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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 2010-CP-08-4453

RECEIVED  
FEB 27 2013  
COURT OF APPEALS

L.G. Elrod

Appellant,

v.

Berkeley County Sheriff's  
Department and H.  
Wayne Dewitt,

Respondent,

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA )  
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 COUNTY OF BERKELEY )  
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 )  
 L.G. ELROD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BERKELEY COUNTY, BERKELEY )  
 COUNTY SHERIFF'S DEPARTMENT, )  
 AND H. WAYNE DEWITT, )  
 )  
 Defendants. )  
 )

IN THE COURT OF COMMON PLEAS  
 FOR THE NINTH JUDICIAL CIRCUIT  
 CASE NO. 2010-CP-08-04453

ORDER

FILED  
 2011 JUN 16 PM 1:14  
 HARRY P. BROWN  
 CLERK OF COURT  
 BERKELEY COUNTY, SC

Presiding Judge: Deadra L. Jefferson  
 Date of Hearing: April 26, 2011  
 Plaintiff's Attorney: Pro Se  
 Defendants' Attorney: G. Wade Cooper, Esquire  
 Court Reporter: Anne Meyer

The instant matter came before the Court on April 26, 2011 on the Defendants' Motion to Dismiss with prejudice pursuant to Rule 12(b)(6), SCRPC. Present at the hearing were the Plaintiff, who appeared *pro se*, and G. Wade Cooper, Esquire, who appeared on behalf of the Defendants. For the reasons set forth below, the Defendants' Motion is granted as to Defendant Berkeley County and denied as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt.

**FACTUAL BACKGROUND**

The Plaintiff alleges that on or about January 10, 2008 and January 15, 2008, the Defendant sent two (2) squad cars and Sheriff's deputies from Berkeley County Sheriff's Department to Plaintiff's property and restrained Plaintiff from his property while Comcast Cable worked on their equipment on Plaintiff's property. (Compl. ¶¶ 6, 9.) Plaintiff alleges that

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the Defendant did this without court order or any legal papers of any kind. (Id.) Plaintiff further alleges that this was done after Comcast Cable was put on trespass notice by Attorney Mary Leigh Arnold. (Compl. ¶ 6.)

Plaintiff initiated this action by the filing of a Summons and Complaint on December 16, 2010 which sets forth causes of action for False Imprisonment and Unlawful Detention-Abuse of Process. On January 11, 2011, the Defendants, in lieu of an Answer, filed Defendants' Notice of Motion and Motion to Dismiss pursuant to Rule 12(b)(6), SCRCP on grounds that the Complaint fails to state facts sufficient to constitute a cause of action. The basis of Defendants' Motion is the Defendants are governmental entities as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., and are barred by the applicable statute of limitations.

#### **STANDARD OF REVIEW**

According to South Carolina law, “[u]nder Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action.” Brazell v. Windsor, 376 S.C. 83, 87, 655 S.E.2d 736, 737 (2007), rev'd on other grounds, 384 S.C. 512, 682 S.E.2d 824 (2009). Furthermore, “[t]he decision to grant a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth in the complaint.” Id. at 87, 655 S.E.2d at 737–38. In ruling on a motion to dismiss, the trial court must determine “whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief.” Id. at 87, 655 S.E.2d at 738. Accordingly, “if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory,” a South Carolina court must refuse to grant a motion to dismiss. Id.

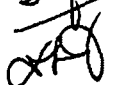
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**CONCLUSIONS OF LAW**

The Tort Claims Act is the exclusive remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b). A governmental entity means the State and its political subdivisions. Id. at § 15-78-30(d). Defendants Berkeley County and Berkeley County Sheriff's Department are governmental entities as defined by Section 15-78-30(d). Likewise, Defendant Dewitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992).

The Defendants argue that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, all Defendants should be dismissed with prejudice for failure to file the Summons and Complaint within the applicable time period. Section 15-78-110 provides in relevant part, "[A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered . . . ." S.C. Code Ann. § 15-78-110.

The Plaintiff argues that Section 15-3-540 should apply, which provides that actions against sheriffs, coroners or constables, upon a liability incurred by virtue of an act or omission while acting in their official capacity, must be brought within three (3) years. S.C. Code Ann. § 15-3-540(1); see also Allen v. Fidelity and Deposit Co. of Maryland, 515 F. Supp. 1185 (D.S.C. 1981), aff'd, 694 F.2d 716 (4th Cir. 1982). However, to the extent the wrongful acts of a sheriff, coroner, or constable fall within the South Carolina Tort Claims Act and are committed in their official capacity, they are shielded from liability. S.C. Code Ann. § 15-78-20(b). A sheriff, coroner, or constable will not be personally liable for a tort unless their actions were not within

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the scope of their duties. Id. § 15-78-70(b). Therefore, if the sheriff was acting in an official capacity and his actions were within the scope of his duties, he would be subject to the two (2) year statute of limitations from the date of discovery of loss as provided in Section 15-78-110 rather than the (3) year statute of limitations period provided in Section 15-3-540. The Plaintiff contends that Section 15-3-540 is the applicable statute because the Defendants, though acting in their official capacity at the time of the incident, were not acting within the scope of their duties.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A review of the Complaint indicates Plaintiff's alleged loss occurred between January 10, 2008 and January 15, 2008. (Compl. ¶¶ 6, 9.) A verified Complaint was not filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. This action was filed more than two (2) years but less than (3) years after the date of alleged loss was or should have been discovered.

The Court finds that Section 15-78-110 applies to Defendant Berkeley County as it is a governmental entity subject to the South Carolina Tort Claims Act. See Allen, 515 F. Supp. at 1189 ("By the clear language of the statute, Section 15-3-540 would not apply to an action brought against the County of Aiken.")<sup>1</sup> The Plaintiff's deadline for filing this action against Defendant Berkeley County expired on or before January 16, 2010 pursuant to Section 15-78-110. Therefore, the instant action against Defendant Berkeley County is barred by the statute of limitations and should be dismissed with prejudice.

The Court finds that the applicable statute of limitations as applied to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt is determined by whether the

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<sup>1</sup> The wrongful acts alleged in the Complaint are those of the Berkeley County Sheriff, Defendant Dewitt, and the Sheriff's deputies whom he sent to the Plaintiff's property. According to South Carolina case law, Sheriffs and deputies are state, not county, officials. See Edwards v. Lexington County Sheriff's Dep't, 386 S.C. 285, 288 n.1, 688 S.E.2d 125, 127 n.1 (2010); see also Cone, 308 S.C. at 112, 417 S.E.2d at 525; Heath v. Aiken County, 295 S.C. 416, 368 S.E.2d 904 (1988) (holding that deputies act as the sheriff's agent and are not employees of the county). Accordingly, the County of Berkeley may not be held liable for the acts of the Sheriff and his deputies.

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5 [Signature]

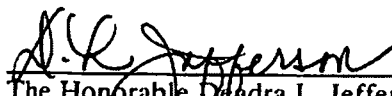
Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. In ruling on a motion to dismiss, the trial court must determine “whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief.” Brazell, 376 S.C. at 87, 655 S.E.2d at 738. Accordingly, “if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory,” a South Carolina court must refuse to grant a motion to dismiss. Id. Moreover, “where the allegations of the complaint give rise to competing inferences on a question of material fact, dismissal of the case under Rule 12(b)(6) is not appropriate.” Osprey, Inc. v. Cabana Ltd. P’ship, 333 S.C. 323, 332, 509 S.E.2d 275, 279 (Cl. App. 1998), overruled on other grounds by I’On, LLC v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000). The Court finds that the allegations in the Complaint give rise to competing inferences on a question of the material fact of whether the Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. As such, the Defendants’ Motion to Dismiss is denied as to Defendants Berkeley County Sheriff’s Department and H. Wayne Dewitt.

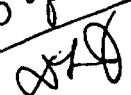
### CONCLUSION

Based on the analysis set forth above, the Defendants’ Motion to Dismiss with Prejudice is GRANTED as to Defendant Berkeley County and DENIED as to Defendants Berkeley County Sheriff’s Department and H. Wayne Dewitt.

IT IS SO ORDERED.

June 14, 2011  
Charleston, South Carolina in Chambers

  
The Honorable Debra L. Jefferson  
Presiding Judge, Ninth Judicial Circuit

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STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BERKELEY )  
 )  
 )  
 L.G. ELROD, )  
 )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BERKELEY COUNTY, BERKELEY )  
 COUNTY SHERIFF'S DEPARTMENT. )  
 AND H. WAYNE DEWITT, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CASE NO. 2010-CP-08-04453

**ORDER DENYING DEFENDANTS'  
 MOTION TO RECONSIDER**

Presiding Judge: Deadra L. Jefferson  
 Date of Hearing: April 26, 2011  
 Plaintiff's Attorney: Pro Se  
 Defendants' Attorney: G. Wade Cooper, Esquire  
 Court Reporter: Anne Meyer

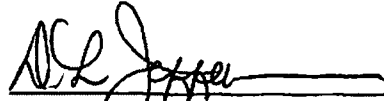
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 NANCY P. BROWN  
 CLERK OF COURT  
 BERKELEY COUNTY, SC

THIS MATTER is before the Court on the Defendants' Motion to Reconsider pursuant to Rules 52, 59, and 60, SCRCF. Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), SCRCF, filed January 11, 2011, was decided by the Court after a non-jury motion hearing on April 26, 2011. A Court Order granting Defendants' motion as to Berkeley County and denying the motion as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt was filed on June 16, 2011 and received by counsel for the Defendants on June 20, 2011. The Defendants' Motion to Reconsider, as to Defendants Berkeley County Sheriff's Department and H. Wayne Dewitt, was filed on June 23, 2011 and received by the Court on June 23, 2011.

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 7/2/11

Having considered the Defendants' Motion, the timeliness of the Motion, as well as the various interests balanced by the Court at the time of the ruling, the Defendants' Motion to Reconsider is hereby denied.<sup>1</sup>

IT IS SO ORDERED.

  
The Honorable Deadra L. Jefferson  
Presiding Judge, Ninth Judicial Circuit

6/28, 2011  
Charleston, South Carolina at Chambers

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<sup>1</sup> This Motion is disposed of without the necessity of a hearing and decided on the record and briefs. Rule 59(f), SCRPC; Pollard v. City of Florence, 314 S.C. 397, 444 S.E.2d 534 (Cl. App. 1994).



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF BERKELEY ) NINTH JUDICIAL CIRCUIT  
 )  
 L.G. Elrod, ) C/A No. 10-CP-08-4453  
 )

Plaintiffs, )

Versus )

Berkeley County Sheriff's Department, and H. )  
 Wayne Dewitt, )

Defendants. )

**ORDER GRANTING DEFENDANTS'  
 MOTION FOR SUMMARY JUDGMENT**

Presiding Judge: Hon. Roger M. Young  
 Date of Hearing: May 9, 2012  
 Plaintiff's Attorney: M. Brooks Derrick, Esquire  
 Defendants' Attorney: G. Wade Cooper, Esquire  
 Court Reporter: Anne Myers

2012 MAY 21 PM 3:24  
 FILED  
 BERKELEY COUNTY  
 CLERK OF COURT

The instant matter came before the Court on May 9, 2012 on the Defendants' Motion for Judgment on the Pleadings / Motion for Summary Judgment pursuant to Rule 12 (c) and Rule 56.1 Present at the hearing were the Plaintiff and his counsel, M. Brooks Derrick, Esquire, as well as G. Wade Cooper, Esquire, appearing on behalf of the Defendants. In addition to oral arguments on the record, both parties presented affidavits and exhibits for the Court's consideration. For the reasons set forth below, the Defendants' Motion is granted.

**FACTUAL BACKGROUND**

The Plaintiff alleges that on or about January 10, 2008 and January 15, 2008, the Defendant Sheriff did send Berkeley County Sheriff's Deputies to Plaintiff's property and unlawfully restrained Plaintiff while allowing a third party - Comcast Cable - to restore power to its cable box on a utility pole located on Plaintiff's property. Plaintiff initiated this action by the filing of a Summons and Complaint on December 16, 2010 which sets forth causes of action

<sup>1</sup> Defendants' Motion for Judgment on the Pleadings was heard by the Court on January 17, 2012. During the hearing, matters outside the pleadings were presented by the non-moving party. Counsel for Defendants moved on the record pursuant to SCRCP Rule 12 (c) that the motion should be treated as one for summary judgment and disposed of as provided in Rule 56. As Plaintiff was, at the time, prosecuting the matter *pro se* and in order to allow the parties reasonable opportunity to present all pertinent material, this Court continued the motion for summary judgment to the next available term of court.

MMI  
 HWB  
 GWC  
 MBW

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for False Imprisonment and Unlawful Detention – Abuse of Process. Defendants filed the instant motion pursuant to Rule 12 (c) and Rule 5, SCRPC, on the grounds that the Defendants are a governmental entity (Sheriff's Office) and employee of a governmental entity (Sheriff) as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., who were at all times acting within the course and scope of their official duties with respect to Plaintiff's claims, and as such, Plaintiff's action is barred by the applicable two (2) year statute of limitations.

### STANDARD OF REVIEW

Summary judgment is appropriate when there is "no genuine issue as to any material fact and...the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). "Where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no 'genuine issue for trial.'" Matsushita Electrical Industrial Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574 (1986). A fact is deemed "material" if proof of its existence or nonexistence would affect the disposition of the case under the applicable law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). An issue of material fact is "genuine" if the evidence offered is such that a reasonable jury might return a verdict for the non-movant. Id. at 257.

The party seeking summary judgment shoulders the initial burden of demonstrating to the district court that there is no genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Once the movant has made this threshold demonstration, the non-moving party, to survive the motion for summary judgment, may not rest on the allegations averred in the pleadings; rather, he must demonstrate that specific, material facts exist which give rise to a genuine issue. Id. at 324. The existence of a mere scintilla of evidence in support of the plaintiff's position is insufficient to withstand the summary judgment motion. Anderson, 477 U.S. at 252. Accordingly,



when Rule 56(e) has shifted the burden of proof to the non-movant, he must provide existence of every element essential to his action which he bears the burden of adducing at a trial on the merits.

### CONCLUSIONS OF LAW

The Tort Claims Act is the exclusive remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b). A governmental entity means the State and its political subdivisions. *Id.* at § 15-78-30(d). Defendant Berkeley County Sheriff's Department is a governmental entities as defined by Section 15-78-30(d). Likewise, Defendant Dewitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992).

The Defendants argue that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, summary judgment should be granted and all Defendants dismissed with prejudice for Plaintiff's failure to file the Summons and Complaint within the applicable time period. Section 15-78-110 provides in relevant part, "[A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered . . . ." S.C. Code Ann. § 15-78-110.

The Plaintiff argues that S.C. Code Section 15-3-540 should apply, which provides that actions against sheriffs, coroners or constables, upon a liability incurred by virtue of an act or omission while acting in their official capacity, must be brought within three (3) years. S.C. Code Ann. 15-3-540(0); *see also* Allen v. Fidelity and Deposit Co. of Maryland, 515 F. Supp. 1185 (D.S.C. 1981), *aff'd*, 694 F.2d 716 (4th Cir. 1982). However, to the extent the wrongful acts of a sheriff, coroner or constable fall within the South Carolina Tort Claims Act and are committed in their official capacity, they are shielded from liability. S.C. Code Ann. § 15-78-20

(b). A sheriff, coroner, or constable will not be personally liable for a tort unless their actions were not within the scope of their duties. Id. § 15-78-70 (b). Therefore, if the sheriff was acting in an official capacity and his actions were within the scope of his duties, he would be subject to the two (2) year statute of limitations from the date of discovery of loss as provided in Section 15-78-110 rather than the (3) year statute of limitations period provided in Section 15-3-540. The Plaintiff contends that Section 15-3-540 is the applicable statute because the Defendants, though acting in their official capacity at the time of the incidents, were not acting within the scope of their official duties.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A review of the Complaint indicates Plaintiff's alleged loss occurred between January 10, 2008 and January 15, 2008. (Compl. ¶¶ 6, 9.) A verified Complaint was not filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. This action was filed more than two (2) years but less than (3) years after the date of alleged loss was or should have been discovered.

