

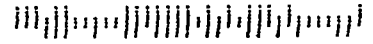
Tony T. Sweet 118641
Greenville County Detention Center
20 McGee Street
Greenville SC 29601

GREENVILLE SC 296

7 DEC 2020 PM 3 L

Greenville County Clerk of Court
Paul B. Wickensimer, clerk
305 East North Street
Greenville, SC 29601

29601-21099



RECEIVED

JAN 19 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
)
State of South Carolina ex rel.)
W. WALTER WILKINS, Solicitor,)
Thirteenth Judicial Circuit)
Plaintiff,)
)
vs.)
)
)
\$4,399.35)
Defendant Property and)
)
Tony Tujan Sweet)
Interested Party)
_____)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2020-CP-23-05015

**ORDER FOR ENTRY OF
DEFAULT AND FORFEITURE**

RECEIVED
JAN 19 2021
S.C. SUPREME COURT

This matter came before the Court pursuant to a duly filed Summons and Complaint that pursuant to this Court's Order, the Interested Party was served by personal service on November 5, 2020. More than thirty (30) days have elapsed since the last date of service of said Summons and that the defendant has served no timely Answer, Notice of Appearance, Motion or other pleading in this matter and now is and has been in default. On motion of the Plaintiff, by his attorney, it is ordered that the clerk of court shall and is hereby directed to enter the default of the Interested Party and a default judgment in favor of the Plaintiff and against the Interested Party for the relief sought in the Complaint.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that four thousand, three hundred and ninety-nine dollars and thirty-five cents (\$4,399.35) shall be forfeited to the Greenville County Sheriff's Office, as provided in South Carolina Code Section 44-53-530, as amended. No default judgment entry in the Judgment Roll Books is needed.

IT IS SO ORDERED.

END OF ORDER
ELECTRONIC SIGNATURE TO FOLLOW



Greenville Common Pleas

Case Caption: South Carolina State Of vs. Tony Tujan Sweet
Case Number: 2020CP2305015
Type: Order/Forfeiture

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2020-12-07 15:04:55 page 2 of 2

COUNTY OF GREENVILLE

)

) IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA ex rel,

)

THIRTEENTH JUDICIAL CIRCUIT

W. Walter Wilkins, Solicitor,

)

Plaintiff,

)

vs.

)

2020 CP-23-05015

\$4,399.35

)

Defendant Property and

)

ANSWER TO COMPLAINT

Tony Tjuan Sweet

)

Interested Party

)

FILED
CLERK OF COURT
GREENVILLE
JAN 19 10:41 PM '21

Now comes, the defendant, Tony Sweet, hereby refute and objects to any and all allegations set forth in the the Plaintiff Complaint and will show unto this Honorable Court the following:

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GENERAL ALLEGATION(S)

JAN 19 2021

S.C. SUPREME COURT

- 1) That Tony Sweet is the named defendant and pro-se litigate in the alleged complaint;
- 2) That he is a victim of racially motivated selective enforcement;
- 3) That the property seized was the result of a fruit of a poisonous tree doctrine;
- 4) That he was never in a traffic stop; nor, was he pulled over on a public street or highway;

- 5). That Deputy Fowler illegally seized the defendant by first, pulling into a private driveway, blocking in a parked vehicle;
- 6). second, by ordering defendant to get back into the vehicle at gun point;
- 7). That Deputy Fowler knowingly and intentionally falsified affidavit with reckless disregards for the truth;
- 8). That affidavit was falsified in order to establish probable cause;
- 9). That Dispatch record will verify that the only reason for said encounter was due to race (Dispatch records Attached);
- 10). That Dispatch record indicates that "NO Traffic violation(s)" was ever called in or reported;
- 11). That defendant ran to avoid being shot or being the victim of racial brutality;
- 12). That the proceeds of said forfeiture is the same and exact money returned to the defendant from the case of "State v. \$5,733, Tony Sweet";
- 13). That Joshua Pottberg is an innocent owner in reference to property seized....

FACTS OF THE CASE

During the early morning hours of October 12, 2020, the defendant, Tony Sweet, went to visit a long-time

friend (Cythia Tollison) on McGarity Street. After pulling all the way up into the driveway, where a fence, used as a barrier, separates the back yard from the front yard, the defendant noticed a Greenville County Sheriff vehicle enter the driveway behind him.

