BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

CASE NO. 2017-001017

Lynne Van House, Appellant

v.

Colleton County, Respondent

REPLY TO FINAL BRIEF OF RESPONDENT

Lynne Van House

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Round O, SC 29474

843-835-8038

Appellant, acting pro se

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Statutes, Citations, ordinances:

Mr. Thornton is recognized as being the Attorney of Record for the County***(R.pp.81)***—***but*** it needs to be noted that he was ***never*** at ***any*** of the actual Hearing sessions in Magistrate Court; ***from which*** he drew nearly ***all*** of the statements for his ***Respondent's Initial Brief. Appellant's*** Initial Brief, however, is made up primarily of ***her actual testimony*** as recorded in court, and ***quoted*** from her thumb drive of the proceedings as ***(Mag, Ct. Audio).(R.pp.1-Index)***

Respondent's "Statement of Issues on Appeal" makes the ***attempt to assert*** that because Magistrate Court Judge Duffie Ordered an "Enforceable Agreement" (actually written by the ***Respondent's*** attorney, Mr. Bennett) that all four Motions introduced by Appellant ***just prior*** to this "agreement" and detailed in her "Statement of the Case" were somehow ***all*** nullfied in total with one stroke of the pen and ***are inviolate. In fact***, Appellant's Questions of Law, based on the specifications of her attorney's ***use of AGENCY***, as included in this Appeal, which were the very ***basis*** of the "Enforceable Agreement" were ***not addressed*** at ***either lower Court level.***

Mr. Thornton, as Respondent, used exactly the same citations as were used to claim the "Enforceable Agreement," and these are apparently attempting to ***negate*** the ***many*** citations of law, including several ***US Supreme Court*** decisions, cited by Appellant, that show that ***(R.pp.259) an attorney is hired as a special counsel,*** to ***represent his client for a specific goal,*** and must work within a very narrow margin to effect ***what the client hired him to do. (R.pp.227-228)*** Mr. Sapp did the ***opposite*** of this from the time of his hiring until he was fired. ***(Appellant's Initial Brief, Pgs. 41-44.) (R.pp.239)***

None of her ***differing*** citations appear to have been considered, ***(R.pp.235-236)*** with ***Yarborough and embedded citations*** being allowed as the only conclusive citations. Again referring to the "Respondent's Issues on Appeal;" Appellant alleges that the whole ***point of the Appeal process*** that she is following, is to have her ***actual arguments*** of law***(R.pp.229-231) addressed and considered***—not just nullified or "denied". To this end, ***Appellant's continued following of the process of appeal has led to this Court, so that the actual question*** of whether or not the two Judges involved did, in fact, ERR,

will be *addressed*—as Appellant's "questions of law" ask they be. ***(R.pp.87-88)***

As noted in the *transcript of Appellant's appeal to Common Pleas Court* ***(R.pp.39-60)***—the *main* reason for the original hearing in Magistrate Court was the premise that United States, South Carolina, *and* local Privacy, Trespass, and Surveillance laws ***(R.pp.305-306 and 323)*** were *knowingly violated* ***(Mag. Ct. audio-NO objections)*** by several officers of the Court in Appellant's *verified* absence. The *unwarranted* ***(R.pp.327-328)*** search conducted on Friday, May 13, 2016 ***(R.pp.91)*** was a *coordinated* effort to *raid* and *rummage* ***(R.pp.208)*** through Appellant's personal property *to find anything that might be used against the Appellant as evidence of a crime.* The *unwarranted* search ***(R.pp.275-276)*** conducted by the *original complainant* was reported as being conducted a *month* before this initial search by County officers. Appellant's *extremely valuable* animals ***(R.pp.415-417)*** were removed *without* Due Process, ***(R.pp.292)*** and with no restitution ever offered. ***(R.pp.307)***

Mr. Thornton's *beginning* his *Respondent's Initial Brief* well *past* the *main point* of Appellant's *main* Argument *ignores* the fact that the animals *would not have been seized, nor any legal battle would have ensued,* if the *law* had been *followed* by officers of the court in the first place. ***(R.pp.194, 207, 277-278, and others)*** *Appellant's Argument #1* is fully discussed and argued in the *background and citations of law* associated with this point. *No evidence of any kind has been forthcoming to the Appellant in reference to this seizure or the warrants* ***(R.pp.308-310)*** *that preceded it, despite many written demands.* ***(R.pp.63-66, 71-72 and others)*** *(Brady v Maryland, 373 US 83, (1963) and attendant law citations* ***(R.pp.195-196, 219-220;245)*** *has been completely ignored for 20 months. NO* pictures of animals *as they were being seized* were ever produced as *exculpatory evidence of body condition—* ***(R.pp.89)*** although Appellant *saw* photos being taken, and photos are referenced on the seizure papers.

