

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APR 18 2013

S.C. SUPREME COURT

APPEAL FROM AIKEN COUNTY
Doyet A. Early, III, Circuit Court Judge

Opinion No. 2012-UP-662
(S.C. Ct. App. filed December 19, 2012)
Case Tracking No. 2013-000351

Carlton E. Cantrell,..... Petitioner,

v.

Aiken County, Aiken County Animal Control,
Shirley Hardin, Officer Bobby Arthrus,
and Judge Charles T. Carter,..... Respondents.

**NOTICE OF MOTION AND MOTION TO DISMISS
PETITION FOR WRIT OF CERTIORARI**

The Respondents hereby move this Court pursuant to Rule 260(a), SCACR, to dismiss the
Petitioner's petition for writ of certiorari based upon the Petitioner's failure to timely file said
petition in accordance with Rule 242, SCACR.

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Specifically, the Respondents assert that the Petitioner failed to timely file the petition for writ of certiorari following the Order of the Court of Appeals which denied Petitioner's petition for rehearing. The Petitioner filed a petition for rehearing dated January 2, 2013, with the Court of Appeals. *See*, Exhibit A. That petition for rehearing was denied by the Court of Appeals by Order filed January 25, 2013. *Id.* Under Rule 242(c), SCACR,

A petition for writ of certiorari shall be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals.

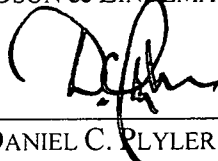
Rule 242(c), SCACR.

The Petitioner did not file this petition for writ of certiorari until March 25, 2013. In order for this petition for writ of certiorari to have been timely filed, it would have had to been filed no later than February 24, 2013. Therefore, it is clear that this petition for writ of certiorari is untimely, and must be dismissed.

Therefore, based on the forgoing, the Respondents request that this Petition for Writ of Certiorari be dismissed.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

By: 

DANIEL C. PLYLER
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

Counsel for Respondents

Columbia, South Carolina
April 16, 2013

The South Carolina Court of Appeals

Carlton E. Cantrell, Appellant,

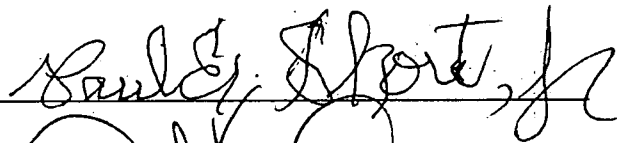
v.

Aiken County; Aiken County Animal Control Director,
Shirley Hardin; Aiken County Animal Control Officer,
Bobby Arthurs; Judge Charles T. Carter, Respondents.

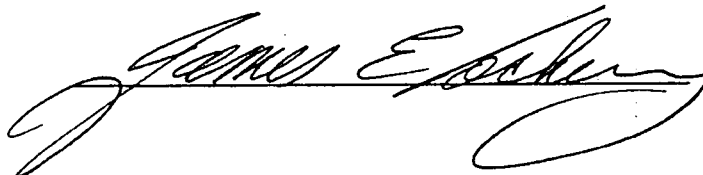
Appellate Case No. 2011-200486

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

 J.

Columbia, South Carolina

cc: Carlton Cantrell
Daniel Clifton Plyler
William H. Davidson, II

FILED

25 January 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Doyet A. Early, III, Circuit Court Judge

CASE NO: 2011-200486

Carlton E. Cantrell,

.....Appellant

v.

Aiken County, Aiken County Animal
Control, Shirley Hardin, Aiken County
Animal Control Officer Bobby Arthurs;
and Judge Charles T. Carter,


.....Respondent

PETITION FOR REHEARING

Carlton E. Cantrell requests that the Court of Appeals rehear and reconsider its opinion of December 19th, 2012, affirming the trial court's Order of Summary Judgment in favor of Respondents. This Petition for Rehearing is based on the grounds set forth in the attached Memorandum in Support of Petition for Rehearing.

Other Counsel of Record:
Daniel C. Plyler, of
Davidson & Lindemann
PA, of Columbia, for Respondents

January 2nd, 2013



Carlton E. Cantrell
223 Muddy Branch Road
AIKEN, SC 29805
803-215-4747
Plaintiff/Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Doyet A. Early, III, Circuit Court Judge

CASE NO: 2011-200486

Carlton E. Cantrell,

.....Appellant

v.

Aiken County, Aiken County Animal
Control, Shirley Hardin, Aiken County
Animal Control Officer Bobby Arthurs,
and Judge Charles T. Carter,

.....Respondent

MEMORANDUM IN SUPPORT
OF PETITION FOR REHEARING

The Appellant respectfully requests that the Honorable Court of Appeals reconsider its decision of December 19th, 2012, affirming the trial court. Appellant avers that the Court of Appeals did not adequately consider the following issues.

1. Judge Early's Decision was based on his request for a ^{Proposed}~~Standing~~ Order to be done within fifteen days.
2. My Attorney at Law Michael Chesser didn't reference the ^{Proposed}~~Standing~~ Order at all, nor included it in the Record of Appeal at all.
3. This document is the most important document in this Appeal because the Lower Court decision was based on this document.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Doyet A. Early, III, Circuit Court Judge

CASE NO: 2011-200486

Carlton E. Cantrell,

.....Appellant

v.