The Court finds no evidence in the record that the Defendants were acting in any capacity other than their official capacities as Sheriff and Sheriff's deputies of Berkeley County. Likewise, the Court can find no evidence in the record to reasonably suggest that Defendants were acting outside of the scope of their official duties with regard to the Plaintiff and these two incidents on January 10, 2008 and January 15, 2008. Plaintiff contends that the Sheriff, and by extension, deputy sheriffs, are precluded from responding to requests for service by citizens and businesses involving civil disputes with another. The Court finds this argument unpersuasive. In this instance, the record reflects that although there was an apparent civil dispute between Plaintiff and Comcast Cable concerning an agreement over use of the utility pole, the Sheriff and Deputy Sheriff's were merely responding to calls for service and acting in such manner as to ensure the safety of all. The Court finds that the Sheriff and Deputies with Berkeley County

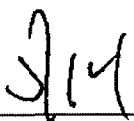
Sheriff's Office were at all times acting in their official capacities and within the course and scope of their official duties.

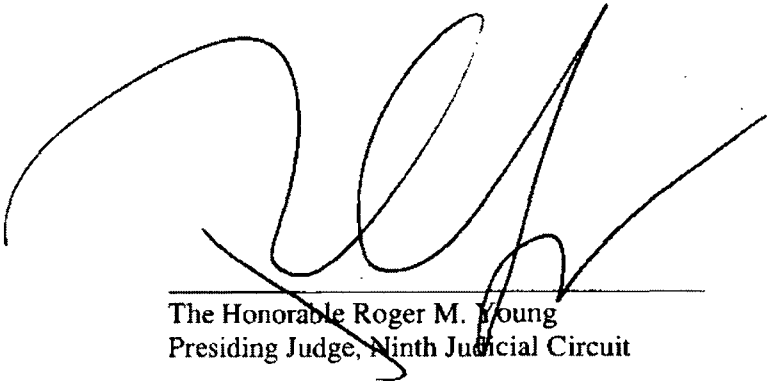
Furthermore, a careful review of the Plaintiff's Complaint appears on its face to be dispositive of this issue as well. Paragraph 3 states, "That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law. (Compl. ¶ 3)(emphasis added). Upon review of the record, the Court agrees and finds that the Sheriff and Berkeley County Deputies were at all times acting in their official capacities and within the course and scope of their official duties. Therefore, the Court finds the two (2) year Tort Claims Act statute of limitations is applicable to Defendants in this case. As such, summary judgment is appropriate as a matter of law as there is no genuine issue as to any material fact. Plaintiff's action is time barred as it was filed more than two (2) years after the date the loss was or should have been discovered.

### CONCLUSION

Based on the analysis set forth above, the Defendants' Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

  
\_\_\_\_\_, 2012  
Charleston, South Carolina

  
\_\_\_\_\_  
The Honorable Roger M. Young  
Presiding Judge, Ninth Judicial Circuit

STATE OF SOUTH CAROLINA )  
COUNTY OF BERKELEY )  
  
L.G. ELROD )  
  
PLAINTIFF )  
  
VS )  
  
BERKELEY COUNTY, BERKELEY COUNTY )  
SHERIFF'S DEPARTMENT AND )  
H. WAYNE DEWITT )  
  
DEFENDANT(S) )

IN THE COURT OF COMMON PLEAS  
CASE NO.

COMPLAINT

FALSE IMPRISONMENT

UNLAWFUL DETENTION-  
ABUSE OF PROCESS

JURY TRIAL DEMANDED

20 CP-08  
2010 DEC 16 PM 12:20  
FILED  
CLERK OF COUNTY, SC

**THE PLAINTIFF WOULD RESPECTFULLY SHOW THAT:**

1. That the parties hereto, subject matter hereof, and all matters and things hereinafter complained of are within the jurisdiction of this court.
2. That the plaintiff, L.G. Elrod, (hereinafter plaintiff) is a citizen and resident of the county of Berkeley, State of South Carolina.
3. That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law.
4. That the defendant, Berkeley County Sheriff's Department, (hereinafter defendant) is a government entity organized under the laws of the state of South Carolina, that said defendant, as part of its governmental functions, operates a police department known as the Berkeley County Sheriff's Department.
5. That the defendant Berkeley County, (hereinafter defendant), is a government entity organized under the laws of the State of South Carolina.

**FIRST CAUSE OF ACTION**

**FALSE IMPRISONMENT**

6. The defendant, on or about January 10, 2008 and January 15, 2008, did send two (2) squad cars and deputies from the Berkeley County Sheriff's department with them, without a court order or any legal papers and restrained Plaintiff from going on his own private property while Comcast Cable worked on their equipment on Plaintiff's private property. This was done after Comcast Cable was put on "trespass notice," and a "cease and desist" notice from attorney Mary Leigh Arnold was given to Comcast Cable.

7. The restraint, by defendant was intentional as they met with Comcast Cable at another location and brought them, with two (2) squad cars, to Plaintiff's property for the sole purpose of restraining Plaintiff while Comcast Cable worked on Plaintiff's property.

8. The restraint was unlawful as Defendant sent two (2) squad cars, with deputies, from the Berkeley County Sheriff's department with them to restrain Plaintiff without a court order or any legal papers.

Wherefore, Plaintiff prays for judgment against Defendant for actual damages, special and consequential damages, punitive damages on each and every cause of action, for the cost and disbursements of this action, together with such other and further relief as this court deems just and proper.

**SECOND CAUSE OF ACTION**

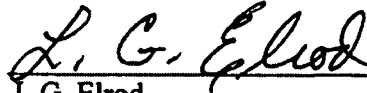
**UNLAWFUL DETENTION-  
ABUSE OF PROCESS**

9. Defendant did, on or about January 10, 2008 and January 15, 2008, send two (2) squad cars from Berkeley County Sheriff's department and unlawfully detained plaintiff each time with the threat of the plaintiff being locked up if he came on his own private property where Comcast Cable was working and trespassing. This was done without any court order or any legal papers of any kind.

Wherefore, Plaintiff prays for judgment against Defendant for actual damages, special and consequential damages, punitive damages on each and every

cause of action, for the cost and disbursements of this action, together with such other and further relief as this court deems just and proper.

Respectfully submitted,



L.G. Elrod  
307 Elrod Drive  
Goose Creek, SC 29445  
843-553-4669

DECEMBER 16, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
L.G. Elrod,	)	C/A No. 10-CP-08-4453
	)	
	)	
Plaintiffs,	)	
	)	<b>DEFENDANTS' NOTICE OF MOTION</b>
Versus	)	<b>AND MOTION TO DISMISS</b>
	)	
Berkeley County, Berkeley County Sheriff's	)	
Department, and H. Wayne Dewitt,	)	
	)	
Defendants.	)	

TO: L.G. ELROD, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the Defendants in this action (hereinafter "the Defendants"), will move before the United States District Court, at a time and place to be arranged with the Court and parties involved, for an Order dismissing this action with prejudice pursuant to Rule 12 (b)(6) on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. Defendants' motion is based on the grounds that, pursuant to the South Carolina Tort Claims Act, Plaintiff's claims are barred by the applicable statute of limitations.


Defendants Berkeley County and Berkeley Sheriff's Department are governmental entities as defined by the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-10, et seq.. Likewise, under South Carolina law, Defendant DeWitt, as Sheriff of Berkeley County, is considered an "arm of the state." *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992), adopting the District Court's holding in *Gulledge v. Smart* 691 F.Supp. 947 (D.S.C. 1988) (holding that South Carolina sheriffs are state officials for Eleventh Amendment purposes), *aff'd mem.*, 878 F.2d 379 (4<sup>th</sup> Cir. 1989). The Tort Claims Act is the exclusive civil remedy available for any tort committed by a governmental entity, its employees or its agents. S.C. Code Ann. §15-78-20 (b). The provisions of the Tort Claims Act establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official

duty, must be liberally construed in favor of limiting the liability of the State. S.C. Code Ann. §15-78-20 (f). Any action brought pursuant to the Tort Claims Act is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered. S.C. Code Ann. §15-78-110.

Plaintiff filed the instant action in Berkeley County on December 16, 2010. A careful review of the Complaint indicates that Plaintiff's alleged "loss" occurred sometime between January 10, 2008 and January 15, 2008. (See Complaint, paragraphs 6 and 9). Upon information and belief, no verified claim was filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. Thus, this action was filed well more than two (2) years after the date of loss was or should have been discovered. Plaintiff's deadline for filing this action against these entities expired on or before January 16, 2010. Defendants contend, therefore, that the instant action is barred by the statute of limitations and respectfully request that all causes of action be dismissed with prejudice.

Respectfully submitted

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\_\_\_\_\_  
Hugh W. Buyck (S.C. Bar # 66462)  
G. Wade Cooper (S.C. Bar # 69692)

Attorneys for the Defendants  
Berkeley County, Berkeley County Sheriff's  
Department, and H. Wayne Dewitt

January 7, 2011  
Mt. Pleasant, South Carolina  
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
L.G. Elrod,	)	C/A No. 10-CP-08-4453
	)	
	)	Plaintiffs,
	)	<b>DEFENDANTS' NOTICE OF MOTION</b>
Versus	)	<b>AND MOTION TO RECONSIDER</b>
	)	
Berkeley County, Berkeley County Sheriff's	)	
Department, and H. Wayne Dewitt,	)	
	)	
	)	Defendants.

TO: L.G. ELROD, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the Defendants in this action (hereinafter "the Defendants"), will move before the Circuit Court as soon as counsel may be heard pursuant to Rules 52, 59 and 60 SCRPC for reconsideration of its Order dated June 14, 2011, denying dismissal of Defendants Berkeley County Sheriff's Department and Sheriff H. Wayne DeWitt.

**PROCEDURAL ISSUES**

This matter was originally brought through issuance of a Summons and Complaint dated December 16, 2010, concerning events that occurred on January 10, 2008 and January 15, 2008. (attached). Defendants filed a Motion to Dismiss in lieu of an Answer pursuant to Rule 12(b)(6) SCRPC on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. The basis of Defendants' motion is that the Defendants are governmental entities as defined by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., acting in their official duties and within the scope of their employment, and, as such Plaintiff's action is time barred by the applicable statute of limitations. Plaintiff argued that the three year statute of limitations found in S.C. Code Ann. § 15-3-540 should apply.

A hearing was held on the matter on April 26, 2011 with both parties presenting oral arguments. On June 14, 2011, the Court issued a written Order in which it granted Defendants motion to dismiss as to Berkeley County, but denied the motion as to Berkeley County Sheriff's

Department and Sheriff DeWitt.<sup>1</sup> Defendants present the following memorandum, respectfully requesting reconsideration of the Court's denial of the motion to dismiss Sheriff's Department and Sheriff DeWitt.

### **ARGUMENT & LEGAL ANALYSIS**

Notwithstanding any provision of law, the South Carolina Tort Claims Act is the exclusive and sole remedy available for any tort committed by a governmental entity, its employees or its agents unless the employee's conduct was not within the scope of his official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann. §§ 15-78-20(b), 15-78-70(b), and 15-78-200. Defendant Berkeley County Sheriff's Department is a governmental entity as defined by Section 15-78-30(d). Likewise, Defendant DeWitt, as Sheriff of Berkeley County, is considered a "state official." Cone v. Nettles, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992). The provisions of the Tort Claims Act must be liberally construed in favor of limiting the liability of the governmental entity and its employees while acting within the scope of their official duty. S.C. Code Ann. §§ 15-78-20(f) and 15-78-200.

As the Court correctly notes in its Order, Defendants take the position that S.C. Code Ann. § 15-78-110 provides the applicable statute of limitations as to all Defendants, and, thus, all Defendants should be dismissed with prejudice for Plaintiff's failure to file the Summons and Complaint within two years of the alleged tort. Section 15-78-110 provides in relevant part, [A]ny action brought pursuant to [the South Carolina Tort Claims Act] is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered . . . ." S.C. Code Ann. § 15-78-110. There is no doubt that Plaintiff filed his Summons and Complaint more than two years outside of the statute of limitations provided by the Tort Claims Act.

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<sup>1</sup> The Order was filed on June 16, 2011 and received by counsel for Defendants on June 20, 2011.

As the Court correctly concludes, the applicable statute of limitations (2 or 3 years) as applied to Defendants Sheriff's Department and Sheriff DeWitt is determined by whether the Sheriff and his deputies were acting in their official capacity and whether their actions were within the scope of their duties. In ruling on a motion to dismiss, the trial court must determine "whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." Brazell v. Windsor, 376 S.C. 83, 87, 655 S.E.2d 736, 738 (2007), rev'd on other grounds, 384 S.C. 512, 682 S.E.2d 824 (2009). Furthermore, "[t]he decision to grant a Rule 12(b)(6) motion to dismiss *must be based solely upon the allegations set forth in the complaint.*" Id. at 87, 655 S.E.2d at 737-38. (emphasis added).

Reviewing Paragraph 3 of Plaintiff's Complaint, he specifically states, "That upon information and belief, defendant H. Wayne Dewitt, (hereinafter defendant) is a citizen and resident of Berkeley County, South Carolina and at all times mentioned herein was the Sheriff employed by the defendant, Berkeley County Sheriff, who was acting within the scope and course of his employment and under color of state law. (Complaint, para. 3)(emphasis added). Nowhere in the Complaint does he attribute any wrongful act on the part of Sheriff DeWitt, rather it is clear he is merely suing the Sheriff as the administrator charged with the responsibility over the Sheriff's Department. More importantly, nowhere in the Complaint does Plaintiff state that Sheriff DeWitt was acting in any other capacity than his official capacity and nowhere does he allege that Sheriff DeWitt was acting outside the scope of his official duties. On the contrary, Plaintiff explicitly states that he is suing Sheriff DeWitt in his official capacity as Sheriff and that "at all times" Sheriff DeWitt was "acting within the scope of his employment." Therefore, in taking the allegations of Plaintiff's Complaint in their most favorable light, the two year Tort Claims Act statute of limitations applies and this action must be dismissed against Sheriff DeWitt.

Likewise, as to Defendant Berkeley County Sheriff's Department, Plaintiff's Complaint states only that it "is a governmental entity organized under the laws of the State of South Carolina, that said defendant, as part of its governmental functions, operates a police department known as the Berkeley County Sheriff's Department." (Complaint, para. 4). Nowhere in the Complaint does Plaintiff state that Sheriff's Department, by and through its deputies, was acting in any other capacity than its official capacity. Nowhere does he allege that the Sheriff's Department, by and through its deputies, was acting was acting outside the scope of its official duties. Simply put, Plaintiff's Complaint fails to state that either Defendant was acting in any *other capacity than their official capacity* and fails to state that either Defendant was acting outside the scope of their official duties.

