

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr.
Chief Administrative Judge, Ninth Judicial Circuit

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SC Court of Appeals

Case No. 2014-002243

City of Charleston, Charleston
Police & Fire Departments,

Respondent,

v.

Derrell Beckley,

Appellant.

Final Brief of Appellant

Derrell Beckley
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Pro Se Appellant

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN DISMISSING THIS CASE?
2. DO THE RULES OF DISCOVERY APPLY IN THIS MATTER?

STATEMENT OF THE CASE

April 10, 2014, T Derrell Beckley ("T") brought this action alleging (1) Color of law, (2) Conspiracy, (3) Due Process and (4) Police misconduct against The City of Charleston, Charleston Police and Fire Departments ("The City"). I'm asking for \$50,000,000. The City answered alleging that Pro Se didn't file a tort claim in the two-year statute of limitations. Their right, but;

FACTS

June 14, 2011, on the corner of Meeting Street and Mary Street getting ready to cross Mary Street (heading up town). There was a man standing next to me waiting for the light to change. When the walk light came on, we left the side walk. On my bike I entered the crosswalk. That's when I was hit by a white dodge pickup truck. It knocked me off of the bike and out of the crosswalk into the intersection. Landing on my right side. I got my bike and got to my feet.

The driver asked if I was ok. He was about six feet, 165 pounds, blond hair and about 20 to 25 years old. I said I'm ok and asked him to turn around and park across the street, he did. By the time we got across the street, the police pulled up and parked behind the truck. The Officer said a few things to the driver and then came over to me. **"Are you hurt?"** well I don't see any blood are no broken bones. **"Let me see your ID. Where are you coming from?"** that is my business. **"Where are you going?"** that is my business too.

"Have you been drinking? I can tell you been drinking just by looking at you. I can take you to jail for that". What in that case my bike was drinking, you going to take it to jail too? Look I'm the victim here. I'm the one that got hit. There were two guys there, who said they seen it happen. The officer told them to leave. The Fire Department showed up. The Officer asked, **"Are you hurt?"** I'm not bleeding and there are no broken bones that I can tell. I just got hit by that truck. The Officer walked over to the driver of the fire truck.

Said a few things to the driver and they left the scene. (they never got out of the truck or asked me anything). I asked why are they are leaving? **"Because you refused help."** I didn't refuse help, I said I don't see any blood and don't think I have any broken bones, **"They are not coming back."** What the hell is going on here? I need an accident report. **"You don't get one."** Why? **"You refused help."** No I didn't and I should get a report. **"You are not going to get a report, so you can get on your bike and leave, or I will take you to jail."**

That would be funny, I get hit by a fucking truck and you take me to jail. Then he walked over to the driver and told him he could leave. I went to my book bag to get something to write with. **"What do you want, you want my card?"** I do. He gave me his card. I looked at it and turned it over and wrote down the plate number of the truck (Tenn.219VKR). the driver of the truck drove away. The Officer came over to me and said **"Where do you live?"**

I stay at 55 Jackson Street. **"This is over so get on your bike and leave. If I see you out here later on, I will take you to jail for drinking in public."** He got in his car and left. June 15, 2011, I went to the police station to get an accident report. He filled out an event report, saying nothing but truck verse bike, that's it. A lady Sgt. seen the report and said, **"This is not right, he works under me."** You taught him well. **"This is not like him. I'll show this to my supervisor."** I told her to give me that one and you take what you want to him.

I retained The Clore Law Group (The Lawyer). He told me he would take care of this. June 15, 2011, I go to the doctor. After the doctor, I moved out of town, thinking the officer was going to come after me. While in Orlando I tried to keep in touch with the lawyer, but every time I would call. He would tell me **"Call me back in a few months."** Or **"We found the truck, but they won't tell us who was driving."** He would put me on hold until I hung up. That number and every number I used would be blocked. The Lawyer stopped talking to me.

I moved back to Charleston in 2013. I go to see The Lawyer, to find out that he had done nothing. Is he a part of this too? He asked, **“Give me another week, I have someone in that area.”** So I took it upon myself to get some justice. I go to City Hall to see what form I would need to sue the police and fire. No one could tell me. All they wanted to know was who did it. After three trips to City Hall they sent me to their legal department. I ask for the form I need to sue the police and fire.

I don't get what I'm looking for, but I get two phone numbers. One for fire the other is the police. I told them I'll start with the police. I called the number for the police and the assistant to the chief of police. She said **“I just got an email about you.”** We sat up a time to meet with detectives on June 10, 2013, no call no show. June 11, 2013 I get a letter from The Lawyer.

