



JUDICIAL MERIT SELECTION COMMISSION )  
)

In the Matter of: Edward Miller )  
Candidate for Circuit Court Judge )

WITNESS AFFIDAVIT  
FORM )  
)

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession, if any, which will further develop or corroborate my testimony.

I understand that this written statement and all supporting documentation, if any, must be completed and returned to the Judicial Merit Selection Commission by the deadline for complaints in order for the Commission to hear my testimony, and that the deadline for complaints is **12:00 Noon, Monday, November 2, 2020**. I understand I must be available to testify at the Public Hearing.

In regard to my intended testimony, I will offer information as to the following:

- (1) Set forth your full name, age, address, and both home and work telephone numbers.

Rickey Bruce Bryant (40 yrs)  
264 Ashford Cir  
Lexington SC 29073  
Home: 803-356-7639  
Cell - 803-554-5089

- (2) Set forth the names, addresses, and telephone numbers (if known) of other persons who have knowledge of the facts concerning your testimony.

Brend Bryant - 264 Ashford Cir Lex. SC 29073  
803-356-7639  
Alice Parkins - Attorney (Filed Affidavit in last  
confirmation hearing but  
ADDRESS - ? PHONE - ? WAS INSTRUCTED NOT TO APPEAR)  
LAST KNOWN PHONE # 803-379-0006

(3) State the nature of your testimony regarding the qualifications of the above-named judicial candidate, including:

(a) specific facts relating to the candidate's character, competency, or ethics, including any and all allegations of wrongdoing or misconduct on the part of the candidate;

Not following and adhering to rules set for in the Rules of Civil Procedure.  
Disregarding the authority of a higher court

(b) specific dates, places, and times at which or during which such allegations took place;

Sept 2010 - lawsuit filed by Mrs. Bryant against T. Parsons in Cassville County BPSM.  
Nov 2010 - lawsuit dismissed  
March 2012 - Motion of intent to Appeal filed  
April 2012 - Bench Warrant issued (illegal Bench Warrant)

(c) names of any persons present during such alleged actions or possessing evidence of such alleged actions; and

Brenda Bryant  
Alice Perkins

(d) how this information relates to the qualifications of the judicial candidate.

Judge Miller failed and ignored the rules and proceeded that a person in a judge's position adversely affects people's lives.

- (4) Set forth a list of and provide a copy of any and all documents to be produced at the hearing which relate to your testimony regarding the qualifications of the judicial candidate.

- 1) Statement of Brenda Bryant
- 2) Original Law set
- 3) Trial line
- 4) Order for Bench Warrant
- 5) Affidavit for DC, Secondary DC
- 6) Resolution of County Appellate
- 7) Letter from Attorney General
- 8) Rules

- (5) State any other facts you feel are pertinent to the screening of this judicial candidate.

Abuse of Power  
Not following correct Court Procedure

I understand that the information I have provided herein is confidential and is not to be disclosed to anyone except the Judicial Merit Selection Commission, the candidate, and counsel.

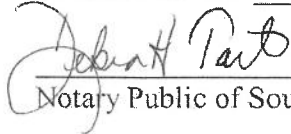
## WAIVER

I further understand that my testimony before the Judicial Merit Selection Commission may require the disclosure of information that would otherwise be protected by the attorney-client privilege. Therefore, in order that my complaint may be fully investigated by the Commission,

I hereby waive any right that I may have to raise the attorney-client privilege as that privilege may relate to the subject of my complaint. I further understand that by waiving the attorney-client privilege for this matter, I am authorizing the Commission to question other parties, including my attorney, concerning the facts and issues of my case.

  
Signature

Sworn to me this 30 day of October, 2020

  
Notary Public of South Carolina L.S.

