

Wesley E. Smith III
465 North Nassau Street
Charleston, South Carolina 29403
(843)723-8598

March 28, 2013

CLERK

Honorable Jenny A. Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: South Carolina Department of Transportation, et al Respondent v Mr. Wesley Edward Smith.

III Appellant Case No. 2013 00546

Dear Honorable Clerk Kitchings;


Enclosed for you immediate actions is Mr. Wesley Edward Smith III Petition for Review on Writ of Certiorari.

Issue maybe related that two (2) cases were mistakenly consolidated or interwoven under the same docket number. Though similar, they have no bearing on one or the other and have no factual basis for being as interwoven as such. Maybe a case of mistakenly identified as well.

The question that arises in this instant action is whether not based lack of familiarity based on the lack of service that stemmed from a ruling of the court, that while respondents were delegated authority and assumed responsibilities for the proper upkeep and maintaining of the State roads and grounds, that assumption of risk without service of the admissible supporting memorandum in a ruling, that the investigation would have concluded based upon comparative or contributory fault where it reasonably necessary to prevent the foreseen or unforeseen, intentional or unintentional injuries that have resulted or that could possibly result from a dereliction of a recognizable duties for the failure to provide prompt and proper legal or personal services?

Thanking you in advance.

Sincerely,


Mr. Wesley Edward Smith III

Copy To: FILE

South Carolina Department of Transportation
Ms. Linda C. McDonald, ESQ Attorney for Respondent(s)

WRIT OF CERTIORARA PETITION FOR REVIEW
THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE COURT OF COMMON LAW
Markley R. Dennis, Court of Common Pleas Law Judge

Case No. 2011CP1007206

Linda C. McDonald, as Personal
Representative of the Estate of
South Carolina Department of Transportations, Respondent,

v.

Wesley Edward Smith III, Appellant.

**PETITION FOR REVIEW FOR
RECORD ON APPEAL**

I. INTRODUCTION

I, Wesley Edward Smith III under the authority pursuant the provision of rules 267 I move to contest the unjustified and unsubstantiated judgment as allegedly ruled upon without the support of proper memorandum related to inconclusive substantive issues completed without the privileges afforded proper due process. The petitioner expresses a reason to believe that this ruling is unfair because Mr. Wesley Edward Smith III (XX-XX-3407) lacks familiarity with the legal proceeding issue contained in the respondents initiation of a complaints or as it relates to the personal injuries sustained as a result. The issues of this case are still subjects under appeal for it lacks the support based on the lack of notice to file and serve notices to all opposing parting involved in the judicial matters in accordance with rule 203 (b) (3) and also this case is believe to be erroneous because it lacks the applicable enforcement agency supporting memorandum of law

argument to support granting favor to one party over the other without these essential elements as privileged in due process.

WHEREAS, Mr. Wesley Edward Smith III has reason to believe that the misapplication to the rule pertaining to application of law has been misapplied based on the lack of implied oral or written miscommunications for any law analysis at this juncture of trial would be premature thus causing an erroneous ruling(s) if you cannot have a rule on the law applied without the conflict of the contrasting styles of the legal issues or cited statements for relief with the evidence supporting such a memorandum element granting a ruling, then these genuine issues surround the legal material facts of this case which are absent and have not been heard. Based on the information the admissible evidence was not properly submitted in support of the rule that coincides with the judicial mechanics for application the rules of law, give the reasons to believe that as the case number as assigned 2011-CP-10-07206 judgments are without the substantive reports of the applicable enforcement agencies (that solidifies any inferences or reasonableness) and doesn't stated claim for relief. The only remedy afforded in that action was the granting of a favorable ruling to the respondents without a legal standing or a legal claim for relief. Mr. Wesley Edward Smith III premise is on the belief without support, that the breach of declared legal duty is the violation of a recognizable right that was accompanied by such fraudulent act, either intentionally or unintentionally, by the South Carolina Department of Transportation (SCDOT).

WHEREAS, Wesley Edward Smith III has reason to believe that the totality of the circumstance (occurrences) lacks legal familiarities. reason to believe that violation, as premised is due to a declared duty owed, but a lacked obligation or legal commitment to be performed.

and were owed to all opposing parties related judicial matters in accordance to rule 203.

Upon review of the courts actions (based on the merits) shows the lack of admissible evidence (service of notices and filings or by the supporting memorandum) governing legal proceedings as required to support such a ruling. This employment business practice could be construed as unlawful, constitutionally offensive, interferes or impedes with the judicial mechanism and hinders the adjudication due process pertaining to a citizen legal rights and privileges afforded.

