

RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

JUL 01 2021

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity Court Judge

Appellate Case No. 2019-001838

SRP 2011-6 LLC and others, Respondent,

v.

Alluette K. Jones, Respondent

AMENDED RECORD ON APPEAL

Alluette K Jones, Appellant

142 Coming Street

Charleston SC, 29403

(843) 813-1910

Timothy A. Domin Attorney for Respondent

126 Seven Farm Drive, Suite 200 Charleston, South Carolina

29492-8144 Bar No: 65264 Phone: (843) 577-2026

Andrew Sullivan Attorney for Respondent

1612 Marion Street, Suite 200

Columbia, SC 29201 U.S.A.

INDEX

Title/Caption..... 1 of 7

Index..... 2 of 7

Order of October 15th, 2019 3 of 7

Complaint Void Order Rule 60 (b) (4) 4th, 2015..... 4 of 7

 Transcript..... 5 of 7

Exhibits..... 6 of 7

Defendant's Exhibits

E1 Police Report, Fire Department, and Hospital..... 6 of 7

E2 Affidavits..... 6 of 7

E3 Video..... 6 of 7

Certificate of Appellant 7 of 7

SRP 2011-6, LLC

Alluette K. Jones

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Master in Equity

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

2019 OCT 25 11:25 AM
 FILED
 CLERK OF COMMON PLEAS COURT

~~NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.~~

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Defendant filed her Emergency Motion and Demand for Relief from Final Judgment per Rule 60(b)(4), SCRPC, on the basis that she was never served with the pleadings. The Motion was filed on October 11, 2019 at 4:18 pm, brought to this Court's attention after 4:00 pm on Monday, October 14, 2019 and this Court held a hearing on the Motion at 10:00 am October 15, 2019 prior to the scheduled sale of the property at 11:00 am that day. The Court finds that the affidavit of service clearly describes Ms. Jones and that she identified herself and accepted service of the pleadings in this case. The Court finds that Defendant's Motion is filed in an attempt to delay the foreclosure process and that Defendant continues to act in bad faith. See Bankruptcy Court Order granting Plaintiff relief from the automatic stay entered September 18, 2019. The Motion is therefore DENIED.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the court will electronically sign this form using a separate electronic signature page.

Master In Equity

3062

Judge Code

10/15/19

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

~~E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.~~

STATE OF SOUTH CAROLINA)
 COUNTY OF Charleston)
Mitchell B Scarborough)
ATTY Andrew M. Sullivan)
SRP 2011-6 LLC)
 Plaintiff,)
 vs.)
Alluette Karen Jones)
 Defendant.)

IN THE COURT OF COMMON PLEAS)
 JUDICIAL CIRCUIT)
 C/A 2018)
 CASE NO: CP-10-02344)

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: <u>Alluette Karen Jones</u> _____, Bar No. _____ Address: <u>142 Coming St</u> <u>Charleston SC 29403</u> Phone: _____ Fax _____ E-mail: _____ Other: <u>843-813-1910</u>
---	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
 Nature of Motion: Void order
 Estimated Time Needed: 30 min Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.
Alluette Karen Jones
 Signature of Attorney for Plaintiff / Defendant Date submitted October 11, 2019

SECTION III: Motion Fee
 PAID - AMOUNT: \$ 25,00
 EXEMPT: (check reason)
 Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____ JUDGE CODE _____
 Date: _____

CLERK'S VERIFICATION
 Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA

IN CHARLSTON COUNTY

Mikell R. Scarborough,

MASTER IN EQUITY COURT

Repersemitive Andrew Sullivan

EMERGENCY HEARING

SRP 2011-6 LLC)

Plaintiff)

C/A# 2018-CP-10-02344

Exhibit 1: Motion and demand Rule 60 (b) (4) Void

Vs

) Order/Judgment Emergency Hearing

Alluette Karen Jones)

Defendant(s)

FILED
2019 OCT 11 PM 4:11
JULIE J. ARMS, CLERK OF COURT

SUBJECT: Void Order/Judgment

Notice I Alluette Karen Jones is the real party in Interest Status in propria persona in the with Fact Evidenced by I having a Soul and I do not consent to the use of a non-judicial foreclosure of my estate or these proceedings. I Alluette Karen Jones Demand my right to Due process to be heard in a meaningful way by a judicial foreclosure and a fair and impartial Trial I will be making a special appearance on the court on dates set.

Notice to the Principles is Notice to the Agent and Notice to the Agent is Notice to the principles! Exhibit A: notice is an essential element of due process. I am not Sovereign Citizens, or any other misnomers. Any Libel or Slander will not be tolerated we will sue all offenders for personal Injury!

1. Notice: I Alluette_Karen Jones Understand the Common Law and Constitution are the Supreme Law of the land and any Statue, code ordnance or rule that's repugnant to the constitution is void of Law!! And I am invoking the Common Law Venue: Citing Chief Justice John Marshall Marbury v. Madison: 5 US 137 (1803): "No provision of the Constitution is designed to be without effect," "Anything that is in conflict is null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bare no power to enforce, in would bare no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law."

If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional.

2. **Notice South Carolina A void judgment** is one that, from its inception, is a complete nullity and is without legal effect." *Thomas & Howard Co. v. T.W. Graham and Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995). The definition of void under the rule only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction." *McDaniel v. U.S. Fid. & Guar. Co.*, 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Cl. App. 1996). It is fundamental that no judgment or order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected." *Tyron Fed. Sav. & Loan Ass'n v. Phelps*, 307 S.C. 361, 362, 415 S.E.2d 397, 398 (1992). Generally, a person against whom a judgment or order is taken without notice may rightly ignore it and may assume that no court will enforce it against his person or property. The requirements of due process not only include notice, but also include an opportunity to be heard in a meaningful way, and judicial review. *Grannis v. Ordean*, 234 U.S. 385, 394 (1914) ("The fundamental requisite of due process of law is the opportunity to be heard."); *S.C. Dep't of Soc. Servs. v. Holden*, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995).

Notice: I Alluette_Karen Jones the real party in Interest gives Notice to STATE OF SOUTH CAROLINA, CHARLESTON, County, Clerk of Court, The Trier of Fact, And the Trier of the Case. That no valid Order was made on 3-20-19 the actions are Void. I Alluette_Karen Jones the real party in Interest makes this Motion and demand of Rule 60 (B) (4) Void order to Notify the Supreme Court, Charleston County Court 100 BROAD ST, CHARLESTON, SC 29461 and their Agents and Authorized Designee or Officers That I Alluette_Karen Jones the real party in Interest have a right to make an Special Appearance/Restricted Appearance and Challenges the Original jurisdictions of the Court at CHARLESTON COUNTY Master-IN-Equity Division also I Demand the Real party in interest who brought the claims and object to any Third party representatives therefore I demand the real party in interest be present to testify under penalty of perjury. I was not Properly given full due process of law the Mikell R. Scarborough Master-IN-Equity, Court Officers, and plaintiff caused me multiple injuries engaging in a fraudulent acts to violate my Personal Liberty to property protected and secured Under Article 1 sections 3 and 13 to SC constitution, Article 4 the 5th and 14th amendment of the federal constitution Prove by what constitutional authority did the plaintiffs, Officers and this court acted upon to force upon I

Alluette_Karen Jones a wrongful non-judicial foreclosure and to deprive me of my home, possessions and civil liberty on 5-10-18 as well a right to be heard in full. I Alluette_Karen Jones do not wave any of my rights secured by the state and federal constitutions inclusive of Due Process of Law and a proper and competent Judicial Court hearing protecting my Primary rights and personal Liberties.