My commission expires: \_\_\_\_\_ My Commission Expires May 21, 2023

Bryant Complaint

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE )

Krenda W. Bryant,  
Individually and in her capacity  
Madison  
vs.  
Plaintiff(s)

CIVIL ACTION COVERSHEET

2010-CP-23-7631

Greenville County Needs Board  
Disabilities & Special  
Defendant(s)

(Please Print)

Submitted By: Alice Perkins

Address: PO 233  
Chapin 29036

SC Bar #: 6944  
Telephone #: 803-397-0000  
Fax #:  
Other:  
E-mail: a.j.p.family.law@gmail.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |  |  |   |
|--|--|--|---|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Construction (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> Employment (120)</li> <li><input type="checkbox"/> General (130)</li> <li><input checked="" type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Other (199)</li> </ul>   | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20 -CP- -</li> <li><input type="checkbox"/> Notice/Filo Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>   | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Assault/Slander/Label (300)</li> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input checked="" type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Other (399)</li> </ul> | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>   |
| <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>   | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Driver's License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture-Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul>   | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Commission (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex/Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> </ul> |  |  |   |

Submitting Party Signature:

*Alice Perkins*

Date:

9/15/2010

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

BRENDA W. BRYANT, individually  
and in her capacity as Guardian for  
Madison, a mentally disabled person,

PLAINTIFF,

Vs.

THE GREENVILLE COUNTY  
DISABILITIES AND SPECIAL  
NEEDS BOARD; THE SOUTH  
CAROLINA DEPARTMENT OF  
DISABILITIES AND SPECIAL  
NEEDS; JOHN KING (individually  
and in his Official capacity); BRENT  
PARKER (individually and in his  
Official capacity); MELISSA  
STUBBLEFIELD (individually and in  
Her Official capacity); JENNIFER  
BOGART (individually and in her  
Official capacity); TRACY PARSONS;  
WILLIAM H. DAVIDSON, II,  
ESQUIRE; THERESA A. HORTON,  
ESQUIRE,

DEFENDANTS.

) IN THE COURT OF COMMON PLEAS  
) THIRTEENTH JUDICIAL CIRCUIT  
) DOCKET # 2010-DR-23- 7631

CP

ENTERED COMPUTER

SUMMONS

FILED CLERK OF COURT  
GREENVILLE CO. S.C.  
GREENVILLE, S.C.


2010 SEP 15 P 4:53

TO: THE DEFENDANTS ABOVE NAMED AND THEIR ATTORNEYS

YOU ARE HEREBY SUMMONED and required to answer the Complaint of the  
Plaintiffs, a copy of which is served herewith upon you, and to serve the Plaintiffs a  
copy of said Answer by mailing to their attorney at her office, PO Box 233, Chapin, SC  
29026, within thirty (30) days of service thereof upon you, excluding the day of such

Verified

service. If you fail to answer the Complaint herein within the prescribed time, the Plaintiff herein will seek a judgment by default.



Alice J. Perkins, Attorney for Plaintiff  
Post Office Box 233, Chapin, SC 29036  
Telephone (803) 397-0000  
Email [ajpfamilylaw@email.com](mailto:ajpfamilylaw@email.com)

9/15 \_\_\_\_\_, 2010



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

**BRENDA W. BRYANT, individually  
and in her capacity as Guardian for  
Madison, a mentally disabled person,**

PLAINTIFF,

Vs.

**THE GREENVILLE COUNTY  
DISABILITIES AND SPECIAL  
NEEDS BOARD; THE SOUTH  
CAROLINA DEPARTMENT OF  
DISABILITIES AND SPECIAL  
NEEDS; JOHN KING (individually  
and in his Official capacity); BRENT  
PARKER (individually and in his  
Official capacity); MELISSA  
STUBBLEFIELD (individually and in  
Her Official capacity); JENNIFER  
BOGART (individually and in her  
Official capacity); TRACY PARSONS;  
WILLIAM H. DAVIDSON, II,  
ESQUIRE; THERESA A. HORTON,  
ESQUIRE,**

DEFENDANTS.

) IN THE COURT OF COMMON PLEAS  
) THIRTEENTH JUDICIAL CIRCUIT  
) DOCKET # 2010-~~DR~~-23-7631  
) CP

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
JENNIFER

2010 SEP 15 P 4:57

COMPLAINT  
(Jury Trial Requested)

TO: THE DEFENDANTS ABOVE NAMED AND THEIR ATTORNEYS

The Plaintiffs would respectfully show the Court:

INTRODUCTION

1. The gravamen of this lawsuit is that some or all of the Defendants contracted with Brenda W. Bryant, mother and guardian of Madison, a mentally disabled person with an intellectual and emotional maturity similar to that of a child aged 7 to 10 years, to care for Madison and be legally responsible for her well-

being and safety, but violated that contract and, due to gross negligence and willful disregard for the safety of their ward, Madison was physically assaulted at least five times, and sexually fondled on several occasions. Madison sustained both physical and mental injury as a result of these malicious attacks and the failure of Defendant(s) to properly address the safety and well-being of Madison. Much of this repeated physical abuse occurred during a time when Defendant(s) had conspired to have Bryant removed as guardian of her own daughter.