“Clare Law Group will no longer be representing you this matter and will not be protecting your statute of limitations. Please note that in South Carolina, actions such as these are subject to a three-year statute of limitations. Therefore, you need to file and serve a lawsuit within three years of the incident or your case may be forever barred.”

I'm not a lawyer, now I'm thinking I have another year, because The Lawyer burned up two years. June 12, 2013 the police were ignoring my calls, so I emailed The Mayor. About one or two hours later I get a call from the officer's lieutenant.

After that I get a call from his sergeant stating. **"I have two officers that said they heard you refuse help."** Their lying there was only one officer there. **"Well I believe them."**

I called Professional Standards to set up a time and a date to file a complaint, and to meet in the lobby at the police station on Lockwood. I was sitting in the lobby, and then about five officers started standing around me showing me their badges. I been in that lobby many times and never seen one officer hangout in the lobby. When my name was called, they all left.

Before Professional Standards turned on the tape recorder. I was told **"I checked on the other officer and he was on another call."** Then she turned on the tape recorder. On June 18, 2013, I went to City Hall to thank the lady who helped me. That's when I was told about The Tort Claim Act. I was given a tort claim form. I filed it the next day June 19, 2013. Five days pass the statute of limitations. **Now I see why The Lawyer asked me for another week.** The tort claim was denied on June 25, 2013.

I filed in Federal Court, December 20, 2013. It was dismissed March 28, 2014. So I filed this case on April 10, 2014. On April 16, 2014 it's approved *In Forma Paupers*. The Sheriff served The City and The Police on April 24, and The Fire Department on April 25, 2014. On May 28, 2014 The City filed a Motion to Dismiss, thirty-three days later. I filed an Affidavit of Default, because nobody contacted me within

thirty-two days. I get a letter to answer to the Motion to Dismiss on September 11, 2014. The Motion to Dismiss was granted September 16, 2014.

ARGUMENTS

My argument is I have everything to prove that The Lawyer was not working for me. It took me eight days to find out about The Tort Claim Act, June 18, 2013. It was filed on June 19, 2013. I had this case in and out of Federal Court, and filed it before the end of what the Respondent think the Statute of limitations is. That's due diligent.

Is the discovery date?

1. The day I received the letter from The Lawyer?
2. The day I went to see The Lawyer and found he had done nothing?

I'm not asking for the discovery rule to be applied in this appeal. I'm asking does it apply, to me, when I discovered The Lawyer had done nothing. I can see if I was in town and knew what he (The Lawyer) was up to. This is not the case. He (The Lawyer) wanted another week, but I had him send me the letter before I left his office, dated April 10, 2013. This case was filed within the statute limitations, April 10, 2014.

The date of the *in forma pauperis* was approved, I have nothing to do with that. The time period within which a person can sue doesn't start to run until that person knew or should have known they suffered a harm and the nature of that harm. I tried to explain to the court about The Lawyer, when he cut me off and dismissed the case. (see R pg.19, line 22 to 25 and R.pg 20 line 1 to 6). It's clear the court did not want me to say another word. Yet the court was nice to apposing attorney for coming to court unprepared. The Defendants broke the law and tried to cover it up. Now they are trying to hide behind the stature of limitations. I did not know you can go into default and still win your case with a Motion to Dismiss.

CONCLUSION

For all of these reasons I ask this Honorable Court to reverse their Motion to Dismiss.

Respectfully,



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§15-78-90. (b) Whether or not the claim is filed, the claimant is entitled to institute an action against the appropriate agency or political subdivision. Provided, however, if a claimant files a claim, he may not institute an action until after the occurrence of the earliest of one of the following three events: (1) the passage of one hundred eighty days from the filing of the claim with the governmental entity, (2) the governmental entity's disallowance of the claim, or (3) the governmental entity's rejection of a settlement offer.

§15-78-100. (a) an action for damages under this chapter may be instituted at any time within two years after the loss was or should have been discovered. Provided, that if a claim for damages was filed and disallowed or rejected an action for damages filed under this chapter, based upon the same occurrence as the claim, may be instituted within three years after the loss was or should have been discovered.

§15-78-110. Statute of limitations, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.

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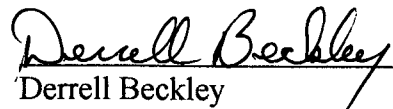
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CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.


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