

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**RECEIVED**

FEB 24 2020

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

Edgar Dickson, Jr.  
Circuit Court Judge

---

Appellate Case No. 2019-001149

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Shireen Nicole Simmons.....Appellant,

v.

The State of South Carolina.....Respondent.

---

RECORD ON APPEAL

---

Jason Scott Luck  
Garrett Law Offices, LLC  
1075 E. Montague Ave.  
North Charleston, SC 29405  
843.554.5515 (phone)  
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Attorneys for Respondent

**INDEX**

**Orders**

Order Denying Appeal (June 17, 2019) ..... 1  
Order Denying Motion to Alter or Amend (July 2, 2019) ..... 5

**Pleadings**

Summons and Complaint (November 13, 2017) ..... 9  
Return (December 6, 2017) ..... 13  
Motion to Strike Return (February 15, 2018)..... 15  
    Exhibit A: November 14, 2017 letter re: trial transcript ..... 17  
    Exhibit B: Orangeburg Municipal Court receipt # 114824 (11/17/2017) ..... 18  
    Exhibit C: Motion for New Trial before Municipal Court (10/19/2017) ..... 19  
        Exhibit to Motion for New Trial: TR-310 diagram and photographs ..... 21  
Motion to Alter or Amend (June 27, 2019)..... 23

**Transcripts**

Transcript of Motion to Strike Hearing (June 1, 2018)..... 25  
    Argument of Jason Luck..... 27  
    Argument of James Walsh ..... 30  
    Argument of Jason Luck..... 36  
    Argument of James Walsh ..... 38

<b>STATE OF SOUTH CAROLINA,</b>	)	
	)	<b>IN THE COURT OF COMMON PLEAS</b>
<b>COUNTY OF ORANGEBURG.</b>	)	<b>CIVIL ACTION NO.2017-CP-38-01527</b>
	)	
<b>Shireen Nicole Simmons</b>	)	
<b>Plaintiff,</b>	)	<b>ORDER</b>
	)	
<b>vs.</b>	)	
	)	
<b>The State of South Carolina</b>	)	
	)	
<b>Defendant.</b>	)	
<hr style="width: 100%;"/>	)	

This is an appeal from a Municipal Court conviction heard by this Court on June 1, 2018. The appeal was filed on November 17, 2017 and the Municipal Court filed a return on December 11, 2017. The appellate was found guilty by jury of a violation of South Carolina Code § 56-5-970 (A)(1).

The Plaintiff states the Court erred for the following reasons:

- 1.) Defendant was not provided enough time to prepare for trial and,
- 2.) Material evidence was wrongfully excluded.

As to the Plaintiff's first point that the Defendant was not provided enough time to prepare for trial. The Plaintiff alleges that she was not given adequate notice of the trial leaving her unable to retain counsel and to subpoena a key witness. That when the Plaintiff asked for a continuance of the trial, the motion for a continuance was denied and this was an abuse of discretion. According to the return of Judge Barney M. Houser, the Plaintiff's case was originally scheduled for a jury trial for the September 2017 term. However, the Plaintiff's case was continued due to the prosecuting officer being on military leave. The case was then called and tried on October 10, 2017. The Plaintiff at least had one month to prepare for the trial, hire an attorney, subpoena any material witnesses; and the city attorney advised the Plaintiff of the future date certain that was set for her trial. The Municipal Court gave the Plaintiff adequate time to prepare a

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

Electronically signed on 2019-06-17 09:12:29 page 4 of 4

ELECTRONICALLY FILED - 2019 Jun 17 9:41 AM - ORANGEBURG - COMMON PLEAS - CASE#2017CP3801527

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
<b>Shireen Nicole Simmons,</b>	)	
	)	No.: 2017-CP-38-01527
Plaintiff,	)	
	)	
vs.	)	<b>Order Denying the Plaintiff's</b>
	)	<b>Motion to Alter or Amend</b>
<b>The State of South Carolina</b>	)	
	)	
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 trial<sup>1</sup>. 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-

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<sup>1</sup> 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

Electronically signed on 2019-07-02 12:02:57 page 4 of 4

ELECTRONICALLY FILED - 2019 Jul 02 1:07 PM - ORANGEBURG - COMMON PLEAS - CASE#2017CP3801527

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

**Shireen Nicole Simmons,** )  
 )  
Plaintiff, )

CASE NO: 2017-CP-38-01527

vs. )

**Summons**  
(Appeal from Municipal Court)  
(Non-Jury)

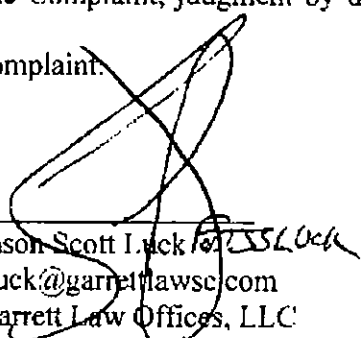
**The State of South Carolina,** )  
 )  
Defendant. )

FILED FOR RECORD  
WINIFEA B. CLARK  
2017 NOV 17 A 11:48  
CLERK OF COURT  
ORANGEBURG, SC

TO THE DEFENDANT ABOVE-NAMED:

**You are hereby summoned** and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon the Plaintiff, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

Dated: 11/13/2017

  
Jason Scott Luck  
jluck@garrettlawsc.com  
Garrett Law Offices, LLC  
1075 E. Montague Ave.  
North Charleston, SC 29405  
843.554.5515 (phone)  
843.747.3198 (telefax)  
**Attorney for Plaintiff**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ORANGEBURG )  
 )  
**Shireen Nicole Simmons,** )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
**The State of South Carolina,** )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIRST JUDICIAL CIRCUIT

CASE NO: **2017-CP-38-01527**

**Complaint**  
 (Appeal from Municipal Court)  
 (Non-Jury)

Plaintiff would show this Court the following:

1. This is an appeal from a City of Orangeburg Municipal Court jury trial for ~~State v. Simmons~~, 20171990000935.
2. Plaintiff is a resident of Charleston County, South Carolina.
3. Defendant is the state of South Carolina.
4. Venue is proper in this county.
5. On March 26, 2017 Simmons received a citation for violation of S.C. Code § 56-5-950 ("Obedience to and required traffic-control devices"), allegedly for running a red light at the intersection of Magnolia Street and Calhoun Drive in Orangeburg, South Carolina.
6. Simmons duly requested a jury trial, and the case was tried by a jury in Orangeburg City Municipal Court on October 10, 2017.
7. During the trial of this matter, the Municipal Court committed the following errors of law:
  - a. Defendant was not provided enough time to prepare for trial. Simmons was not given adequate notice of this trial, leaving her unable to retain counsel and to subpoena a key witness. When Simmons asked for a continuance of the trial, this motion for a continuance was denied, which was also an abuse of discretion.