#### ALLEGATIONS AS TO PARTIES AND JURISDICTION

2. Brenda W. Bryant is a citizen and resident of Lexington County, South Carolina. Madison is currently a citizen and resident of Florence County.
3. Brenda Bryant is the natural mother of Madison, and her probate court-appointed Guardian and Conservator.
4. Upon information and belief, Defendant The South Carolina Department of Disabilities and Special Needs, hereinafter referred to as DDSN, was at all relevant times herein and is an "agency" of the State of South Carolina as defined by S.C. Code Ann. Section 15-78-30(a) (Law. Co-op. 1976 as amended).
5. Upon information and belief, Defendant Greenville County Disabilities and Special Needs Board, hereinafter "GCDSN," was at all relevant times and is now an agency of the State of South Carolina as defined in S.C. Code Ann. Section 15-78-30(a) (Law. Co-op. 1976 as amended).

6. Defendant John King was, at the time of certain incidents alleged herein, Director of GCDSN.
7. Defendant Brent Parker was, at the time of certain incidents alleged herein, Director of GCDSN, and was processor to John King.
8. Defendant Melissa Stubblefield was, at the time of the incidents alleged herein, the Service Coordinator for Madison at GCDSN.
9. Jennifer Bogart was, at the time of certain incidents alleged herein, a member of the staff of the GCDSN/DDSN facility in which Madison lived.
10. Defendant Tracy Parsons was appointed to serve as successor Guardian to Brenda Bryant for approximately one year, during which time Madison was repeatedly assaulted and medically neglected.
11. William D. Davidson, II, Esquire, is an attorney practicing in Richland County, South Carolina. He has represented DDSN throughout the past several years.
12. Theresa A. Horton is an attorney practicing in Columbia, SC. She served during the time of certain of the alleged incidents herein as Guardian *ad Litem* to Madison.

#### ADDITIONAL FACTUAL ALLEGATIONS

13. Madison was born October 26, 1973. She is mentally retarded to the extent that her mental capacity is that of a 7 to 10 year old child. She is also legally blind.
14. Plaintiffs are informed and believe that at all times relevant hereto, Madison was and remains a person with disabilities and special needs in South

Carolina. Madison has been diagnosed with mental retardation and has both a court-appointed Guardian and Conservator. Madison is not legally competent to sign contracts and cannot read or do simple math above about a first-grade level.

15. Additionally, during all relevant times herein, Madison was mentally disabled to the extent that she was required to take prescription medication for anxiety, depression and panic attacks.
16. Plaintiffs are informed and believe that at all times relevant hereto Madison was mentally and physically disabled to the point that she qualifies for Medicaid assistance from the government; DDSN/GCDSN receive funding from Medicaid as a result of Madison's disabilities.
17. Plaintiffs are informed and believe that at all times relevant hereto, Madison required 24-hour supervision due to her impaired judgment, limited capabilities, and functional deficits caused by her mental retardation.
18. Plaintiffs are informed and believe that all Defendants had actual knowledge of Madison's status and her limitations.
19. Plaintiffs are informed and believe that Madison was, at all times relevant hereto, incapable of informed consent as to important aspects of her own life and existence, and that Defendants knew or should have known of this incapacity.
20. Plaintiffs are informed and believe that DDSN is the state agency of South Carolina with the function and responsibility of coordinating and directing the funding for and provision of needed services to people with disabilities or

special needs, including mental retardation. As such, DDSN had and has the function and responsibility to perform timely and adequate developmental evaluations on Madison to determine her strengths and weaknesses and to plan needed services and support to meet her needs.