March 28, 2013



Mr. Wesley Edward Smith
465 N. Nassau Street
Charleston, South Carolina
(843) 723-8598
Appellant Pro Se

BRIEF OF APPELLANT
THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE COURT OF COMMON LAW
Markley R. Dennis, Court of Common Pleas Law Judge

Case No. 2011CP1007206

Linda C McDonald, as Personal
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Wesley Edward Smith III, Appellant.

BRIEF OF APPELLANT

I. INTRODUCTION

1. I, Wesley Edward Smith III under the authority pursuant the provision of rules 267 I move to contest the unjustified and unsubstantiated judgment as allegedly ruled upon without the support of proper memorandum related to inconclusive substantive issues completed without the privileges afforded proper due process.

The petitioner expresses a reason to believe that this ruling is unfair because Mr. Wesley Edward Smith III (XX-XX-3407) lacks familiarity with the legal issue contained in the respondent initiated complaints or related personal injuries sustained as a result. The issues of this case lacks the support based on the lack of notice serve or a notice of right to appeal a decision to all opposing parting involved in the judicial matters in accordance with rule 203. There is also reason to believe that this case is erroneous because it lacks the applicable enforcement agency

supporting memorandum of law argument to support granting favor to one party over the other without these essential elements for a cause of action. For these reasons expressed herein-below, and supported by memorandum of law in support, this court shall find that the judgment are erroneous and premature as factually frivolous and baseless without being in conformance with the National register of cases or coinciding with the standard of law analysis without the support of the applicable memorandum to support the rulings.

II. ISSUES PRESENTED FOR REVIEW

ISSUE 1: Parties involved are lacking familiarity with legal proceeding,

This general response is based on the information contained in the attached order(s) dissenting in opposition as a reason to believe this is based on the lack of being provided with the proper notices, prior and upon completion of a rendition of a any ruling, as absent in this court ruling.

III. STATEMENT OF JURIDICATION

This court jurisdiction is proper and just as there is reason to believe that this state court retains jurisdiction because it is the last court for review.

IV. STATUTES INVOLVED

The state constitution is invoked, which affords, grants privileges and assures liability responsibilities afforded due process.

V. STATEMENT OF FACTS II. BACKGROUND FACT

On or about 9-11-2011 @ 8:50 pm o'clock, the petitioner was driving his vehicle, vehicle was damage due to a unsafe conditions and obstruction in the roadway. Wesley Edward

Smith III was not given or receive any reports or notices to be on the look-out for, relating to any of the respondent(s) unsafe roadways or areas of great concerns for which personal property(s) would be (were) damage(d) if entering or driving on these roadways.

Wesley Edward Smith was not sent a notice for any reasons, that substantially grant the respondent the reasonable means for not doing its job without the supporting memorandum of law, when the state rules require such compliance for care and responsiveness to a duty to all citizens. To the South Carolina Department of Transportations and committee of citizen, I complained about and told SCDOT that I needed a copy of the agency review with enforcement of law supporting memorandum of a substantive rulings for due process, as I have been deprived by the respondent. I, Wesley Edward Smith III is seeking legal clarity for the respondents action to have tested, the legal sufficiency of the respondents action taken against him the petitioner. Petitioner also believes that a violation of a recognizable right occurred while the respondents was in its official duties while acting under the state's laws.

VI ARGUMENT:

Mr. Wesley Edward Smith III is Lacking familiarity with the legal proceedings and should have been unacceptable for the courts to apply the rule of law for which the ruling is believed to be an erroneous application of the rule of law or mistake of law based on the no-service of applicable notices. As narrowly tailored with reason to believe based on the ruling from the bench, this judgment is without the supporting memorandum of law argument or as mandated by the applicable enforcement committee who investigated the complaint for review, thus granting relief or a remedy. The issues and controversies as dissented to, relating the rulings in this particular action gives reason to believe that the respondents acts were factually frivolous and baseless, but

have been inextricably interwoven not to appear controversial on an erroneous granting of judgment. Acting in bad faith does not a ruling to grant favor for a party over the other without afford privilege of due process.

VII. STANDARD REVIEW OF LAW ANALYSIS:

Although the respondents, SCDOT and its committee of citizen have reason to believe not to be responsible for any conditions, plausible deniability is unacceptable and not a justifiable excuse for filing frivolous pleadings or response with the court and continuing a frivolous action. This appeal is premature, for which the granting a ruling has reason to believe is erroneous based on the lack of familiarity of legal proceedings due to the non-service of applicable notices and supporting memorandum of law argument. Until such time notices are properly served, the case is pending an appeal. Trial issues were premature at that juncture in the court ruling, which remains a issue.