Once the deputy spotlight was focused on the defendant's vehicle, the defendant exited said vehicle. At that time, the defendant saw officer Fowler get out of her vehicle and was standing between the vehicle and the door with what appeared to be a flashlight in one (1) hand and her gun in the other hand. Depute Fowler stated:

officer: "Sir, get back into the vehicle";

defendant: "Am I under arrest, what's the gun for?";

officer: "Sir, back into the vehicle"; (in a more threatening tone).

defendant: "Am I under arrest?"; (See: Dash Cam Video)

Affraid for his life and being threatened by an over zealous police officer, the defendant decided to run to avoid being murdered in cold blood by a racially motivated cop. The defendant ran to a nearby, well lit parking lot and surrendered.

The defendant alleges that, he did not run to evade arrest; nor, did he run to destroy evidence or abandon property... However, the defendant ran only due to being threatened

by deadly force in the wee-hours of the night, while being alone. This argument follows:

ARGUMENT

ILLEGAL SEIZURE UNDER FOURTH AMENDMENT OF THE U.S. CONSTITUTION

The defendant refutes the states allegation of being a subject to a "Legal Traffic Stop" and alleges that at no time was he ever "STOPPED" on a public street or highway, regarding a traffic violation (See: Police Dash Cam Video). Instead, Deputy Jaime Fowler, pulled into a private driveway, boxing in the defendant vehicle, blocking his only route of exiting and ignited her Spotlight as a "show of authority". When defendant exited said vehicle, deputy Fowler stepped out of her patrol car and ordered the defendant, at gun point, to "step back into the vehicle", restraining his movement. Sweet hereby alleges, "Even if police had authority to stop him, she did not have the right to frighten him by pointing guns at him."

Law Analysis

The Fourth Circuit agrees that when a officer blocks a defendant's car from leaving the scene, particularly

When, as here, the officer has followed the car, the officer demonstrates a greater "show of authority" than does an officer who just happens to be on the scene and engages a citizen in conversation. United States v. Jones, 678 F.3d 293 (4th Cir. 2012). In United States v. Mendenhall, 446 U.S. 544, 100 S.Ct. 1870, 64 L.Ed.2d 497 (1980), establishes that the test for existence of a "show of authority" is an objective one: not whether the citizen perceived that he was being ordered to restrict his movement, but whether the officers words and actions would have conveyed that to a reasonable person.

"In order to determine 'whether a particular encounter constitutes a seizure', a court must consider all the circumstances surrounding the encounter to determine 'whether the police conduct would have communicated to a reasonable person that the person was not free to decline the officers request' or otherwise terminate the encounter"; Bostic, 501 U.S. at 439, 111 S.Ct. 2382. In resolving this question, the Fourth Circuit have followed the standards set forth in United States v. Mendenhall, 446 U.S. 544, 100 S.Ct. 1870, 64 L.Ed.2d 497 (1980), asking "whether in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave". United State v. Gary, 883 F.2d 320, 322 (4th Cir. 1989) (quoting Mendenhall, 446 U.S. at 554, 100 S.Ct. 1870). This "reasonable person" standard is an objective one, thus "its proper application is a question of law". Weaver, 282 F.3d at 309 (quoting United States v. Sullivan, 138 F.3d 126, 133 (4th Cir. 1998)).

Here, Sweet alleges that he has demonstrated that he was illegally seized by means of the Fourth Amendment and Article I, section 10 of S.C. Code Ann. Accordingly, Sweet alleges the exclusion of evidence to be the proper remedy in this case because of the potential, "... to deter wrongful police conduct". The exclusionary rule, it bears emphasis, is often the only remedy effective to redress a Fourth Amendment violation. See: Mapp v Ohio, 367 U.S. 643, 652, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961)....

II

FALSITY OF AFFIDAVIT

In Frank v. Delaware, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), the Supreme Court held that, where a warrant affidavit contains a false statement made either knowingly and intentionally or with reckless disregard for the truth, and with the affidavit's false materials set to one side, the affidavit's remaining contents is insufficient to establish probable cause, the search warrant must be void and the fruits of the search excluded to the same extent as if probable cause was lacking on the face of the affidavit....

Sweet, hereby alleges that, there was never a traffic stop and that Deputy Fowler has falsified affidavit(s) in order to:

1. establish probable cause; and
2. to cover up the fact that this is actually a case of racially motivated selective enforcement....

Attached, please find a copy of the Greenville County Sheriff "dispatch records and comments" thereof. Here, Sweet would like to focus this court's attention to the very first statement of Deputy Jaimie Fowler, wherein she stated: "BLACK MALE/WHITE DOOR BAG/DRIVING white Truck"...

Clearly, this court will find that there is not one (1) single comment in this entire (detailed inquiry) "dispatch record" indicating that a "Traffic violation or Improper Turn" was ever mentioned. However, from the record, what we do know is that the defendant was selectively targeted due to his race in violation of his Fourteenth (14th) Amendment rights.