"The decision to grant a Rule 12(b)(6) motion to dismiss *must be based solely upon the allegations set forth in the complaint.*" Brazell at 87, 655 S.E.2d at 737-38. (emphasis added). As to whether "reasonable" inferences can be deduced from the facts alleged in Plaintiff's Complaint, Defendants contend that even when taken in the light most favorable to the Plaintiff, they do not give rise to a competing inference as to whether the Sheriff and his deputies were acting within their official capacity and whether their actions were within the scope of their duties. Again, as to Sheriff DeWitt, Plaintiff is explicit and clear that Sheriff DeWitt was acting within his official capacity, as he alleges no "action" on the part of the Sheriff whatsoever. He is equally clear that Sheriff DeWitt was at all times within the scope and course of his employment. As to Sheriff's Department, the only facts alleged are that deputies, on two separate occasions, were dispatched to Plaintiff's address to allow Comcast to work on their equipment. Aside from the plain language of the Complaint, the only reasonable inferences to be deduced therefrom are that the deputies were acting in their official capacities as Sheriff's deputies and that they were acting within the scope of their employment as deputies of Berkeley County Sheriff's Department.

CONCLUSION

Plaintiff's action is barred by the statute of limitations as to all Defendants and Defendants respectfully request that the Court reconsider its decision as expressed in its June 14, 2011 Order.

Respectfully submitted

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Hugh W. Buyck (S.C. Bar # 66462)  
G. Wade Cooper (S.C. Bar # 69692)

Attorneys for the Defendants  
Berkeley County, Berkeley County Sheriff's  
Department, and H. Wayne Dewitt

June 22, 2011  
Mt. Pleasant, South Carolina  
ZA10.87 Elrod v. Berkley CoPleadingsUMTR.doc

**CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  emailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 22 day of JUNE, 2011.








state.” *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992), adopting the District Court’s holding in *Gulledge v. Smart* 691 F.Supp. 947 (D.S.C. 1988) (holding that South Carolina sheriffs are state officials for Eleventh Amendment purposes), *aff’d mem.*, 878 F.2d 379 (4<sup>th</sup> Cir. 1989). The Tort Claims Act is the exclusive civil remedy available for any tort committed by a governmental entity, its employees or its agents. S.C. Code Ann. §15-78-20 (b) and § 15-78-200. The provisions of the Tort Claims Act establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State. S.C. Code Ann. §15-78-20 (f). Any action brought pursuant to the Tort Claims Act is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered. S.C. Code Ann. §15-78-110.

Plaintiff filed the instant action against Defendants on December 16, 2010. A careful review of the Complaint indicates that Plaintiff’s alleged “loss” occurred sometime between January 10, 2008 and January 15, 2008. (See Complaint, paragraphs 6 and 9). Upon information and belief, no verified claim was filed within one (1) year of the dates of the alleged loss pursuant to S.C. Code Ann. § 15-78-80. Thus, this action was filed well more than two (2) years after the date of loss was or should have been discovered. Plaintiff’s deadline for filing this action against these entities expired on or before January 16, 2010. Defendants contend, therefore, that the instant action is barred by the statute of limitations and respectfully request that judgment be entered on the pleadings and that all causes of action be dismissed with prejudice.

Respectfully submitted,

[signature page follows]

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Hugh W. Buyck (S.C. Bar # 66462)  
G. Wade Cooper (S.C. Bar # 69692)

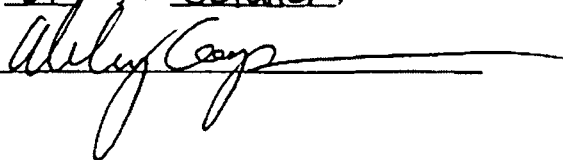
Attorneys for Defendants  
Berkeley County Sheriff's Department, and  
H. Wayne Dewitt

October 27, 2011  
Mt. Pleasant, South Carolina

### CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  emailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 27 day of October, 2011.

  
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STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

COURT OR COMMON PLEAS  
2010-CP-08-04453

L.G. ELROD, )  
 )  
 Plaintiff, )  
 )  
 V. )  
 )  
 BERKELEY COUNTY SHERIFF'S )  
 DEPARTMENT, et al., )  
 )  
 Defendants. )  
-----)

TRANSCRIPT OF RECORD

May 9, 2012  
Moncks Corner, South Carolina

B E F O R E:

THE HONORABLE ROGER M. YOUNG, JUDGE

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

Mr. M. Brooks Derrick, Esquire  
Representing the Plaintiff

Mr. Gordon Wade Cooper, Esquire  
Representing the Defendants

Anne Bouley Meyer, RPR  
Circuit Court Reporter

1 THE COURT: Okay. We got a motion for summary  
2 judgment?

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: All right, go head.

5 MR. COOPER: I'm Wade Cooper here on behalf of  
6 the defendants in this case, who are the Berkeley  
7 County Sheriff's Department, and H. Wayne Dewitt as  
8 Sheriff of Berkeley County.

9 To my right is Mr. Brooks Derek who is now  
10 representing Mr. Elrod, who until recently had been  
11 proceeding pro se.

12 Judge, back in January you heard a motion that I  
13 had filed, a motion for judgment on the pleadings.  
14 Basically our argument, since the case was filed, was  
15 that the case was filed too late.

16 Mr. Elrod has sued over two incidents in which  
17 Berkeley County Sheriff's Deputies were called out to  
18 his property. One of which occurred on January 10th,  
19 2008. Actually two on that same day, January 10th,  
20 2008. And another five days later on January 15th,  
21 2008.

22 The deputies were called out to initially by the  
23 request of Mr. Elrod due to his claim that Comcast  
24 Cable was trespassing on his property in order to fix a  
25 cable box on a utility pole that he had switched off.

1 Later that afternoon, Comcast Cable requested sheriff's  
2 deputies to escort them back to the property as the  
3 work to switch the box back on had not been completed  
4 earlier, it was to avoid a confrontation with Mr.  
5 Elrod.

6 The work was completed that afternoon, and five  
7 days later Comcast was again alerted that Mr. Elrod had  
8 switched the box off. They again requested, due to  
9 threats made by Mr. Elrod five days earlier, requested  
10 an escort from Berkeley County sheriff's deputies who  
11 responded and the box was turned back on.

12 Mr. Elrod filed this case in Berkeley County on  
13 December the 16th, 2010. I filed a motion to dismiss  
14 based on the fact that the defendants in this case fell  
15 within the tort claims act, and that 15-78-110  
16 establishes a two year statute of limitations.

17 Mr. Elrod, based upon the date of the incidents  
18 I gave you and the date that the complaint was filed,  
19 filed it almost three years, but not yet three years,  
20 after the incidents. And thus our argument was that  
21 the statute of limitations inherent in the tort claims  
22 act barred Mr. Elrod's action.

23 As I understand it, the opposition to our  
24 motion, the statute of limitation argument, is that  
25 there is a competing statute, statute 15-3, I believe,

1 540, which allows actions against sheriffs and  
2 constables to be brought within three years. And it's  
3 specific to the fact that those actions must be against  
4 sheriffs and constables acting outside of the scope of  
5 their official duties.

6 So the question then before the Court is whether  
7 or not, based on the evidence established so far in the  
8 record, supports the fact that the defendants, the  
9 sheriff and the two deputies, were acting outside of  
10 the scope of their official duties when they responded  
11 to these two incidents back in 2008.

12 Should the Court find that they were acting  
13 within the scope of their official duties, then they  
14 would be covered by the tort claims act. The Court has  
15 already issued an order, Judge Jefferson, establishing  
16 the fact that there was no verified complaint filed  
17 within a year. And these actors were found to be  
18 within the scope of their official duties, then the two  
19 year statute of limitations would apply.

20 If, on the other hand, they were found to be  
21 outside of the scope of their official duties, this  
22 other statute, 15-3-540, would allow the plaintiff  
23 three years and thus his complaint was timely filed.

24 So I initially filed what you heard in January,  
25 it was a motion for judgment on the pleadings.

1 Basically saying, Your Honor, take a look at what the  
2 plaintiff has alleged in this case, and specifically  
3 looking at, and not outside of, the complaint.

4           which states that the sheriff, H. Wayne Dewitt,  
5 at all times mentioned herein was the sheriff employed  
6 by defendant Berkeley County Sheriff, who was acting  
7 within the scope and course of his employment, and  
8 under color of state law.

9           So my argument has been that the complaint, on  
10 its face alone, is alleging that the sheriff is being  
11 sued in his official capacity, acting within the course  
12 and scope of his employment, i.e., his official duties  
13 as the sheriff. And thus the two year statute of  
14 limitations inherent to the tort claims act is  
15 applicable.

16           There are no allegations in the complaint  
17 specifically stating that the sheriff was acting at any  
18 time outside of the scope of his official duties.  
19 There are no allegations specific to the complaint that  
20 either of the deputies were acting outside of the scope  
21 of their official duties.

22           Nonetheless, at the last hearing discussion  
23 began with Mr. Elrod where we were discussing  
24 affidavits and incident reports, things outside of the  
25 pleadings. The rule, I believe it's rule 12(c), motion

1 for judgment on the pleadings, if the Court is to  
2 consider or if matters are brought up in the hearing  
3 outside of the pleadings, then it basically converts to  
4 a motion for summary judgment.

5 Mr. Elrod was not prepared at that time to argue  
6 a motion for summary judgment. The Court continued  
7 that motion and here we are today.

8 So this is a converted motion for judgment on  
9 the pleadings, converted to a motion for summary  
10 judgment. I would point out, Your Honor, that we have  
11 filed, a long time ago I filed the affidavits two  
12 deputies, Deputy Timmons (phonetic), and Deputy McVoy  
13 (phonetic). There is an affidavit with each of their  
14 incident reports that they authored attached to each  
15 affidavit.

16 More recently I filed an affidavit from Sheriff  
17 Dewitt. All three are consistent in that they state  
18 that each of the three were at all times acting within  
19 the course and scope of their official duties as  
20 sheriff and as deputies, deputy sheriffs of the  
21 Berkeley County Sheriff's Office.

22 So it is our position that there is no genuine  
23 fact, material fact in evidence in this case. There is  
24 nothing on the record to prove that these three  
25 individuals were acting in any other capacity than in

1 their official duties as sheriff and sheriff's deputies  
2 in this case.

3 As such, the tort claims act establishes the two  
4 year statute of limitations. And plaintiff's action is  
5 time barred as a result because it was filed more than  
6 two years, almost three years after the incidents at  
7 issue.

8 THE COURT: What was the date it was filed?

9 MR. COOPER: December 16th, 2010.

10 THE COURT: Okay.

11 MR. COOPER: Last evening I was provided, and I  
12 understand the Court was as well, a memorandum opposing  
13 the summary judgment argument. I have discussed this  
14 with Mr. Derek, and I think we have both agreed that  
15 that is the issue before the Court; is whether based on  
16 the record there is evidence to support the plaintiff's  
17 contention that these individuals were acting outside  
18 of the course and scope of their official duties.

19 THE COURT: Okay.

20 MR. COOPER: I would just point out that the two  
21 cases cited by and provided to the Court, the McCall  
22 case and the Allen case, both provided by the  
23 plaintiffs in support of their motion, one of those,  
24 the Allen case, preceded the tort claims act by about  
25 five years. And that the McCall case, actually both

1 Allen and McCall, the Court upheld the lower court's  
2 ruling that the actions were time barred against  
3 sheriffs and sheriff's deputies.

4 THE COURT: Okay.

5 MR. DEREK: Your Honor, I think that defendants'  
6 counsel has encapsulated the issue that we are facing  
7 here; is whether or not it's a three year statute of  
8 limitation or two year statute of limitations.

9 I disagree with the defendants' counsel in that  
10 there certainly is a genuine issue of material fact as  
11 to whether or not the sheriff's department was acting  
12 within the scope of their official duties at the time.

13 THE COURT: How so? They got called out.

14 MR. DEREK: The issue that was surrounding the  
15 call-out was a civil dispute between Comcast and Mr.  
16 Elrod.

17 THE COURT: Yeah, but they were asked to escort  
18 these people on because they were worried about their  
19 safety. It might have been they weren't investigating  
20 a crime, but they were still acting in their capacity  
21 as sheriff's deputies, correct?

22 MR. DEREK: I think that they were definitely  
23 acting in their capacity as sheriff's deputies, but I  
24 don't know if the actions of settling a civil dispute  
25 on private property encapsulates whether or not they

1 were acting in their official duties.

2 Is it an official duty for an officer to  
3 intervene with a civil dispute. And in their police  
4 reports that both the deputies put forward, in those  
5 report themselves it states that it was a civil matter  
6 that they were out on call for.

7 THE COURT: Yeah, but sheriff's deputies can go  
8 and respond to civil disputes, get involved in things  
9 like that and still be acting within the scope of their  
10 official duties.

11 Do you understand, if you prevail on this you  
12 don't get to sue the county anymore, you are just suing  
13 these people as individuals?

14 MR. DEREK: I understand that, Your Honor.

15 THE COURT: Usually -- okay. You really don't  
16 have much of a choice to argue otherwise, I suppose,  
17 because of the statute of limitations.

18 MR. DEREK: I would just raise the issue again  
19 that whether or not the police responding to a civil  
20 call is in their official duties would be a question  
21 for the jury and not a question for today.

22 Thank you, Your Honor.

23 THE COURT: All right.

24 MR. COOPER: Your Honor, if I could briefly  
25 respond. I'm looking at the two incident reports that

1 are -- that Mr. Derek is referencing. I guess in  
2 essence the dispute between Mr. Elrod and Comcast, and  
3 I don't think we need to get involved with what that  
4 was, but basically it was a verbal agreement that  
5 Comcast had, or its predecessor had, with Mr. Elrod to  
6 have a box on the utility pole on his property. And he  
7 had been receiving cable for 20-some-odd years for free  
8 because of it.

9 And some channels got switched off. And there  
10 was a dispute between Mr. Elrod and Comcast.

11 Now as Judge Jefferson pointed out, Mr. Elrod  
12 why don't you sue Comcast, sounds like a dispute  
13 between you and them. And it is my understanding that  
14 he did so in Charleston County and that case was  
15 settled. I'm not familiar with the settlement.

16 But the report by Deputy McVoy states, and I  
17 will quote, Deputy informed the suspect, in this case  
18 that's Mr. Elrod, that the verbal agreement between him  
19 and Comcast was a civil matter. And that the only  
20 reason deputies were on scene was because of the  
21 threats that he had made towards Comcast workers  
22 earlier.

23 So there is reference to a civil matter, but the  
24 deputy points out that whatever agreement Comcast had  
25 with Mr. Elrod, that that's not for them to decide.

1 They were there at the request initially of Mr. Elrod  
2 because of suspected trespassing. And then  
3 subsequently at the request of Comcast on two separate  
4 occasions, the 10th and the 15th, because of threats to  
5 their safety.

6 And obviously I think everyone is aware that one  
7 of the first duties of a deputy, or of any law  
8 enforcement officer, is to protect and serve. And in  
9 that respect, I think it's very clear throughout the  
10 record that both deputies and the sheriff were doing  
11 their best to keep any sort of physical confrontation  
12 from occurring and that was it.

13 They didn't get involved with the agreement  
14 between Comcast and Mr. Elrod. They were simply there  
15 on site to make sure that the earlier threats of  
16 violence did not come to bear.

17 MR. DEREK: Your Honor, I would disagree with  
18 that position. I think that they certainly were there  
19 trying to settle the civil matter. Whether or not  
20 there were threats made by Mr. Elrod would also be a  
21 question for the jury.