VIII. SUPPORTING LAW WITH MEMORANDUM REPLY DISSENTING IN OPPOSITION OF RULING

As offer admissible evidences in support of seeking a declaratory relief. As stated in relevant parts pursuant to rules to 203 "Notices must be served and filing provided to the courts "See Exhibit A" offered into evidence) Based on the lack of providing such a state declared duty based upon this enacted rule, Mr. Wesley Edward Smith III his legal rights was violated and an the lack of familiarity with this case, as he make this general admission was justified because he was not informed of the facts from the subsequent enforcement review with supporting memorandum nor was he served such notice by the adverse party. Mr. Wesley Edward Smith relies of the lack of service that impeded a privilege legal right that affords due process that is the causation of these harms. I Wesley Edward Smith is informed and believe state judgment relating to two opposing

parties .

ASSUMING ARGUENDO applying the basic Cause-In-Fact, But-for test;

If the grounds were repaired and citizen warned and notified...personal property damages resulting in excess of \$1,200.00 for repair would not have occurred,;

If the legal memorandum were filed and sent...it would support the legal proceeding and standard of law argument.

If the legal actors complied with the state declared rules and did not derelict such legal duties... the parties would not lack familiarity of the legal proceedings,; and

If the third parties committee of citizens did not intervene...the machinery of the judicial process would run free-from hindrances, outside interferences and not allow the challenging of the fabric or integrity of her majesty, by outside on-lookers.

IX CONCUSION:


WHEREAS, I believe that analysis of law without the aid of a legal claim for relief are unconstitutional. It is unfair and the legal rights and privileges of the American for a violation to perform a legal written declared duty to all parties in the judicial arena were not provided or afforded Mr. Wesley Edward Smith III his due rights to submit an admissible objective reply to support dissenting the ruling for which his constitutional rights or the substantive reports requiring due process under the state law have been hindered with, either intentionally or unintentionally as omitted. For these reasons, the Writ should be respectfully granted, as supported with admissible evidence that seek this declaratory Judgment for relief which give a legal clarity, and any acts, as premised that were without reason or a justification to no longer believe a violation or by the application of the basic cause in fact test, with no erroneous errors in

judgment has occurred.

WHEREAS, by testing the legal sufficiency of the respondents action taken against him the petitioner that give reason to believe that a violation of a recognizable right occurred while the respondents was in its official duties while acting under the state's laws.

a amended cross claim with the restatements, redressing and relitigation for retrial, without the third party unrelated legal standing be enjoined by injunctions (be enjoined) from interfering or aiding the judicial proceedings or hinder the American citizen privilege legal right afforded due process that are interposingly to delay the administration of proper and equal justice. All other rights are reserved and preserved at this time. I thoroughly opposed to the this action and at not time agree to waive any rights afforded or that are considered a privilege.

March 28, 2013



Mr. Wesley Edward Smith
465 N. Nassau Street
Charleston, South Carolina
(843) 723-8598
Appellant Pro Se

PROOF OF SERVICE OF AMENDED NOTICE ON APPEAL
THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE COURT OF COMMON LAW
Markley R. Dennis, Court of Common Pleas Law Judge

Case No. 2011CP1007206

Linda C. McDonald, as Personal
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South Carolina Department of Transportations, Respondent,

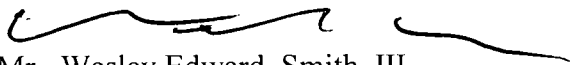
v.

Wesley Edward Smith III, Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on by depositing a copy South Carolina Department of Transportations in the United States Mail, postage prepaid, on March 28, 2013, addressed to the attorney of record, Linda C. McDonald, ESQ 955 Park Street Suite 343 Columbia, S. C 29202-0191, by certificate of service to the attorney of record Linda C. McDonald, ESQ 955 Park Street Suite 343 Columbia, S. C 29202-0191 at her office on March 28, 2013.

March 28, 2013


Mr. Wesley Edward Smith, III
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Appellant Pro Se

South Carolina Department of Transportation
(Attn: Ms. Linda C. McDonald ESQ, Attorney for Respondents)
955 Park Street Suite 343
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Mr. Wesley Edward Smith, III
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Charleston, South Carolina

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South Carolina Court of Appeals
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Columbia, South Carolina 29201