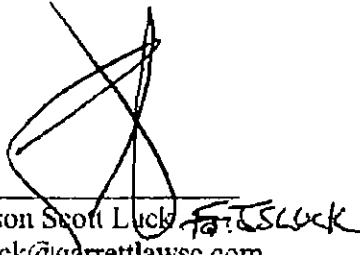
FILE FOR RECORD  
 WITH F.A.R. CLERK  
 2017 MAR 17 A 11:58  
 CLERK OF COURT  
 OF ORANGEBURG, SC

b. Material evidence was wrongfully excluded. Simmons was not allowed to introduce photographs of the intersection at issue in this case. If these photographs (See Exhibit A to 10/19/2017 Motion for New Trial) had been admitted into evidence, Simmons 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.

8. The jury found Simmons guilty of a violation of S.C. Code § 56-5-950 and the Municipal Court fined her \$155.00.
9. Simmons retained counsel, and through counsel she filed a timely Motion for New Trial on October 19, 2017.
10. Simmons' motion for a new trial was heard on November 2, 2017.
11. The Municipal Court denied Simmons' Motion for New Trial on November 2, 2017 on the basis that she did not yield the right-of-way to the other driver, who was turning left. This decision was reversible error, as Simmons' citation was for a violation of S.C. Code § 56-5-950 (failing to stop at a red light), and S.C. Code §§ 56-5-2310 & 56-5-2320 dictate that Simmons, not the other driver, had the right-of-way in this intersection.
12. Pursuant to S.C. Code § 14-25-95, the fine assessed by the Municipal Court has been or will be paid. This payment is made or will be made only as a condition of appeal, and does not constitute an admission of guilt.

**Wherefore.** Simmons asks this Court to reverse the Municipal Court, vacate the jury's verdict of October 10, 2017, order a new jury trial, award Simmons attorneys' fees and costs, and grant Simmons such other and further relief as this Court deems just and proper.

Dated: 11/13/2017



---

Jason Scott Luck *JS Luck*  
jluck@garrettlawsc.com  
Garrett Law Offices, LLC  
1075 E. Montague Ave.  
North Charleston, SC 29405  
843.554.5515 (phone)  
843.747.3198 (telefax)  
**Attorney for Plaintiff**

Return : State of SC vs Shireen Nicole Simmons

FILED FOR RECORD  
WILLIFORD  
CLERK OF COURT  
ORANGEBURG, SC

This case was called for a Jury trial on October 10, 2017 at Orangeburg Municipal Court.

The case was originally scheduled for a Jury trial for the September trial term but was continued due to Officer Williford being on military leave. The city attorney advised the defendant and set a day certain for October 10, 2017 at 9 am.

At the call of the case the City amended the charge to SC code section 56-5-970A(1).

The Court advised the Defendant of the procedural aspects of the trial and Jury selection. She stated she understood and had no questions for the Court. She did not request a continuance or advise the Court she wished to seek legal counsel. A jury was selected and seated.

Officer Williford testified he responded to a motor vehicle accident at the intersection of Magnolia St and John C Calhoun Dr (US 301) in the City of Orangeburg on March 26, 2017 at 11:28 pm. Upon arrival at the scene he observed a 2004 Chevy SUV overturned on its roof at the side of the intersection closest to Taco Bell. The driver of that vehicle was Trechaun Belton. After investigating the scene he determined that Mr. Belton was traveling south on US 301 and made a left turn onto Magnolia St. He determined Mr. Belton was already established in the intersection and Ms. Simmons was travelling North on 301 and approached the intersection at such a high rate of speed Belton was unable to clear the intersection before Ms. Simmons struck his vehicle flipping it 3 times. Simmons failed to yield to a vehicle already established in the intersection. Officer Williford issued the defendant a UTC for Disregarding a Traffic Control Device.

Mr. Belton testified he works at Taco Bell and had just gotten off work and was returning home. He proceeded out of the front driveway and turned left onto 301 and got in the turn lane to turn left onto Magnolia St. As he approached the light it was green and he observed no oncoming traffic and he entered the intersection and turned left onto Magnolia St. He crossed the inside lane and was crossing the outside lane of 301 and was nearly outside of the intersection when his vehicle was struck causing it to flip 3 times. His car ended up on its roof.

Ms. Simmons testified her light was green when she entered the intersection. She attempted to approach the jury without permission with her cell phone. The City objected. Ms. Simmons said she wanted to show a picture of her green traffic light. The City had submitted a GIS photo of the intersection into evidence which was displayed on the courtroom flat screen. I advised Ms. Simmons she would either have to have a printed photo of the intersection or in a video format that could be displayed on the courtroom monitor. She was unable to produce either. I also found there already was a good photo of the intersection in evidence that showed the complete intersection and location of all traffic control devices.

The Court charged the Jury with Code Section 56-5-970A(1).

The jury found Ms. Simmons guilty.

Return submitted December 6, 2017.

Orangeburg Municipal Court

Judge Barney M. Houser

A handwritten signature in black ink, appearing to read "Barney M. Houser", written over a horizontal line.

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

**Shireen Nicole Simmons,**  
Plaintiff,

No.: 2017-CP-38-01527

vs.