22 And I think they were there escorting Comcast on  
23 to private property to allow Comcast to make money on  
24 the service to 20 or 30 or 40 or 50 different houses  
25 that that box was servicing.

1 THE COURT: Didn't you allege that in the  
2 complaint, that they were acting in their capacity,  
3 official capacity?

4 MR. DEREK: He did allege in the complaint  
5 official capacity.

6 THE COURT: Okay. Well why isn't that  
7 dispositive?

8 MR. DEREK: I believe once we take the  
9 affidavits and other evidence outside of the complaint  
10 and the motion for summary judgment, that it raises a  
11 genuine issue of material fact as to whether or not  
12 they were acting within the scope of their official  
13 duties while under their official capacity.

14 THE COURT: All right. Well it's pretty clear.  
15 I think the evidence is uncontroverted based on what I  
16 have heard and the affidavits that have been submitted,  
17 that at all times they were acting within their  
18 official capacity.

19 Even if they were responding to a call that  
20 involved a civil matter between those two, they were  
21 always called out because they work for the sheriff's  
22 office, and they were sheriff's deputies and they were  
23 responding to a request to assist by a customer that  
24 was -- or an employee who was going out to work.

25 Now the fact that those folks might have had

1 some sort of dispute between the two of them and it  
2 might have been civil in nature, doesn't mean that that  
3 converts whatever the Berkeley County Sheriff's  
4 officers were doing when they were responding to a call  
5 to assist.

6 I think that just stretches the definition of  
7 acting outside of your course of official duties beyond  
8 its intended meaning. So I think the defendant's  
9 motion for summary judgment should be granted. And  
10 give me a chance to, if you would, prepare an order and  
11 send that to me and send it to opposing counsel. Send  
12 it to the Charleston office.

13 MR. COOPER: Thank you, Your Honor.

14 THE COURT: All right.

15 MR. DEREK: Your Honor, is that the sheriff  
16 himself personally as well? Or is that just the  
17 Sheriff's Department?

18 THE COURT: Yes. Well technically you sued the  
19 sheriff because they were the head of the Sheriff's  
20 Department. It doesn't even say on here that he  
21 was sued individually. But to the extent that he was  
22 sued individually, he was not acting outside the scope  
23 of his authority, to the extent that he was sued in his  
24 capacity as the sheriff, and that's the proper party to  
25 name when you are suing the Sheriff's Department,

1 you're entitled to summary judgment because it's  
2 outside the statute of limitations.

3 Either way he wins.

4 MR. DEREK: Thank you, Your Honor.

5 (Whereupon, the proceedings in this matter  
6 before the Court were adjourned.)

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C E R T I F I C A T E  
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8 I, the undersigned, ANNE BOULEY MEYER,  
9 Official Court Reporter for the Ninth Judicial  
10 Circuit of the State of South Carolina, do hereby  
11 certify that the foregoing is a true, accurate, and  
12 complete transcript of record, and of all the  
13 proceedings had and evidence introduced in the above  
14 captioned case, relative to appeal, in the Circuit  
15 Court for South Carolina, on the indicated date.

16 I do further certify that I am neither  
17 of kin, counsel, nor interest to any party hereto.  
18

19 *Anne Bouley Meyer*  
-----

20 Anne Bouley Meyer, RPR  
21 Circuit Court Reporter  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
COUNTY OF BERKELEY )  
L.G. Elrod, )  
) Plaintiff, )  
) )  
Versus )  
) )  
Berkeley County, Berkeley County Sheriff's )  
Department, and H. Wayne Dewitt, )  
) )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
C/A No. 10-CP-08-4453

FILED  
2011 APR 21 PM 2:11  
MELLY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

**AFFIDAVIT OF  
RANDAL TIMMONS**

PERSONALLY APPEARED before me, Randal Timmons, who, being duly sworn,  
deposes and says as follows:

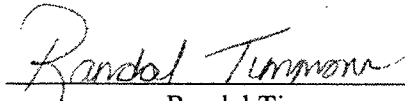
1. My name is Randal Timmons. Although I am currently employed with the Moncks Corner Police Department, I was employed with Berkeley County Sheriff's Department for approximately seven years. I was an employee of Berkeley County Sheriff's Department in January, 2008, during the timeframe of the events alleged in Plaintiff's Complaint.
2. I am familiar with the facts of this case and have reviewed the Complaint filed by the Plaintiff. I authored two Incident Reports relative to my interactions with Plaintiff. (both attached).
3. On January 10, 2008, at approximately 12 pm, I was dispatched to Elrod Drive in response to a call received from Plaintiff about his not wanting Comcast employees on his property. Apparently, Plaintiff, or someone at his direction, had disabled service to the Comcast server box located on the utility pole located at the corner of his property.
4. Restoration of service was of high importance due to the fact that, in addition to numerous households' loss of cable television and internet, telephone service had also been disabled which included access to emergency services such as 9-1-1.
5. When Comcast employees approached the property to work on the server box, Plaintiff became belligerent and stated that if we arrested him "we would have problems." Rather than provoke the Plaintiff further and have the situation escalate, I convinced Comcast to attempt to come back a later date. (See Incident Report #1 for further details).
6. Five days later, on January 15, 2008, two other officers and myself again responded to Plaintiff's address in reference to a request by Comcast Cable to have officers on scene as Comcast placed a lock on its server box disconnect so that it could not be disabled again. (See Incident Report #2 for further details).

7. I stand behind each and every additional detail of my attached Incident Reports.

8. At all times relative to my interaction with the Plaintiff, and which is the subject of his Complaint, I was acting as an employee of the Berkeley County Sheriff's Department and within the scope of my official duties as a Berkeley County Sheriff's Deputy.

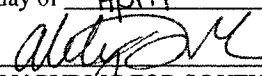
9. At no time did I act in a grossly negligent manner towards Plaintiff, nor did I act or fail to act in such a manner as to violate his constitutional rights.

WHEREFORE AFFIANT SAYETH NOT!

  
\_\_\_\_\_  
Randal Timmons

SWORN TO BEFORE THIS

21 day of April, 2011.

  
\_\_\_\_\_  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 06/2015

# Incident Report #1

(January 10, 2008)

---

AGENCY I.D.  
SC0080000

INCIDENT REPORT

CASE NUMBER

NCIC

200801091318

NO.	EXTD.
N	N

EVENT	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM <input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relg. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.
	1. INFORMATION (INF)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			
	2.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			
	3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

REC'D JAN 14 2008  
CHD JAN 17 2008

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)  
233 ELROD DRIVE, GOOSE CREEK

ZIP CODE 29445 WEAPON TYPE

INCIDENT DATE	24 HR CLOCK	TO	DATE	24 HR CLOCK	DEPT. DATE	DEPT. TIME	DEPART. DATE/TIME IN HR. CLOCK	DEPART. TIME	LOCATION NO.
01/10/2008	10:00		01/10/2008	11:00	01/10/08	11:13	12:13	13:14	4/235

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)  
ELROD, LG.

RELATIONSHIP TO SUBJECT #1 #2 #3

RESIDENT  S  O  U  W  M

RACE SEX AGE ETH DAYTIME PHONE (843) 553-4889 EVENING PHONE

ADDRESS 307 ELROD DR CITY GOOSE CREEK STATE SC ZIP CODE 29445 LOCATION NO.

VICTIM'S NAME (LAST, FIRST, MIDDLE)  
ELROD, LG.

RELATIONSHIP TO SUBJECT #1 #2 #3

RESIDENT  S  O  U  W  M

RACE SEX AGE ETH DAYTIME PHONE (843) 553-4889 EVENING PHONE

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.  
GRY

ADDRESS 307 ELROD DR CITY GOOSE CREEK STATE SC ZIP CODE 29445 LOCATION NO.

VISIBLE INJURY (VICT. 1)  YES  NO EXPLAIN

COMPLAINT OF ANY NON-VISIBLE INJURIES:  YES  NO

VICTIM (NO. 1) USING: ALCOHOL  YES  NO  UNK  DRUGS:  YES  NO  UNK  TYPE:

TWO-MAN VEH.  ONE-MAN VEH.  DETECTIVE/PLASMT.  OTHER  ALONE  ASSISTED  'J - This Jurisdiction. S - State. O - Out of State. U - Unknown

SUBJECT NO. 1	<input type="checkbox"/> SUSPECT	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES	
	<input type="checkbox"/> RUNAWAY	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
	<input type="checkbox"/> WANTED											
	<input type="checkbox"/> WARRANT											
	<input type="checkbox"/> ARREST	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.						
	<input type="checkbox"/> JAIL	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/>	ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>	DATE/TIME OF OFFENSE	DATE/TIME OF ARREST							
<input type="checkbox"/> SURRENDER	DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> TYPE:	TOTAL # ARRESTED										

ON 01/10/2008 DEPUTY RESPONDED TO THE ABOVE LOCATION IN REFERENCE TO COMPLAINANT NOT WANTING COMCAST ON HIS PROPERTY OR CONDUCTING SERVICES ON THEIR SERVER BOX LOCATED ON POWER POLE ON THE CORNER OF HIS RESIDENCE. UPON ARRIVAL COMPLAINANT HAD HIS VEHICLE PARKED IN FRONT OF THE POLE AND WAS SEATED ON THE TAILGATE. DEPUTY SPOKE WITH MR ELROD WHO WAS VERY DISTURBED AND ADAMANT THAT COMCAST WAS NOT GOING TO CONDUCT SERVICES. DEPUTY ASKED COMPLAINANT IF COMCAST COULD PARK THEIR WORK TRUCK ON THE ROADWAY, EXTEND THEIR BUCKET TO THE POLE AND CONDUCT SERVICES IN THE PRESENCE OF OFFICERS ON SCENE AND ELROD AGREED. UPON HAVING COMCAST APPROACH THE RESIDENCE ELROD QUICKLY DECLINED THE AGREEMENT. THE COMPLAINANT BECAME BELLIGERENT AND STATED THAT, "IF WE ARRESTED HIM WE WOULD HAVE PROBLEMS." AT THAT TIME DEPUTY CONVINCED COMCAST TO ATTEMPT TO COME BACK AT A LATER DATE. NOTHING FURTHER AT THIS TIME.

JURISDICTION OF TRAFFIC LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

TYPE (GROUP)	TOTAL VALUE
STOLEN	
DAMAGED	
BURNED	
RECOVERED	
SEIZED	

SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE <input checked="" type="checkbox"/> ADM. CLOSED <input type="checkbox"/>	ARRESTED UNDER 18 <input type="checkbox"/>	EX-CLEAR UNDER 18 <input type="checkbox"/>		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> UNFOLLOWED	ARRESTED 18 AND OVER <input type="checkbox"/>	EX-CLEAR 18 AND OVER <input type="checkbox"/>		
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION. 3. <input type="checkbox"/> EXTRADITION DENIED. 4. <input type="checkbox"/> VICTIM DECLINED COOPERATION. 5. <input type="checkbox"/> JUVENILE - NO CUSTODY	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
	TIMMONS, RANDAL	01/10/08	124	DREW, CASSANDRA	01/11/08	
	THOMAS, TABATHA	01/10/08	159	FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> OFFICER		

AGENCY I.D.  
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 1 8

NCIC

NO. ENTD.  
N N

- ORIGINAL REPORT
  - SUPPLEMENTAL REPORT
  - ADDITIONAL VICTIMS
  - ADDITIONAL STOLEN PROPERTY
  - MODIFIED ORIGINAL
  - CASE STATUS CHANGE
  - ADDITIONAL OFFENDERS
  - ADDITIONAL RECOVERED PROPERTY
- PAGE 1 of \_\_\_\_\_ PAGES.

REFERENCE: INFORMATION REPORT

VICTIM: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER TIMMONS IS INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

NARRATIVE

ADMINISTRATIVE

- SUBJECT IDENTIFIED  YES  NO
- SUBJECT LOCATED  YES  NO
- ACTIVE  ADM. CLOSED
- APPREHENDED UNDER 18  EX-CLEAR UNDER 18
- UNPROSECUTED  APPREHENDED 18 AND OVER  EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH 2.  NO PROSECUTION 3.  EXTRADITION DENIED 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
WADFORD, GRESHA	01/17/08		BLANCHARD, MELISSA	01/17/08	8
THOMAS, TABATHA	01/10/08	159	FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO OFFICER		

# Incident Report #2

(January 15, 2008)

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AGENCY I.D.  
SC0080000

INCIDENT REPORT

CASE NUMBER

200801092023

NCIC

INQ.	EXTD.
N	N

EVENT	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM								
	1. INFORMATION ONLY (INF)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	Highway/Road/Alle		<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Franchise Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Org. <input type="checkbox"/> Soc. Protec <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Of								
	2. REC'D JAN 18 2008	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO											
3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO												
VICTIM NO. 1	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE								
	233 ELROD DRIVE, GOOSE CREEK				29445									
	INCIDENT DATE	24 HR CLOCK	TO	DATE	24 HR CLOCK	LOCATION NO.								
	01/15/2008	13:30		01/15/2008	14:30	4/235								
VICTIM NO. 1	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE			
	CANNON, DAVID, MICHAEL				<input checked="" type="checkbox"/> J	<input checked="" type="checkbox"/> W	<input checked="" type="checkbox"/> M	39	N	(843) 296-2362				
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.							
	113 ELAINE STREET		GOOSE CREEK		SC	29445								
VICTIM NO. 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE			
	COMCAST CABLE				<input checked="" type="checkbox"/> J	<input checked="" type="checkbox"/> W	<input checked="" type="checkbox"/> M							
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
SUBJECT NO. 1	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.							
	4400 BELLE OAKES DRIVE		N.CHARLESTON		SC	29405	STATE							
	VISIBLE INJURY (MCT. 1) <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> EXPLAIN --													
	COMPLAINT OF ANY NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO													
SUBJECT NO. 1	TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input type="checkbox"/> *J - This Jurisdiction, S - State, O - Out of State, U - Unknown													
	<input checked="" type="checkbox"/> SUSPECT	NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	<input type="checkbox"/> RUNAWAY	ELROD, LOUIE, G				<input checked="" type="checkbox"/> W	<input checked="" type="checkbox"/> M	71	N	12/06/36	509	176	GRY	BRO
	<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.												
<input type="checkbox"/> WARRANT	ADDRESS													
<input type="checkbox"/> ARREST	307 ELROD DR				CITY		STATE	ZIP CODE	LOCATION NO.					
<input type="checkbox"/> JAIL					GOOSE CREEK		SC	29445	4/235					
<input type="checkbox"/> SUMMONS	SUBJECT (NO. 1) USING: ALCOHOL <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/>				ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> TYPE:											TOTAL # ARRESTED			
NARRATIVE	ON 01/15/2008 LT. MCELVOGUE, PFC. COLLINS AND THIS DEPUTY RESPONDED TO 233 ELROD DRIVE IN													
	REFERENCE TO A CIVIL MATTER. COMCAST CABLE CONTACTED THE BERKELEY COUNTY SHERIFF'S OFFICE FOR													
	OFFICERS TO STANDBY AT PEARL AND ELROD DRIVE IN REFERENCE TO SERVICES THAT NEEDED TO BE													
	CONDUCTED FOR THEIR COMPANY. LT. MCELVOGUE ADVISED MR. ELROD THAT COMCAST CABLE WAS THERE TO													
	PUT A LOCK ON THEIR DISCONNECT SWITCH DUE TO THE FACT THAT NOBODY WILL BE ABLE TO CUT SERVICES													
	OFF AND WAS NOT GOING TO REMOVE ANY EQUIPMENT. MR. ELROD ADVISED LT. MCELVOGUE THAT HE WANTED													
	TO GO AND GET HIS CAM CORDER SO HE COULD DO A VIDEO OF THE WORK BEING DONE WHICH HE DID. MR.													
	ELROD & JERRY WILLIAMS CAME ON SCENE BUT DID NOT GET INVOLVED													
COMCAST CABLE COMPLETED THEIR WORK AND LEFT THE SCENE. LT MCELVOGUE ADVISED MR. ELROD FOR														
HIM NOT TO TOUCH COMCAST CABLES EQUIPMENT.														
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY								
PROPERTY EST.	TYPE (GROUP)													
	STOLEN													
	DAMAGED													
	BURNED													
	RECOVERED													
SEIZED														
Certified True Return for Property Control Value														
BERKELEY COUNTY, SC														
Date 11-15-10														
Berkeley County Sheriff's Office														
ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		<input type="checkbox"/> ACTIVE <input checked="" type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18					
	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER					
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION. 3. <input type="checkbox"/> EXTRADITION DENIED. 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION. 5. <input type="checkbox"/> JUVENILE - NO CUSTODY													
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER						
TIMMONS, RANDAL		01/15/08	124	SGT. DREW			70							
FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO														

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

L.G. Elrod,

Plaintiff,

Versus

Berkeley County, Berkeley County Sheriff's  
Department, and H. Wayne Dewitt,

Defendants.