According to the rule of law A defect in service of process by publication is jurisdictional, rendering any judgment or order obtained thereby void. Jones v. Wallis, 211 NC App. 353, 712 S.E.2d 180 (2011).

Rule 55 (4) Judgments after Service by Publication; Affidavit; Undertaking. In actions for the recovery of money only, when the summons has been served by publication and the defendant is a non-resident of the State, no default judgment shall be rendered unless the plaintiff or his agent at or before the time of making the application for judgment shall have been examined on oath respecting any payments that have been made to the plaintiff or any one for his use on account of the demand mentioned in the complaint, and shall show by affidavit that an attachment has been issued in the action and levied upon property belonging to the defendant, which affidavit shall contain a specific description of such property, and a statement of its value and shall be filed with proof of publication. Before judgment is rendered the plaintiff shall, unless the court in its discretion dispenses with the same, cause to be filed an undertaking in such amount as shall be ordered by the court with security to be approved by the court or the clerk thereof, that the plaintiff will abide the order of the court touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under, or by virtue of, such judgment, in event the defendant or his representative shall apply and be admitted to defend the action and shall succeed in such defense.

Article 1 SECTION 23. Provisions of Constitution mandatory. The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms. (1970 (56) 2684; 1971 (57) 315.).

“The court is to protect against any encroachment of constitutionally secured liberties.” Due Process must be invoked before removing rights secured under the constitutions, further citing Trinsey Vs Parailgro “Statements of counsel in brief or in argument are not facts before the court and are therefore insufficient for a motion to dismiss or for summary judgment, Title 22 USC (Foreign relations and Intercourse) Chapter 11 identifies all public officials as foreign agents. And Title 28 USC 3002 Section 15A states United States is a Federal Corporation and not a government, including the Judicial Procedural Section. In fact, the Court of Appeals in Caldwell v. Wiquist, 402 S.C. 565, 741 S.E.2d 583 (Ct. App. 2013), has implied as much (affidavit which

only indicated an inability to serve with a County was insufficient, since there was no factual basis to determine if the defendant could not, after due diligence, be found in the State).

The Law was made to protect and not to compel. Allegations have been made without a proper investigation that are fraudulent in nature and has caused me and my family great injury. I Alluette_Karen Jones was never served with a valid Summons and Complaint. Rule 4 (d) of the South Carolina Rules of Civil Procedure to be the equivalent of a statute, strict compliance with both that rule and section 15-9-740 would be required since service by publication is in derogation of the common law, therefore requiring strict compliance with the authorizing statute or rule. See, Wayne County, ex rel. Williams v. Whitley, 72 NC App. 155, 323 S.E.2d 458 (1984); see also, Caldwell v. Wiquist, 402 SC 565, 741 S.E.2d 583 (Ct. App. 2013) (to avoid resolving litigation by default, strict compliance with publication statutes is required).

Further When the Rules of Civil Procedure were promulgated by the Supreme Court and not rejected by the General Assembly, the latter also passed a bill which attempted to repeal those statutes previously enacted which were in conflict with the Rules of Civil Procedure. See 1985 Act 100 (effective 7/1/85). The legislature further provided that in the event of conflict between any provision of the South Carolina Rules of Civil Procedure and any other statutory provisions as to practice and procedure not otherwise repealed by the Act, the provisions of the rule would prevail. Since procedure concerns the machinery for carrying on a legal action, including pleadings, process, evidence and practice, it appears clear that service by publication concerns a matter of procedure. Based upon this Act, the dictates of Rule 4 would prevail over section 15-9-740. Accordingly, the commencement of any action requires service of both a summons and complaint. The Defendant, Mikell R. Scarborough, and several other Officers of the Charleston acting criminally produced an Irregular Complaint by Publication which it cannot prove any set of Facts Rule 602 That they ever gave me due notice or a valid contract or that they had personal jurisdiction. State Vs Adams it is a well-established principle, often advanced by the State in criminal prosecutions, "that ignorance of the law is no excuse." State v. Binnarr, 400 S.C. 156, 160 n.7, 733 S.E.2d 890, 892 n.7 (2012). There would be a "fundamental unfairness [in] holding citizens to 'the traditional rule that ignorance of the law is no excuse,' while allowing those 'entrusted to enforce' the law to be ignorant of it." United States v. Chanthasouvat, 342 F.3d 1271, 1280 (11th Cir. 2003) (internal citation omitted) (quoting Bryan v. United States, 524 U.S.

The phrase "real party In Interest," as used in Code, § 29, Emphasis added SC Rule 17 providing that an action must be prosecuted In the name of the real party in interest, means the person entitled to the avails of the suit; and a mere assignee, having no interest In the result of the suit, and who obtains an assignment on a promise to pay the assignor the amount he may derive from the action, is not the real party in interest, and cannot maintain the action. Hoagland v. Van Etten, 35 N. W. III, 870, 22 Neb. 681. A Corporation is an artificial person without natural rights or Human Rights. For Charleston County Clerk of Court, The Trier of Fact, And the Trier of the Case to file an alleged Criminal action with a "Corporation" as "Plaintiff" is clear "Fraud on the Court". A "Corporation" cannot meet the requirements to establish Standing and cannot take an oath Rule 603.

In order to establish standing, three elements must be established. First, the party must have suffered an injury in fact--an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of---the injury has to be fairly traceable to the challenged action of the adverse party and not the result of independent action of some third party not before the court. Third, it must be likely as opposed to merely speculative, that the injury will be redressed by a favorable decision. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 112 S.Ct. 2130, 2136, 119 L.Ed.2d 351 (1992); *Chambers Medical Technologies of S.C. v. Bryant*, 52 F.3d 1252 (4th Cir. 1995). The plaintiff or the master in Equity Court does not satisfy any of the requirements required to establish standing.

I Alluette_Karen Jones am the Victim of Malicious prosecution and Void Order evidenced by the attachments proof that there was no true diligent search by Services stating the Alluette_Karen Jones was home when that was never the case the court is in error by using that as proof of diligent service to service by publication. Since the service of a summons, which gives a court the power to render a judgment over a party within its jurisdiction, must be accomplished with service of the complaint, there is no personal jurisdiction over a party without the service of both summons and complaint together. Without personal jurisdiction, any judgment rendered by a court is void--~~Universal-Benefits, Inc. v. McKinney, 349 S.C. 179, 561 S.E.2d 659 (Ct. App. 2002)~~ (A judgment is void when a court lacks personal jurisdiction over a party). Because a void judgment is a nullity, it may be attacked at any time within "reason" without a showing of excusable neglect or meritorious defense. See *Flanagan, James F., South Carolina Civil Procedure* (2d Ed.). Under Rule 60(b) (4), relief where a judgment is void is non-discretionary and a matter of right. *Richardson Construction Co. v. Meck Engineering & Construction Co.*, 274 S.C. 307, 262 S.E.2d 913 (1980). As a result, if the above analysis proves true, any service by publication upon a defendant which is undertaken in conformance with section 15-9-740 may have been improper and cause the judgment rendered upon a default to be void and subject to relief pursuant to Rule 60(b)(4) of the South Carolina Rules of Civil Procedure.