**Motion to Strike**

**The State of South Carolina,**  
Defendant.

CLERK OF COURT  
ORANGEBURG, SC

2019 FEB 20 PM 12: 28

FILED FOR RECORD  
WINNIFRA B. CLARK

Plaintiff Shireen Nicole Simmons moves to strike the Return of the Municipal Court and enter judgment for Plaintiff. Simmons would show the following in support of her motion:

1. S.C. Code § 14-25-105 governs the return of the Municipal Court:

In the event of an appeal, the municipal judge shall make a return to the Court of Common Pleas, and the appeal must be heard by the presiding judge upon the return. The return of the municipal judge shall consist of a written report of the charges preferred, the testimony, the proceedings, and the sentence or judgment. When the testimony has been taken by a reporter as provided herein, the return shall include the reporter's transcript of the testimony. The return must be filed with the Clerk of the Court of Common Pleas of the county in which the trial was held and the cause must be placed on the motion calendar for the Court of Common Pleas. There shall be no trial de novo on any appeal from a municipal court.

2. The Return of the Municipal Court, filed December 11, 2017, contains the following defects:

a. The Return contains no transcript of the proceedings, even though a court reporter was present at the trial. The Clerk of Municipal Court requested that Plaintiff Simmons pay for a transcript of proceedings (Exhibit A); when Plaintiff Simmons agreed to pay for said transcript under protest, her check was returned.

ATTEST: TRUE COPY

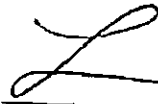
*Winnifra B. Clark*

CLERK OF COURT  
ORANGEBURG COUNTY, SC

- b. The Return states that Plaintiff Simmons was found guilty of a violation of S.C. Code § 56-5-970A(1), when Orangeburg Municipal Court records show she was found guilty of a violation of S.C. Code § 56-5-950 (Exhibit B).
- c. The Return does not mention or address the allegations of Plaintiff Simmons' Motion for New Trial (Exhibit C).
3. The Return was never served on counsel for Plaintiff, in violation of Rule 5, SCRPC.
4. The inaccuracies in the Return and its failure to conform to statutory requirements render it unreliable and inappropriate for consideration by this Court.

Wherefore, Simmons asks this Court to strike the Municipal Court's Return, reverse the Municipal Court, vacate the jury's verdict of October 10, 2017, order a new jury trial, award Simmons attorneys' fees and costs, and grant Simmons such other and further relief as this Court deems just and proper.

Dated: 02/15/2018




Jason Scott Luck  
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Garrett Law Offices, LLC  
1075 E. Montague Ave.  
North Charleston, SC 29405  
843.554.5515 (phone)  
843.747.3198 (telefax)  
**Attorney for Plaintiff**

**Certificate of Service**

I certify that this pleading was placed in the U.S. Mail, first class, postage-prepaid on the date below to the following address(es):

Orangeburg Municipal Court  
1320 Middleton Street  
Orangeburg, SC 29116-1425

Dated: 02/15/2018



Jason Scott Luck



Barney M. Houser  
Municipal Judge

Jonl H. Whisenhunt  
Clerk, Municipal Court

### Orangeburg Municipal Court

P.O. BOX 1425  
Orangeburg, SC 29116-1425  
(803) 533-5921  
FAX (803) 533-6216

November 14, 2017

Jason Scott Luck, Esquire  
Garrett Law Offices, LLC  
1075 E. Montague Ave  
North Charleston, SC 29405

Re: The State of South Carolina v. Shireen Nicole Simmons  
Citation number: 20171990000935

FILED FOR RECORD  
WINNIFRA B. CLARK  
2018 FEB 23 PM 12:38  
CLERK OF COURT  
ORANGEBURG, SC

Dear Mr. Luck,

I have gotten a quote to have the jury trial for the above transcribed. I spoke with Creel Reporting. The cost to transcribe a thirty minute trial is approximately \$224.00. Please forward a check to cover the cost of the transcript. Once I have received your payment, I will forward the audio compact disc to Creel Reporting. There will then be about a two week turnaround time. If you have any questions, please give me a call.

Sincerely,

Jonl Whisenhunt  
Municipal Court Clerk

ATTEST: TRUE COPY

Winnifra B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

ORANGEBURG MUNICIPAL COURT  
1320 MIDDLETON STREET, PO BOX 1425  
ORANGEBURG SC 29116-1425

Receipt Number: 114824

Date Paid: 11/17/2017

Paid By: SHIREEN NICOLE SIMMONS

Paid With: Cash ( ) M.O. ( ) Check (X) Other ( ) Credit Card ( )  
Card # / Description: ( ) Visa ( ) American Express  
( ) MasterCard ( ) Discover

Total Amount Applied: 155.00

Applied To	Number	Trial Date
T Traffic Ticket	20171990000935	10/10/2017

Traffic Code: 42 Statute: 56-05-0950 / 2489

DISREGARD TRAFFIC LIGHT

Received By: CDYSON

Date: 11/17/2017

Balance at Time of Receipt: 0.00

NOTES: RCVD GARRETT LAW OFFICES CHECK#1043 MAILED RCPT 11-17-17

CLERK OF COURT  
ORANGEBURG, SC

2018 FEB 20 PM 12: 29

FILED FOR RECORD  
WINNIFER B. CLARK

ATTEST: TRUE COPY  
*Winnifera B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA

CITY OF ORANGEBURG

The State of South Carolina,

Plaintiff,

v.

Shireen Simmons,

Defendant.

IN THE MUNICIPAL COURT

Citation No.: 20171990000935

Motion for New Trial

CLERK OF COURT  
ORANGEBURG, SC

2019 FEB 20 PM 12:39

FILED FOR RECORD  
WINNIEFA B. CLARK

Defendant Shireen Simmons moves, pursuant to Rule 19, SCRMC, for a new trial in this matter. Defendant would show the following in support of her motion:

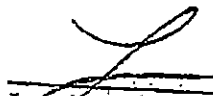
1. Defendant was not provided enough time to prepare for trial. Defendant was not given adequate notice of this trial, leaving her unable to retain counsel and to subpoena a key witness for trial. When Defendant asked for a continuance of the trial, her motion for a continuance was denied.
2. Material evidence was wrongfully excluded. Defendant was not allowed to introduce photographs of the intersection at issue in this case. If these photographs (See Exhibit) had been admitted into evidence, Defendant would have been able to prove that her light was green while she crossed the intersection in question (and thus had the right-of-way), and that the driver of the vehicle she struck was warned that oncoming traffic was subject to long green lights.