21. Plaintiffs are informed and believe that GCDSN is and was the single planning and service coordination entity for all services funded in Greenville County, South Carolina, which were delivered or should have been delivered to Madison. As such, GCDSN would either deliver services directly or contract with other entities to provide services to people with disabilities in this County.
22. Plaintiffs are informed and believe that GCDSN arranged for Madison to reside in a home under, and be supervised by employees involved in, a Community Training Home, which is a residential program that offers persons with mental disabilities or mental retardation the opportunity to live in the community and receive individualized support services, supervision and training in the development of basic life skills.
23. Plaintiffs are informed and believe that GCDSN placed Madison in the CTII home where she lived from about 2003 to 2009.
24. Plaintiffs are informed and believe that the Defendants owed a duty of care to Madison in providing for her safety and well-being.
25. Plaintiffs are informed and believe that at some time in 2004, Madison began to complain that a man in the workshop was fondling her, both on her breasts and inside her panties. Madison reported this to workshop staff, but no

additional supervision was provided to prevent such assaults from happening. She continued to complain that this man was fondling her, and Bryant telephoned Defendant King, who did nothing about these incidents.

26. In 2008, Plaintiffs are informed and believe that Defendants DDSN, Davidson, and Horton conspired to have Bryant removed as Guardian for Madison. As a result of this conspiracy, Defendants King, Parker, Bogart, Horton, and Parsons intentionally misrepresented facts about Bryant in attempting to have her removed. These misrepresentations are, upon information and belief, slanderous and actionable by Bryant, who was damaged thereby and should receive actual and punitive damages therefore.
27. Plaintiffs are informed and believe that during much of 2008-09, Madison was the target of at least five specific physical assaults by clients in the same residence with Madison, or in the workshop. No additional supervision was provided, and the attacks continued.
28. Plaintiffs would allege that the acts and omissions described herein constitute assault and battery and that these acts caused Plaintiffs extreme physical and emotional trauma. Plaintiffs are therefore informed and believe that they are entitled to actual and punitive damages for these injuries.
29. Plaintiffs are further informed and believe that these acts and omissions constitute outrage and intentional infliction of emotional distress, and entitled them to actual and punitive damages.

30. Plaintiffs would further allege that all acts and omissions by the Defendants herein constitute Negligence, some of it Gross Negligence, and entitle them to actual and punitive damages.

31. Plaintiffs would further allege that DDSN and GCDSN have been negligent in the hiring, retention, training and supervision of the employees and officers herein, and that Plaintiffs are therefore entitled to actual and punitive damages for their injuries.

WHEREFORE THE PLAINTIFFS, having fully complained of the Defendants herein, would pray that the Court look into the matters alleged herein and issue an Order providing for actual and punitive damages for Plaintiff



Alice J. Perkins, Attorney for Plaintiff  
Post Office Box 233, Chapin, SC 29036  
Telephone (803) 397-0000  
Email [ajpfamilylaw@gmail.com](mailto:ajpfamilylaw@gmail.com)

9/15

, 2010

**SCANNED**

**HUNTER, TOMASZEK & STILWELL, P.A.**

ATTORNEYS AT LAW  
2 WHITSITT STREET  
GREENVILLE, SC 29601  
TELEPHONE (864) 232-5000  
FACSIMILE (864) 242-5645  
TOLL FREE (866) 487-5291

MARK E. TOMASZEK†  
ROBIN B. STILWELL

E-Mail [mtomaszek@bellsouth.net](mailto:mtomaszek@bellsouth.net)  
E-Mail [robinstilwell@yahoo.com](mailto:robinstilwell@yahoo.com)  
E-Mail [stilwell@gmail.com](mailto:stilwell@gmail.com)

OF COUNSEL  
H. SAMUEL STILWELL

†SC CERTIFIED TAX SPECIALIST  
ALSO ADMITTED IN NORTH CAROLINA

June 3, 2009

**FILED**

**JUL 29 2010**

**GREENVILLE COUNTY  
PROBATE COURT**

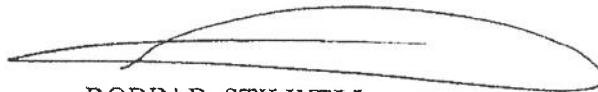
Ms. Tracy Parsons  
Guardian for Stephanie Windham  
Post Office Box 24261  
Greenville, SC 29616