Aiken County, Aiken County Animal
Control, Shirley Hardin, Aiken County
Animal Control Officer Bobby Arthurs,
and Judge Charles T. Carter,

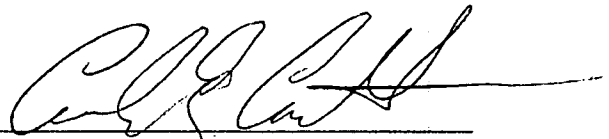
.....Respondent

PROOF OF SERVICE

I certify that I have served the Petition for Rehearing and Memorandum in Support of the
Petition for Rehearing on Respondents by mailing same, via US Mail 1st class, to counsel for the
Appellee, on this 2nd day of January, 2013, at the following address:

Mr Daniel Clifton Plyler
P.O. Box 8568
Columbia, SC, 29202-8568

January 2nd, 2013



Carlton E. Cantrell
223 Muddy Branch Road
AIKEN, SC 29805
803-215-4747
Plaintiff/Appellant

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN

) Civil Action Number: 11-CP-02-01480

Carlton E. Cantrell,

)

Plaintiff,

) PROPOSED ORDER ON BEHALF OF PLAINTIFF

v.

Aiken County, Aiken County Animal

Control Director Shirley Harden,

Aiken County Animal Control Officer

Bobby Arthurs,

and Judge Charles T. Carter.

Defendants

To Judge Early, Aiken County Court of Common Pleas:

I purchased my first goat in 1993. I met Dr. Lisa Handy in 1996 when she moved her practice to Aiken, and she has been my veterinarian of choice since that time. As a result, she has been to my house on several occasions, and once stated that she had seen other people make barns out of houses before.

She taught me how to take care of them, and has recommended and provided them with any necessary medical treatments. For example, when several of my goats died of unknown causes, she recommended taking them to Clemson University for autopsy, which I did. One of the doctors there explained to me that their throats, rumens and intestines exhibited severe damage which he stated was most likely caused by Drano administered forcibly down their throats.

In 2002 I went to see Judge Fallaw with a complaint and a list of people that were poisoning my animals and threatening my life, as well. Judge Fallaw later called the Sherriff's Dept. When the Deputy arrived, he and the Judge went behind closed doors for approximately 30 minutes and the Deputy left. The Judge then told me there was nothing he could do, but recommended I contact the Governor's Office. Gov. Hodges was then in office, but it was an election year and Mark Sanford won the election.

Mark Sanford had an open door policy, so I was able to schedule an appointment with him in the Spring of 2003. Following our meeting Gov, Sanford told me he would contact Chief Stewart of SLED who would follow-up with me. The Governor sent me a letter confirming our conversation, but no-one from SLED ever talked with me.

In the Spring of 2005, I called Animal Control regarding my goats being poisoned again. Bobby Arthurs and other officers arrived and I gave them the names of the people doing this to me and my animals, and told them I had surveillance tapes which documented these events.

Approximately two weeks later, Bobby Arthurs and Shirley Hardin and other Sherriff's Dept., personnel arrived at my home with two warrants and proceeded to load my goats into trailers. I called Channel 12 News which arrived 15 minutes later and filmed the seizure and my on-camera interview.

After they left with my goats, Dr. Jamie Carter, a veterinarian, came by and walked around my property with me and said, "Animal Control made a big mistake doing this."

The following Sunday, Cathy Rawls of the Aiken County Council came by my house, looked at the remaining dogs and goats and stated that they looked quite healthy. She said she was going to fight to get my animals back. Subsequently, I contacted Everett Chandler to represent me in this matter.

While my animals were being held at the Animal Shelter, I went to visit them several times each week. Each time I went, I could see they were in visibly poorer condition. Mr. Chandler asked Dr. Lisa Handy to visit my animals in the County's possession and observe their deteriorated condition since being removed from my farm, which she did. And she was shocked at what she found – a dead goats among living animals, several couldn't walk due to malnutrition, and no water or food was available to ones in small pens, even though the temperature was over 100 degrees Fahrenheit. Dr. Handy suggested to the County Administrator that the animals be returned to my farm, but instead they moved my animals to a farm in New Holland before she could do an inspection – see attached copy of her letter to my attorney, Everett Chandler, dated 7-26-05.jj

Just before the trial my veterarian Lisa Handy came to my house with Animal Control and looked around and after they left, she told me Gene the Law is very corrupt and if Animal Control had followed their procedures this would have never happened because their must first, always be a veterinarian involved and their wasn't secondly they must issue a warning and give time to correct any problems and they didnt, besides all this there is no such thing has unsanitary conditions for goats cows, and pigs.