In conclusion I Alluette_Karen Jones the real party in Interest demand the court Grant my Relief because the void order is made by an abuse of discretion by an error of law being without constitutional Authority and the State Court acted without Jurisdiction failing to serve I Alluette_Karen Jones the real party in interest and not giving me my day in court South Carolina is a Judicial Foreclosure State. Without Standing, an Oder agreement/contract or, Relevant Evidence rule 401 are void there is no duty to comply with sham legal proceedings and Fraudulent Claims not based in Facts from a constitutional court judge competent in the nature of Law. I Alluette_Karen Jones the real party in Interest is immensely injured by Void Order and the Unlawful Practices Of Mikell R. Scarborough C/A# 2018-CP-10-02344 and Demand the court Grant me my right to relief for the violation of my constitutional secured rights to return my home promptly, cost for Stress of me and my Family due to abuse of Process the courts, false Claims, No Due Process, and wrongful Foreclosure. I also demand court Cost. The alleged

Claims of Service and Debt Must be proven by Fact that I Alluette_Karen Jones am tremendously injured by the plaintiff and the Officers of the court they have a duty under the rules of professional Conduct to report fraud and abuse of process upon the court by any of its officers.

WHEREFORE, I Alluette_Karen Jones the real party in Interest would like to resolve this Matter Peacefully if Possible. And request, Demand and pray that the representation or plaintiff fulfill the Law and Rules associated and Nol Process/dismiss their claim Civil Rule 12 (b) 6 and this court void all Claims so that my primary rights will not continue to be infringed and grant me damages that will be attached to this Motion for relief based on the multiple injuries caused by the plaintiff employee's officers in their official capacity and in color enforcing a void Order state codes that deprived me and my Family of our home and Constitutional right to a fair and impartial Trial.

Injury: Due to the above mentioned facts the failure of the court to recognize that they must apply the rules and laws that apply resulted not only in the wrongful foreclosure of my property, but the foreclosure of my ability to negotiate a settlement with an undisclosed equitable creditor, or with the alleged legal owner of the loan in the property records. We have suffered extreme mental anguish by calling and emailing the representation James but no response further including-but-not-limited-to-doctor-visits-and-extreme-migraines-caused-by-a-stroke.do.to.the stress, I have also suffered from Slander Mikell R. Scarborough has caused my home to be listed for sale, by color of law. And my family and I have undergone tremendous stress and tension By Virtute Officii of Mikell R. Scarborough fraudulent actions and wanton and negligent practices.

Relief

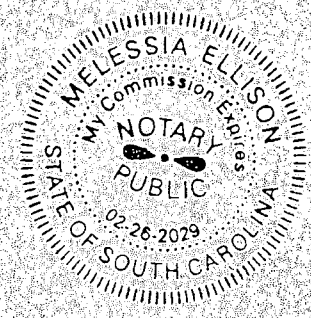
WHEREFORE, I the plaintiff (s) would like the court to grant a new fair and impartial trial to cause the plaintiff to prove their burden, also void and vacate the court order(s) based on the established precedents of the stare decisis voiding the sale of my home and resolve this Matter Peacefully if Possible if SRP 2011-6 LLC cannot produce evidence that support they have personally lost anything pertaining to the loan and have a valid claim. And request/Pray judgment against defendant(s) SRP 2011-6 LLC, Mikell R. Scarborough, for economic Civil Tort, 270.000.00 and psychological damages 2500.00 as well as compensatory damages 150.000.00 plus costs and fees in the Amount of 5000.00 and respectfully ask this Court for leave to move for punitive damages. I was violated by fraud, negligence unprofessional Conduct, lack of proper service and never properly noticed through contacted about any mediation process or given the proper notices that would have allowed me the ability to properly negotiate. Which caused a deprivation of my civil liberties, and constitutional secured rights. To Due process and a fair and impartial trial.

The use of notary below is for identification only, and such use does NOT grant any jurisdiction to anyone.

Subscribed and sworn, without prejudice, and with all rights reserved.

Principal, by Special Appearance, in Propria Persona, proceeding Sui Juris.

Alluette Karen Jones
Signature of Affiant



ACKNOWLEDGMENT

state of SOUTH CAROLINA

county of Charleston

On this 11th day of October, 2019, before me

personally appeared _____, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed, for the purposes therein set forth.

[Signature]
(Notary Public)

My Commission Expires 02-26, 2029

ucc 1-207 1-308 1-103, 3-306 3-306
I Alluette_Karen Jones the real party in Interest
C/o 1875 Richmond St.
Charleston South Carolina
Via United States Republic, North America
Non-Domestic, Non-Resident
Zip Exempt [29407]
843.925-2073

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

SRP 2011-6, LLC,

Plaintiff,

vs. CASE NO. 2018-CP-10-2344

Alluette K. Jones, South Carolina Federal Credit
Union, Synovus Bank, and Historic Charleston
Foundation,

Defendants.

RECEIVED
JAN 17 2020
SC Court of Appeals

Hearing before the Honorable Mikell R.
Scarborough, reported by Christine A. Smith, Court
Reporter and Notary Public, at 10:06 a.m. on
October 15, 2019 at 100 Broad Street, Courtroom 2A,
Charleston, South Carolina.

COPY

Christine A. Smith, Court Reporter

Master-in-Equity

P.O. Box 30276

Charleston, South Carolina, 29417

(843) 958-5071

casmith@charlestoncounty.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

*Any court, party, or person who has purchased a transcript may, without paying a further fee to the reporter, reproduce a copy or portion thereof as an exhibit pursuant to court order or rule or for internal use, but shall NOT otherwise provide or sell a copy or copies to any other party or person.

APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFF:

Andrew Sullivan, Esq.
Clawson & Staubes
1612 Marion Street
Suite 200
Columbia, SC 29201
(803) 774-8242
Asullivan@clawsonandstaubes.com

ATTORNEYS FOR THE DEFENDANT:

Alluette Jones, Pro se

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Let me see if I can get Mr. Sullivan on the line.

MR. SULLIVAN: Good morning. This is Andrew.

THE COURT: Mr. Sullivan, good morning. This is Mikell Scarborough.

MR. SULLIVAN: Judge Scarborough, how are you this morning?

THE COURT: Good. I am in the courtroom with Ms. Alluette Jones. We're on the record in the case of SRP 2011-6, LLC versus Alluette K. Jones. It's case number 2018-CP-10-2344.

Good morning, Ms. Jones.

MS. JONES: Good morning.

THE COURT: I received late yesterday afternoon a filing for an emergency hearing. It looks like that was filed October 11th, and it came with a couple of attachments, A and B, a cover letter as well.

It seems to indicate that you were not served with process in this matter. That seems to be the basis for that.

MS. JONES: That's correct.

THE COURT: Mr. Sullivan, have received a copy

1 of any of this documentation?

2 MR. SULLIVAN: I did from Marti, your law
3 clerk, late yesterday afternoon. That's the first I
4 had seen any of this. I have had an opportunity to
5 review the motion that was filed as well as some of
6 the allegations in the motion, and I'm happy to
7 respond to any of those allegations.

8 THE COURT: Very good. Ms. Jones, go ahead
9 and make your record. Tell me what's going on. I've
10 reviewed the file. I looked at the Affidavit of
11 Service, and the Affidavit of Service from whomever
12 it was indicated that they had served you and
13 verified that that was who you were. So tell me what
14 is your basis for claiming you were not served is.
15 You need to state it for the record. I need to make
16 a record.

17 MS. JONES: Well, I wasn't served. I have no
18 record of being handed any kind of information, and I
19 just want it thrown out because I was not served.

20 THE COURT: All right. And the basis for that
21 is apparently your daughter was in the hospital?

22 MS. JONES: Absolutely. I have proof that she
23 was in the hospital. I have proof from the fire
24 department. It was an incident that happened and it
25 took me away for almost all of that day.

1 THE COURT: Well, that's kind of what I was
2 looking for. Do you have anything other than a bill
3 from MUSC saying that she went to the emergency room?