Wherefore, Defendant asks this Court to vacate the verdict of October 10, 2017, order a new jury trial, and grant Defendant such other and further relief as this Court deems just and proper.

1/4

ATTEST: TRUE COPY  
*Winnifera B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY

Dated: 10/19/2017

  
Jason Scott Luck (S.C. Bar No. 73676)  
jluck@garrettlawsc.com  
Garrett Law Offices, LLC  
1075 E. Montague Ave.  
North Charleston, SC 29405  
843.554.5515 (phone)  
843.747.3198 (telefax)  
Attorney for Defendant

**Certificate of Service**

I, Marilyn Hunt, an employee of Garrett Law Offices, LLC, Attorneys for Defendant, do hereby certify that I have served a copy of the foregoing in connection with the above referenced case by mailing a copy of the same by United States Postal Service, postage prepaid, to the following address:

James F. Walsh, Jr.  
James F. Walsh, Jr., Attorney at Law, P.A.  
P.O. Box 627  
Orangeburg, SC 29116  
Also by fax: 803.534.6082


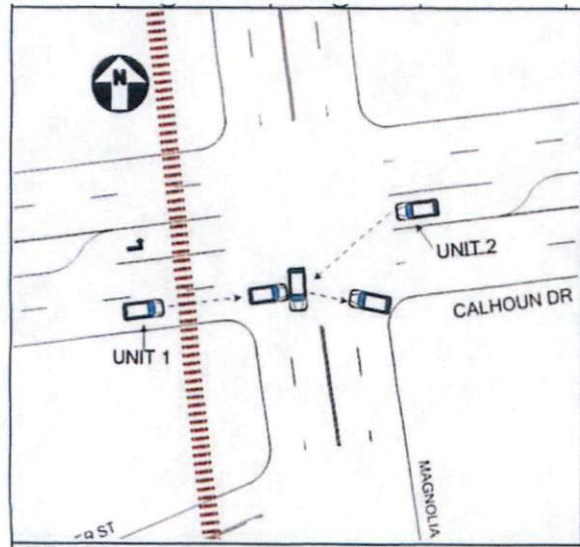
 10/19/17  
Marilyn Hunt  
Legal Assistant to Jason S. Luck

Exhibit to Motion for New Trial



Location of collision from TR-310 (above). View from Unit 1 (Defendant) (below).





View from Unit 2 (above). Detail of warning sign (below).



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

Plaintiff Shireen Nicole Simmons moves, pursuant to Rule 59, SCRPC, to alter or amend this Court’s June 17, 2019, order in this matter. Simmons would show the following in support of her motion:

1. The 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? Plaintiff contends the former is responsible for payment (though Plaintiff has paid under protest), as Plaintiff is already required to either pay the fine in question or post a bond in order to proceed with an appeal. See S.C. Code § 14-25-95.
  - b. Does S.C. Code § 14-25-95 violate the due process clauses of the United States and South Carolina Constitutions (U.S. Const. Amts. 5 & 14; S.C. Const. Art. I Sec. 3) by requiring a criminal defendant to appeal to the Court of Common Pleas (which has no jurisdiction over criminal matters), instead of the Court of General Sessions? Plaintiff contends that it does. See Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994) (Court of Common Pleas handles civil matters, while Court of General Sessions handles criminal matters).
2. The order does not address Simmons’ argument that the Court of Common Pleas lacked subject matter jurisdiction because it does not hear criminal matters (see above).
3. The order does not address Simmons’ February 15, 2018, Motion to Strike the State’s Return for: (1) noncompliance with S.C. Code § 14-25-105 (lack of transcript); (2)

stating the incorrect offence (S.C. Code § 56-5-970A(1) instead of S.C. Code § 56-5-950); (3) failure to specifically address the allegations of Simmons' motion for new trial at the Municipal Court.

**Wherefore**, Simmons asks this Court to strike the Municipal Court's Return, reverse the Municipal Court, vacate the jury's verdict of October 10, 2017, order a new jury trial, award Simmons attorneys' fees and costs, and grant Simmons such other and further relief as this Court deems just and proper.

Dated: 06/27/2019

/s/ Jason Scott Luck  
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**Certificate of Service**

I certify that this pleading was placed in the U.S. Mail, first class, postage-prepaid on the date below to the following address(es):

Judge Edgar Dickson  
P.O. Box 1949  
Orangeburg, SC 29116-1949

South Carolina Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Dated: 06/27/2019

/s/ Jason Scott Luck

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

COURT OF COMMON PLEAS

SHIREEN NICOLE SIMMONS, )  
PLAINTIFF, )  
VS. )  
THE STATE OF SOUTH CAROLINA, )  
DEFENDANT. )

TRANSCRIPT OF RECORD  
CASE 2017-CP-38-1527

JUNE 1, 2018  
ORANGEBURG, SOUTH CAROLINA

B E F O R E:

THE HONORABLE EDGAR W. DICKSON, JUDGE.

A P P E A R A N C E S:

JASON SCOTT LUCK, ESQ.  
ATTORNEY FOR THE PLAINTIFF

JAMES F. WALSH, JR., ESQ.  
ATTORNEY FOR THE DEFENDANT

WENDY WISE DERRICK  
OFFICIAL COURT REPORTER

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I N D E X

ARGUMENT BY MR. LUCK	3, 12
ARGUMENT BY MR. WALSH	6, 14
ORDER OF THE COURT	15
CERTIFICATE OF REPORTER	16

E X H I B I T S

NO EXHIBITS WERE PRESENTED.