Without a traffic violation alleged throughout the dispatch record, this court must determine if Deputy Fowler knowingly and intentionally falsified her affidavit, with reckless disregard for the truth and, with the affidavit remaining contents set to one side, the remaining contents is sufficient to support probable cause.... Sweet alleges that he has made a "substantial preliminary showing" that 1). law enforcement made a "false statement", 2). the false statement was made "knowingly and intentionally, or with reckless disregard for the truth" and, 3). the false statement was necessary to the finding of probable cause."

Sweet, in the present case, alleges that he has "established the falsity by the preponderance of the evidence" and that Dash Cam and Body Cam will support his claim that there was never a traffic stop.

III

ISSUES OF TRACEABILITY

§44-53-520 (a)(7)

In United States v. Thomas, 913 F.2d 1111 (4th Cir. 1990), the Fourth Circuit held that probable cause in the context of forfeiture cases is the same standard [391 S.C. 383] employed in search and seizure cases. The South Carolina Supreme Court agree, there is a parallel between government seizure under the Fourth Amendment and government seizure in civil forfeiture cases, Trey Gowdy, 391 S.C. 374, 706 S.E.2d 495 (S.C. 2011). Therefore, in evaluating traceability, a court may weigh the evidence presented to draw its conclusion. What a court may not do, is draw inferences based on evidence that is unrelated to the property being seized. "Traceability", derives from a concern that unrelated circumstantial evidence will become a substitute for real evidence that money or goods are products of illegal activity.

Here, the defendant Sweet, alleges that he is the defendant in the case of "State v. \$5,733.58, Sweet, Tony and that the money (\$4,399.35) is the same and exact money from that case. Sweet therefore request that this court have the serial (#) number(s) traced, to verify that this is the same money that Greenville County Sheriff Department returned to him on July 12, 2020.

CONCLUSION

(8)

Due to the foregoing argument(s), the defendant alleges that he has shown, by the preponderance of the evidence, that the state lacked probable cause to prevail, and that relief shall be granted in his favor....

~~Sgt. [Signature]~~ 0865
Tony T-juan Sweet 118647
Greenville County Det. Cent.
20 McGEE Street
Greenville, SC 29601

DECEMBER 4, 2020
GREENVILLE, SC.

Incident Details

For Incident #: SO201012-168373

Comment

[1] B49SO BM WHT DOORAG DRIVING WHT TRUCK

[2] B49SO 10-58 ON FOOT

[3] B49SO MCGARITY

[4] CORNER HOUSE AT MCGARITY/LADY

[5] 507 WHT DOORAG/TAN CLOTHING

[6] B49SO CITY UNIT 10-6 10-36

[7] BM POSS BEIGE SHIRT/KHAKI PANTS

[8] [Query] B49SO, Vehicle: 1, SC [REDACTED] SC, 2019, PC

[9] [Query] B49SO, Vehicle: 1, SC [REDACTED] SC, 2019, PC

[10] [Return]

Request Date/Time: 10/12/2020 02:14:07 Response Date/Time: 10/12/2020 02:14:13 Requested By: Fowler, Jamie Lynn
B49 Operator: Trebil, Lori 323_SO Unit: B49SO Incident #: SO201012-168373 Transaction Type: Vehicle Total Results: 2 Return
for query [VEH QVRQ 2020 woVIN] sent to [SLED]:

[REDACTED]