) IN THE COURT OF COMMON PLEAS

)

) NINTH JUDICIAL CIRCUIT

)

) C/A No. 10-CP-08-4453

)

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**AFFIDAVIT OF  
CLIFFORD C. McELVOGUE**

FILED  
2011 APR 21 PM 2:12  
HARRY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

PERSONALLY APPEARED before me, Clifford C. McElvogue, who, being duly sworn,

deposes and says as follows:

1. My name is Clifford C. McElvogue. Although I am currently serving with the National Guard, I have been employed with the Berkeley County Sheriff's Department for approximately seven and one-half years.

2. I am familiar with the facts of this case and have reviewed the Complaint filed by the Plaintiff. I authored an Incident Report relative to my interactions with Plaintiff. (attached)

3. On January 10, 2008, at approximately 9 pm, I was dispatched to meet with a representative from Comcast Cable in reference to their request for an escort to 224 Elrod Drive in order to restore service to their equipment which had apparently been disabled by Plaintiff.

4. Restoration of service was of high importance due to the fact that, in addition to numerous households' loss of cable television and internet, telephone service had also been disabled which included access to emergency services such as 9-1-1.

5. It is my understanding that Plaintiff had threatened Comcast employees earlier that day, during their attempts to restore service to Comcast equipment, that he would "do whatever it takes" to prevent anyone from trespassing onto his property. Apparently, the utility pole at issue is located on Plaintiff's property, approximately 5 to 6 feet from the public roadway.


6. Although Plaintiff arrived on scene and confronted myself and the Comcast employees, service was eventually restored. Plaintiff advised myself and those around me that when we left, service would again be disrupted. I advised Plaintiff that further vandalizing property that was not his could result in criminal charges. Plaintiff stated that he "did not care if he went to jail."

7. I stand behind each and every additional detail of my attached Incident Report.
8. At all times relative to my interaction with the Plaintiff, and which is the subject of his Complaint, I was acting as an employee of the Berkeley County Sheriff's Department and within the scope of my official duties as a Berkeley County Sheriff's Deputy.
9. At no time did I act in a grossly negligent manner towards Plaintiff, nor did I act or fail to act in such a manner as to violate his constitutional rights.

WHEREFORE AFFIANT SAYETH NOT!

  
Clifford C. McElvogue

SWORN TO BEFORE THIS  
21 day of April, 2011.

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 06/2015

AGENCY I.D.  
SC0080000

INCIDENT REPORT

CASE NUMBER

200801001385

NO. OF OFFICERS

N N

**COPY**

INCIDENT TYPE  
1. INFORMATION ONLY (INF)  
2.  
3.

CHGD JAN 17 2008  
RECD JAN 15 2008

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)  
233 ELROD DRIVE, GOOSE CREEK

ZIP CODE 29445 WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME IN HQ. CLOCK	DEPT. DATE	DEPT. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
01/10/2008	11:00		01/10/2008	20:58	01/10/08	20:58		21:14	22:11	4/235

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)  
MCKEOWN, JONATHAN.

RELATIONSHIP TO SUBJECT  
RESIDENT   U  W  M

AGE 32 ETH N DAYTIME PHONE (843) 288-3151 EVENING PHONE

ADDRESS 4400 BELLE OAKES CITY N.CHARLESTON STATE SC ZIP CODE 29418 LOCATION NO. S

VICTIM'S NAME (LAST, FIRST, MIDDLE)  
COMCAST CABLE.

RELATIONSHIP TO SUBJECT  
RESIDENT   U  W  M

AGE ETH DAYTIME PHONE EVENING PHONE

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS 4400 BELLE OAKES DRIVE CITY N.CHARLESTON STATE SC ZIP CODE 29405 LOCATION NO. S

VEHICLE MAKE (MCT. 1)  YES  NO  EXPLAIN - COMPLAINT OF ANY NON-VISIBLE DAMAGES:  YES  NO

VICTIM (NO. 1) USING: ALCOHOL  YES  NO  UNK  DRUGS:  YES  NO  UNK  TYPE:

TWO-WHEEL VEH.  ONE-WHEEL VEH.  DETECTIVE/AGENT  OTHER  ALONE  ASSISTED  \*J - This Jurisdiction. S - State. O - Out of State. U - Unknown

SUBJECT NO. 1

SUBJECT MAKE, LAST, FIRST, MIDDLE ELROD, LOUIE, G RACE W SEX M AGE 71 ETH N DATE OF BIRTH 12/06/36 HEIGHT 509 WEIGHT 176 HAIR GRY EYES BRO

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS 307 ELROD DR CITY GOOSE CREEK STATE SC ZIP CODE 29445 LOCATION NO. 4/235

SUBJECT (NO. 1) USING: ALCOHOL  YES  NO  UNK  APPREHENDED NEAR OFFENSE SCENE  YES  NO DATE/TIME OF OFFENSE DATE/TIME OF ARREST

DRUGS:  YES  NO  UNK  TYPE: TOTAL # ARRESTED

NARRATIVE

ON 1/10/08 THIS DEPUTY WAS DISPATCHED TO THE BALL FIELD ON LUCY DRIVE TO MEET WITH COMCAST CABLE IN REFERENCE TO GIVING THE COMPLAINANT A ESCORT TO 224 ELROD DRIVE IN ORDER TO CONDUCT SERVICE TO THEIR CABLE BOX. THE COMPLAINANT REQUESTED A ESCORT DUE TO THE SUSPECT MAKING THE COMMENT THAT HE WOULD DO WHATEVER IT TAKES TO PREVENT ANYONE FROM TRESPASSING ON HIS PROPERTY. THIS DEPUTY, PFC SAUNDERS, THE COMPLAINANT AND SEVERAL WORKERS FROM COMCAST ARRIVED ON SCENE, THE COMPLAINANT QUICKLY USED HIS BUCKET TRUCK AND EXTENDED TO THE POLL TO ATTEMPT TO RESTORE SERVICE TO SEVERAL FAMILIES THAT WERE OUT CABLE, INTERNET, AND PHONE SERVICE. WHILE THE COMPLAINANT WAS WORKING ON THE BOX DEPUTY OBSERVED THE POLE BEING APPROXIMATELY 5 TO 6 FEET IN THE GRASS FROM THE HIGHWAY. THE COMPLAINANT OBSERVED THE SUSPECT DRIVING UP IN HIS TRUCK, THE COMPLAINANT THEN LOWERED HIS BUCKET TO PREVENT A CONFRONTATION WITH THE SUSPECT. THE

JURISDICTION OF FIRST LAW ENFORCEMENT AGENCY JURISDICTION OF RESCUE/LAW ENFORCEMENT AGENCY

PROPERTY EST.

TYPE (GROUP)	STOLEN	DAMAGED	BURNED	RECOVERED	SEIZED	TOTAL VALUE

Certified True Record for This County  
BERKELEY COUNTY, SC  
Date: 2-17-11  
Berkeley County Sheriff's Office

ADMINISTRATIVE

SUBJECT IDENTIFIED  YES  NO  SUBJECT LOCATED  YES  NO  ACTIVE  ADM. CLOSED  UNFOUNDED  APPREHENDED UNDER 18  APPREHENDED 18 AND OVER  EX-CLEAR UNDER 18  EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH. 2.  NO PROSECUTION. 3.  EXTRAJURISDICTION DENIED. 4.  VICTIM DECLINED COOPERATION. 5.  APPEALS - NO CUSTODY

REPORTING OFFICER'S NAME MCELVOGUE, CLIFFORD DATE 01/11/08 UNIT NUMBER C115 APPROVING OFFICER GEIGER, JAMES DATE 01/11/08 UNIT NUMBER

FOLLOW-UP INVESTIGATION  YES  NO

AGENCY I.D.  
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
2 0 0 8 0 1 0 0 1 3 8 5

NCIC  
INC. ENFD.  
N N

ORIGINAL REPORT  
 MODIFIED ORIGINAL  
 SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE  
 ADDITIONAL VICTIMS  
 ADDITIONAL OFFENSES  
 ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY

PAGE 2 OF \_\_\_\_\_ PAGES

VICT./SUBJ. I.D. OVERFLOW	<input type="checkbox"/> COMPLAINTANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			INCIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	<input type="checkbox"/> VICTIM #		#1	#2	#3	J S O U					
<input type="checkbox"/> SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
<input type="checkbox"/> FLAMMABLE	ADDRESS										
<input type="checkbox"/> WANTED	CITY			STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
<input type="checkbox"/> WARRANT											
<input type="checkbox"/> ARREST	<input type="checkbox"/> VICTIM NO. _____: VISIBLE INJURY: <input type="checkbox"/> NO <input type="checkbox"/> YES		COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> NO <input type="checkbox"/> YES		VICTIM USING ALCOHOL: <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK.		<input type="checkbox"/> TWO-MAN VEHICLE <input type="checkbox"/> DETECTIVE/PLASMA <input type="checkbox"/> ALONE				
<input type="checkbox"/> JAIL	EXPLAIN:										
<input type="checkbox"/> SUMMONS	<input type="checkbox"/> SUBJECT NO. _____: USING ALCOHOL: <input type="checkbox"/> NO <input type="checkbox"/> YES				DRUGS: <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: <input type="checkbox"/> UNK.		<input type="checkbox"/> ONE-MAN VEHICLE <input type="checkbox"/> OTHER		<input type="checkbox"/> ASSISTED		
<input type="checkbox"/>	<input type="checkbox"/> SUBJECT NO. _____: USING DRUGS: <input type="checkbox"/> NO <input type="checkbox"/> YES → TYPE: <input type="checkbox"/> UNK.										

**NARRATIVE**

COMPLAINANT WAS CONCERNED ABOUT THE SUSPECTS ACTIONS DUE TO A PRIOR INCIDENT WITH HIS WORKERS EARLIER THAT DAY. THIS DEPUTY ADVISED THE COMPLAINANT TO CONTINUE WORKING ON THE CABLE BOX DUE TO SEVERAL FAMILIES WOULD NOT BE ABLE TO CALL 911 IF THEY HAD A EMERGENCY. THE SUSPECT ARRIVED AT THE LIGHT POLE AND JUMPED OUT OF HIS TRUCK HOLDING A CAM CORDER, THE SUSPECT WALKED UP TO DEPUTY AND GOT APPROXIMATELY 2 INCHES FROM DEPUTIES FACE AND STARTED RECORDING. THIS DEPUTY ADVISED THE SUSPECT TO STEP BACK OUT OF DEPUTIES FACE, THE SUSPECT PROCEEDED TO GET CLOSER TO DEPUTY WITH THE RECORDER. THIS DEPUTY USED A OPEN HAND AND PUSHED THE CAMERA OUT OF DEPUTIES FACE, INFORMING HIM THAT HE COULD RECORD AT A DISTANCE BUT NOT IN DEPUTIES FACE.

JURISDICTION OF THEFT  
LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY  
LAW ENFORCEMENT AGENCY

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	<input type="checkbox"/> STOLEN	<input type="checkbox"/> VEHICLE	SERIAL AND/OR OWNER APPLIED NO.		STATE	
	<input type="checkbox"/> RECOVERED	<input type="checkbox"/> GUN	YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
	<input type="checkbox"/> FOUND	<input type="checkbox"/> BOAT	MODEL	STYLE	COLOR	BRAND NAME
	<input type="checkbox"/> TOWED	<input type="checkbox"/> LICENSE PLATE	MC NO.	DENOMINATION	ISSUER	SECURITIES DATE
	<input type="checkbox"/> SUSPECT	<input type="checkbox"/> SECURITIES/BONDS, STOCKS	MISCELLANEOUS			
	<input type="checkbox"/> VICTIM	<input type="checkbox"/> ARTICLE				

PROPERTY EST.	TYPE (GROUP)					TOTAL VALUE
	STOLEN					
	DAMAGED					
	RECOVERED					
	NEEDED					

**ADMINISTRATIVE**

SUBJECT IDENTIFIED:  YES  NO

SUBJECT LOCATED:  YES  NO

ACTIVE:  ADM. CLOSED:  UNFOUNDED:

ARRESTED UNDER 18:  ARRESTED 18 AND OVER:  EX-CLEAR UNDER 18:  EX-CLEAR 18 AND OVER:

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH 2.  NO PROSECUTION 3.  EXTRADITION DENIED 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER(S): MCELVOGUE, CLIFFORD DATE: 01/11/08 UNIT NUMBER: C115

APPROVING OFFICER: GEIGER, JAMES DATE: 01/11/08 UNIT NUMBER:

FOLLOW-UP INVESTIGATION:  YES  NO OFFICER:

AGENCY I.D.  
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
2 0 0 8 0 1 0 0 1 3 8 5

NO. EXT. N N

ORIGINAL REPORT  
 MODIFIED ORIGINAL

SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE

ADDITIONAL VICTIMS  
 ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY

PAGE 3 OF \_\_\_\_\_ PAGES

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINT NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

RUNAWAY \_\_\_\_\_

WANTED \_\_\_\_\_

WARRANT \_\_\_\_\_

ARREST \_\_\_\_\_

JAIL \_\_\_\_\_

SUBMACHS \_\_\_\_\_

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS CITY STATE ZIP CODE LOCATION NO. DAY PHONE EVENING PHONE

VICTIM NO. \_\_\_\_; VISIBLE INJURY:  NO  YES COMPLAINT OF NON-VISIBLE INJURIES:  NO  YES

VICTIM USING ALCOHOL:  NO  YES  UNK.  TWO-MAN VEHICLE  DETECTIVE/PLASMT.  ALONE

EXPLAIN:  NO  YES DRUGS:  NO  YES TYPE:  UNK.  ONE-MAN VEHICLE  OTHER  ADMITTED

SUBJECT NO. \_\_\_\_; USING ALCOHOL:  NO  YES

USING DRUGS:  NO  YES -> TYPE:  UNK.