1 THE COURT: MR. LUCK, MR. WALSH.

2 MR. LUCK: YES SIR.

3 THE COURT: IF YOU DON'T MIND, I'VE GOT TO PICK  
4 UP AN ELDERLY GENTLEMAN IN A FEW MINUTES AND TAKE  
5 HIM SOMEWHERE. MY WIFE WAS GOING TO DO IT, AND SHE  
6 HAD TO GO TO THE DOCTOR. SO.

7 MR. LUCK: UNDERSTOOD. I'LL BE VERY BRIEF.

8 THE COURT: OKAY.

9 MR. LUCK: SO, YOUR HONOR, EARLIER I EMAILED  
10 YOU A COPY OF THIS MOTION TO STRIKE WHICH REALLY  
11 ALSO CONTAINS MOST OF THE ARGUMENTS I'M GOING TO  
12 MAKE TO YOU ON APPEAL. I HAVE A COPY HERE THAT  
13 ACTUALLY HAS COLOR PHOTOS IF YOU LIKE A COPY OF  
14 THAT. IF MR. WALSH WOULD LIKE THAT, I'M HAPPY TO  
15 PROVIDE THAT.

16 THE COURT: OKAY. SURE.

17 MR. LUCK: I HAVE ADDITIONAL ONES IF ANYBODY  
18 WANTS ONE.

19 THE COURT: WE SHOULD HAVE ENOUGH COPIES.

20 MR. LUCK: SO THIS ARISES OUT OF AN AUTOMOBILE  
21 ACCIDENT AND A SUBSEQUENT TICKET. THE REAL ISSUE  
22 HERE IS THAT YOU SITTING NOW AS AN APPELLATE COURT  
23 OR AS AN APPELLATE JUDGE YOU HAVE THE ABILITY TO  
24 REVERSE THE MUNICIPAL COURT ON -- IF THERE IS A --  
25 AN ERROR OF LAW. AND I WAS GOING TO PRESENT TO YOU

1 THREE ERRORS OF LAW WITHIN THE CASE HERE.

2 AND THEY ARE -- ONE OF THEM IS REALLY  
3 ENCOMPASSED IN THIS MOTION TO STRIKE. THE ARGUMENT  
4 IS THAT THE RETURN TO THE APPEAL WAS DEFICIENT. IT  
5 DID NOT MEET THE STATUTORY REQUIREMENTS THAT'S LAID  
6 OUT IN THE MOTION TO STRIKE. BUT BRIEFLY, THAT  
7 THERE WAS NO TRANSCRIPT AND THAT IT ALSO HAD SOME  
8 OTHER OBVIOUS ERRORS AND CITATIONS IN IT. SO IT  
9 DIDN'T -- BECAUSE IT DIDN'T MEET THE REQUIREMENTS --  
10 BECAUSE ALSO I WAS NEVER SERVED WITH A COPY OF THE  
11 RETURN -- BECAUSE THESE STATUTORY AND RULE  
12 REQUIREMENTS WERE NOT MET, IT SHOULD BE STRUCK.  
13 RETURN AS STRUCK. JUDGMENT ENTERED FOR THE  
14 PLAINTIFF. REVERSED. MRS. SIMMONS GETS A DO OVER  
15 IN MUNICIPAL COURT.

16 SECOND GROUND WOULD BE THAT IF YOU TAKE AND  
17 ACTUALLY READ AND TAKE THE RETURN AS IT IS, THAT IT  
18 DOES NOT ACTUALLY MEET ITS BURDEN OF PERSUASION.  
19 IT'S -- CITES -- OR MRS. SIMMONS WAS CITED FOR AND  
20 FOUND GUILTY OF A -- ONE OFFENSE, BUT THE RETURN  
21 MENTIONS ANOTHER OFFENSE THAT SHE WAS NOT FOUND  
22 GUILTY. AT LEAST THE RECORDS -- THE COURT RECORD DO  
23 NOT FIND HER ARRESTED FOR OR GUILTY OF. BECAUSE OF  
24 THAT, BECAUSE OF THE ERRORS WITHIN IT AND THE OTHER  
25 ERRORS WITHIN THE RETURN THAT ARE AGAIN SET FORTH IN

1 THIS MOTION TO STRIKE, THE RETURN ITSELF, EVEN IF  
2 YOU ACCEPT IT, DOES NOT MEET ITS BURDEN OF  
3 PERSUASION. THEREFORE, THAT MRS. SIMMONS PREVAILS,  
4 AND SHE GETS A NEW TRIAL AT THE MUNICIPAL COURT.

5 THE THIRD GROUND IS ACADEMIC. I DIDN'T BOTHER  
6 PUTTING IT IN WRITING BECAUSE IT'S JUST SOMETHING I  
7 NEED TO THROW OUT THERE IN CASE I APPEAL FROM HERE.  
8 AND THAT IS -- IT IS A VERY -- THIS IS THE MOST  
9 INTERESTING THING ABOUT THIS CASE THOUGH, YOUR  
10 HONOR. I WONDER, DOES THIS COURT HAVE SUBJECT  
11 MATTER JURISDICTION? WE HAVE --

12 THE COURT: YOU MEAN CIRCUIT COURT?

13 MR. LUCK: THE CIRCUIT COURT.

14 WE ARE SITTING -- CURRENTLY SITTING IN THE  
15 COURT OF COMMON PLEAS HEARING AN APPEAL FROM A  
16 CRIMINAL MATTER AT THE MUNICIPAL COURT. I DO  
17 WONDER -- AND I GUESS JUST FOR THE PURPOSES OF  
18 PRESERVATION -- WELL I KNOW SUBJECT MATTER  
19 JURISDICTION NEVER NEEDS TO BE PRESERVED -- DOES  
20 THIS COURT HAVE THE SUBJECT MATTER JURISDICTION TO  
21 HEAR THIS APPEAL? AND IF IT DOES NOT, THEN THE  
22 STATUTE THAT MANDATES THAT ALL APPEALS GO TO THE  
23 COURT OF COMMON PLEAS IS UNCONSTITUTIONAL BECAUSE IT  
24 DENIES DUE PROCESS OF LAW. THEREFORE, THIS  
25 CONVICTION IS VOID AND SHOULD BE THROWN OUT.