RE: Stephanie Windham

Dear Ms. Parsons:

I have had conversations with Mrs. Brenda Bryant and Ms. Patricia Harrison regarding their concerns for the safety and welfare of Stephanie Windham. Mrs. Bryanat, in particular, is concerned that Stephanie has been assaulted several times in the past months and is on medication which may not be in her best interest. She is concerned that these matters are not being addressed appropriately. To that end, both she and Ms. Patricia Harrison have located an alternate residence for her in Florence, South Carolina. They both believe that moving Stephanie to this alternate residence would be in her best interest for several important reasons. I believe that you may have already had the opportunity to discuss this matter with each of them. I would encourage you to discuss this matter further with each of them and to consider moving Stephanie to an alternate residence. Please let me know should you have any questions of me.

With kindest regards,



ROBIN B. STILWELL

RBS:cor

cc: Brenda Bryant  
Patricia Harrison  
Theresa Horton

**RESPONDENT'S  
EXHIBIT**

1 7/29/10  
Windham

#1  
tc



S.C. Judicial Merit Selection Commission.

Statement Against Judge Edward Miller ,Greenville County Circuit Judge

My name is Brenda Bryant ,I am the Mother of a Special Needs Daughter, I Filed a Lawsuit Against SC.DDSN, Greenville Disabilities, Tracy Parsons Court Appointed Guardian for neglect of My Special Needs Daughter Stephanie Windham who resided in a group home and was being abused and molested. On September 16 ,2010 Attorney Alice Perkins Filed and did not serve the action pending filing a amended complaint, Prior to Serving the Complaint Attorney Rodney Pillsbury Attorney for Tracy Parsons did go to the Court and retrieve a copy without proper service or a Affidavit of Service filed in the Court by the Plaintiff, Rodney Pillsbury, Attorney filed a Motion to Dismiss and for Sanctions, The S.C. Rules of Civil Procedure defines that a action does not commence until Proper Service and a Affidavit has been effective SCRCF 3 (a)(1) Judge Miller held the Motion to Dismiss and for Sanctions on November 1,2010, Attorney Allen Fulmer was prepared to testify and Mrs Perkins presented evidence that Stephanie had been assaulted numerous times under the Guardian ,see letter from Robin Stillwell to Tracy Parsons request she move Stephanie to a private Group Home , Tracy Parsons refused and Stephanie continued to be assaulted. Judge Miller refused to allow testimony or evidence from Allen Fulmer or Myself and Dismissed the Complaint deeming the Lawsuit frivolous and Sanctioning Me 5,062.50 without holding a separate hearing under the S.C. Frivolous Sanctioning Act requiring financial declarations and Due Process, therefore. My Attorney filed a Motion for Reconsideration and Objections however the Motion was not clocked in however Mrs. Perkins presented the proof of mailing in the Rule to Show Cause hearing. Judge Miller deemed the beating and molestation of a Special Needs was frivolous denying Stephanie Justice, On february 7th council for the defendant filed a rule to show cause ,a hearing was heard on March 2,2011 , a second rule to show cause was held , the hearing held on June 10,2011 The Plaintiff was jailed for not paying the Guardian 10.000 as the Guardian failed to perform her duties and the Guardian was Court Appointed and therefore the Plaintiff did not Contract with the Guardian. I filed a Notice of Intent with the S.C. Court of Appeals prior to the March 14 hearing to hold me in Contempt , Judge Miller's office called me and Stated Judge Miller Stated I better be there by 5 that day ,although I notified them that I Had filed a Notice of Appeal. Judge Miller Received a Clocked in copy of The Notice of Appeal from the Court of Appeals that day March 14 and stopped the hearing, Judge Miller While Under Appeal Prepared and Issued a Order April 16 finding Me in Contempt of Court for Failure to Appear, Increasing the Attorney Fees to 9639.00, Issuing a Bench Warrant for Failure to Appear ,Sentencing Me life to death ,Entering Me into NCIC as a Fugitive Fleeing from Justice ,Guilty in Criminal Court , No Bond and a Violent Offender for a Civil Action to Defend My Special Needs Daughter This the been verified by the Nerve, Greenville News and Post and Courier,