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINT NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

RUNAWAY \_\_\_\_\_

WANTED \_\_\_\_\_

WARRANT \_\_\_\_\_

ARREST \_\_\_\_\_

JAIL \_\_\_\_\_

SUBMACHS \_\_\_\_\_

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS CITY STATE ZIP CODE LOCATION NO. DAY PHONE EVENING PHONE

VICTIM NO. \_\_\_\_; VISIBLE INJURY:  NO  YES COMPLAINT OF NON-VISIBLE INJURIES:  NO  YES

VICTIM USING ALCOHOL:  NO  YES  UNK.  TWO-MAN VEHICLE  DETECTIVE/PLASMT.  ALONE

EXPLAIN:  NO  YES DRUGS:  NO  YES TYPE:  UNK.  ONE-MAN VEHICLE  OTHER  ADMITTED

SUBJECT NO. \_\_\_\_; USING ALCOHOL:  NO  YES

USING DRUGS:  NO  YES -> TYPE:  UNK.

**NARRATIVE**

THE SUSPECT BECAME ANGRY AND ADAMANT THAT COMCAST WAS NOT GOING TO TURN THE CABLE BACK ON.

AFTER SPEAKING WITH THE COMPLAINANT THE COMPLAINANT INFORMED DEPUTY THAT THE SUSPECT HAD BEEN AND STILL IS RECEIVING FREE CABLE FROM COMCAST BECAUSE THEY HAD THEIR BOX ON A BERKELEY ELECTRIC POLE ON HIS PROPERTY. DEPUTY CONFRONTED THE SUSPECT ABOUT THE DEAL BETWEEN HIM AND COMCAST. THE SUSPECT STATED THAT WHAT THE COMPLAINANT STATED WAS TRUE, THE SUSPECT STATED THAT COMCAST REMOVED TWO CHANNELS FROM HIS PLAN AND HE STATED THAT WAS A BREACH OF CONTRACT. DEPUTY INFORMED THE SUSPECT THAT THE VERBAL AGREEMENT BETWEEN HIM AND COMCAST WAS A CIVIL MATTER AND THE ONLY REASON DEPUTIES WERE ON SCENE WAS BECAUSE OF THE THREATS THAT

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY \_\_\_\_\_

JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY \_\_\_\_\_

**VEH./GUN/ETC. 1**

STATUS TYPE

STOLEN  VEHICLE

RECOVERED  GUN

FOLDED  BOAT

TOWED  LICENSE PLATE

SUBJECT  SECURITIES/BONDS, STOCKS

VICTIM  ARTICLE

VW AND/OR LICENSE NO. \_\_\_\_\_ BOAT HULL NO. AND/OR REG. NO. \_\_\_\_\_

SERIAL AND/OR OWNER APPLIED NO. \_\_\_\_\_ STATE \_\_\_\_\_

YEAR OF REGISTRATION \_\_\_\_\_ YEAR OF EXPIRATION \_\_\_\_\_ YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ TYPE \_\_\_\_\_

MODEL \_\_\_\_\_ STYLE \_\_\_\_\_ COLOR \_\_\_\_\_ BRAND NAME \_\_\_\_\_ CALIBER \_\_\_\_\_

NIC NO. \_\_\_\_\_ DENOMINATION \_\_\_\_\_ ISSUER \_\_\_\_\_ SECURITIZED DATE \_\_\_\_\_

MISCELLANEOUS \_\_\_\_\_

TYPE (GROUP)	TOTAL VALUE
STOLEN	
DAMAGED	
BURNED	
RECOVERED	
SEIZED	

**ADMINISTRATIVE PROPERTY EST.**

SUBJECT IDENTIFIED:  YES  NO

SUBJECT LOCATED:  YES  NO

ACTIVE:  ACTIVE  ADM. CLOSED  UNFOLDED

ARRESTED UNDER 18:  ARRESTED UNDER 18  ARRESTED 18 AND OVER

EX-CLEAR UNDER 18:  EX-CLEAR UNDER 18  EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH 2.  NO PROSECUTION 3.  EXTRADITION DENIED 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER(S) DATE UNIT NUMBER APPROVING OFFICER DATE UNIT NUMBER

MCELVOGUE, CLIFFORD 01/11/08 C115 GEIGER, JAMES 01/11/08

FOLLOW-UP INVESTIGATION:  YES  NO

AGENCY I.D.  
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
2 0 0 8 0 1 0 0 1 3 8 5

NCIC  
NO. EXT.  
N N

ORIGINAL REPORT      SUPPLEMENTAL REPORT      ADDITIONAL VICTIMS      ADDITIONAL STOLEN PROPERTY  
 MODIFIED ORIGINAL      CASE STATUS CHANGE      ADDITIONAL OFFENDERS      ADDITIONAL RECOVERED PROPERTY

PAGE 4 OF \_\_\_\_\_ PAGES

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINANT     NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_     VICTIM RELATIONSHIP TO SUBJECT: #1 \_\_\_\_\_ #2 \_\_\_\_\_ #3 \_\_\_\_\_     RESIDENT \_\_\_\_\_     PAGE \_\_\_\_\_     SEX \_\_\_\_\_     AGE \_\_\_\_\_     D.O.B. \_\_\_\_\_     ETH \_\_\_\_\_  
 VICTIM # \_\_\_\_\_  
 SUBJECT # \_\_\_\_\_     HEIGHT \_\_\_\_\_     WEIGHT \_\_\_\_\_     HAIR \_\_\_\_\_     EYES \_\_\_\_\_     FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. \_\_\_\_\_  
 RUNAWAY \_\_\_\_\_  
 WANTED \_\_\_\_\_     ADDRESS \_\_\_\_\_     CITY \_\_\_\_\_     STATE \_\_\_\_\_     ZIP CODE \_\_\_\_\_     LOCATION NO. \_\_\_\_\_     DAY PHONE \_\_\_\_\_     EVENING PHONE \_\_\_\_\_  
 WARRANT \_\_\_\_\_  
 ARREST \_\_\_\_\_      VICTIM NO. \_\_\_\_\_: VISIBLE INJURY:  NO  YES     COMPLAINT OF NON-VISIBLE INJURIES:  NO  YES     VICTIM USING ALCOHOL:  NO  YES  UNK.      TWO-MAN VEHICLE  DETECTIVE/PLAINT.  ALONE  
 JAIL \_\_\_\_\_     EXPLAIN: \_\_\_\_\_     DRUGS:  NO  YES TYPE: \_\_\_\_\_      UNK.      ONE-MAN VEHICLE  OTHER \_\_\_\_\_      ASSISTED  
 SUMMONS \_\_\_\_\_      SUBJECT NO. \_\_\_\_\_: USING ALCOHOL:  NO  YES  
 \_\_\_\_\_     USING DRUGS:  NO  YES → TYPE: \_\_\_\_\_      UNK.

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINANT     NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_     VICTIM RELATIONSHIP TO SUBJECT: #1 \_\_\_\_\_ #2 \_\_\_\_\_ #3 \_\_\_\_\_     RESIDENT \_\_\_\_\_     PAGE \_\_\_\_\_     SEX \_\_\_\_\_     AGE \_\_\_\_\_     D.O.B. \_\_\_\_\_     ETH \_\_\_\_\_  
 VICTIM # \_\_\_\_\_  
 SUBJECT # \_\_\_\_\_     HEIGHT \_\_\_\_\_     WEIGHT \_\_\_\_\_     HAIR \_\_\_\_\_     EYES \_\_\_\_\_     FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. \_\_\_\_\_  
 RUNAWAY \_\_\_\_\_  
 WANTED \_\_\_\_\_     ADDRESS \_\_\_\_\_     CITY \_\_\_\_\_     STATE \_\_\_\_\_     ZIP CODE \_\_\_\_\_     LOCATION NO. \_\_\_\_\_     DAY PHONE \_\_\_\_\_     EVENING PHONE \_\_\_\_\_  
 WARRANT \_\_\_\_\_  
 ARREST \_\_\_\_\_      VICTIM NO. \_\_\_\_\_: VISIBLE INJURY:  NO  YES     COMPLAINT OF NON-VISIBLE INJURIES:  NO  YES     VICTIM USING ALCOHOL:  NO  YES  UNK.      TWO-MAN VEHICLE  DETECTIVE/PLAINT.  ALONE  
 JAIL \_\_\_\_\_     EXPLAIN: \_\_\_\_\_     DRUGS:  NO  YES TYPE: \_\_\_\_\_      UNK.      ONE-MAN VEHICLE  OTHER \_\_\_\_\_      ASSISTED  
 SUMMONS \_\_\_\_\_      SUBJECT NO. \_\_\_\_\_: USING ALCOHOL:  NO  YES  
 \_\_\_\_\_     USING DRUGS:  NO  YES → TYPE: \_\_\_\_\_      UNK.

**NARRATIVE**

HE MADE TOWARDS COMCAST WORKERS EARLIER. THE COMPLAINANT INFORMED DEPUTY THAT SERVICE WAS RESTORED AND THEY WERE DONE, MR. ELROD BECAME ANGRY AGAIN YELLING WHEN YOU LEAVE THAT CABLE WILL BE OFF AGAIN NO MATTER WHAT I HAVE TO DO. DEPUTY ADVISED THE SUSPECT THAT IF HE VANDALIZED PROPERTY THAT WASN'T HIS HE COULD BE CHARGED, THE SUSPECT YELLED BACK AT DEPUTY STATING THAT HE DIDN'T CARE IF HE WENT TO JAIL BECAUSE THAT WAS HIS POLE. DEPUTY, AND COMCAST CREW LEFT THE SCENE WITHOUT FURTHER INCIDENT, THE COMPLAINANT STATED THAT HE WOULD ADVISE HIS VICE PRESIDENT OF THE INCIDENT AND LET THEM HANDLE IT

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY \_\_\_\_\_     JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY \_\_\_\_\_

**VEH. / GUN / ETC. 1**

STATUS:  STOLEN      RECOVERED      FOUND      TONED      SUSPECT      VICTIM  
 TYPE:  VEHICLE      GUN      BOAT      LICENSE PLATE      SECURITIES/BONDS, STOCKS      ARTICLE  
 VEH AND/OR LICENSE NO. \_\_\_\_\_     BOAT HULL NO. AND/OR REG. NO. \_\_\_\_\_  
 SERIAL AND/OR OWNER APPLIED NO. \_\_\_\_\_     STATE \_\_\_\_\_  
 YEAR OF REGISTRATION \_\_\_\_\_     YEAR OF EXPIRATION \_\_\_\_\_     YEAR \_\_\_\_\_     MAKE \_\_\_\_\_     TYPE \_\_\_\_\_  
 MODEL \_\_\_\_\_     STYLE \_\_\_\_\_     COLOR \_\_\_\_\_     BRAND NAME \_\_\_\_\_     CALIBER \_\_\_\_\_  
 INC NO. \_\_\_\_\_     DENOMINATION \_\_\_\_\_     ISSUER \_\_\_\_\_     SECURITIES DATE \_\_\_\_\_  
 MISCELLANEOUS \_\_\_\_\_

**PROPERTY EST.**

TYPE (GROUP)	STOLEN	DAMAGED	BURNED	RECOVERED	SEIZED	TOTAL VALUE
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						

**ADMINISTRATIVE**

SUBJECT IDENTIFIED      SUBJECT LOCATED      ACTIVE      ADM. CLOSED      ARRESTED UNDER 18      EX-CLEAR UNDER 18  
 YES      NO      YES      NO      UNFOUNDED      ARRESTED 18 AND OVER      EX-CLEAR 18 AND OVER  
 REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH     2.  NO PROSECUTION     3.  EXTRADITION DENIED     4.  VICTIM DECLINES COOPERATION     5.  AVAILABLE - NO CUSTODY  
 REPORTING OFFICER(S) \_\_\_\_\_     DATE \_\_\_\_\_     UNIT NUMBER \_\_\_\_\_     APPROVING OFFICER \_\_\_\_\_     DATE \_\_\_\_\_     UNIT NUMBER \_\_\_\_\_  
 MCELVOGUE, CLIFFORD     01/11/08     C115     GEIGER, JAMES     01/11/08  
 FOLLOW-UP INVESTIGATION  YES  NO     OFFICER \_\_\_\_\_

AGENCY I.D.  
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

2 0 0 8 0 1 0 0 1 3 8 5

NCIC

NO. ENTD.  
N N

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY
<input type="checkbox"/> LOSS/RES ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY

PAGE 1 of \_\_\_\_\_ PAGES.

REFERENCE: INFORMATION REPORT

SUSPECT: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER CC MCELVOGUE INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE  
GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

NARRATIVE  
ADMINISTRATIVE

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		ACTIVE <input checked="" type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED <input type="checkbox"/>		ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER <input type="checkbox"/>		EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER <input type="checkbox"/>	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
WADFORD, GRESHA			01/17/08		BLANCHARD, MELISSA			01/17/08	8
FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO									

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO.: 2010-CP-08-4453
L.G. ELROD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>AFFIDAVIT OF</b>
	)	<b>JERRY R. WILLIAMS</b>
BERKELEY COUNTY SHERIFF'S	)	
DEPARTMENT and H. WAYNE	)	
DEWITT,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, Jerry R. Williams, being first duly sworn, deposes and says that:

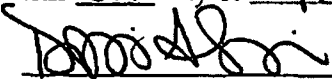
1. The contents of this statement are true and stated under the penalty of perjury.
2. I make these statements based on my own personal knowledge.
3. On January 10, 2008, my dad, L.G. Elrod, and I posted a "no trespassing" sign on his property at 233 Elrod Dr., Goose Creek, South Carolina.
4. On January 10, 2008, after we posted the "no trespassing sign" I witnessed the Berkeley County Sheriff's Department restrain L.G. Elrod, without a court order, in order to allow Comcast Cable Company to trespass and work on his private property.
5. On January 15, 2008, I again witnessed the Berkeley County Sheriff's Department restrain L.G. Elrod, without a court order, in order to allow Comcast Cable Company to trespass and work on his private property.

[Signature block on following page.]

This 21 day of APRIL 2012.

  
\_\_\_\_\_  
Jerry R. Williams

Sworn to and subscribed before me,  
this 21 day of April 2012.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 6/03/2017

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO.: 2010-CP-08-4453
L.G. ELROD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
BERKELEY COUNTY SHERIFF'S	)	AFFIDAVIT OF L.G. ELROD
DEPARTMENT and H. WAYNE	)	
DEWITT,	)	
	)	
Defendants.	)	

---

PERSONALLY APPEARED before me, L.G. Elrod, being first duly sworn,  
deposes and says that:

1. The contents of this statement are true and stated under the penalty of perjury.
2. I make these statements based on my own personal knowledge.
3. In early January 1991, Storer Cable put a box on my private property at 233 Elrod Dr., Goose Creek, South Carolina to service about 15 to 20 customers in the area.
4. When I discovered this, I informed them that they were not allowed to use the property, as they didn't have an easement or permission.
5. On January 9, 1991, the company offered to provide television service at my home at 307 Elrod Dr., Goose Creek, South Carolina in exchange for the use of my property at 233 Elrod Dr., Goose Creek, South Carolina, and I agreed.

6. Years later, Comcast bought Storer Cable and continued to use the property, and I continued to receive television in exchange for the use of my property.

7. In December 2007, some of my channels began to turn off, and I called Comcast to let them know the situation.

8. The customer service lady informed me that all of my channels were being turned off, and when I told her of our agreement, she said I needed to speak with Mr. Anthony Douglas who was out of town for a week.

9. When I spoke to Mr. Douglas, he told me that I wasn't going to be getting "free" television service anymore, and I told him that my service was not "free." The service was provided for me in exchange for the use of my property, and through that use, Comcast was able to provide service to 15 to 20 customers and was making money by doing so.