In Respondent's "statement of the case" he consistently uses flawed and/or incorrectly transcribed data and comments from *Magistrate Judge Duffie's ANSWER* ***(R.pp.175-191)*** *to Appellant's Common Pleas Court Appeal*. Although fairly correct *as far as it went*—27 pages could

never cover 10+ hours of testimony. *That* document was also *skewed heavily* toward noting *only* the *County's allegations*, and Mr. Thornton's statements contained virtually *no exculpatory evidence* or testimony as was presented in *Appellant's hours of testimony* under oath; *nor* did it cover *many* pertinent points that were brought out in *her* testimony as presented in Court. Many *quotes* from that actual testimony are included in the *Appellant's Initial Brief*, labeled ***(Mag. Ct. Audio)*** in direct *refutation* of Respondent's statements in *his* Initial Brief. ***(Appellant's Argument #2) and have not been objected to either.***

IN FACT, Nothing stated or alleged by the Appellant, under oath, was ever objected to in Court.

Pages 3 and 4 of *Respondent's Initial Brief* is the same information *argued and refuted* by *Appellant's Initial Brief*, and would require reading *Appellant's Argument #2* with *background and citations of law*, to observe that Appellant hired Mr. Sapp as a *special* attorney ***(R.pp.157)*** to *retrieve* her animals, ***(R.pp.255-256 and 259)*** but he *acted* as a *general* attorney***(R.pp.161) and*** in the *County's* best interest, while *assuring* Appellant that he was *defending her rights.* ***(R.pp.219-220)*** *Verifiable quotes from the* ***(Mag Ct. Audio)*** *as listed bear this out* ***(R.pp.Index 1)***

This surely represents *fraud* for an attorney to *allege* he represents the interests of his *client*, but consistently and verifiably represents the *opposing* party's interests *instead*. This, however, is *not merely* a client/attorney dispute between Appellant and Mr. Sapp, as Respondent alleges, because Mr. Sapp would *not* have been hired *at all*, if the *County* officers of the Court had not repeatedly *broken the law* in invading and seizing her animals/property, *and* the *loss* of her animals created such life-changing collateral damage. *(R.pp.300-301, 303-311)***

Appellant counters Respondent's citation of *Arnold v. Yarborough*, first with a quote from it: "It is undisputed that Yarborough's attorney was representing him and *acting on his behalf* when he agreed to the terms of settlement." ***(R.pp.13-20)*** Appellant's former attorney, Mr. Sapp, was acting on behalf of the *County—not* the Appellant, as shown *conclusively* by *actions and verbiage* in Court *and* out of

it. ***(R.pp.161 and others)*** In embedded citations: *Clark v. Clark*, 271 S.C. 21, 244 S.E. (2d) 743 (1978). "*Absent fraud* or mistake, where attorneys of record for a party agree to settle a case, the party cannot later repudiate the settlement. *Poore v. Poore*, 105 S.C. 206, 89 S.E. 569 (1916) *Cf. Wilson v. N.E. Isaacson of Georgia, Inc.*, 139 Ga. App. 582, 229 S.E. (2d) 29 (1976) *absent fraud*, agreement by an attorney to dismiss pending case held binding on client even though client did not know of agreement", Lastly, "*the principle of law relied on by Yarborough applies only where the witness not called to testify is within the particular control of the party against whom the principle is invoked*" The Appellant's "*Statement to be Read at the Seizure Hearing*" *Exhibit #22* ***(R.pp. 331-336)*** clearly sets forth Appellant's stance on May 31, 2016. Her then-Attorney Mr. Sapp *and all* of the Primary officers of the court that were present at that hearing and seizure had access to Appellant's phone number, mailing address, *and* e-mail address, and *failed* to *verify* this *life changing decision* made by Mr. Sapp, with *her*. *(See Plaintiff's Exhibits #1 and #4).* ***(R.pp.161 and 221-224)***

Respondent *did not quote the portion* of the citation (*Shelton v. Bressant*, 439 S.E.2d 833 (1993) that is *most* relevant to Appellant, to wit: "*Shelton and his attorney appeared in open court and advised the presiding judge that the case had been settled...Moreover, the transcript of the agreement makes manifest that it was Shelton himself, not his attorney, who agreed to its terms*".