4 MS. JONES: I can get the detailed information
5 that she went there and she had to stay because she
6 was admitted to IOP. Yes, I can prove that.

7 THE COURT: Does she live with you?

8 MS. JONES: Yes.

9 THE COURT: Okay. And where is she today?

10 MS. JONES: She's home.

11 THE COURT: Very good. Okay. Mr. Sullivan,
12 let me hear from you.

13 MR. SULLIVAN: Well, Your Honor, I certainly
14 stand by the Affidavit of Service that was filed by
15 the process server. I mean, I think it very clearly
16 not only indicates that Ms. Jones acknowledged her
17 identity when the process server served her with the
18 initial pleadings, but also provide an accurate
19 description of the physical appearance of Ms. Jones
20 at that time.

21 I have had countless communications and
22 correspondence with Ms. Jones dating all the way back
23 to a prior foreclosure we were involved with.

24 We sent a demand letter to Ms. Jones on
25 February 7th of 2018, and on March 6th of 2018

1 received a letter from Ms. Jones refusing the debt.
2 So she had knowledge at least that a lawsuit was
3 forthcoming. We subsequently responded and validated
4 the debt by way of letter on March 19th, 2018. Of
5 course the lis pendens, summons and complaint, and
6 initial pleadings were filed on May 7th.

7 The process server did serve her, at least
8 according to the records that we have, on May 10th.
9 I believe it was alleged in the motion that she
10 indicated that she wasn't personally served her, and
11 that we served her via publication which is not the
12 case at all.

13 Subsequent to having been served with the
14 pleadings, she did engage with my client for some
15 loss mitigation of which she was ultimately denied in
16 a denial letter issued to her. Of course, moving
17 forward we eventually get to a foreclosure hearing at
18 which Ms. Jones appeared at that foreclosure hearing.
19 Not at one point in that hearing did Ms. Jones ever
20 indicate that she was not personally served in the
21 lawsuit. In fact, to the contrary, indicated that
22 she simply needed more time to sell, I believe,
23 another property that she owned and was trying to
24 sell that either to reinstate or payoff the loan of
25 my client.

1 Your Honor indicated that you would grant that
 2 request and extended the sale date out to May 7th.
 3 One day prior to that sale Ms. Jones filed
 4 bankruptcy, pro se, Chapter 13. That bankruptcy was
 5 ultimately dismissed. The property was rescheduled
 6 for a foreclosure sale in early August. On
 7 August 6th she refiled for Chapter 13 bankruptcy and
 8 filed inadequate and incomplete schedules and other
 9 documentation.

10 At that point in time, Your Honor, from the
 11 bankruptcy court perspective we moved for relief from
 12 the automatic stay and the Court in the bankruptcy in
 13 the second case, did find that Ms. Jones had engaged
 14 in a scheme to delay and hinder the creditor from
 15 pursuing relief and seeking foreclosure.

16 That order has been entered with the ROD as
 17 of, I believe, August -- no. I take that back.
 18 September -- I don't have that in front me. I
 19 believe it was late in September. That order was, in
 20 fact, filed with the Register of Deeds in Charleston
 21 County, and so my position is ultimately this,
 22 Your Honor. Ms. Jones has had more than an adequate
 23 opportunity to get whatever -- seek whatever relief
 24 she was trying to seek, whether it be through the
 25 bankruptcy process or this other asset that she

1 apparently owns that she was going to sell and
2 otherwise pay off my client.

3 This is just another attempt one day before
4 the foreclosure sale to delay my client its
5 opportunity and its right to foreclosure this
6 property and have it sold to be made whole. My
7 client, since the February 12st foreclosure hearing,
8 has incurred \$8,580.92 in attorneys' fees and costs
9 for not only having to have this property scheduled
10 for sale on three different occasions, but going
11 through the processes and the bankruptcy matters to
12 have those dismissed.

13 So I stand certainly behind everything that's
14 been filed in this lawsuit, of course, Your Honor --
15 that Ms. Jones certainly had knowledge of what was
16 going on, that she was served in this action, and I
17 would ask the Court to deny her motion and have this
18 property sold at this morning's foreclosure sale.

19 THE COURT: Thank you, Mr. Sullivan. Anything
20 further, Ms. Jones.

21 MS. JONES: Yes, sir. I object to everything
22 he said because I was never served by law. Never,
23 ever did this person put anything in my hand on that
24 day he said. And I have a video which showed that
25 the incident occurred, that my daughter had to leave,

1 and I went behind the ambulance. I couldn't go in
2 there with her to MUSC when she got admitted to IOP,
3 the Institute of Psychiatry.

4 THE COURT: Well, Ms. Jones, the affidavit --
5 I'm going to read from the affidavit, the language
6 from the affidavit, that was filed on May 11th of
7 2018. It says that on the 10th day of May, 2018 at
8 7:12 p.m. at the address of 142 Coming Street in
9 Charleston, South Carolina, affiant served the
10 above-described documents upon Alluette K. Jones, who
11 accepted service with identity confirmed by subject
12 stating their name, a black female approximately over
13 65 years of age, 5'6" to 5'8" tall weighing 140 to
14 160 pounds with gray hair with glasses. Her hair was
15 more white than gray, it says. And then, Is the
16 place the usual dwelling house or abode of the party
17 being served? They checked, Yes.

18 Ms. Jones, that certainly appears to describe
19 you and according to the affidavit of the process
20 server, he confirmed your identity with you at the
21 time of service.

22 MS. JONES: Sir, honestly, he never served me.
23 Honestly. I have a video that shows that I was not
24 there on the 10th because my daughter started a fire,
25 and I didn't know what to do. I had to call the fire

1 department. They came. My friend and he took a
2 video of the whole thing. I was not there. I was
3 not there.

4 THE COURT: Okay.

5 MS. JONES: Do you want to see the video?

6 THE COURT: No. No, ma'am. Not at this point
7 in time. Ms. Jones, I find that you've been served.
8 I'm sorry that this has come to this point. You've
9 had ample opportunity to bring this to the Court's
10 attention, whether it would have been in the February
11 hearing at which time the sale was set for May or
12 thereafter.

13 MS. JONES: Your Honor, can I have --

14 THE COURT: Just one second. I'm talking for
15 the record, and then I'll let you respond. Okay?

16 Bankruptcy Court order from September 18th of
17 this year, not quite a month ago, found that the
18 debtor had acted in bad faith and abused the
19 bankruptcy process to delay the foreclosure process
20 by the multiple filings of bankruptcy in this case,
21 and frankly, Ms. Jones, I find the same. I find that
22 this is a delay tactic. I'm sorry for your
23 situation. I'm sorry to hear about your daughter and
24 that she's not well, and I'm concerned about where
25 you all are going to go, but I'm going to deny the

1 motion. I'm glad to hear from you.

2 MS. JONES: Okay. I want to have Freddie
3 Whaley come up and show you the video of what
4 happened that day because I was not there, and I
5 served, he said, which I wasn't. I didn't have any
6 paperwork indicating -- when you're served do they
7 put papers in your hands or how do they do that?

8 THE COURT: Generally they do.

9 MS. JONES: Couldn't he have gotten that
10 information off of a driver's license or something?
11 Isn't that public record?

12 THE COURT: Well, the affidavit of the process
13 server, who's got no stake in the case, says that
14 Alluette K. Jones accepted service with identity
15 confirmed by subject stating their name.

