina 29407  
Attorney for Respondent

Date: May 9<sup>th</sup> 2019

*Theodore Wagner*  
Theodore Wagner, Pro Se  
General Delivery - Homeless  
557 East Bay Street  
Charleston, SC 29403  
Pro Se for the Appellant

Kenneth G. Goody, Jr., Attorney  
4 Carriage Lane, Suite 204  
Charleston , South Carolina 29407  
Attorney for Respondent



1000



29211

NORTH CHARLESTON, SC  
29405  
MAY 09, 19  
AMOUNT

**\$1.75**  
R2305K142897-15



Theodore Wagner  
General Delivery - Homeless  
557 East Bay Street  
Charleston SC 29403  
United States

**RECEIVED**

MAY 13 2019

SC Court of Appeals

Clerk, South Carolina Court of Appeals  
The Honorable Jenny Abbott Kitchings  
Post Office Box 11629  
Columbia, South Carolina, 29211