Judge Miller issued the April 16 2012 Order without Jurisdiction over the person, pursuant to Rule 12 (b) (2) and failed to hold a Required Hearing Under the S.C. Frivolous Sanctioning Act SCRCF( 11) ,(2) Unless the Court finds by a Preponderance of evidence that a Attorney ,party or Pro Se litigant engaged in a frivolous claim ,the Attorney or Party shall not be Sanctioned. Judge Miller Illegally Sanctioned Me ,there was no Evidentiary Hearing, testimony ,finding of facts or accounting Statement , Judge Miller therefore Denied Me Due Process ,Illegally Sanctioned Me as I was Represented by

Attorney Alice Perkins and Vindictively Sentenced me to Life to Death which violates My 4th ,5th ,6th, 8th, 14th,Amendment Rights, I have filed 2 Motions to Vacate the Bench Warrant ,Judge Miller Denied each,I Requested Judge Miller to allow me to come home ,when my Husband had a 3rd massive heart attack , Rickey was in intensive care , Judge Miller's Law Clerk emailed only if I payed the Attorney Fees,I did not have the money,Rickey had to go home alone.

I have not been home in 9 years ,I am 66 now , I have Severe Asthma , Epilepsy,Spinal Cord Injury, My Dear Husband has Suffered and lived through 3 Massive Heart Attacks and must be home ,Rickey is now 70 and we just Celebrated 45 years of Marriage and did not Plan to be Separated ,We Spent Our Lives Dedicated to Caring for a Special Needs Child and Have Been Punished by the S.C.Judicial System for Fighting for a Special Needs Daughter , God Entrusted Us to Care for.

This information is evidence that Judge Edward Miller has violated the Judicial Canon 2,A ,

A Judge Shall Avoid Impropriety and the Appearance of Impropriety In All of the Judges Activities.

A Judge shall respect and comply with the law \*and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judicial System

In 2014 Judge Edward Miller Testified Under Oath before the Judicial Screening Commission that I could pay the Attorney Fees and Purge Myself ,however the Bench Warrant is for Failure to Appear at the March 14 2012 Hearing, see the Contempt Order, Judge Miller Testified that He Never Sentenced me to life see the NCIC transmitted to Buncombe County,where I was stopped ,arrested and given No Bond.I was represented by Attorney Sam Sneed and had to wait 90 days to see if S.C.was going to Extradite me ,all for Illegal Sanctions and Bench Warrant,which has violated my 8th Amendment To Be Free From Cruel and Unusual Treatment,Excessive Bail, Judge Miller Perjured Himself before the Judicial Screening Commission When He Testified that I could Pay the money and be free,I contacted Attorney Rodney Pillsbury in 2016 and offered to pay a lower amount and was informed that if I payed it would not Vacate the Bench Warrant ,it was for failure to appear.I Hired Attorney Orin Briggs Who appeared before Judge Miller requesting Him to Vacate the B.W. and Judge Miller Refused. I have Contacted Judge Miller several times ,asking if I could simply set a time to appear before him ,once offering my Condolences in the loss of His Wife , Judge Miller refused to vacate or allow me to appear before him,Stating I would have to turn myself in to Greenville Sheriff's Dept.and go to Jail.I have done everything that I possibly can do at this time ,Rickey and I love God and Each Other, I have Prayed for God to intervene and for Judge Miller ,I Feel Sorry for Judge Miller and will continue to Pray for Him ,

I am requesting that the Office On Disciplinary to Investigate Judge Edward Miller,and Please Consider the Serious Legal violations and the effects it has had on Our Family.I will Never Apologize for fighting for Stephanie or other Special Needs as God allowed me to Testify in Washington before a U.S Staff regarding the abuse,rape and deaths of Special Needs in Group Homes,

Sincerely ,God Bless

*Brenda W. Bryant*

*Exhibit C*

## Time line

Brenda Bryant, the Plaintiff, is Stephanie Windham Mother, Conservator and Guardian. Ms. Bryant is also serves as Successor Special Needs Trustee for Ms. Windham's care and custody.

Parson's submitted invoices to Ms. Bryant for payment.

Ms. Bryant submitted a letter to the Court requesting that Ms. Parson's not receive any compensation for her services.

