

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEL FROM CHARLESTON COUNTY
Danial Hall, Circuit Court Judge

RECEIVED

JAN 21 2021

SC Court of Appeals

Case No. 2015-CP-10-4166
Appellant Case No 2018-001125

Theodore Wagner.....Appellant

v.

Designa Print and Mike Davis including anyone who is Complicit or Enabled protecting Mike
Davis.....Respondent

Record on Appeal

S.C Constitution and Supremacy Clause of the U.S. Constitution

Please forgive my Pro-Se presentation as I am Mentally Unable to Present my case on my own anymore and was Denied a A Court Appointed Attorney. As I rant about the Government turning against God and the Supreme Law of the Land in every section to my counselor she counseled me that I should still try and File something or I will regret Giving Up. As we talked again on January 14, 2021 and January 18, 2021 is Monday I do not think I will make it.

My Record on Appeal will be based and refer to Documents on Record from Court, Date May 7, 2018., Constitutional Challenge State and Federal Constitutions, All part of the Record. Messed up as I am I will have use copy and paste of Filings already Filled mostly to write this so forgive my Post Dramatic Stress Disorder and Panicking Fried Brain.

I, Theodore Wagner respond to the Order received on December 22, 2020, Filed December 18 2020. to serve the record on appeal and file a proof of service. (Copy included).

Reason Case was Filed, This Appeal is now for the Oppression of Constitutional Right of Redress

This case started because of Mike Davis,s years of attacking me breaking into my residence, opening my bedroom door where he contemplated killing me, *his words*, and many years of torture towards me personally that has caused my mental disorders, not Mike Davis's attacks against my

roommate that happened separately and sometimes at the same time.

1. Ninth Amendment guarantees me the right to the truth, the whole truth and nothing but the truth and I reserve that right. "Part of the Record in Lower Court"

In this Case on December 19, 2016 I Filed and properly served on all a Filed Constitutional Challenge for a Full and Fair Redress of the Truth etc. "TRIAL BY JURY DEMANDED". **A protected Right under the Ninth Amendment of the U..S. Constitution.** This Right does fall under the Supremacy Clause of Article 6 of the United States Constitution.

On page 3 of 4 I stated in Filed Challenge on December 19, 2016 I stated to be heard in Court "I Theodore Wagner retain the Right to have the Government tell the Truth, the whole Truth, and nothing but the Truth about me." **Properly Stated and Retained.**

Properly Stated and Retained in Court on May 7, 2018, (Transcript p, 68, Line 11 - 15) Ninth Amendment, Supremacy Clause, in front of Judge Hall on page 68 of the Transcript I stated "**I didn't want anything of mine oppressed because the Ninth Amendment guarantees me the right to the truth, the whole truth and nothing but the truth and I reserve that right. And that's what I'm trying to get on the record on everything.**"

The South Carolina Constitution, **ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** Privileges and immunities; due process; equal protection of laws. "The privileges and immunities of citizens of this State **and of the United States under this Constitution shall not be abridged**, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." The S.C. Constitution Guarantees that the U.S. Constitution will not be abridged.

This Ninth Amendment Right was properly challenged and when I said in May 7, 2018,

(Transcript p, 68, Line 14) “**And I reserve that right**” in Court I invoked the Supremacy Clause of the Ninth Amendment protected in **ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** Protected by the South Carolina Constitution. As a Layman of the Law I made it clear that I Retained this Right for Truth for myself Protected in the Ninth Amendment.

Question: Does this Ninth Amendment Right that I have Lawfully reserved for myself in Court belongs to every American who Invokes and Reserves this Right under the Supremacy Clause of the U.S. Constitution and the South Carolina Constitution? You should not have to say it so clearly as I did. As an American it is implied as of Right.

2. “TRIAL BY JURY DEMANDED” “ Part of the Record in the Lower Court”

I put at the top of all my Filling, “**TRIAL BY JURY DEMANDED**”. This does fall under the Supremacy Clause of the United States Constitution in the Seventh Amendment. No part of any Constitution of any state can override it and “**the right of trial by jury shall be preserved**”. As I did not want a Judge to rule on facts that included Federal Crimes by Federal and State Employees, Contractors, and / or Agencies, **I demanded a Trial by Jury**. This also falls under the Supremacy Clause of the U.S. Constitution and the South Carolina Constitution?