This is *not to point* in Appellant's case, who was *told* the *opposite* of what was actually done, *and* said or agreed to in Court *and* just after, and Appellant did *not* appear in Court on that date, or this "agreement" would *never* have been "carried out."***(R.pp. 75, 225-226)*** Appellant would have *instantly* repudiated it long and loudly; as she *did* the moment she (and Judge Duffie) *found out* about it ***(R.pp.227-228)*** (***Mag. Ct. Audio***) and (*Respondent's Initial Brief pg. 7*). *Many* citations to this effect are noted in (*Argument #2. pg. 42-44, and pg. 45 of Argument #3) Also see (Respondent's Initial Brief pgs. 6 and 11.)****(R.pp.231)***

The fact that Mr. Sapp had *no* apparent intention of *defending* Appellant's *due process* or other

Constitutional rights is noted, among *much other evidence*, by his *failure* to ask for a hearing about *retrieving* her animals. Appellant *had to ask for it herself on the last day to do so.* ***(R.pp. 73)*** The second paragraph on *pg. 5* of the Respondent's Initial Brief is a complete *untruth* stated by Mr. Sapp, and this is borne out by Appellant's *prior* testimony as to the verbal *and* written goal to *get all of her animals returned intact.* Her paper ("*My defense at the Seizure hearing*" Exhibit #22) ***(R.pp.331-336)*** was *written to be read at the seizure hearing,* and is *proof* of her intent at that time. Appellant's ***(Argument #2 background and citations)*** are *to point* on this aspect as well. *The bottom part of Pg. 35* of Appellant's Initial Brief includes *many* citations of law as *further* proof that Mr. Sapp was *not* working to attain Appellant's goals at all, despite being hired as her *Defense* attorney. ***(R.pp.224, 228, 231)***

Appellant did *not* cite a "myriad of issues" as alleged by Respondent, only *4 questions of law,* with backgrounds and citations. Concentrating on only *one* of these ***(Appellant's Argument #3)*** ignores her *primary allegations* of criminal trespass, invasion of privacy, illegal surveillance, and, *ultimately,* the loss of Appellant's *life's work*—in about 5 hour's time, without due process. ***(R.pp.39-60)(Argument #1)*** In addition, it appears that these "raids" (*their* word) have been routinely organized and carried out for *years* by Colleton County officers of the Court, with little or no resistance from the County's citizens; and that these *same* officers have become inured to, and disinterested in, actually *obeying* the law themselves in the pursuit of their goals.

In the several-times-mentioned *interrogation* of the Appellant—it should be noted that the question came up as to how long Ms. Taylor and Mr. Sapp had been working in or for the *County.* They agreed that they had been "doing this kind of thing, working together" for more than 20 years. "*This* kind of thing" apparently being seizing and disposing of other people's animals; with Ms. Taylor acting as a Sheriff's Deputy Investigator, and Mr. Sapp acting as a "defense" attorney. This is pointing toward collusion, and the *DVD made of this interrogation was never given to Appellant* despite several

Motions of Discovery. (*Appellant's Argument #2, pg. 35*)(**R.pp.315**)

Although there is *mention* made of Appellant's *former* attorney Mr. Sapp appearing as a *witness for the County* on Respondent's Brief, pgs. 6 and 7—*no* suggestion that he was *questioned under oath by Appellant* is mentioned. Appellant's *very specific* questions about what she *authorized* Mr. Sapp to do on her behalf, and Mr. Sapp's replies as to what he actually *did* do outside her presence, *go far* toward her point that Mr. Sapp purposely did *not* act in his client's best interest, *or* on her instructions. (*Appellant's Argument #2, pg. 37*) (**R.pp.159-161**)

Appellant's animals should *never* have been removed from her premises without due process of law--but they were. They should *never* have been surrendered to the County by her attorney without her knowledge—but they were. They should *never* have been claimed as *unhealthy*, when the County's *own examinations* show conclusively that they were *all within normal weight*, or more, for their breed, and *vital signs were all normal*—but they *were* so claimed.(**R.pp.407-413**)

It is her understanding that in order to prosecute one for any crime; Plaintiffs must prove any charge beyond a reasonable doubt. (**R.pp.194**) The seizure took place *because* of the claim that her animals were "*not being taken care of;*" which has been *disproven by evidence* several times during this Appeal process. Appellant here refers back to *Argument #1*—which, *if photos of the short-haired dogs* had been shown as so-called proof of the *seizure allegation of lack of care*—the animals *would not* have been seized, as they were all in *good* visual body condition. Since the animals themselves are *no longer available as evidence or* for return, intact; restitution is surely in order.(**R.pp.203-206, 306-307, 315**)

