

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh

Case No. 2018 - 000637

John Dalen, Appellant

v.

The State, Respondent

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SC Court of Appeals

PETITION FOR REHEARING EN BANC

Appellant petitions The South Carolina Court of Appeals for a Rehearing En Banc per South Carolina Appellate Court Rules, Rule 219 (a)(2)(b).

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Phone: 864.647.4705
Appearing Pro Per/Appellant

Attorney for Respondent, The State: Attorney General Alan McCrory Wilson
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Applying 1st Amendment Protections to the States

Appellant's Assertion of Rights

Appellant asserts all his unalienable rights, privileges, and immunities at Natural Law, Common Law, Maritime Law, and all his commercial rights relevant to "this state."

Argument

I am asking for a rehearing by this court en banc because these proceedings involve a question of exceptional importance as per Rule 219 (a)(2). Appellant relies on all of the arguments put forth in appellant's final brief to this court. Appellant believes that the court has failed to consider the "terms of art" that was discussed in the aforementioned brief. Some additional clarification may be in order:

- 1) Appellant is not a legal "person" subject to administrative jurisdiction, orders, fines, or other penalties. Appellant denies being a legal "person" under the Statutory meaning of that term as defined by the South Carolina Code of Laws, Title 56, Chapter 1, which definition applies to any and all Titles, Chapters, Sections and Provisions of the Motor Vehicle Code, and also Appellant denies having acted in any "legal capacity" therewith.
- 2) The magistrate court judge and the circuit court judge each have a legal duty to know and understand the laws associated with the duties of their respective offices, as well as how to properly use and apply them consistent with the

legislative meaning and intent provided for therein and the fundamental and due process rights of the appellant and those similarly situated.

3) Section 56-1-10 of Title 56 Chapter 1 (22) defines “Person” –

“means every natural person, firm, partnership, trust, company, firm, association or corporation. Where the term ‘person’ is used in connection with the registration of a motor vehicle, it includes any corporation, association, partnership, trust, company, firm, or other aggregation of individuals which owns or controls the motor vehicle as actual owner, or for the purpose of sale or for renting, as agent, sales person, or otherwise.” Appellant reminds the court of the rules of statutory construction and interpretation, in that “includes” and “including” while defined as being “terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded. This does not mean that such definitions are without any constructive limitations or restrictions upon that which may be “included” within any given enumeration using such terms, but merely defines a specific “class” of thing within which the “enlargement” provision may be exercised by which such definition is then simultaneously limited to those things that reasonably fall within that same specified “class”.

The phrases “ejusdem generis” (Latin: the inclusion of one thing excludes another) and “inclusio unius est exclusio alterius” (Latin: the expression of one thing is the exclusion of the other), are common rules of

statutory construction and interpretation. These rules are used to determine the actual meaning and application of statutory terms and definitions so as to not have a ridiculous or unintended outcome to an interpretation or application of same.

These rules of interpretation specify that a particular section of the statute shall not be divorced from the rest of the act, or from the provisions of other acts that might be relevant to and influential upon the meaning and application of that same subject within an act. The rule of *ejusdem generis* is a principle of statutory construction used to resolve the problem of giving meaning to groups of words where one of the words is ambiguous or inherently unclear, such as an example definition that reads “Person” includes an individual, corporation, association, partnership, or other “legal entity.”

The rule of *inclusio unius est exclusion alterius* is a principle of statutory construction which means that, when one or more things of a class are expressly mentioned others of the same class are excluded. Therefore, the term “individual” in the example definition would require proper resolution as to its meaning, because “individual” is usually loosely defined as a “living being” and is not normally defined as or associated with a class of “legal entity” like those also listed therein.

Therefore, the only logical manner by which to apply these rules of statutory construction in the above example definition is to find a logical way to reconcile the term “individual” as being somehow representative of the same “class” or “type” as the “other legal entities” expressly listed therein.