Anton v. South Carolina Coastal Counsel, 469 S.E. 2d. 604 at 605 (S.C. 1996)

“Where there is a conflict between the statute and the State Constitution, the Constitution overrides the Statute.”

The South Carolina Constitution, **ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** **Protects the Trial by Jury** and can not be oppressed. This also falls under the Supremacy Clause of the U.S. Constitution and the South Carolina Constitution?

When Judge Hall on May 8, 2018, (Transcript p, 2, Line 17 – 19) “Under Rule 41 (b) of our

rules of Procedure, I am going to dismiss this case under the 41 (b) dismissal action. ” This violates the Supremacy Clause of the U.S. Constitution protected in **ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** Protected by the South Carolina Constitution.

I Clearly Invoked my Right under the Supremacy Clause of the Seventh Amendment for a **“Trial by Jury”** when I stated on May 8, 2018, (Transcript p. 8, Line 2) when I said **“it's cost me way over \$20.”** Rule 41 (b) clearly violated the Supremacy Clause as no State can make a Law, Rule, Case Law, or Procedure that Oppresses the Supreme Law of the Land, Article 6, U.S. Constitution..

The Seventh Amendment states,

In Suits at common law, **where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,** and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

3. Rule 41 (b) of our rules of Procedure, 41 (b) dismissal action Violates the Supremacy Clause of the U. S. Constitution and the The South Carolina Constitution, ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.

The South Carolina Constitution, **ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.** Privileges and immunities; due process; equal protection of laws. “The privileges and immunities of citizens of this State **and of the United States under this Constitution shall not be abridged,** nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.” **The S.C. Constitution Guarantees that the U.S. Constitution will not be abridged.**

Filed in the Lower Court as Record on December 19, 2016 I Filed “Constitutional Challenge for a Full and Fair Redress of the Truth etc.”, “TRIAL BY JURY DEMANDED”

In this Constitutional Challenge “made in Violation of Article 1, Section 2 of the South Carolina Constitution and / or actions used in Violation of Article 1, Section 2 of the South Carolina Constitution's 5th Mandate that states “**5) The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances**”. “ This would include Wrongs Sustained against them.

This Challenge is a Challenge of all Laws, Rules Regulation, or Procedures or the lack of that Oppress the **Constitutionally Protected Rights of Redress of Grievances of The People** in Violation of Article 1, Section 2 of the South Carolina Constitution and as **Commanded in The First Amendment of the U.S. Constitution.**

I reserve this Challenge not only to those named but also to those not named as part of this Ongoing Conspiracy Against Civil Rights.”

I added this statement to put the Supremacy Clause of the First Amendment before the Jury of the People and not any Government Entity. It proves Rule 41 (b) of our rules of Procedure, 41 (b) dismissal action Violates the Supremacy Clause of the U. S. Constitution and the The South Carolina Constitution, ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.

This Challenge is a Challenge of all Laws, Rules Regulation, or Procedures or the lack of that Oppress the Constitutionally Protected Rights of Redress of Grievances of The People in Violation of Article 1, Section 2 of the South Carolina Constitution and as Commanded in The First Amendment of the U.S. Constitution. This was intentional to invoke the Fifth Sentence of the First Amendment also. **Lack of was for the Ninth Amendment Challenge.**

Proof you can't have it both ways. The U.S. Constitution was Ratified in 1788. **Slavery was legal.** The Thirteenth Amendment in 1865 Rectified that. **Slavery was outlawed.**

SCHICK VS. UNITED STATES, 195 US 65 (1904) If there be any conflict between these two provisions, the one found in the Amendments must control, under the well-understood rule that the last

expression of the will of the lawmaker prevails over an earlier... .

You can't have it both ways. Either Slavery is still legal or as of 1791 the Fifth Sentence of the First Amendment Voided Article 3, Section 2, the last sentence of paragraph 2, **with such Exceptions, and under such Regulations as the Congress shall make. Or Slavery is Legal.** For the South Carolina's Court of Appeals to decide. It proves Rule 41 (b) of our rules of Procedure ar VOID along with all other Laws made to OPPRES Redress of Grievances.