16 MS. JONES: Can I see the person? Am I able
17 to see who served me?

18 THE COURT: Not today.

19 MS. JONES: Can Freddie Whaley be a witness?

20 THE COURT: Ms. Jones, if you had brought this
21 up in February of this year we could have had a
22 full-fledged hearing on this. For whatever reason
23 you waited until last Friday, or whatever it was, to
24 bring the matter to the Court's attention. We,
25 frankly, didn't know about it until late yesterday

1 afternoon after 4:00, so I'm trying to have this
2 hearing for you today just to give you -- I think you
3 have the right to a hearing. I'm going to give you
4 the right to that hearing, but I don't find -- if you
5 had brought with you today the transcript of the EMS
6 and the fact that it was at such and such time and
7 you were in the transcript and it was there, but --
8 if you had had a written record to that fact I would
9 have accepted that.

10 MS. JONES: I do have a written record.

11 THE COURT: I'm not going to take the time now
12 to watch a video that you could have brought to me in
13 February of this year if this was, in fact, an issue.

14 MS. JONES: I didn't know the process. I just
15 now learned it, sir. That's why I'm bringing you all
16 the information.

17 THE COURT: I'm going to deny your motion.

18 MS. JONES: The gentleman talked to him. He
19 did not talk to me. I wasn't there. The
20 gentleman -- can I bring this witness up to state
21 that this gentleman spoke to him and not me? I
22 wasn't there, Judge Scarborough.

23 THE COURT: Ms. Jones, I --

24 MS. JONES: Can I have him on the record with
25 that?

1 THE COURT: Ms. Jones, I find that you did. I
2 just --

3 MS. JONES: I am challenging the jurisdiction,
4 sir. I was not served.

5 THE COURT: I understand that. I understand
6 that. All right. Thank you very much. I'm going to
7 deny the claim. The property is going to be sold.
8 Ms. Jones, we're selling property today for the first
9 time in North Charleston. That's where we're going
10 now. My understanding is that the lender has put a
11 bid in and we'll be doing that. All right.

12 MS. JONES: Yes, sir.

13 MR. SULLIVAN: Thank you, Your Honor.

14 THE COURT: All right, Mr. Sullivan. Thank
15 you, sir.

16 MR. SULLIVAN: Okay. Thank you.

17 THE COURT: Bye-bye now.

18 MS. JONES: Judge, can I give this to the
19 gentleman for you?

20 THE COURT: Sure.

21 MS. JONES: This is the lis pendens.

22 THE COURT: Has this been filed? Is it a
23 filed document?

24 MS. JONES: Yes, sir.

25 THE COURT: When did you-all file that?

1 MS. JONES: Today.

2 THE COURT: Let me take a look. We'll take
3 this up. This is in the U.S. District Court. I
4 guess I'll see you over there at some point in time.
5 Okay? Thank you, Ms. Jones. Good to see you. Take
6 care.

7 (The proceedings were concluded at 10:21 a.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

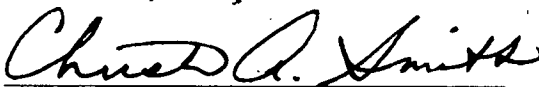
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina))
County of Charleston) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete record.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 2nd day of January, 2020 at
Charleston, Charleston County, South Carolina.


Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021

Exhibits (1)

Guarantor ID **816986**
 Guarantor Name **ELFREDA SMALLS**
 Statement Date **06/21/2018**

Statement of Services

	Date of Visit	Description of Services	Charges	Insurance Pmt/Adj	Patient Pmt/Adj	Amount Due
Physician Services	02/20/18	99395 Preventive Visit, Est. 18-39	\$ 176.00			
Patient: Elfreda Smalls	03/02/18	Discount (Self-Pay, Uninsured)			-88.00	
Visit # 516023122	02/20/18	CO-Payment - Thank You			-80.00	
Cheryl P. Lynch, MD, Mph						
MUSC Parent Hospital Location						
Total \$			176.00	0.00	-168.00	\$88.00
Hospital Services	02/20/18	510 Clinic Visit	\$ 106.00			
Patient: Elfreda Smalls	02/25/18	Discount (Self-Pay, Uninsured)			-53.00	
Visit # 516023126						
MUSC Parent Hospital Location						
Total \$			106.00	0.00	-53.00	\$53.00
Hospital Services	05/01/18	306 Laboratory	\$ 490.00			
Patient: Elfreda Smalls	05/06/18	Discount (Self-Pay, Uninsured)			-245.00	
Visit # 516748462						
MUSC Parent Hospital Location						
Total \$			490.00	0.00	-245.00	\$245.00
Physician Services	05/01/18	99395 Preventive Visit, Est. 18-39	\$ 176.00			
Patient: Elfreda Smalls	05/02/18	Discount (Self-Pay, Uninsured)			-88.00	
Visit # 516966943						
Krista Terese Wagoner, MD						
MUSC Parent Hospital Location						
Total \$			176.00	0.00	-88.00	\$88.00
Hospital Services	05/10/18	351 CT Scan	\$ 1,775.00			
Patient: Elfreda Smalls		450 Emergency Room	\$ 2,119.00			
Visit # 517089014		307 Laboratory	\$ 2,295.00			
MUSC Parent Hospital Location		250 Pharmacy	\$ 168.00			
		124 Room And Board - Semi Private	\$ 14,581.00			
	05/23/18	Discount (Self-Pay, Uninsured)			-10,469.00	
Total \$			20,938.00	0.00	-10,469.00	\$10,469.00

(Continued on next page)

GUARANTOR/ADDRESS CHANGES					
PATIENT NAME			IF GUARANTOR NAME CHANGED PLEASE CALL US		
STREET ADDRESS, APT #		HOME PHONE NUMBER		CELL PHONE NUMBER	
CITY		STATE / PROVINCE	POSTAL CODE	COUNTRY	
EMPLOYER				WORK PHONE NUMBER	
EMPLOYER STREET ADDRESS			CITY	STATE	ZIP CODE
INSURANCE COMPANY			INSURANCE COMPANY		
<input type="checkbox"/> CHECK BOX IF HMO			<input type="checkbox"/> CHECK BOX IF HMO		
SUBSCRIBER'S NAME		SUBSCRIBER'S DATE OF BIRTH		SUBSCRIBER'S NAME	
SUBSCRIBER'S NAME		SUBSCRIBER'S DATE OF BIRTH		SUBSCRIBER'S DATE OF BIRTH	
I.D. NUMBER	GROUP/PLAN NUMBER	EFFECTIVE DATE	I.D. NUMBER	GROUP/PLAN NUMBER	EFFECTIVE DATE
MAILING ADDRESS FOR CLAIMS			MAILING ADDRESS FOR CLAIMS		
CITY		STATE	ZIP CODE	CITY	
STATE		ZIP CODE	STATE		ZIP CODE

*** IF POSSIBLE, PLEASE ENCLOSE A COPY OF YOUR INSURANCE ID CARD (FRONT AND BACK) WITH THIS CHANGE ***

Exhibits (2)



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Smalls, Elfreda
MRN: 000918148, DOB: 7/28/1993, Sex: F
Acct #: 517089014
Adm: 5/10/2018, D/C: 5/18/2018