September 12, 2008 determined that Brenda Bryant's daughter was being subjected to Psychological Abuse by the staff at the Hill Lane CTH II, Greenville SC facility.

December 31, 2008 Brenda Bryant filed action in Court of Common Pleas Greenville County appealing a ruling by the Probate Court. 2008-CP-23-9774

The decision remanded the matter to Probate Court.

February 17, 2009 Theresa A. Horton the Defendant in the first appeal filed on December 31, 2008 filed an appeal of the second Probate Ruling. 2009-CP-23-01247

March 24, 2009 The Plaintiff's daughter, Stephanie Windham was assaulted

May 13, 2009 Ms. Bryant requested that her daughter be moved to another facility in order to protect her from the abuse and assaults. (Request to Court Appointed Guardian-Tracy C. Parsons)

June 12, 2009 the Plaintiff's daughter, Stephanie Windham was a  
2009-CP-23-01247 was dismissed on June 25, 2009.

June 15, 2009 Tracy Parsons, Court appointed Guardian submitted a letter to Robin Stilwell of Hunter, Tomaszek & Stilwell regarding the request to move Stephanie Windham to a Florence Facility.

September 22, 2011 Edward M Sauvain issued an order of Civil Contempt and sentenced the Plaintiff, Brenda Bryant to 6 months in The Greenville County Detention Center.

The Plaintiff, Ms. Bryant was not served with the Order of Civil Contempt.

October 13, 2010 Ms. Bryant filed a complaint in the Court of Common Pleas against Greenville County Disabilities and Special Needs Board; The South Carolina Department of Disabilities and Special Needs; John King (individually and in his official capacity); Brent Parker (individually and in his official capacity); Melissa Stubblefield (individually and in Her Officially capacity); Jennifer Bogart (individually and in her official capacity); Tracy Parsons; William H Davidson, II, Esquire, Theresa A. Horton, Esquire for Negligence, Gross Negligence, Willful Indifference, Outrage, Intentional Infliction of Emotional Distress, Conspiracy. (Alice J. Perkins, Plaintiff's Attorney)

During Ms. Windham's stay she was assaulted on five different occasions while in the care and custody of Greenville County Disabilities and Special Needs Board, South Carolina Department of Disabilities and Special Needs.

The Complaint was not served on the Defendants.

Ms. Bryant's attorney did not serve the Summons and Complaint as she was doing to be amending the Summons and Complaint.

The Defendant's attorney contends that service was completed with he picked up a copy of the Complaint from the Clerk of Court's office.

On September 17, 2010, Parson's attorney filed a Motion to Dismiss and For Sanctions.

On October 13, 2010 an amended complaint was filed by Brenda Bryant's attorney.

On November 1, 2010 Parson's attorney filed a Second Motion to Dismiss and for Sanctions

On November 16, 2010 an order was issued dismissing Tracy Parsons and giving sanctions.

On November 10, 2010 the Plaintiff, Brenda Bryant was ordered to pay \$5,062.50 within 15 days of entry of the Order.

On November 16, 2010 the Order was filed with the Court.

On January 10, 2011 the Plaintiff, Brenda Bryant was notified by counsel that she was to pay the money for a Rule to Show Cause should be filed.

On February 7, 2011 Parsons filed a Motion and Rule to Show Cause.

On February 8, 2011 the Court sent a notice of Motions Roster to Ms. Bryant.

On March 1, 2011 the Defendant DDSN filed a Motion to Dismiss.

On March 2, 2011 the Defendant Disabilities and Special Needs Board for Greenville County filed a Motion to Dismiss.

On March 3, 2011 Exhibits were filed by Brenda Bryant.

On March 3<sup>rd</sup> and 4<sup>th</sup> Answers were filed by DDSC and GCDSNB.

On April 12, 2011 the Plaintiff was served with Notice of the Rule to Show Cause.

On April 12, 2011, the Rule To Show Cause hearing was continued.

On April 12, 2011 the Court sent a notice of hearing.

On May 18, 2011 A form 4 was issued granting Motions to Dismiss, Compel and Produce.

On May 19, 2011 a notice of Motions Roster was sent to all parties.

On May 31, 2011 an Order dismissing the SC Department of Special Needs was issued.