1 THE COURT: SO THE STATUTE SHOULD READ, I  
2 SHOULD BE SITTING IN GENERAL SESSIONS?

3 MR. LUCK: POSSIBLY. I'M NOT ENTIRELY SURE,  
4 YOUR HONOR. I THINK THAT REALLY DEMANDS MORE  
5 RESEARCH. I TRIED TO ASK THIS TO JUDGE LOCKEMY.  
6 AND I DIDN'T HAVE ENOUGH TIME TO HAVE A GOOD  
7 CONVERSATION WITH HIM ABOUT IT. BUT I WASN'T  
8 SATISFIED.

9 BUT THEN, AGAIN, THAT'S THE ACADEMIC END OF  
10 THIS. WE DON'T HAVE TO GET THERE. I THINK THAT THE  
11 DEFICIENCIES IN THE RETURN, FIRST, IS LACK OF THE  
12 TRANSCRIPT. THE DEFICIENCIES IN THAT, IT ACTUALLY  
13 MISSTATES THE CONVICTION AND THE STATUTE UNDER WHICH  
14 SHE WAS ARRESTED AND CONVICTED. I THINK THOSE  
15 MISTAKES ARE SIGNIFICANT ENOUGH TO MANDATE REVERSAL  
16 AND REMANDS TO THE MUNICIPAL COURT.

17 ANY OTHER QUESTIONS, I'M HAPPY TO FIELD THEM.  
18 THE SUBMISSIONS ARE IN THE RECORD. SO FEEL FREE TO  
19 READ THEM AT YOUR LEISURE.

20 THE COURT: OKAY. THANK YOU, MR. LUCK.

21 MR. WALSH, I JUST WANT YOU TO ADDRESS ACADEMIC.

22 MR. WALSH: PARDON?

23 THE COURT: I JUST WANT YOU TO ADDRESS THE  
24 ACADEMIC.

25 MR. WALSH: I JUST USUALLY FOLLOW THE LAW. AND

1 I REFER YOU TO SECTION 14-25-105. SAYS MUNICIPAL  
2 JUDGE MAY RETURN TO THE COURT OF COMMON PLEAS.

3 THE COURT: NO. I'M FAMILIAR WITH THAT. BUT,  
4 I MEAN, IT IS AN INTERESTING QUESTION. IT WAS A  
5 CRIMINAL CONVICTION, WASN'T IT?

6 MR. WALSH: OH, YEAH. YEAH.

7 THE COURT: AND, YOU KNOW, WHY WOULD -- WHY  
8 WOULD -- JUST -- JUST PURELY FOR QUESTIONING  
9 STANDPOINT -- WHY WOULD THE CIRCUIT COURT SITTING  
10 AS, YOU KNOW, IN COMMON PLEAS ADDRESS CRIMINAL  
11 ISSUES?

12 MR. WALSH: BECAUSE I THINK IT'S JUST THE COURT  
13 HAS DECIDED THAT THE COURT OF COMMON PLEAS SHOULD  
14 ACT AS THE APPELLATE COURT IN CRIMINAL MATTERS --

15 THE COURT: OKAY.

16 MR. WALSH: -- FROM THE LOWER COURT.

17 THE COURT: YEAH. I MEAN ACTUALLY IT WOULD BE  
18 THE -- THE ONLY THING THAT WOULD BE DIFFERENT WE  
19 JUST SAY I'M CONVENING GENERAL SESSIONS NOW.

20 MR. WALSH: RIGHT.

21 THE COURT: IT STILL BE THE SAME JUDGE.

22 MR. WALSH: RIGHT.

23 THE COURT: OKAY. ALL RIGHT. NOW YOU CAN  
24 ADDRESS THE OTHER STUFF.

25 MR. WALSH: ALL RIGHT.

1 THE COURT: OKAY.

2 MR. WALSH: ALL RIGHT. FIRST OFF, THE RETURN  
3 IS ACCURATE AS TO THE CHARGE AS A RETURN INDICATED.  
4 THE CHARGE WAS AMENDED TO SECTION 56-5-970 (A)(1)  
5 WHICH IS BASICALLY --

6 THE COURT: WHAT?

7 MR. WALSH: PARDON?

8 THE COURT: THE CHARGE IS WHAT?

9 MR. WALSH: 56-5-970 (A)(1). IT'S IN THE  
10 RETURN.

11 THE COURT: OKAY.

12 MR. WALSH: WHICH IS BASICALLY THE SECTION  
13 WHICH GOVERNS WHEN YOU HAVE A GREEN LIGHT. AND THAT  
14 WAS AMENDED AT TRIAL. AND DEFENSE COUNSEL PRESENTED  
15 THE PAYMENT OF A TICKET WHICH WAS SECTION 56.5.950,  
16 WHICH IS ALL INCLUSIVE OF ALL THE SECTIONS.

17 SECOND, IN REGARD TO THE TRANSCRIPT, DEFENSE  
18 COUNSEL -- FIRST OFF, IF YOU LOOK AT SECTION -- CODE  
19 SECTION 14-25-195, IT STATES THAT ANY DEALING WITH  
20 MUNICIPAL COURT ANY PARTY SHALL HAVE THE RIGHT TO  
21 HAVE THE TESTIMONY RECORDED. AND IF THEY DO SO, ANY  
22 TRANSCRIPTION WILL BE PAID BY THE PARTY REQUESTING  
23 THE SAME. AND IN THIS CASE AS THE MOTION TO STRIKE  
24 INDICATES THEY SENT A CHECK TO THE MUNICIPAL COURT  
25 UNDER PROTEST. AND A CHECK WAS RETURNED. AND THEN

1 THEY'RE SAYING THAT THEY AGREE. BUT THEY DIDN'T  
2 AGREE. THE CONDITION APPARENTLY WAS THAT IT WAS  
3 SENT BACK BECAUSE THEY SENT IT UNDER PROTEST. I  
4 DON'T KNOW WHAT THE PROTEST WAS. BUT THERE WAS NO  
5 COURT REPORTER. WE DON'T HAVE A COURT REPORTER IN  
6 MUNICIPAL COURT.