CSN
1117592489

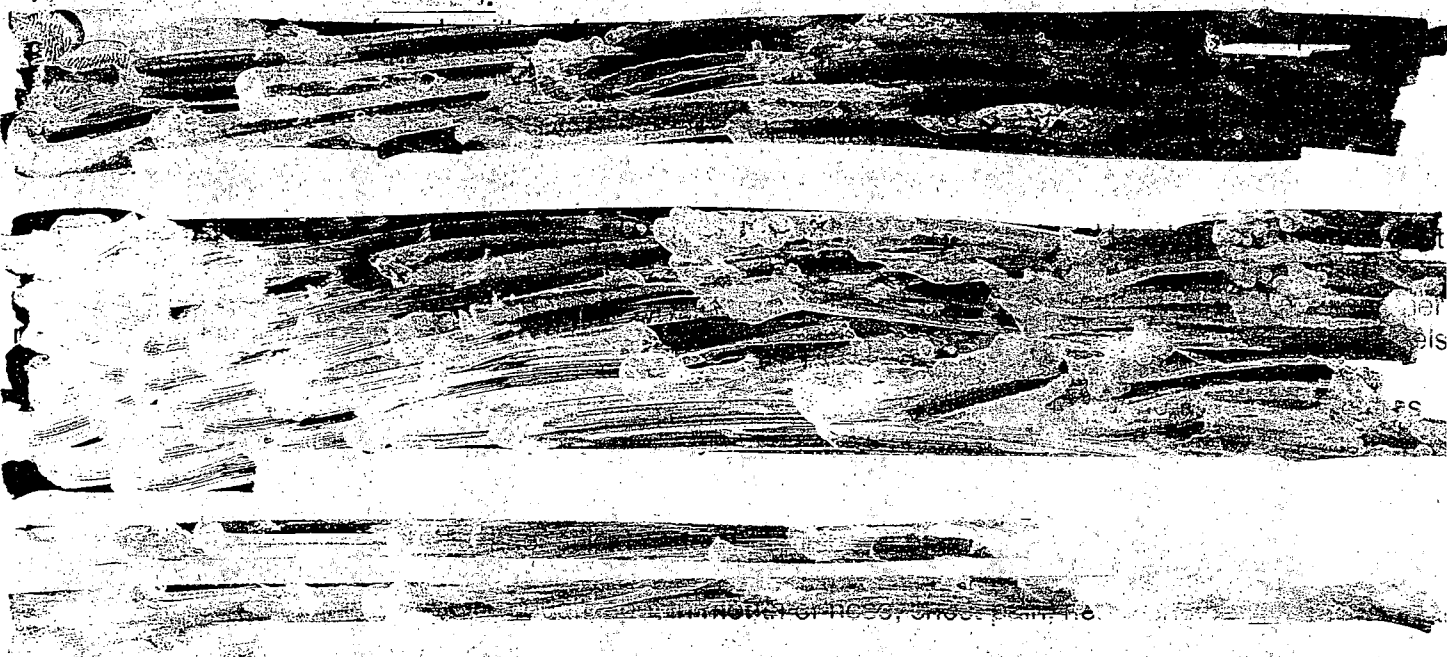
Discharge Summary by Brittany R Erby, MD at 5/18/2018 12:26 PM

Author: Brittany R Erby, MD Service: PSY-PSYCHIATRY HOSPITALISTS Author Type: Resident
Filed: 5/18/2018 4:10 PM Creation Time: 5/18/2018 7:53 AM Note Type: Discharge Summary
Status: Signed Editor: Brittany R Erby, MD (Resident)
Related Notes: Original Note by Brittany R Erby, MD (Resident) filed at 5/18/2018 4:10 PM
Cosigner: Andrew James Manett, MD at 5/21/2018 8:10 AM

**Institute of Psychiatry
Discharge Summary
Medical University of South Carolina**

Patient Name: Elfreda Smalls
Age: 24 y.o.
Sex: female
MRN: 000918148
Date: 5/18/2018
Admission Date: 5/10/2018
Discharge Date: 5/18/2018

Attending Physician: Dr. Andrew Manett
Service: 3N Adult Psychiatry Unit



Labs:
CBC- wnl
BMP- wnl
EtOH <10

A FDID 10302 * State SC * Incident Date 05 10 2018 * Station C15 Incident Number 18-0032703 * Exposure 000 * Delete Change No Activity NFIRS -1 Basic

B Location* Check this box to indicate that the address for this incident is provided on the Wildland Fire Module in Section B "Alternative Location Specification". Use only for Wildland fires. Census Tract 0007 - 0

Street address 142 COMING ST SUFFIX
 Number/Milepost Prefix Street or Highway Street Type Suffix

Intersection In front of Rear of Adjacent to Directions

CHARLESTON SC 29403
 Apt./Suite/Room City State Zip Code

Cross street or directions, as applicable

C Incident Type * 111 Building fire
 Incident Type

E1 Date & Times Midnight is 0000
 Check boxes if dates are the same as Alarm Date. ALARM always required

Month Day Year Hr Min Sec
05 10 2018 16:48:27

Alarm * Arrival * 05 10 2018 16:50:02

ARRIVAL required, unless canceled or did not arrive

Controlled Last Unit Cleared 05 10 2018 20:35:39

CONTROLLED Optional. Except for wildland fires
 LAST UNIT CLEARED; required except for wildland fires

E2 Shift & Alarms Local Option C 115
 Shift or Alarms District Platoon

D Aid Given or Received *

1 Mutual aid received
 2 Automatic aid recv.
 3 Mutual aid given
 4 Automatic aid given
 5 Other aid given
 N None

Their FDID Their State
 Their Incident Number

E3 Special Studies Local Option
 Special Study-ID# Special Study Value

F Actions Taken *

11 Extinguishment by fire
 Primary Action Taken (1)

12 Salvage & overhaul
 Additional Action Taken (2)

Additional Action Taken (3)

G1 Resources * Check this box and skip this section if an Apparatus or Personnel form is used.

Apparatus Personnel
 Suppression 0010 0027

EMS Other

Check box if resource counts include aid received resources.

G2 Estimated Dollar Losses & Values LOSSES: Required for all fires if known. Optional for non fires. None

Property \$ 000 100
 Contents \$ 000 100

PRE-INCIDENT VALUE: Optional
 Property \$ 344 200
 Contents \$ 000 500

Completed Modules

Fire-2
 Structure-3
 Civil Fire Cas.-4
 Fire Serv. Cas.-5
 EMS-6
 HazMat-7
 Wildland Fire-8
 Apparatus-9
 Personnel-10
 Arson-11

H1* Casualties None
 Deaths Injuries
 Fire Service 0 0
 Civilian 0 0

H2 Detector Required for Confined Fires:
 1 Detector alerted occupants
 2 Detector did not alert them
 U Unknown

H3 Hazardous Materials Release

N None

1 Natural Gas: slow leak, no evacuation or HazMat actions
 2 Propane gas: <21 lb. tank (as in home BBQ grill)
 3 Gasoline: vehicle fuel tank or portable container
 4 Kerosene: fuel burning equipment or portable storage
 5 Diesel fuel/fuel oil: vehicle fuel tank or portable
 6 Household solvents: home/office spill, cleanup only
 7 Motor oil: from engine or portable container
 8 Paint: from paint cans totaling < 55 gallons
 0 Other: Special HazMat actions required or spill > 55gal. Please complete the HazMat form

I Mixed Use Property

NN Not Mixed
 10 Assembly use
 20 Education use
 33 Medical use
 40 Residential use
 51 Row of stores
 53 Enclosed mall
 58 Bus. & Residential
 59 Office use
 60 Industrial use
 63 Military use
 65 Farm use
 00 Other mixed use

J Property Use* Structures

131 Church, place of worship
 161 Restaurant or cafeteria
 162 Bar/Tavern or nightclub
 213 Elementary school or kindergarten
 215 High school or junior high
 241 College, adult education
 311 Care facility for the aged
 331 Hospital

341 Clinic, clinic type infirmary
 342 Doctor/dentist office
 361 Prison or jail, not juvenile
 419 1-or 2-family dwelling
 429 Multi-family dwelling
 439 Rooming/boarding house
 449 Commercial hotel or motel
 459 Residential, board and care
 464 Dormitory/barracks
 519 Food and beverage sales