The Bill of Rights was Ratified in 1791. The First Amendment is in the Bill of Rights. As Marbury vs. Madison, 1 CRANCH 137 states any **“law repugnant to the constitution is void”** Marbury vs. Madison, 1 CRANCH 137, state that all laws that are repugnant of the Fifth Mandate of the First Amendment, the Supreme Law of the Land, are Void and protected by - The South Carolina Constitution, ARTICLE I., DECLARATION OF RIGHTS, SECTION 3.... **“and of the United States under this Constitution shall not be abridged.”**

The First Amendment has five parts, and the Government wants to hide one of them from you.

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The First amendment can be broken down into Five distinct sentences just as The South Carolina Constitution, ARTICLE I., DECLARATION OF RIGHTS, SECTION 3

- 1) Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof:
- 2) Congress shall make no law abridging the freedom for speech.
- 3) Congress shall make no law abridging the freedom of the press.
- 4) Congress shall make no law respecting the right of the people peaceable to assemble.
- 5) **Congress shall make no law respecting the right of the people to peaceable petition the**

Government for a Redress of grievance.

As of 1791 the Fifth Sentence of the First Amendment Voided Article 3, Section 2, the last sentence of paragraph 2, **with such Exceptions, and under such Regulations as the Congress shall make.** As of the Ratifying of the First Amendment **no part of Congress or any part of any Government** Under the Supremacy Clause of the United States could make any law Oppressing a Full and Fair Redress, Relief of Remedy of the People's Grievances. This would include Rule 41 (b) of South Carolina's Court Rules.

Part of the Record on Constitutional Challenge in Lower Court so is Record on Appeal.

ARTICLE VI. OFFICER, SECTION 5. Form of oath.

Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, **and all members of the bar**, before they enter upon the practice of their profession, **shall** take and subscribe the following oath: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed), and that I will, to the best of my ability, discharge the duties thereof, **and preserve, protect, and defend the Constitution of this State and of the United States. So help me God.**"

Some of the Cases demanding this petition be heard like Marbury vs. Madison, 1 CRANCH 137 can be found in Initial Brief, Dated August 31, 2018. I am Panicking to bad to Copy and Paste that much. I am #%&*^# Freaking out. Xanax does not help!

Conclusion; Questions to be answered and put on the Record.

1 - Does Ninth Amendment guarantees me the right to the truth, the whole truth and nothing but the truth and as I reserve that right. "Part of the Record in Lower Court"?

2 - "TRIAL BY JURY DEMANDED" " Part of the Record in the Lower Court" As I placed on all Filings "TRIAL BY JURY DEMANDED" and I even stated in court as a Layman I Clearly Invoked

my Right under the Supremacy Clause of the Seventh Amendment for a “**Trial by Jury**” when I stated on May 8, 2018, (Transcript p. 8, Line 2) when I said “**it's cost me way over \$20**. The South Carolina Constitution, **ARTICLE I, DECLARATION OF RIGHTS, SECTION 3**. “The privileges and immunities of citizens of this State **and of the United States under this Constitution shall not be abridged**, Invoke the Supremacy Clause of Article 6 “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”?

3 – Does Rule 41 (b) dismissal violates the Supremacy Clause of the U.S. Constitution protected in **ARTICLE I, DECLARATION OF RIGHTS, SECTION 3** Protected by the South Carolina Constitution. As of 1791 the Fifth Sentence of the First Amendment Voided Article 3, Section 2, the last sentence of paragraph 2, **with such Exceptions, and under such Regulations as the Congress shall make**. As of the Ratifying of the First Amendment **no part of Congress or any part of any Government** Under the Supremacy Clause of the United States could make any law Oppressing a Full and Fair Redress, Relief or Remedy of the People's Grievances. This would include Rule 41 (b) of South Carolina's Court Rules?

Rule on the Fifth Sentence of the First Amendment Voided The United States Constitution's Article 3, Section 2, the last sentence of paragraph 2, **with such Exceptions, and under such Regulations as the Congress shall make** as clearly presented or rule Slavery is Legal?

Did the Supremacy Clause void the right of the State of South Carolina to Make Rule (41) and Rape me of my Day in Court?

4 – Reinstate the Court Hearing and the Court Except all Cost to bringing all the Truth, the whole

Truth, and nothing but the Truth as the Supremacy Clause of the Seventh Amendment Guarantees me to be placed on the Record with all Witness Present including Andrea with no Federal Support at in a State Civil Court.!

Because of the Courts Complicity and Enabling of this Ongoing Conspiracy against Civil Rights and that Frying my Brain into a Babble the State of South Carolina is to appoint me a guardian ad litem of the best Constitutional Lawyer such as Sidney Powell etc who understands the Criminal behavior of Government in the Country and assume all cost.