10. He said they were going to remove the box when they decided where to reroute the lines.

11. I told him he needed to leave my service on as long as they used my private property, and he wouldn't agree.

12. At the end of our conversation, I informed him that if they didn't turn my service back on they were in breach of the agreement and couldn't use my private property any longer.

13. More importantly, I was going to turn the service off on the box, and they wouldn't be able to access the box to turn the service back on.

14. On January 10, 2008, my son, Jerry Williams, helped me put a "No Trespassing" sign by the pole that the cable box was on, and I wrote Comcast Cable, my initials, and took pictures.

15. Then, I turned the box off.

16. Later that day, Comcast arrived at the property and tried to get on the property to access the cable box, and I told them they were on trespass notice and couldn't come on the property without a court order.

17. Then, I called Berkeley County Sheriff's Department and told them Comcast was on trespass notice and trying to get on the property

18. I requested a deputy to advise them that they needed a court order to get on the property as it was private property and they had been put on trespass notice.

19. Deputy Randal Timmons came out, talked to them, and asked me to let them on the property. I told him no.

20. Following that conversation, he spoke with Comcast again, and they left.

21. Days later, I learned through his incident report that he told them to come back later instead of telling them that they needed a court order.

22. Later that day (January 10, 2008), 2 squad cars, and several deputies from the Berkeley County Sheriff's Department came out with their lights flashing to assist Comcast.

23. Deputy Clifford McElvogue informed me that this equipment belonged to Comcast, and they were going to work on it. He then told me that if I interfered with Comcast, the Sheriff's Department would "lock me up."

24. The Sheriff's Department restrained me with the threat of jail while Comcast worked on my private property right over the "No Trespassing" sign.

25. I requested Deputy Clifford McElvogue to provide me with the court order authorizing their actions, but I was ignored.

26. When the Sheriff's Department left, Deputy Clifford McElvogue informed me that if I tampered with the Comcast equipment they would come back and "lock me up."

27. After this incident, I called Sheriff H. Wayne DeWitt at his office and asked him for an explanation as to why he sent deputies out to my private property to restrain me on a civil matter without a court order.

28. He informed me that some of the customers had their phone service with Comcast, and when the service was turned off, they could no longer access the 911 service.

29. I told him that this was a civil matter and that the Sheriff's Department should not be involved with civil matters. Moreover, the 911 service had not been interrupted.

30. In addition, when I requested this information, Lieutenant Clifford McElvogue told me that the 911 service had in fact not been interrupted.

31. On January 14, 2008, Attorney Mary Leigh Arnold faxed a Cease and Desist from any further trespass to Comcast.

32. On January 15, 2008, I turned the box off again as the service to my home had not been restored.


33. And again, Berkeley County Sheriff's Department sent out squad cars and deputies, without a court order, to restrain me while Comcast trespassed and worked on my private property directly above the "No Trespassing" sign.

34. And this time, I was recording with my audio/video camera.

This 24 day of April 2012.

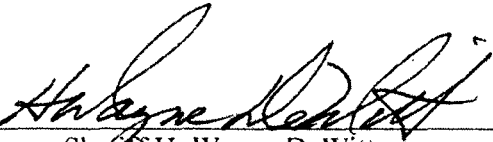
  
\_\_\_\_\_  
L.G. Elrod

Sworn to and subscribed before me,  
this 24<sup>th</sup> day of April 2012.


  
Notary Public for South Carolina  
My Commission Expires: 4-20-2019

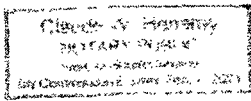


WHEREFORE AFFIANT SAYETH NOT.

  
Sheriff H. Wayne DeWitt

SWORN TO BEFORE THIS  
27 day of MARIL, 2012.

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: FEB 4, 2021



STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

) THE COURT OF COMMON PLEAS  
) NINTH JUDICIAL CIRCUIT  
) CASE NO.: 2010-CP-08-4453

L.G. ELROD,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S  
DEPARTMENT and H. WAYNE  
DEWITT,

Defendants.

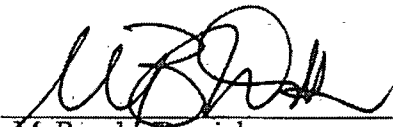
AFFIDAVIT OF M. BROOKS  
DERRICK, ATTORNEY FOR  
PLAINTIFF

2012 MAY -9 PM 3:23  
FILED  
MARY P. BRONKH  
CLERK OF COURT,  
BERKELEY COUNTY, SC

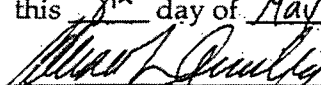
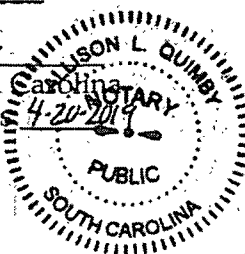
PERSONALLY APPEARED before me, M. Brooks Derrick, being first duly  
sworn, deposes and says that:

1. The contents of this statement are true and stated under the penalty of perjury.
2. I am the attorney of record for Plaintiff L.G. Elrod.
3. The attached documents are in the possession of the parties.
4. Plaintiff produced the attached documents in response to Defendant First Set of Interrogatories and Requests for Production.

This 8 day of May 2012.

  
\_\_\_\_\_  
M. Brooks Derrick  
Attorney and Counselor for Plaintiff

Sworn to and subscribed before me,  
this 8 day of May 2012.

  
Notary Public for South Carolina  
My Commission Expires 4-20-2014  






AGENCY I.D.  
SC0080000

**SUPPLEMENTARY REPORT**

CASE NUMBER

200801091318

NCC

NO.	DATA
N	N

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIM	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY	PAGE 1 of _____ PAGES.
<input type="checkbox"/> MODIFIED CRIME	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENSE	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY	

**REFERENCE: INFORMATION REPORT**

VICTIM: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER TIMMONS IS INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE

GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

NARRATIVE

<input type="checkbox"/> SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED UNDER 14 <input type="checkbox"/> ARRESTED 14 AND OVER	<input type="checkbox"/> CH-CLEAR UNDER 14 <input type="checkbox"/> CH-CLEAR 14 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DATA 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXPIRATION PERIOD 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE
WADFORD, GRESHA	01/17/08		BLANCHARD, MELISSA	01/17/08
THOMAS, TABATHA	01/10/08	159		8

APPROVING OFFICER



AGENCY I.D.  
SC0080000

**SUPPLEMENTAL INCIDENT REPORT**

CASE NUMBER  
**2 0 0 8 0 1 0 0 1 3 8 5**

NCO  
SCL. DIV.  
**N N**

ORIGINAL REPORT     SUPPLEMENTAL REPORT     ADDITIONAL VICTIMS     ADDITIONAL STOLEN PROPERTY    PAGE **2** OF \_\_\_\_\_ PAGES

MODIFIED ORIGINAL     CASE STATUS CHANGE     ADDITIONAL OFFENSES     ADDITIONAL RECEIVED PROPERTY

**VICTIM #1**

COMPLAINANT: NAME (LAST, FIRST, INITIAL) \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ LOCATION NO. \_\_\_\_\_ DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

VICTIM NO. \_\_\_\_\_ VEHICLE MARKED  NO  YES    COMPLAINT OF NON-VEHICLE DAMAGE:  NO  YES    VICTIM USING ALCOHOL:  NO  YES  UNKNOWN    TWO-MAN VEHICLE  DETECTIVE/PLAQUE  ALONE

OFFENSE:  NO  YES    OTHER:  NO  YES TYPE: \_\_\_\_\_    ONE-MAN VEHICLE  OTHER  ASSISTED

SUBJECT NO. \_\_\_\_\_ USING ALCOHOL:  NO  YES    LEGAL DRIVER:  NO  YES  TYPE: \_\_\_\_\_    UNKNOWN

**VICTIM #2**

COMPLAINANT: NAME (LAST, FIRST, INITIAL) \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ LOCATION NO. \_\_\_\_\_ DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

VICTIM NO. \_\_\_\_\_ VEHICLE MARKED  NO  YES    COMPLAINT OF NON-VEHICLE DAMAGE:  NO  YES    VICTIM USING ALCOHOL:  NO  YES  UNKNOWN    TWO-MAN VEHICLE  DETECTIVE/PLAQUE  ALONE

OFFENSE:  NO  YES    OTHER:  NO  YES TYPE: \_\_\_\_\_    ONE-MAN VEHICLE  OTHER  ASSISTED

SUBJECT NO. \_\_\_\_\_ USING ALCOHOL:  NO  YES    LEGAL DRIVER:  NO  YES  TYPE: \_\_\_\_\_    UNKNOWN

**NARRATIVE**

COMPLAINANT WAS CONCERNED ABOUT THE SUSPECTS ACTIONS DUE TO A PRIOR INCIDENT WITH HIS WORKERS EARLIER THAT DAY. THIS DEPUTY ADVISED THE COMPLAINANT TO CONTINUE WORKING ON THE CABLE BOX DUE TO SEVERAL FAMILIES WOULD NOT BE ABLE TO CALL 911 IF THEY HAD A EMERGENCY. THE SUSPECT ARRIVED AT THE LIGHT POLE AND JUMPED OUT OF HIS TRUCK HOLDING A CAM CORDER. THE SUSPECT WALKED UP TO DEPUTY AND GOT APPROXIMATELY 2 INCHES FROM DEPUTIES FACE AND STARTED RECORDING. THIS DEPUTY ADVISED THE SUSPECT TO STEP BACK OUT OF DEPUTIES FACE, THE SUSPECT PROCEEDED TO GET CLOSER TO DEPUTY WITH THE RECORDER. THIS DEPUTY USED A OPEN HAND AND PUSHED THE CAMERA OUT OF DEPUTIES FACE, INFORMING HIM THAT HE COULD RECORD AT A DISTANCE BUT NOT IN DEPUTIES FACE.

APPROVED BY DEPUTY  
LAW ENFORCEMENT AGENCY \_\_\_\_\_

APPROVED BY SHERIFF  
LAW ENFORCEMENT AGENCY \_\_\_\_\_

**VEHICLE / GUN / ETC. 1**

STATUS	TYPE	VIN AND/OR LICENSE NO.	STATE REG. NO. AND/OR REG. NO.
<input type="checkbox"/> STOLEN	<input type="checkbox"/> VEHICLE	SERIAL AND/OR CHASSIS/APPLIED NO.	DATE
<input type="checkbox"/> RECOVERED	<input type="checkbox"/> GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION
<input type="checkbox"/> FOUND	<input type="checkbox"/> BOAT	YEAR	MAKE
<input type="checkbox"/> TOWED	<input type="checkbox"/> LICENSE PLATE	MODEL	STYLE
<input type="checkbox"/> SUSPECT	<input type="checkbox"/> SECURITIES-BONDS, STOCKS	YEAR	COLOR
<input type="checkbox"/> VICTIM	<input type="checkbox"/> ARTICLE	MAKE	BRAND NAME
		SECURITY DATE	SECURITY DATE
		MISCELLANEOUS	

**ADMINISTRATIVE PROPERTY EST.**

TYPE (GROUP)	VALUE	TOTAL VALUE
STOLEN		
DAMAGED		
REMOVED		
RECOVERED		
SEIZED		

SUSPECT IDENTIFIED:  YES  NO    SUSPECT LOCATED:  YES  NO

ACTIVE     ADM. CLOSED     APPREHENDED UNDER 18     ED-CLEAR UNDER 18

DISMISSED     APPREHENDED 18 AND OVER     ED-CLEAR 18 AND OVER

SEARCH FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER ONLY    2.  NO PROSECUTION    3.  EXTENSION DENIED    4.  VICTIM DECLINES COOPERATION    5.  JUVENILE - NO CUSTODY

APPROVED OFFICER: **MCELVOGUE, CLIFFORD**    DATE: **01/11/08**    **C115**    APPROVED OFFICER: **GEIGER, JAMES**    DATE: **01/11/08**

FOLLOWUP EVALUATION:  YES  NO

AGENCY I.D.  
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER: 200801001385  
 NCO: INCL. DIVISION: N N

ORIGINAL REPORT  SUPPLEMENTAL REPORT  ADDITIONAL VICTIMS  ADDITIONAL STOLEN PROPERTY  
 MODIFIED ORIGINAL  CASE STATUS CHANGE  ADDITIONAL OFFENSES  ADDITIONAL RECOVERED PROPERTY

PAGE 3 OF 3 PAGES

**VICTIM SUBJ. I.D. OVERFLOW**

COMPLAINT NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_ WITHIN 100 FEET OF SUBJECT \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PEDIGREES, ETC.

RANUNCY \_\_\_\_\_

WANTED ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ LOCATION NO. \_\_\_\_\_ DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

WARRANT \_\_\_\_\_

ANCHOR  VICTIM NO. \_\_\_\_\_ VEHICLE MAKE  NO  YES COMPLAINT OF NON-VISIBLE DAMAGE  NO  YES VICTIM USING ALCOHOL  NO  YES  UNK.  TWO-MAN VEHICLE  DETECTIVE/PLAINT  ALONE

JAIL EXPLAIN  NO  YES BRUCE  NO  YES TYPE  UNK.  ONE-MAN VEHICLE  OTHER  ASSISTED

RANUNCY  SUBJECT NO. \_\_\_\_\_ USING ALCOHOL  NO  YES

USING BRUCE  NO  YES → TYPE  UNK.

**NARRATIVE**

THE SUSPECT BECAME ANGRY AND ADAMANT THAT COMCAST WAS NOT GOING TO TURN THE CABLE BACK ON. AFTER SPEAKING WITH THE COMPLAINANT THE COMPLAINANT INFORMED DEPUTY THAT THE SUSPECT HAD BEEN AND STILL IS RECEIVING FREE CABLE FROM COMCAST BECAUSE THEY HAD THEIR BOX ON A BERKELEY ELECTRIC POLE ON HIS PROPERTY. DEPUTY CONFRONTED THE SUSPECT ABOUT THE DEAL BETWEEN HIM AND COMCAST, THE SUSPECT STATED THAT WHAT THE COMPLAINANT STATED WAS TRUE, THE SUSPECT STATED THAT COMCAST REMOVED TWO CHANNELS FROM HIS PLAN AND HE STATED THAT WAS A BREACH OF CONTRACT. DEPUTY INFORMED THE SUSPECT THAT THE VERBAL AGREEMENT BETWEEN HIM AND COMCAST WAS A CIVIL MATTER AND THE ONLY REASON DEPUTIES WERE ON SCENE WAS BECAUSE OF THE THREATS THAT

**ADMINISTRATIVE PROPERTY EST. - VEH. / GUN / ETC. 1**

STATE \_\_\_\_\_ TYPE \_\_\_\_\_ VIN AND/OR LICENSE NO. \_\_\_\_\_ BODY MAKE NO. AND/OR REG. NO. \_\_\_\_\_

STOLEN  VEHICLE  RECOVERED  GUN  FOUND  BOAT  TOWED  LICENSE PLATE  SUSPECT  SECURITY/BOND/STOCKS  VICTIM  ARTICLE

GENERAL AND/OR ORIGINATED NO. \_\_\_\_\_ STATE \_\_\_\_\_

YEAR OF REGISTRATION \_\_\_\_\_ YEAR OF EXPIRATION \_\_\_\_\_ YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ TYPE \_\_\_\_\_

MOOD \_\_\_\_\_ STYLE \_\_\_\_\_ COLOR \_\_\_\_\_ BRAND NAME \_\_\_\_\_ CALIBER \_\_\_\_\_

MC NO. \_\_\_\_\_ DENOMINATION \_\_\_\_\_ BRAND \_\_\_\_\_ SECURITIES DATE \_\_\_\_\_

MISCELLANEOUS \_\_\_\_\_

TYPE GROUP	AMOUNT	DATE	LOCATION	STATUS	TOTAL VALUE
STOLEN					
DAMAGED					
BURNED					
RECOVERED					
LOST					

SUBJECT IDENTIFIED  SUBJECT LOCATED  ACTIVE  ALL CLOSED  APPRETTED UNDER 19  EX-CLEARANCE 19  
 YES  NO  YES  NO  UNK.  UNK.  APPRETTED 19 AND OVER  EX-CLEAR 19 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEATH 2.  NO PROSECUTION 3.  EXTRADITION DENIED 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER: MCELVOGUE, CLIFFORD DATE: 01/11/08 LAST NUMBER: IC115 APPROVING OFFICER: GEIGER, JAMES DATE: 01/11/08

FOLLOW-UP PULL-UP OFFICER: \_\_\_\_\_

AGENCY I.D.  
SC0680000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
2 0 0 8 0 1 0 0 1 3 8 5

NCC  
NO. ENR.  
N N

ORIGINAL REPORT  
 MODIFIED ORIGINAL

SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE

ADDITIONAL VICTIM  
 ADDITIONAL OFFENDER

ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY

PAGE 4 OF \_\_\_\_\_ PAGES

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINT NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_ VICTIM NO. \_\_\_\_\_ VICTIM DO. ATTACHED TO SUBJECT \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

SEX \_\_\_\_\_

RACE \_\_\_\_\_

HAIR \_\_\_\_\_

EYES \_\_\_\_\_

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL CHARACTERISTICS, ETC.