About this time my Lawyer Evrett Chandier had dissapeared and his secretary told me he had went to Mirtle Beach for a meating and the next several days he was in Atlanta. About a week befor the trial Everett Chandler called me into his office and handed me a plea agreement which I read and I said what happened to the trial he said I don't feel cmfortable doing a trial and I said that I want a trial and he slamed his fist down on the desk in front of me and shook his finger at me and said im driving this boat Mr. Cantrell and were going to do this my way. I couldn't trust my Lawyer Evrett Chandler at this point its like he had turned on me. So I said that I wanted my veterarian Lisa Handy to be in charge of my animals the goats and the dogs, Clarence Brown did want to do it but they had no choice.

A Boyus Seigler came to my house and said that Cathy Rawles was very angry at Evrett Chandler and told him that he had better straighten up.

On the day of the trial on Aug-8-05 my Lawyer Evrett Chandler came to me and said if you want a trial y wil give you a trial but I couldn't trust him to give me a fair respretation . My Veterinarian Lisa Handy told me to go ahead and sign the plea agreement and she told me her experiences with contracts is that they ;d;ont hold up in court. So I signed the plea agreement.

On August 30, 20 05. My veterinarian Lisa Handy called me and said that my goats were on the way back to my farm and that she would come by later because she had an emergency call. The first two trailer loads looked good and healthy but the third trailer load looked bad, there were two dead on the trailer and another one died later that day. I counted close to sixty eight goats missing not including the goats that were born at the shelter. When Dr. Handy arrived at my farm and saw their condition she told me to carry the dead ones to Clemson University for autopsies to determine cause of death. And, she told me, " Gene you need to sue them for what they did to your animals." She took some pictures and before she left she said, " Gene no matter what they will never take your goats again."

I went back to Judge Carroll's court in Aiken and filed a motion to bring Animal Control back to court. In Court Judge Carroll requested that all records on my animals be brought to court.

Back in Carroll's court, Animal Control did not produce reliable numbers of goats and new- borns and Carrol said "This is the worst case of record-keeping that I have ever seen." She told me if I wanted to I could seek a Civil Suit for the damages that Animal Control personnel had done.

About two hours after court was over I got a call from Carroll's secretary telling me that SLED would be investigating this matter.

Several months later, it was on TV that Shirley Harden had been removed as Animal Control's Director and charged with perjury.

I got another lawyer, Jeffrey Moorehead, and asked him to make a motion to take this matter to Judge Sullivan Court in New Ellenton to get the Plea Agreement removed and the \$1800 back that I had paid in fines. About two weeks later I called Judge Carroll's Court and asked if she had heard anything from my lawyer Jeffrey Moorehead and she said that she hadn't heard anything. However, when I called and spoke with him, he said he had faxed it to them, and would do so again.

Accordingly, a motion was sent to Judge Carroll on Dec. 28, 2005 to go to Judge Patrick Sullivan's Court in New Ellenton.

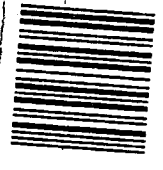
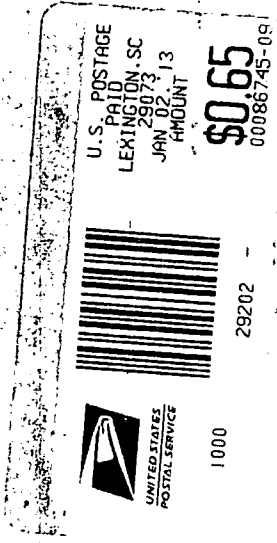
In early January of 2006, two of my neighbors -- Lisa and Larry Shepard -- came to my house and said they knew Bobby Authurs and that he had the rest of my goats on his property at Kitchens Mill. I immediately called Mr. Moorhead and told him what they had said and that I wanted to bring them to court. Mr. Morehead told me that there wasn't enough time to get them to Court and that I would get another day in Court and could bring them in then. On the day of Court I told Sullivan that I had two witnesses that knew where the rest of my goats were and he said, "Where are these witnesses?"

Before this Hearing, my attorney had told me I would have another day in Court, but Judge Sullivan said this is the only day you will get in court.

I now realize my attorney did not properly represent my best interests and this was probably the last chance I had to get the rest of my goats back. Mr. Moorehead never once mentioned anything about my witnesses and what he had told me about another day in court.

Carlton E. Cantrell
223 Muddybranch Rd.
Aiken S.C. 29805

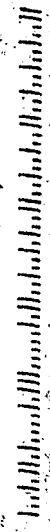
Mr. Daniel Clifton Plyler
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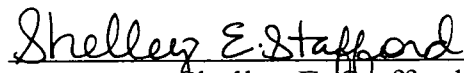
Aiken County, Aiken County Animal Control,
Shirley Hardin, Officer Bobby Arthrus,
and Judge Charles T. Carter,..... Respondents.

PROOF OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondents, does hereby certify that service of the **Notice of Motion and Motion to Dismiss Petition for Writ of Certiorari on behalf of the Respondents** in the above-captioned action was made upon all counsel of record

by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 16th day of April, 2013, addressed as follows:

Mr. Carlton E. Cantrell
223 Muddy Branch Road
Aiken, South Carolina 29805



Shelley E. Stafford