539 Household goods, sales, repairs
 579 Motor vehicle/boat sales/repair
 571 Gas or service station
 599 Business office
 615 Electric generating plant
 629 Laboratory/science lab
 700 Manufacturing plant
 819 Livestock/poultry storage (barn)
 882 Non-residential parking garage
 891 Warehouse

124 Playground or park
 655 Crops or orchard
 669 Forest (timberland)
 807 Outdoor storage area
 919 Dump or sanitary landfill
 931 Open land or field

936 Vacant lot
 938 Graded/care for plot of land
 946 Lake, river, stream
 951 Railroad right of way
 960 Other street
 961 Highway/divided highway
 962 Residential street/driveway

981 Construction site
 984 Industrial plant yard

Lookup and enter a Property Use code only if you have NOT checked a Property Use box:
 Property Use 419
1 or 2 family dwelling

Agency Name
Charleston Police Department

INCIDENT/INVESTIGATION

Case# **18-06913**

REPORT

ORI
SC0100100

Date / Time Reported
05/10/2018 21:39

Location of Incident
142 Coming St, Charleston SC 29403

Premise Type
Residence/home

Zone/Tract
121

Last Known Secure
05/10/2018 17:00

At Found
05/10/2018 17:00

INCIDENT DATA

#1	Crime Incident(s) Arson 200	(Com)	Weapon / Tools	Entry	Exit	Security	Activit
#2	Crime Incident Assisting Other Agencies 952	(Com)	Weapon / Tools	Entry	Exit	Security	Activit
#3	Crime Incident	()	Weapon / Tools	Entry	Exit	Security	Activit

MO

VICTIM

# of Victims	2	Type:	INDIVIDUAL/ NOT LAW		Injury:	
V1	Victim/Business Name (Last, First, Middle) JONES, ALLUETTE KAREN	Victim of Crime #	1	DOB 05/28/1952 Age 65	Race B	Sex F
Home Address 142 COMING ST, Charleston, SC 29403						Home Phone 843-813-
Employer Name/Address				Business Phone	Mobile Phone	
VYR	Make	Model	Style	Color	Lic/Lis	VIN

OTHERS

CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim)

Type:	SOCIETY/PUBLIC		Injury:	
V2	Name (Last, First, Middle) City of Charleston	Victim of Crime #	2	DOB / / Age
Home Address				Home Phone
Employer Name/Address			Business Phone	Mobile Phone

INVOLVED

Type:	INDIVIDUAL/ NOT LAW ENFORCEMENT		Injury:	
CO	Name (Last, First, Middle) JONES, ALLUETTE KAREN	Victim of Crime #	05/28/1952 Age 65	Race B
Home Address 142 Coming St Charleston, SC 29403				Home Phone 843-813-
Employer Name/Address			Business Phone	Mobile Phone

PROPERTY

1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown
("OJ" = Recovered for Other Jurisdiction)

VI #	Code	Status Fm/To	Value	OJ	QTY	Property Description	Make/Model	Serial Number
1	29	2	\$100.00		1	SINGLE OCCUPANCY		
1	06	2	\$500.00		1	CLOTHES/FURS		

Officer/ID# **MALONE, J. T. (PTL, TM3P) (2496)**

Invest ID# **(0)** Supervisor **SALKELD, B. J. (PTL, TM3P) (998)**

Status Complainant Signature Case Status **Pending Inactive** 05/11/2018 Case Disposition: Page 1

Incident Report Suspect List

Charleston Police Department

OCA: 18-06913

1	Name (Last, First, Middle) <i>SMALLS, ELFREDA LOTTIE</i>					Also Known As					Home Address <i>142 COMING ST CHARLESTON, SC 29403 843-810-3279</i>				
	Business Address														
DOB	Age	Race	Sex	Eth	Hgt	Wgt	Hair	Eye	Skin	Driver's License / State					
<i>07/28/1993</i>	<i>24</i>	<i>B</i>	<i>F</i>	<i>N</i>	<i>503</i>	<i>230</i>	<i>BLK</i>	<i>BRO</i>		<i>0102603690 SC</i>					
Scars, Marks, Tattoos, or other distinguishing features															
<i>Reported Suspect Detail</i>					Suspect Age	Race	Sex	Eth	Height	Weight	SSN				
Weapon, Type		Feature		Make		Model		Color		Caliber	Dir of Travel				
											Mode of Travel				
VehYr/Make/Model			Drs	Style		Color		Lic/St			VIN				
Notes							Physical Char								

Status Codes 1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown							
D R U G S	IBR	Status	Quantity	Type Measure	Suspected Type		

Assisting Officers

Suspect Hate / Bias Motivated:

NARRATIVE

On 05/10/18 at approximately 1700 hours, ROs responded to 142 Coming Street in reference to a structure fire. Upon arrival, ROs spoke with Officer Kinder who was on scene. He advised that the fire was extinguished and that the offender admitted to him that she set the fire intentionally. ROs spoke with the offender (Smalls, Elfreda) who stated that she set the fire intentionally and wished for ROs to take her to jail.

The offender advised her and her mother/the victim (Jones, Alluette) were arguing. The offender advised that she believes that her mother is lying to her about the offender's boyfriend cheating on her and she also believes that her mother does not love her. She was also angry about random people coming up to her in the street and lying to her about her boyfriend. The offender was angry with her mother and went upstairs. She stated she entered a bedroom on the second floor of the residence and entered a closet that she shares with her mother. The offender said she went over to a rack that was holding her mother's clothes. She stated she used a lighter to set the clothes on fire. The offender did this because she knows how important the clothes are to her mother. The offender said the clothes caught on fire and she stayed in the area.

The boyfriend (Whaley, Freddie) of the victim was on scene and smelled smoking coming from the upstairs of the residence. He entered the bedroom, put out the fire, and called the Fire Department.

Team 1 Supervisors Sgt. Garrison and Sgt. Salkeld were advised and responded.

CFD Fire Marshalls J. Smith and M. Jordon were advised and responded.

The victim was adamant about not wanting to prosecute her daughter for the arson. The victim was concerned about her daughter's mental health state. Sgt. Salkeld contacted CPD Central Lt. Thompson, who advised that without the victim wanting to prosecute, and with the minor damage to the victim's personal property, a custodial arrest was not appropriate at this time.

Charleston County EMS Supervisor responded and spoke with the offender in reference to a mental health evaluation. Based upon her initial evaluation, the EMS Supervisor contacted Mobile Crisis in reference to the offender stating that she did not care if she burned with the clothes. She also stated several times that she wanted to kill and/or harm herself.

The EMS Supervisor and Mobile Crisis made the decision to EPC the offender. The EMS Supervisor provided ROs with the court order for the offender and ROs transported the offender to MUSC, at the request of CCSO, where she was admitted into the ER.

The victim and the Fire Marshalls were advised of the case number.