B49SO WHT CHEVY P/U

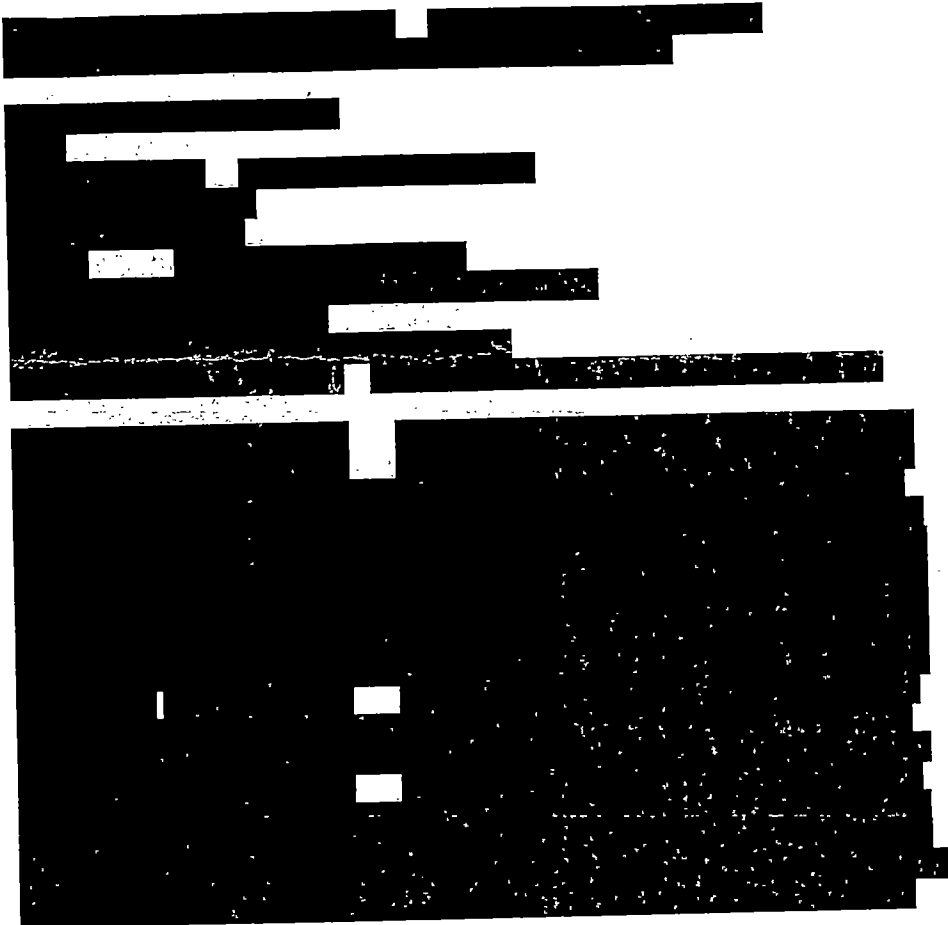
[12] Secondary Location for B37SO: LADY ST / TREMONT AVE, LADY ST / TREMONT AVE, (C) GREENVILLE, SC 29605.

[13] Secondary Location for B37SO: [REDACTED] MCGARITY ST, [REDACTED] MCGARITY ST, (C) GREENVILLE, SC 29605.

RECORDS
COPY 11/16/20

Incident Details

For Incident #: SO201012-168373



** END OF INQUIRY **

- [15] Unit B49SO has been placed in Arrest.
- [16] Secondary Location for B49SO: Greenville County Detention Center, 20 MCGEE ST, GREENVILLE, SC 29601.
- [17] [2nd Address: 20 MCGEE ST [Greenville County Detention Center]] [Low] [Road] Bldg One / New Jail - Gain access at Sally Port Back Parking lot of LEC.
Old Jail (Connected to LEC) - Gain access from McGee St.
- [18] [2nd Premise: 20 MCGEE ST [Greenville County Detention Center]] [Low] [Road] Bldg One / New Jail - Gain access at Sally Port Back Parking lot of LEC.
Old Jail (Connected to LEC) - Gain access from McGee St.
- [19] [2nd Address: 20 MCGEE ST [Greenville County Detention Center]] [Medium] [Use Caution] ALS UNIT REQUIRED AT THE DETENTION CENTER
- [20] [2nd Premise: 20 MCGEE ST [Greenville County Detention Center]] [Medium] [Use Caution] ALS UNIT REQUIRED AT THE DETENTION CENTER
- [21] B49SO 46 102572
- [22] [Query] , BOLO: SC,SWEET, TONY TUJUAN,01031969
- [23] [Query] , Person: 1,SC,SC,SWEET, TONY TUJUAN,M,01031969
- [24] [Query] , RMS Person: SC,SWEET, TONY TUJUAN,01031969
- [25] [Query] , SI Person: SC,SWEET, TONY TUJUAN,01031969
- [26] ***10-55B DUTY WRECKER HALE'S***
- [27] B49SO B49SO 102575
- [28] Secondary Location for B37SO: Property and Evidence, 4 MCGEE ST, GREENVILLE, SC 29601.
- [29] [2nd Address: 4 MCGEE ST [Property and Evidence]] [Medium] [AED Locations] AED location unknown
- [30] Secondary Location for B48SO: Property and Evidence, 4 MCGEE ST, GREENVILLE, SC 29601.
- [31] Incident Re-opened: FOR 10-30B
- [32] Multi-Agency LAW Incident #: 201012-204870
- [33] 2020-168373 FOWLER B49 AREA 7 [Shared]
- [34] [LAW] has closed their incident [201012-204870]

RECORDS
COPY
11/16/20