

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

JUL 15 2019

Edgar Dickson, Jr.
Circuit Court Judge

S.C. SUPREME COURT

Orangeburg County Case No.: 2017-CP-38-01527

Shireen Nicole SimmonsAppellant,

v.

The State of South CarolinaRespondent.

NOTICE OF APPEAL

Shireen Nicole Simmons appeals the June 27, 2019 and July 2, 2019¹ orders of Judge Edgar Dickson. Appellant received written notice of the last order on July 2, 2019.

Dated: 07/11/19

/s/ Jason Scott Luck
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Attorney for Respondent

¹ Simmons v. State, 2019 WL 2906387 (Orangeburg Cty. Ct.Com.Pl. Order dated July 2, 2019)

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Shireen Nicole Simmons Appellant,

v.

The State of South Carolina Respondent.

CERTIFICATE OF SERVICE

I certify that I have served the Notice of Appeal by depositing a copy of it in the United States Mail, postage prepaid, on the date below to the following persons:

James F. Walsh, Jr.
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P.O. Box 627
Orangeburg, SC 29116
Attorney for Respondent

Alan Wilson
S.C. Attorney General
P.O. Box 11549
Columbia, SC 29211

Dated: 07/11/19

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defense. The Municipal Court also gave the Plaintiff due and timely notice of the new date for the Plaintiff's trial. Therefore, the Municipal Court did not err.

As to the Plaintiff's second point that material evidence was wrongfully excluded. The Plaintiff alleges that she was not allowed to introduce photographs of the intersection at issue in the case. She also alleges that had the photographs been admitted into evidence, the Plaintiff would have been able to prove:

- 1.) That her light was green while she crossed the intersection in question,
- 2.) That the driver of the vehicle turning left she struck was warned that oncoming traffic was subject to long green lights and,
- 3.) That the driver turning left failed to yield the right of way.

According to the Municipal Judge's return, the Municipal Court allowed into evidence, a GIS photo of the intersection in question. This GIS photo was displayed on the courtroom flat screen. The Plaintiff attempted to introduce a photo from her cell phone into evidence or publish it to the jury. The Court did advise the Plaintiff that she could admit a photo or a video version of the intersection in question should she have one. The Plaintiff was unable to produce either. The Municipal Court also found that the photo that was already admitted into evidence was sufficient evidence in that it showed the complete intersection and location of all of the traffic control devices. Since there was a sufficient depiction of the intersection already admitted into evidence, the Court did not err. Further, the Court gave the Plaintiff an opportunity to produce a sufficient version of the intersection in question for admission into evidence and to be published to the jury. Since the Plaintiff did not have one, the Plaintiff could have referred to the one already in evidence. Therefore, the Municipal Court did not err. Therefore, the Plaintiff's guilty verdict is affirmed.

Judge Edgar W. Dickson

Dated: June ____, 2019
Orangeburg, South Carolina



Orangeburg Common Pleas

Case Caption: Shireen Nicole Simmons VS State of South Carolina
Case Number: 2017CP3801527
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG)	FIRST JUDICIAL CIRCUIT
)	
Shireen Nicole Simmons,)	
)	No.: 2017-CP-38-01527
Plaintiff,)	
)	
vs.)	Order Denying the Plaintiff's
)	Motion to Alter or Amend
The State of South Carolina)	
)	
Defendant.)	
)	

THIS MATTER COMES before this Court following the Plaintiff filing their motion to alter or amend this Court's June 17, 2019 order. In the motion to alter or amend, the Plaintiff alleges the following:

- 1.) The Court's June 17, 2019 order does not address Simmons' Declaratory Judgment cause of action which requested a declaration on the following issues:
 - a. Does S.C. Code § 14-25-105 require the Municipal Court or the appealing party pay transcript costs?
 - b. Does S.C. Code § 14-25-95 violate the due process clauses of the United States and South Carolina Constitutions by requiring a criminal defendant to appeal to the Court of Common Pleas instead of the Court of General Sessions?
- 2.) The Court of Common Pleas lacked subject matter jurisdiction because it does not hear criminal matters.
- 3.) This Court's June 17, 2019 order does not address the Plaintiff's Motion to Strike the State's return for lack of transcript, stating the incorrect offense, and failure to address the Plaintiff's motion for new trial.

As to the Plaintiff's first point, that this Court does not address the issue of paying transcript costs. "In criminal appeals from a municipal court, the circuit court does not conduct a de novo review; rather, it reviews the case for preserved errors raised to it by an appropriate exception." City of Cayce v. Norfolk S. Ry. Co., 391 S.C. 395, 399, 706 S.E.2d 6, 8 (2011); see S.C. Code Ann. § 14-25-105 (Supp.2010) ("There shall be no trial de novo on any appeal from a municipal

court.”). As the Plaintiff’s first point was not preserved by an appropriate exception and because the Circuit Court cannot conduct a de novo review, the Circuit Court was unable to address the issue of paying transcript cost and is still unable to address that issue. Therefore, the Plaintiff’s motion to alter or amend based on the issue of paying transcript costs is denied.

As to the Plaintiff’s second point, that the Court of Common Pleas lacks subject matter jurisdiction because it does not hearing criminal cases and that requiring a criminal defendant to appeal to the Court of Common Pleas is a violation of the United States Constitution and South Carolina Constitution. First, the Court of Common Pleas is the civil court session. The Circuit Court of South Carolina is vested with conducting the sessions for the Court of Common Pleas. The Circuit Court of South Carolina is also vested with conducting the Court of General Sessions which is the criminal court session. “The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law.” S.C. Const. art. V, § 11 (2018), Fullbright v. Spinnaker Resorts, Inc. 420 S.C. 265, 802 S.E.2d 794 (S.C. 2017). The same court that has civil court jurisdiction also has criminal court jurisdiction. Therefore, the assertion made by the Plaintiff that the Circuit Court does not have subject matter jurisdiction because it does not hear criminal cases is flawed. Further, there is no violation of the Plaintiff’s due process rights because the Plaintiff was required, by South Carolina law, to appeal to the Circuit Court and the Court of Common Pleas. Therefore, the Plaintiff’s motion to amend based on lack of subject matter jurisdiction and a violation of the Plaintiff’s due process is denied.

As to the Plaintiff’s third point, this Court’s June 17, 2019 order does not address the Plaintiff’s Motion to Strike the State’s return for lack of transcript, stating the incorrect offense, and failure to address the Plaintiff’s motion for new trial¹. First, according to S.C. Code Ann. § 18-3-40 (1987), the Magistrate Court is allowed to provide “a statement of all the proceedings in the case, and the testimony taken at the trial as provided in § 22-3-790”. The Magistrate Court filed a return with the clerk of court regarding the Plaintiff’s Magistrate Court criminal conviction which included all necessary testimonies. Second, in the Magistrate Court’s return, on page one (1), the Magistrate Court stated that the city amended the charge to “S.C. Code section 56-5-

¹ The Circuit Court inherently addresses the Plaintiff’s motion for a new trial with the Court’s June 17, 2019 decision and the Court’s decision in this motion to alter or amend.

970(A)(1)". Therefore, the Plaintiff's motion to amend based on the allegation of a lack of a transcript and stating the incorrect offense is denied.

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, AND DECREED that the Plaintiff's motion to alter or amend is DENIED.

AND IT IS SO ORDERED.

Judge Edgar Dickson, Presiding Judge
Orangeburg County

Orangeburg, South Carolina



Orangeburg Common Pleas

Case Caption: Shireen Nicole Simmons VS State of South Carolina
Case Number: 2017CP3801527
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

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