Additional Name List

Name Code/#	Name (Last, First, Middle)	Victim of Crime #	DOB	Age	Race	Sex
1) WI 1	WHALEY, FREDDIE JR		06/07/1952	65	B	M
	Address 7863 Long Shadow Ln, N Charleston, SC 29406-9584		H: 843-647-9139			
	Empl/Addr		B: - -			
			Mobile #: - -			

County of Charleston
Charleston, South Carolina

March 28, 2021

RECEIVED
APR 28 2021
SC Court of Appeals

AFFIDAVIT

I **Freddie Whaley, Jr** formerly of 142 Coming Street, Charleston South Carolina, 29403, duly affirm that this statement is true to the best of my ability of the occurrences on May 10, 2018. On Thursday, May 10, 2018, I arrived at 142 Coming Street, Charleston, South Carolina at about 5:35 p.m. to find Alluette Karen Jones (Alluette) and Elfreda Lottie Smalls (Freda), in a disagreement. Alluette proceeded to inform me of the cause of the disagreement, as Freda went into the rear smaller bedroom, being used as a closet. We began to smell smoke, Alluette and I ran to the room to find Alluette's clothing on fire. I began to fight the fire and Alluette tries to get water out of the bathroom, in which Freda had locked herself inside and would not open the door. Alluette, ran downstairs to get bottle water and water from the kitchen sink to throw onto the burning clothes. I was able to smother the fire with other clothing, water, stumping and beating the flames. While I was fighting the fire Alluette called 911. The Coming Street fire station is on block away. The Charleston Fire Unit and Charleston Police arrive immediately. They entered the house and put the fire out. The smoke was very thick and consumed the entire second floor of the house. I was overcome by the black smoke and the Firemen told me to go outside, which I did! They asked Alluette and I how the fire started and while Alluette began to tell the firemen, Freda walked out of the bathroom and told the firemen she started the fire.

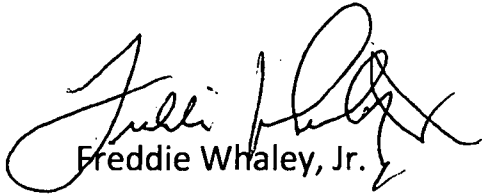
Alluette began to talk with the police about the incident and informed the officers of the issues she was having with her daughter. Freda was incredibly angry and told the policemen why she started the fire and wanted to burn the house down and kill herself. The policemen decide to call in a mental health expert with the department. At the same time, the Charleston County Ambulance with two paramedics arrives to treat Alluette, Freda and me. Freda was very agitated and

disagreeable with the paramedics. The paramedics and police officers began to talk with Alluette about a potential crime as well as mental health issues with Freda. They agreed that she should go to the hospital, to which Freda agreed after the officers and paramedic informed her of possible crimes and other issues. Alluette did not want to press charges if she would go to the hospital for help.

The paramedics took Freda to the Medical University of South Carolina (MUSC) emergency room. They would not let Alluette ride in the ambulance, therefore after talking with the paramedics, police officer and the recently arriving Fire Marshall, she decided to drive to the hospital to be with Freda. I stayed at 142 Coming street to talk with the Police Officers and Fire Marshall about what I saw and knew about the incident. The police officers were waiting for the firemen to give the all-clear of the house of any further fire. The firemen began to bring fans into the house to clear out the smoke. I went outside to talk with the other policemen and some guy came up asking for Alluette. I told him she was not at home due to fire, and I did not know when she would return because her daughter was going to the hospital. I saw him get into a car and I continue to talk the police officers. I decided to make a video for the damages for insurance and potential legal issues due to Freda setting the fire. The Fire Marshal asked me some additional questions about the incident. The policemen and firemen stayed at the house until the smoke cleared. Then everyone left! I called Alluette to see How Freda was doing, and she told me that she was still at the emergency room. She informed that they still had not let her be with Freda, but the physician told her they would admit Freda to the psychological ward. She told me she would stay at the hospital until Freda was transferred and then she would return. We discuss going some place to stay for the night due to the fire damage and smoke smell. I called my sister (Rommarie Elaine Whaley) and asked her if we could come stay with her for tonight. I did not get into the reason at the time, but she said, sure come on! I began to gather some clothes and toiletries for the over night stay for both of us.

I met Alluette at the hospital about 6:30 p.m. or there-after, to which we discuss not saying anything about what happen to my sister or anyone, to protect Freda from public shaming! We departed for Romney's house about 6:45 p.m.

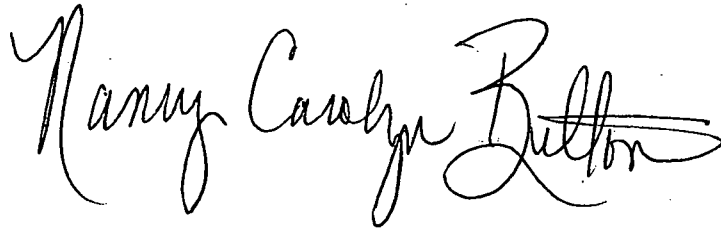
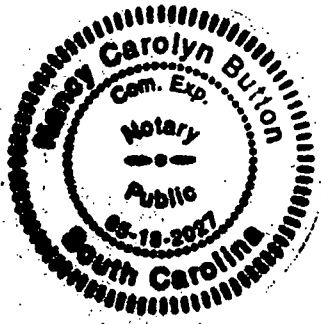
I, Freddie Whaley, Jr. affirm that the statement above is true to the best of my ability, to recall the events of May 10, 2018, so help me God!



Freddie Whaley, Jr.

fwhaleyjr@gmail.com

843-647-9139



County of Charleston
Charleston, South Carolina

March 28, 2021

RECEIVED
APR 28 2021
SC Court of Appeals

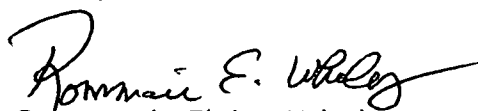
AFFIDAVIT

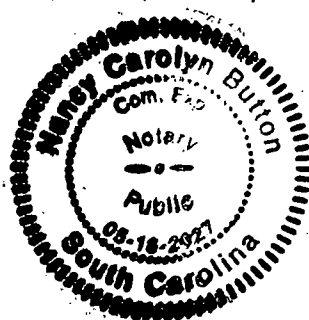
I Rommarie Elaine Whaley, of 4995 Hale Bale Court, Summerville, South Carolina, 294, duly affirm that this statement is true to the best of my ability of the occurrences on May 10, 2018.

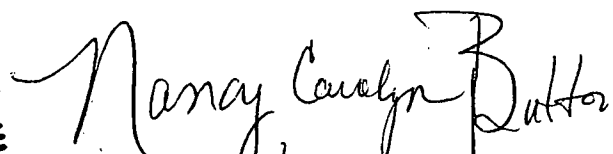
To my recall of May 10, 2018, my brother (Freddie Whaley, Jr., referred to as "Rusty") called me about 6:00 p.m. asking me if Alluette Karen Jones (Al) and he could come and spend the night at my home at 4995 Hale Bale Court, Summerville, South Carolina. Me being the free spirit loving mind your business sister, I said, Rusty you do not have to explain to me what happen, Al and you can come spend the night anytime. I hung up the phone and began to prepare my guest room.

About 7:30 or 7:45 p.m., Al and Rusty arrived at my home. We began to talk about what is going on in the world. I told Al where the toiletries were and asked if she wanted any snack. They are both healthy vegetarians, so I did not have to much healthy snack. We talked a little more and I went to be. Rusty got up early the next morning and went to work at the South Carolina Department of Motor Vehicles, on Lockwood Drive, Charleston. Alluette woke up later, we talk a little and Alluette made some breakfast. She is a chief and I am not a good cook! So, the breakfast was welcomed! Alluette left about noon and I went to work at Marshall in Summerville at 1:45 p.m.

I, Rommarie Elaine Whaley, affirms that the above state is true to the best of my ability to recall the events of May 10, 2018, so help me God.


Rommarie Elaine Whaley




3/28/2021

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.

Allutte K Jones, Appellant
142 Coming Street
Charleston SC, 29403
(843) 813-1910

RECEIVED
JUL 01 2021
SC Court of Appeals