7 LET'S SEE WHAT ELSE DID HE ARGUE?

8 THE COURT: WAS IT --

9 MR. WALSH: THE OTHER THING THEY SAID THE  
10 RETURN WAS NOT SERVED. THERE IS NO REQUIREMENT THAT  
11 THE RETURN BE SERVED. THEY CITE A CIVIL PROCEDURAL  
12 RULE WHICH DOES NOT APPLY TO THE CRIMINAL  
13 PROCEEDINGS.

14 THE COURT: WHICH I GUESS GOES TO HIS ACADEMIC  
15 QUESTION, RIGHT?

16 MR. WALSH: PARDON?

17 THE COURT: WHICH I GUESS GOES TO HIS ACADEMIC  
18 QUESTION?

19 MR. WALSH: WELL IT MIGHT. BUT ACTUALLY IT  
20 DOESN'T APPLY TO MUNICIPAL COURT. I LOOKED THAT UP.  
21 IT'S KIND OF UNUSUAL. THERE IS SOME IMPLICATION  
22 THAT THE CLERK OF COURT IS TO SEND THAT RETURN, BUT  
23 IT DOESN'T REALLY SAY THAT. BUT --

24 THE COURT: OKAY.

25 MR. WALSH: -- MY PRACTICE I'VE NEVER BEEN --

1 NOBODY'S EVER SENT ME A RETURN. I ALWAYS HAVE TO GO  
2 AND ASK FOR IT.

3 THE COURT: THAT'S -- I MEAN, I'VE FOUND THAT  
4 EVEN SOMETIMES WHEN WE'VE -- WITH THE APPEALS, I'VE  
5 HAD TO CALL BEFORE THE HEARING AND SAY, YOU NEED TO  
6 SEND ME A RETURN.

7 MR. WALSH: OH, YEAH --

8 THE COURT: I MEAN, THAT HAPPENS.

9 MR. WALSH: -- A LOT OF TIMES I GO AND ASK FOR  
10 IT AND THERE IS NONE. AND I HAVE TO GO BACK AND  
11 TELL THE COURT TO FILE ONE. YOU'RE RIGHT.

12 THE COURT: OKAY.

13 MR. WALSH: LET'S SEE. WHAT ELSE?

14 I THINK IT'S IMPORTANT THERE WAS SOME REFERENCE  
15 THAT THEY -- THAT THE DEFENDANT DID NOT GET PROPER  
16 NOTICE. I'LL HAND YOU THE NOTICE THAT WAS SENT TO  
17 HER ON SEPTEMBER 19TH FOR THE TRIAL ON OCTOBER 10TH.  
18 I'LL GIVE YOU THAT LETTER. AND AS THE RETURN  
19 INDICATED, SHE DID NOT REQUEST A CONTINUANCE OF THE  
20 TRIAL.

21 AND I THINK WHAT REALLY ALL THIS BOILS DOWN TO  
22 IS DURING THE TRIAL WHEN SHE WAS TESTIFYING SHE GOT  
23 UP AND WENT BEFORE THE JURY WITH A CELL PHONE AND  
24 STARTED FLIPPING THROUGH PHOTOGRAPHS. AND I  
25 OBJECTED AT THAT TIME. AND THE COURT ASKED IF SHE

1 HAD ANY PRINTOUTS OF THE PHOTOGRAPHS. AND MY  
2 RECOLLECTION IS THAT SHE SAID SHE DID NOT. SO THE  
3 COURT DENIED ADMISSIBILITY OF THAT -- THOSE  
4 PHOTOGRAPHS BECAUSE NOBODY KNEW WHAT SHE HAD ON HER  
5 CELL PHONE. AND MOST IMPORTANTLY IS THAT WHEN THE  
6 COURT DID NOT PERMIT THAT ADMISSION OF THOSE  
7 PHOTOGRAPHS, SHE DID NOT PROFFER THOSE INTO  
8 EVIDENCE. SHE DID NOT PRESERVE HER APPEAL. AND, IN  
9 FACT, I SAY HERE TODAY -- I KNOW WHAT THEY HAVE  
10 PRESENTED -- BUT I DON'T KNOW WHAT WAS IN THAT CELL  
11 PHONE. I DON'T KNOW WHETHER THESE WERE THE ACTUAL  
12 PHOTOGRAPHS OR NOT. I MEAN, BASICALLY --

13 THE COURT: YOU MEAN THE PHOTOGRAPHS THAT  
14 HE'S --

15 MR. WALSH: -- THAT HE HAS ATTACHED TO THE  
16 MOTION.

17 THE COURT: OH, THAT MR. LUCK HAS ATTACHED.

18 MR. WALSH: INITIALLY WHAT IS BEING DONE IS  
19 THEY'RE SUPPLEMENTING THE RETURN OF THE MUNICIPAL  
20 COURT.

21 THE COURT: OKAY. ALL RIGHT.

22 MR. WALSH: AND, OF COURSE, THIS IS NOT A TRIAL  
23 OF DE NOVO. SO BASICALLY THIS COURT HAS TO  
24 DETERMINE THE ISSUE ON THE RETURN.

25 THE COURT: OKAY.

1 MR. WALSH: I THINK THAT'S ALL THAT THEY'VE GOT  
2 IN THE MOTIONS THAT I CAN THINK OF.

3 THE COURT: OKAY.

4 MR. WALSH: THIS WAS -- I MEAN, THIS IS -- IF  
5 YOU LOOK AT THE RETURN, THE TESTIMONY OF BOTH  
6 PARTIES, IT DEFINITELY JUST A JURY QUESTION. AND  
7 THE JURY FOUND HER GUILTY AS WE KNOW.

8 THE COURT: OKAY. ANYTHING ELSE?

9 (WHEREUPON, THERE WAS NO RESPONSE.)