I have given notice to this Court and Petitioned for the Appointment of a Lawyer in the Ongoing Conspiracy to Cover Up the Truth of the Federal Felony Crimes by the persons of the Federal and State Government to Cover Up that My Wife Andrea was 20 years, 1 month, 16 days old on June 25, 1999 and Mike Davis's knowledge of these Felony Crimes and his Complicity and Enabling in the Facilitation of these Federal Crimes to Cause Permanent Pain and Trauma. To always be part of the Record the Record! This one day of my Adult Wife's life and the Government Conspiracy has left me unable to function as I should.

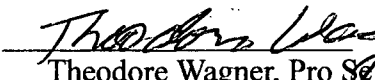
Why are my S.A.S.E. With copies not being returned?

I need a Lawyer!

I AM UNABLE TO AVAIL MYSELF TO MY CIVIL RIGHTS.

Date:

Jan. 15th 2021


Theodore Wagner, Pro Se
General Delivery - Homeless
557 East Bay Street
Charleston, SC 29403
Pro Se for the Appellant

Kenneth G. Goody, Jr., Attorney
4 Carriage Lane, Suite 204
Charleston, South Carolina 29407
Attorney for Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE CURCUIT COURT)
9TH JUDICIAL CIRCUIT)

Theodore Wagner)

**Constitutional Challenge
for a Full and Fair Redress
of the Truth etc.**

VS.)

Docket No. 2015-CP-10-4166

Designa Print and Mike Davis including)
anyone who is Complicit or Enabled protecting)
Mike Davis. Defendants.)

TRIAL BY JURY DEMANDED

FILED
2016 DEC 19 PM 12:00
JULIE J. ARMSTRONG
CLERK OF COURT

**Challenge of The Right to The Truth, The whole Truth,
and Nothing but the Truth, as protected by the South Carolina
Constitution under the Ninth Amendment of the U.S. Constitution**

I Theodore Wagner, give notice of a Constitutional Challenge to the South Carolina Attorney General, Allen Wilson and the Court of Laws made in violation of Article I, Section 2 of the South Carolina Constitution and / or actions used in violation of Article 1, Section 2 of the South Carolina Constitution's 5th Mandate that states "5) The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances". "This would include Wrongs Sustained against them.

This Challenge is a Challenge of all Laws, Rules, Regulation, or Procedures or the lack of that Oppress the Constitutionally Protected Rights of Redress of Grievances of The People in Violation of Article 1, Section 2 of the South Carolina Constitution and as Commanded in The First Amendment of the U.S. Constitution.

I reserve this Challenge not only to those named but also to those not named as part of this Ongoing Conspiracy Against Civil Rights.

Challenge as of Right

I Theodore Wagner Challenge as of Right that any Statue or Court Rule that forces "The

used
Jan, 13, 2021

People” or a pro se litigant to personally serve the South Carolina Attorney General Certified mail or Registered mail or at all is in violation and Repugnant of the The South Carolina Constitution and Demand that “The People” as a Jury Hear this Challenge.

**Challenge of The Right to The Truth, The whole Truth,
and Nothing but the Truth.**

ARTICLE I., DECLARATION OF RIGHTS, SECTION 3. Privileges and immunities; due process; equal protection of laws. “The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”

ARTICLE III. LEGISLATIVE DEPARTMENT, SECTION 26. Oath of office.

Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, **and all members of the bar, before they enter upon the practice of their profession,** shall take and subscribe the following oath: “I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed), and that **I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.”**

ARTICLE VI. OFFICER, SECTION 5. Form of oath.

Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, **and all members of the bar,** before they enter upon the practice of their profession, **shall** take and subscribe the following oath: “I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed), and that I will, to the best of my ability, discharge the duties thereof, **and preserve, protect, and defend the Constitution of this State and of the United States. So help me God.”**

SCHICK VS. UNITED STATES, 195 US 65, “If there be any conflict between these two provisions, **the one found in the Amendments must control,** under the well-understood rule that the last expression of the will of the lawmaker prevails over an earlier... ”.