Since a “legal entity” can *never* be a class of “living being” the method of interpretation must seek the alternative by determining if an “individual” can ever be defined as a “class” or “type” of “legal entity.” The only manner that an appellant can reasonably theorize by which this may be achieved without a ridiculous result, is that an “individual” may serve as an “agent” for any “other legal entity” as expressly listed, i.e. act within the “legal capacity” of “agent” thus, authorizing and allowing the “individual” to act on behalf / for the benefit of any class of “legal entity” or “other legal entity” as expressly listed therein.

Appellant is a living, breathing man, and is not a “legal entity” or an officer, individual, agent, representative, or employee of any “legal entity” expressly included in the statutory definition of a legal “person” within the South Carolina Code of Laws, Section 56-1-10 of Title 56, Chapter 1 (22) and is not a legal “person” or “individual” as those terms apply to any provision of the South Carolina Code of Laws, Title 56, Chapter 1.

Appellant is not a “legal entity,” legal “individual,” or legal “agent,” acting on behalf / for the benefit of any “class” of “legal entity” listed therein, and, therefore is not a legal “person” within the meaning and application of this statutory definition and its application and usage within the South Carolina Code of Laws Title 56, Chapter 1.

Therefore appellant asserts that the charges that were levelled against me under this statute are without merit and lacking in jurisdiction, substantive facts, and / or admissible evidence that would serve to provide

them with any validity whatsoever. Again, the charges were levelled against me under this statute arbitrarily, negligently, and libelously in violation of law and statute as appellant is not and never has been a legal "person" as defined by said law or statute as one being subject to same, or to the administrative jurisdiction of the Department of Motor Vehicles as codified therein.

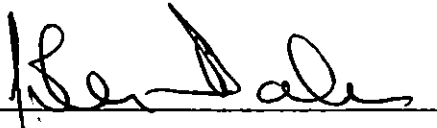
Conclusion and Demand for Relief

The statute in question, the South Carolina Code of Laws, Title 56, Chapter 1 converts a Constitutionally-protected right into a privilege in violation of the United States Constitution. The U.S. Supreme Court has ruled repeatedly that a state cannot convert a right into a privilege. The appellate court's ruling in this case is based on faulty statutory interpretation of terms of art. The Appellate has never waived any of his rights, and in fact cannot waive fundamental, unalienable rights, within which is the right to travel. If the Appellate court wishes to hold to their ruling of December 2, 2020, then the statute itself is unconstitutional. Proper statutory interpretation of terms of art is the only way that the statute can be constitutional.

Appellant moves that all allegations and recommended administrative penalties against him be withdrawn, and all fines collected be immediately refunded to the appellant. Appellant also demands that should the appellant face further attempts to move forward with the assessment of any fees or

penalties of any kind in relation to the South Carolina Code of Laws Title 56, Chapter 1, that the administrative court be permanently enjoined from further harassment and libelous treatment of appellant and all others similarly situated, requiring the administrative court to cease and desist in any and all future actions relating thereto.

DATED this 15th day of December, 2020

By: 
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Ph. 864.647.4705

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh

Case No. 2018 - 000637

John Dalen, Appellant

v.

The State, Respondent

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CERTIFICATE OF SERVICE

I, John D. Dalen hereby certify that a copy of the foregoing Petition for Rehearing En Banc was sent to the parties of record by First Class mail addressed to:

Attorneys for Respondent, The State: Attorney General Alan McCrory Wilson
Senior Assistant Deputy Attorney General
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DATED this 15th day of December 2020

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December 14, 2020

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
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P. O. Box 11629
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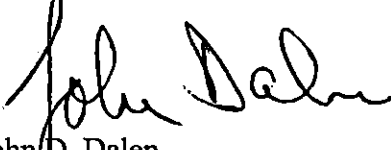
RE: John Dalen, Appellant vs. The State, Respondent
Case no. 2018 - 000637

Dear Ms. Kitchings:

Enclosed for filing are one original and seven copies of Appellant's Petition for Rehearing En Banc. along with a Proof of Service for the Attorneys of Record.

Please stamp one copy and return it to me in the enclosed self-addressed, stamped envelope. Thank you.

Sincerely,



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Cc: Attorney General Alan McCrory Wilson
Sr. Asst. Deputy Attorney General
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