WANTED ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ LOCATION NO. \_\_\_\_\_ DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

INQUIRY

VICTIM NO. \_\_\_\_\_ VEHICLE PLAIN:  NO  YES COMPLAINT OF NON-VEHICLE PLAIN:  NO  YES VICTIM USING ALCOHOL:  NO  YES  UNKNOWN  TWO-MAN VEHICLE  DETECTIVE/PLAINT  ALONE

J.A. EXPLAIN \_\_\_\_\_  NO  YES OFFENSE:  NO  YES TYPE \_\_\_\_\_  UNKNOWN  ONE-MAN VEHICLE  OTHER  ASSISTED

COMMENTS  SUBJECT NO. \_\_\_\_\_ USING ALCOHOL:  NO  YES  UNKNOWN  USING DRUGS:  NO  YES  UNKNOWN  TYPE \_\_\_\_\_  UNKNOWN

**VICT/SUBJ. I.D. OVERFLOW**

COMPLAINT NAME (LAST, FIRST, MIDDLE) \_\_\_\_\_ VICTIM NO. \_\_\_\_\_ VICTIM DO. ATTACHED TO SUBJECT \_\_\_\_\_

VICTIM # \_\_\_\_\_

SUBJECT # \_\_\_\_\_

SEX \_\_\_\_\_

RACE \_\_\_\_\_

HAIR \_\_\_\_\_

EYES \_\_\_\_\_

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL CHARACTERISTICS, ETC.

WANTED ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ LOCATION NO. \_\_\_\_\_ DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

INQUIRY

VICTIM NO. \_\_\_\_\_ VEHICLE PLAIN:  NO  YES COMPLAINT OF NON-VEHICLE PLAIN:  NO  YES VICTIM USING ALCOHOL:  NO  YES  UNKNOWN  TWO-MAN VEHICLE  DETECTIVE/PLAINT  ALONE

J.A. EXPLAIN \_\_\_\_\_  NO  YES OFFENSE:  NO  YES TYPE \_\_\_\_\_  UNKNOWN  ONE-MAN VEHICLE  OTHER  ASSISTED

COMMENTS  SUBJECT NO. \_\_\_\_\_ USING ALCOHOL:  NO  YES  UNKNOWN  USING DRUGS:  NO  YES  UNKNOWN  TYPE \_\_\_\_\_  UNKNOWN

**NARRATIVE**

HE MADE TOWARDS COMCAST WORKERS EARLIER. THE COMPLAINANT INFORMED DEPUTY THAT SERVICE WAS RESTORED AND THEY WERE DONE, MR. ELROD BECAME ANGRY AGAIN YELLING WHEN YOU LEAVE THAT CABLE WILL BE OFF AGAIN NO MATTER WHAT I HAVE TO DO. DEPUTY ADVISED THE SUSPECT THAT IF HE VANDALIZED PROPERTY THAT WASNT HIS HE COULD BE CHARGED, THE SUSPECT YELLED BACK AT DEPUTY STATING THAT HE DIDNT CARE IF HE WENT TO JAIL BECAUSE THAT WAS HIS POLE. DEPUTY, AND COMCAST CREW LEFT THE SCENE WITHOUT FURTHER INCIDENT, THE COMPLAINANT STATED THAT HE WOULD ADVISE HIS VICE PRESIDENT OF THE INCIDENT AND LET THEM HANDLE IT.

APPROVED BY VICTIM  
LAW ENFORCEMENT AGENCY \_\_\_\_\_

APPROVED BY REPORTER  
LAW ENFORCEMENT AGENCY \_\_\_\_\_

**VEH. / GUN / ETC. I**

STOLEN  VEHICLE

RECOVERED  GUN

FOUND  BOLT

TONED  LICENSE PLATE

SUSPECT  SECURITY/PHONE, STOCKS

VICTIM  ARTICLE

VIN AND/OR LICENSE NO. \_\_\_\_\_

BOAT HULL NO. AND/OR REG. NO. \_\_\_\_\_

SERIAL AND/OR OWNER APPLIED NO. \_\_\_\_\_ STATE \_\_\_\_\_

YEAR OF ACQUISITION \_\_\_\_\_ YEAR OF EXPIRATION \_\_\_\_\_ YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ TYPE \_\_\_\_\_

MODEL \_\_\_\_\_ STYLE \_\_\_\_\_ COLOR \_\_\_\_\_ BRAND NAME \_\_\_\_\_ CALIBER \_\_\_\_\_

MC NO. \_\_\_\_\_ DESIGNATION \_\_\_\_\_ DRIVER \_\_\_\_\_ ACQUIRED DATE \_\_\_\_\_

MISCELLANEOUS \_\_\_\_\_

TYPE (GROUP)	QUANTITY	EST. VALUE	TOTAL VALUE
STOLEN			
DAMAGED			
RECOVERED			
OTHER			

**ADMINISTRATIVE PROPERTY EST.**

SUBJECT IDENTIFIED  SUBJECT LOCATED  ACTIVE  AGED CLEARED  APPRENTED UNDER 18  ESCALATED UNDER 18

YES  NO  YES  NO  UNEMPLOYED  APPRENTED 18 AND OVER  ESCALATED 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1.  OFFENDER DEAD 2.  NO PROSECUTION 3.  RETRACTION ORDER 4.  VICTIM DECLINES COOPERATION 5.  JUVENILE - NO CUSTODY

REPORTING OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVED OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

MCELVOGUE, CLIFFORD 01/11/08 C115 GEIGER, JAMES 01/11/08

FOLLOWUP INVESTIGATION  YES  NO

AGENCY I.D.  
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

MCC

200801001385

PAGE 1 OF 1 PAGES

<input type="checkbox"/> ORIGINAL REPORT	<input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY
<input type="checkbox"/> MODIFIED ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY

REFERENCE: INFORMATION REPORT

SUSPECT: ELROD, LG

MODIFICATION: CORRECTION/MODIFIED THE INCIDENT LOCATION

THE INCIDENT LOCATION ON THE ORIGINAL REPORT THAT WAS FILED BY OFFICER CC MCELVOGUE INCORRECT. THE CORRECT INCIDENT LOCATION SHOULD BE 233 ELROD DRIVE. THIS SUPPLEMENTAL WILL SHOW THE CORRECTED INCIDENT LOCATION.

233 ELROD DRIVE  
GOOSE CREEK, SC 29445

WADFORD A13

REC'D JAN 17 2008

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		ACTIVE <input type="checkbox"/> ADJ. CLOSED <input type="checkbox"/> UNFOUNDED		ARRESTED UNDER 16 <input type="checkbox"/> ARRESTED 16 AND OVER		EN-CLEAR UNDER 16 <input type="checkbox"/> EN-CLEAR 16 AND OVER						
REASON FOR DISCIPLINARY CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH			2. <input type="checkbox"/> NO PROSECUTION			3. <input type="checkbox"/> EXTRADITION DENIED			4. <input type="checkbox"/> VICTIM DECLINED COOPERATION			5. <input type="checkbox"/> APPEALS - NO CUSTODY		
REPORTING OFFICER WADFORD, GRESHA		DATE 01/17/08		APPROVING OFFICER BLANCHARD, MELISSA		DATE 01/17/08		UNIT 8		OFFICER		FOLLOWUP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		

2023

AGENCY I.D.  
SC0080000

INCIDENT REPORT

CASE NUMBER

200801002023

BICIC

IND. ENFD.  
N N

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. INFORMATION ONLY (INF)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	Highway/Road/Alle		<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc. Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Of
2. <b>REC'D JAN 18 2008</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			
3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) **233 ELROD DRIVE, GOOSE CREEK** ZIP CODE **29445** WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	START DATE	24 HR. CLOCK	END DATE	24 HR. CLOCK	LOCATION NO.	
01/15/2008	13:30		01/15/2008	14:30	01/15/08	14:35		14:42	15:30	4/235

SUBJECT NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
CANNON, DAVID, MICHAEL		J S O U	W	M	39	N	(843) 296-2382	
ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.				
113 ELAINE STREET	GOOSE CREEK	SC	29445					

VICTIM NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
COMCAST CABLE,		J S O U						

HEIGHT WEIGHT HAIR EYES FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
4400 BELLE OAKES DRIVE	N CHARLESTON	SC	29405	STATE

VEHICLE INJURY (TYPE 1)  YES  NO EXPLAIN -- COMPLAINT OF ANY NON-VISIBLE DAMAGE:  YES  NO

VICTIM DRUGS: ALCOHOL  YES  NO UNK.  DRUGS:  YES  NO UNK.  TYPE:

THREATENED  GRIEVANCE  DETECTIVE/PLAINT.  OTHER  ALONE  ASSISTED  \* J -- This Jurisdiction. S -- State. O -- Out of State. U -- Unknown

SUBJECT	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
<input type="checkbox"/> SUSPECT	ELROD, LOUIE, G	W	M	71	N	12/06/36	509	176	GRY	BRO

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
307 ELROD DR	GOOSE CREEK	SC	29445	4/235

SUBJECT DRUGS: ALCOHOL  YES  NO UNK.  ARRESTED NEAR OFFENSE SCENE  YES  NO DATE/TIME OF OFFENSE DATE/TIME OF ARREST

ON 01/15/2008 LT. MCELVOGUE, PFC. COLLINS AND THIS DEPUTY RESPONDED TO 233 ELROD DRIVE IN REFERENCE TO A CIVIL MATTER. COMCAST CABLE CONTACTED THE BERKELEY COUNTY SHERIFF'S OFFICE FOR OFFICERS TO STANDBY AT PEARL AND ELROD DRIVE IN REFERENCE TO SERVICES THAT NEEDED TO BE CONDUCTED FOR THEIR COMPANY. LT. MCELVOGUE ADVISED MR. ELROD THAT COMCAST CABLE WAS THERE TO PUT A LOCK ON THEIR DISCONNECT SWITCH DUE TO THE FACT THAT NOBODY WILL BE ABLE TO CUT SERVICES OFF AND WAS NOT GOING TO REMOVE ANY EQUIPMENT. MR. ELROD ADVISED LT. MCELVOGUE THAT HE WANTED TO GO AND GET HIS CAM CORDER SO HE COULD DO A VIDEO OF THE WORK BEING DONE WHICH HE DID. MR. ELROD & JERRY WILLIAMS CAME ON SCENE BUT DID NOT GET INVOLVED. COMCAST CABLE COMPLETED THEIR WORK AND LEFT THE SCENE. LT. MCELVOGUE ADVISED MR. ELROD FOR HIM NOT TO TOUCH COMCAST CABLES EQUIPMENT.

JURISDICTION OF VICTIM LAW ENFORCEMENT AGENCY JURISDICTION OF SUSPECT LAW ENFORCEMENT AGENCY

TYPE (SQUAD)	Certified True Record for this County			
STOLEN	BERKELEY COUNTY, SC			
DAMAGED	Date 11-15-10			
SUPPRESSED	Berkeley County Sheriff's Office			
RECOVERED				
SEIZED				

SUBJECT IDENTIFIED	SUBJECT LOCATED	<input type="checkbox"/> ACTIVE <input checked="" type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> LAW ENFOR.	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1 <input type="checkbox"/> OFFICER DEATH 2 <input type="checkbox"/> NO PROSECUTION 3 <input type="checkbox"/> EXTRADITION DENIED 4 <input type="checkbox"/> VICTIM DECLINED COOPERATION 5 <input type="checkbox"/> AVOIDS - NO CUSTODY	REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER
	TIMMONS, RANDAL	01/15/08	124	SGT. DREW
				FOLLOWUP OFFICER
				INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

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Case No. 2010-CP-08-4453

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L.G. Elrod

Appellant,

v.

Berkeley County Sheriff's  
Department and H.  
Wayne Dewitt,

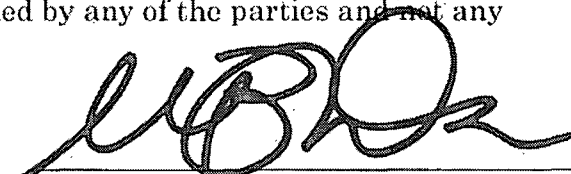
Respondent,

---

CERTIFICATE OF COUNSEL

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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[bderrick@derricklawoffice.com](mailto:bderrick@derricklawoffice.com)

*Attorney and Counselor for Appellant*

February 4, 2013

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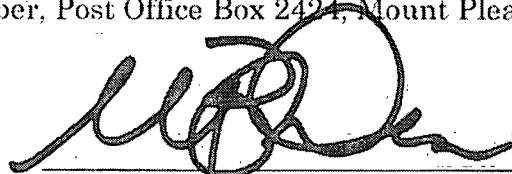
v.

Berkeley County Sheriff's  
Department and H.  
Wayne Dewitt,

Respondent,

PROOF OF SERVICE

I certify that I have served the Record on Appeal was served on Berkeley County Sherriff's Department by depositing a copy in the United States Mail, postage prepaid, on November 20, 2012, addressed to their attorney of record, G. Wade Cooper, Post Office Box 2424, Mount Pleasant, South Carolina 29464-2424.



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*Attorney and Counselor for Appellant*

February 4, 2013

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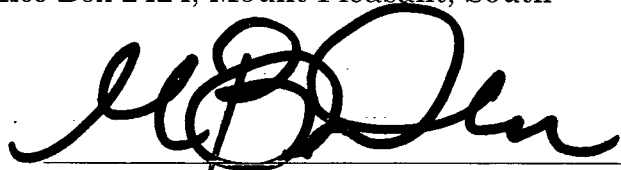
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March 4, 2013

*Attorney and Counselor for Appellant*

RECORDED

MAR 07 2013

SC COURT OF APPEALS