10 THE COURT: ALL RIGHT. MR. LUCK, ANYTHING  
11 BRIEFLY IN RESPONSE?

12 MR. LUCK: VERY QUICKLY.

13 I THINK THAT THE TWO STATUTES INVOLVED HERE  
14 56.5.970 (A)(1) AND 56.5.950 ARE VERY DIFFERENT  
15 STATUTES. BUT YOU CAN LOOK THAT UP ON YOUR OWN  
16 TIME. THERE WAS A -- THERE WAS A COURT REPORTER  
17 PRESENT AS FAR AS I KNOW BECAUSE EXHIBIT A TO THE  
18 MOTION TO STRIKE IS THE LETTER FROM ORANGEBURG  
19 MUNICIPAL COURT GIVING ME THE PRICE OF THE  
20 TRANSCRIPT WHICH IS WHAT WE PAID OR ATTEMPTED TO  
21 PAY.

22 THE COURT: I AM CURIOUS, WHY DID THE CHECK --  
23 MR. WALSH MENTIONED THAT THE CHECK HAD PAID UNDER  
24 PROTEST. WHY WAS IT PAID UNDER PROTEST?

25 MR. LUCK: BECAUSE I WAS GOING TO ARGUE THAT WE

1 WERE NOT RESPONSIBLE FOR PAYING IT. I WANTED TO PAY  
2 IT AND GET THE TRANSCRIPT, BUT I ALSO WANTED TO  
3 PRESERVE MY RIGHT TO AT THIS LEVEL SAY, I DON'T  
4 THINK WE WERE SUPPOSED TO HAVE TO PAY FOR THAT. IF  
5 THAT MAKES ANY SENSE. I'M GOING TO LOOK AT THAT  
6 STATUTE THAT WAS CITED EARLIER AT HOME BECAUSE THAT  
7 MAY -- MAY COMPLETELY BLOW MY ARGUMENT -- PROTEST  
8 ARGUMENT OUT OF THE WATER.

9 THE COURT: OKAY.

10 MR. LUCK: BUT THAT WAS THE REASON I DID THAT.

11 THE COURT: OKAY.

12 MR. LUCK: AS FOR RULE 5, WE'RE IN CIRCUIT  
13 COURT NOW. THE SOUTH CAROLINA RULES OF CIVIL  
14 PROCEDURE APPLY. CIVIL COURT -- OR RULE OF CIVIL  
15 PROCEDURE 5 APPLIES. I NEED TO BE SERVED THE  
16 PLEADINGS.

17 AND THEN FINALLY PROBABLY THE MOST IMPORTANT  
18 THING IS THIS IS NOW AN APPELLATE COURT. AND YOUR  
19 REVIEW IS CONSTRAINED TO THE RECORD. AND THE RECORD  
20 IS THERE IN FRONT OF YOU. THE RECORD CONSISTS OF  
21 THE RETURN SUCH THAT IT IS AND ANYTHING THAT'S BEEN  
22 PRESENTED TO YOU. SO YOU NEED TO LOOK AT THAT  
23 RETURN AND LOOK AT -- LISTEN TO OUR ARGUMENTS TODAY.  
24 BUT OUR ARGUMENTS ARE NOT EVIDENCE. IN THE END, IT  
25 IS THE RETURN THAT'S BEFORE YOU THAT'S GOING TO

1 DECIDE AND THE RECORD IN FRONT OF YOU THAT'S GOING  
2 TO DECIDE WHETHER THIS CASE IS REVERSED OR AFFIRMED.

3 AND THAT'S IT.

4 THE COURT: THANK YOU, SIR. ALL RIGHT.

5 MR. WALSH: I'M GOING TO ADMIT MY MISTAKE.

6 THE COURT: YOU'RE GOING TO ADMIT A MISTAKE?

7 MR. WALSH: YEAH, BELIEVE IT OR NOT.

8 THE COURT: WE ARE ON THE RECORD FOR THIS.

9 OKAY.

10 MR. WALSH: HE'S RIGHT. THAT WAS 950. I  
11 THOUGHT THAT WE AMENDED. I DON'T EVEN THINK -- I  
12 DON'T KNOW WHETHER -- I DON'T THINK SHE WAS EVEN  
13 CHARGED WITH 950. BUT ANYWAY -- ANYWAY, IT WAS  
14 AMENDED AT TRIAL WHICH WE HAVE THE RIGHT TO DO TO  
15 THE 56-5-970 (A)(1).

16 BUT THE MATTER OF PROTEST OF THE CHECK, I MEAN  
17 SECTION 14-25-195 CLEARLY STATES THAT THE REQUESTING  
18 PARTY ASKING FOR A TRANSCRIPT SHALL PAY THE CHARGES  
19 OF SUCH REPORTER FOR TAKING AND TRANSCRIBING IF SUCH  
20 TESTIMONY RECORDED BY A MUNICIPAL COURT REPORTER.  
21 OF COURSE, AS I INDICATED BEFORE, WE DON'T HAVE A  
22 COURT REPORTER. SO --

23 THE COURT: OKAY.

24 MR. WALSH: -- I DON'T EVEN KNOW IF THEY WERE  
25 ENTITLED TO A TRANSCRIPT.

1 THE COURT: OKAY. BUT THAT'LL GIVE MR. LUCK  
2 SOMETHING TO DO ON HIS OWN TIME.

3 MR. WALSH: I'M SORRY?

4 THE COURT: THAT'LL GIVE MR. LUCK SOMETHING TO  
5 DO ON HIS OWN TIME.

6 MR. WALSH: OKAY.

7 THE COURT: ALL RIGHT.

8 ALL RIGHT. I'LL REVIEW THAT, AND I'LL GET BACK  
9 TO Y'ALL WITH MY DECISION.

10 OKAY. THANK Y'ALL.

11 MR. LUCK: THANK YOU, YOUR HONOR.

12 THE COURT: THANK YOU.

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA        )  
  )  
COUNTY OF ORANGEBURG        )

I, WENDY WISE DERRICK, OFFICIAL COURT REPORTER FOR THE ELEVENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, COURT OF COMMON PLEAS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 1ST DAY OF JUNE, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

WENDY WISE DERRICK

WENDY WISE DERRICK, COURT REPORTER  
MY COMMISSION EXPIRES: 12-30-2024