The Ninth Amendment of the United States Constitution states "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

I Theodore Wagner retain the Right to have the Government tell the Truth, the whole Truth, and nothing but the Truth about me. I have presented Fact and Evidence to show the Government of South Carolina Knowingly has Facilitated an Ongoing Conspiracy of Malicious Prosecution. The people of the Government of South Carolina took an OATH to defend the Integrity of the both the South Carolina Constitution and the United States Constitution. When the Government is given proof of intentional wrongs done by government people to change the course of Justice, by covering up the Truth, they compound that wrong when the Courts use their power to Facilitate a Government Cover up.

My grievance is that if Laws, provisions, Case Laws, etc had not been used to Oppress Redress of Grievances I would have had the Truth put on the Record years ago. Again now on the record I have shown that if this Conspiracy had been exposed if nothing else, all the Evidence would have all become "Fruits Of The Poisonous Tree" and the Truth would have been put on the record.

Let this Challenge be known to all here and now. I Challenge any Law, Case Law, Provision, etc. that this court uses to Oppress a Full and Fair Redress of the Grievance I have place before this Court of this Ongoing Conspiracy to cover up that Andrea Crisel was my legal wife to Obtain the **Arrest Warrants and Search Warrant** and the Ongoing Conspiracy to cover up that Andrea was 20 years, 1 month, 16 days old on June 25th 1999 when she had her sex party as Unconstitutional under the U.S. and S.C. Constitutions as Unlawful to use and cover up the Truth to Oppress Redress a Full and Fair Redress of this Grievance. **The South Carolina Constitution is the Supreme Law of South Carolina not withstanding the U.S. Constitution** and no Law of the State or Case Law of the Court can stand before it.

I give notice that I want The People to Rule if does the Ninth Amendment gives me the Right to Retain that the Government tell the Truth, the whole Truth, and Noting but the Truth about me in South Carolina as **Protected in The South Carolina Constitution.**

Some of the Questions to be answered by the People / The Jury.

1. I put before the Jury, does the Government have the right to cover up the Truth and bear False Witness about them or does the South Carolina Constitution protect the Commanded Right of a person through the Ninth Amendment to have **The Right to The Truth, The whole Truth, and Nothing but the Truth** placed on record about them.

2. I put before the Jury, does Article 1, Section 2 of the South Carolina Constitution's 5th Mandate that states "**5) The General Assembly shall make no law respecting the right of the people to peaceable petition the Government or any department thereof for a redress of grievances**" make all Laws, Rules Regulation, or Procedures or the lack of that Oppress the **Constitutionally Protected Rights of Redress of Grievances of The People** a Violation of Article 1, Section 2 of the South Carolina Constitution and as Commanded in ~~the First~~ Amendment of the U.S. Constitution as Commanded in **Marbury vs. Madison, 1 CRANCH 137** that "the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, **that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.**"

3. I put before the Jury, with today's technology should a poor person have to serve the Attorney General with the added expense to Certified mail. When you file it with the Clerk of Court **the Government has a filed copy** and a computer can be programmed to Serve a True Copy as soon as it is logged to the Attorney Generals Office.

4. I put before the Jury, does through the Command of the OATH of OFFICE of the South Carolina Constitution make it a duty of their position in Government that if they see a violation of the Constitution of South Carolina or the United States Constitution, a Duty to address and remedy the Violation.

Theodore Wagner

Theodore Wagner
Constitutional Patriot
334 East Bay Street, #180
Charleston, SC 29401
843-460-2508

February 15, 2015

The South Carolina Court of Appeals

Theodore Wagner, Appellant,

v.

Designa Print and Mike Davis including anyone who is
Complicit or Enabled protecting Mike Davis,
Respondents.

Appellate Case No. 2018-001125

*Fast officer
Received
Dec. 22nd 2020*

*I received
Dec. 22nd 2020*

*Brian Fries
I can do that*

ORDER

This appeal was dismissed due to Appellant's failure to serve the record on appeal. Appellant has now filed a motion for the appointment of counsel, which this court construes as a request to reinstate the appeal and appoint counsel. Appellant's motion for the appointment of counsel is denied. Within thirty days of the date of this order, Appellant shall serve the record on appeal and file a proof of service with this court. This court will act on the request to reinstate this appeal upon receipt or the expiration of thirty days.

H. Bruce W...

FOR THE COURT

Columbia, South Carolina

cc:
Theodore Wagner
Kenneth George Goode, Jr., Esquire
Theodore Wagner
Jenny Abbott Kitchings, Esquire

FILED
Dec 18 2020