Dr. *Mary* Campbell's accusations and descriptions of "conditions" that would have been detrimental to the *health* of Appellant's animals, on *pg.8* of Respondent's Initial Brief, were *not backed up with actual evidence* in court, just pictures of such things as "*junk cars*" a bag *of potting soil, and a large roll of welded wire* being shown, although it is *claimed* on *pg. 9* of Respondent's Initial Brief that

"photographs of these *conditions* were admitted." They were *not*, only photos of *things* as described above. There *were* some photos purported to be of the 10 so-called "criminally tortured" dogs—but *these* were *claimed* as evidence *for General Sessions Court,* (and should *not* have been presented *here)* since Appellant was *not* allowed to question anyone or object to any evidence, including these photos, during this Magistrate Court *civil* hearing, despite attempts to do so. ***(Mag.Ct. Audio)*** These 10 allegations are actually *misdemeanors* per Appellant's Background Check, and have *not* been adjudicated in over 20 months.

Additionally, *Judge Buckner assigned the Public Defender* to Appellant's *Criminal* case, and heard her *Not Guilty* plea to that, while her *Civil case was pending under him* as well. She was told by the General Sessions *Clerk.* that the "fee" to be paid into the Attorney's Fund Judge Buckner assigned, *could not* be collected, as there was no account to put it in.

Further muddying the waters, Appellant never heard from the Public Defender until *many* months later, when, by her request for an appointment, he spoke to her in his lobby, and told her that he had discovered that *indictments* ***(R.pp.101-120)*** by the Grand Jury *had* been handed down, but he *had NOT been present, hadn't known about them,* and *had no idea about a possible "trial."* It would seem that *Respondents must have put these 10 criminal charges up* before the Grand Jury, but *failed to tell either her, OR her assigned attorney.* Appellant *bought* copies from the General Sessions clerk. These indictments *are* the misdemeanors.

Appellant *was not on trial here,* (despite being termed the Defendant) the hearing was simply to *defend her right* to have *never been invaded,* or her animals seized, at all; and to try to get her breeding animals *back* before they were destroyed for her use. *(R.pp.241-244, 266, 309, 311)***

Dr. *Mary* Campbell was *not on-site at the seizure,* but came out after *all the animals were already gone,* and the premises *ransacked* ***(R.pp.369)*** by County officers of the Court. Photos that are *on-line* were taken *after* the removal and ransacking took place. *Argument #2 background and*

citations is *to point* with refuting arguments and comments on this phase. On *page 8* of the Respondent's Initial Brief, there are verbal *descriptions* of animals, and their *condition*—that are, again, *completely refuted by the County's own initial vet exams, but NO PHOTOS. (Exhibit #9 and AC#3–AC#4).* Comments like *"did not find any bowls with food in them" is redundant and absurd* when used to claim a *lack of care.* Many adult dogs are fed *once a day*—mine were usually fed *after* caring for my disabled son in Walterboro in the late evening. Appellant's animals were kept in *breeding condition*, not fat, as they *would have been* if food were present at all times. This is an unhealthy practice for breeding animals. ***(R.pp.349-350)***

Statements about things Dr. *Mary* Campbell *claims to have seen* had no place in the Magistrate Hearing, since she *didn't* show any *evidence* that Appellant was *allowed* to object to, cross-examine, *or* produce copies of, for the Appellant, by *order* of the Court. Her mere *statements* are *hearsay opinions not backed by proven fact*--violating Appellant's 4th Amendment and State rights. Appellant was *ordered* to *wait* until *all* the County's evidence and testimony *was heard*—and was told that *then* she could object to or question "anything". However, the *next* hearing date found the entire hearing process *concluded* by the "enforceable agreement" and her objections to "anything" was *never allowed.* ***(Mag. Ct. Audio)***

Dr. *Mary* Campbell's qualification of expertise *was* objected to by Appellant, as she actually has had almost *twice* as many years *hands-on caring for* various species of animals than Dr. Campbell has in examining them—especially Appellant's *own* animals over 50+ years—but this was ignored and never ruled on. ***(R.pp.323(a)***

The Purina body condition chart, ***(R.pp.347)*** ***(County's Exhibit # 7),*** clearly shows 4-5 obvious ribs, a tuck-up, and a waist viewed from above, as *ideal,* and on a *short-haired* dog. (a #4-5); yet all the supposed "worst" of Appellant's dogs were *long-haired.* If *"the dogs"* as *repeatedly* named in the Respondent's Initial Brief *were* as described—then Appellant asks why *no short-haired dogs* were in

the "worst" group?

Ironically, the local Animal Shelter's "pet of the week" is a Pit Bull in *perfect* body condition, 4-5 ribs showing, nice tuck-up, and a waist. This standard was *not* applied to *Appellant's* animals.

The last citation offered, *SC Code of Laws 41-1-10*—does not appear to have any relevance to this case. *May he have meant another code?*

Although Respondent confined himself almost entirely to comments and quotes from Judge Duffie's Answer to Appellant's lower Court Appeal—She finds herself compelled to mention that her Argument #4 in this Appeal concerns the apparent lax attitude toward Court Procedure that has been evidenced by the process of the movement of this case. Steps that were of great importance to this Appellant's case were skipped or glossed over, seemingly because the local officers of the court knew what was meant—and Appellant did not.

Also, the Compel to Produce Evidence Motion which was introduced here was never adjudicated or even mentioned, ***(R.pp.63-72, 89-90)*** *and Appellant again got no evidence whatsoever from the County, and has never been given the name of the original complainant, as required by law, and as cited in the Colleton County Animal Enforcement ordinances.* ***(R.pp.323(c)*** *(Appellant's Exhibit (AC #6)*

In the "conclusions" section of his Brief, Mr. Thornton adheres to several fallacies: 1) he appears to imply that dogs and cats are not owned personal property ***(R.pp.193, 321)****—but Appellant's Arguments #1 & #2 cite much US, SC, and local law which assure that they are. 2) He claims that Appellant "seems to think" that "animals have no "rights" but again; many laws, codes and local ordinances are cited in her Arguments #1 and #2 that since animals/livestock cannot be held responsible for their actions, they cannot be accused of a crime; and since they are not considered a "party" which is by definition a person—they only have the "rights" that their owner gives them.*

(R.pp.268)

His statement about treating her animals as "she sees fit" ignores the many citations of law in the Appellant's Initial Brief indicating that she certainly realized that her private property breeding livestock were covered under the law, to be cared for by ***(R.pp.491-492)*** *accepted livestock /animal practice for SC—and were cared for by those standards, as Appellant has so stated.* ***(R.pp.351-354)***

Her testimony and exhibits (and the body condition of her livestock) bear this out, and Respondent's ***implications*** *that the statements that he* ***attributed*** *to the Appellant as above are "faulty and contrary to State law" are not borne out by the SC Code (47-1-10) that he quotes here, because the County's Initial Veterinary Exams (Plaintiff's Exhibit #9 and AC#3 and AC#4) clearly show that all of Appellant's animals were within normal ranges, as evidenced by their individual vital signs and weights.* ***(R.pp.407-413)***

Appellant alleges that her request for relief from this court is within venue, as the "Enforceable Agreement" testimony ***(Mag. Ct. audio)*** *clearly shows that Appellant will not get justice or fairness from officers of the Court in Colleton County, nor did she ever hear or see nearly any of the Plaintiff's evidence or testimony. They are firmly aligned against her, and any local request for relief is doomed to failure. Appellant is often subjected to evidence that there is an on-going campaign to refuse her justice. Also, most of Appellant's money has already been spent on futile requests for local attorneys to apply justice, when they did and will not.* It is Appellant's hope and expectation that appealing to this Court with regard to her treatment and associated lack of justice in this case, by invoking the *"Request for Relief" process;* will allow her case to be *fully reviewed* by disinterested and uninvolved Judges, and thereby get a fair and just ruling *and* reasonable restitution from it.

Appellant pleads with this Court to allow her a *full* investigation and application of laws to her case, as requested, in order to *prove* the allegations against the County that she makes; *and* to allow the several *"prayers for relief" enumerated in her "conclusion"* to be met. Since Respondent only touches briefly on them, Appellant wishes to reiterate: 1) Fullest protection in the future as allowed by law,

against trespass and invasion of privacy, as was *not* afforded her here ***(R.pp.303-306)*** 2) Full restitution for animals seized, *and* progeny likely to have been produced over the next 10 years; ***(R.pp.415-417)***3) Re-instatement of the Grandfather clause associated with her property and animals, ***(R.pp.301)*** without lapse; 4) Written apology for the slanderous and libelous statements ***(R.pp.148-149, 308)*** by the 6 people who were the most responsible for them, 5) Expungement of all records of this case from State, County, and on-line records, and 6) Return or destruction of all evidence collected during this operation. 7) The *name of the original complainant.* ***(R.pp.323)***

Submitted April 3, 2018

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