On June 6, 2011 a Notice of Hearing was sent.

On June 10, 2011 a hearing was held on the rule to show cause. Plaintiff's counsel failed to attend. The Plaintiff, Brenda Bryant attended the hearing and explained to the Court that she had ben told the contempt proceedings were a separate matter and did not require counsel's attendance. The Plaintiff stated she had no intentions of paying the money and would appeal the decision.

On June 20, 2011 King, Parker, Stubblefield & Bogart filed Motions to Dismiss.

On June 20, 2011 Notice of Motions Roster was sent.

On June 21, 2011 Disabilities and Special Needs Board Greenville County filed Motions.

On June 24, 2011 the Court issued an Order of Contempt regarding the November 10, 2010.

On July 1, 2011 Notice of Motions Roster Publication was sent.

July 7, 2011 the plaintiff filed a motion for Reconsideration.

August 18, 2011 the Plaintiff's Motion for Reconsideration was denied.

September 22, 2011, the Plaintiff was incarcerated for being held in contempt fo court for failing to pay guardian fees on a related, but separate matter.

On November 8, 2011 Parsons filed a second Rule to Show Cause.

On December 9, 2011 the Dismissal of the Complaint was completed by the Clerk of Court.

January 4, 2012 the hearing on the Rule to Show Cause to March 14, 2012

On April 2, 2012 the Court issued an Order regarding a hearing on March 14, 2012. At that time the Court found Brenda Bryant and Alice Perkins to be in Willful Contempt of Court.

The Court order Ms. Bryant to pay \$9,639.00 to Parsons' Counsel and issued an bench warrant for her immediate arrest and ordered that she be incarcerated until a further hearing and/or order from this court.

The arrest warrant was entered into NCIC . The Plaintiff was listed as violent offender and a fugitive from the law.

The Plaintiff was driving in North Carolina and was picked up. The Plaintiff was placed in detention and held without bond because of the listing in NCIC.

On April 21, 2012 the Plaintiff was arrested in North Carolina.

The Plaintiff remained in jail for a period of \_\_\_\_\_ days.

The Plaintiff remained in jail until such time as it was determined that she would not be extradited.

The Plaintiff, Brenda Bryant has not been served with any warrants for her arrest.

\*MA738104\*

File No. 12CR 054358

**MAGISTRATE ORDER**

Offense M: 933057 W: 738104 J:

I FUGITIVE WARRANT

**THE STATE OF NORTH CAROLINA VS.**

Name, Address, Telephone Number of Defendant

BRYANT, BRENDA WINDHAN  
 264 ASHTON CIR  
 LEXINGTON, SC 29073  
 (H) 803-357-6739 (W)

|      |     |               |     |
|------|-----|---------------|-----|
| Race | Sex | Date of Birth | Age |
| W    | F   | 02/07/1954    | 58  |

|                        |                             |
|------------------------|-----------------------------|
| Social Security Number | Drivers License No. & State |
| 247-04-6437            | 004823838 SC                |

Name of Defendant's Employer  
 SELF EMPLOYED

|              |                              |
|--------------|------------------------------|
| Offense Code | Offense in Violation of G.S. |
| I. 9901 (P)  | 15A-727                      |

|       |                 |
|-------|-----------------|
| DV:   | Date of Offense |
| NY: N | 04/21/2012      |

Date of Arrest & Check Digit No (As Shown on Fingerprint Card)

Complainant (Name, Address, or Department, Telephone No.)  
 (CP) JASON DAVIS LAMBERT (VI)

Witnesses (Names, Addresses, Telephone Numbers)

|   |             |
|---|-------------|
| <input type="checkbox"/> Offense Which Requires Fingerprinting Per Fingerprint Plan | Date Issued |
|   | 04/21/2012  |

**STATE OF NORTH CAROLINA**

BUNCOMBE County

In the General Court of Justice  
 District Court Division

No Image Available

I, THE UNDERSIGNED, FIND THAT THE DEFENDANT NAMED ABOVE HAS BEEN ARRESTED WITHOUT A WARRANT AND HIS DETENTION IS JUSTIFIED BECAUSE THERE IS PROBABLE CAUSE TO BELIEVE THAT ON OR ABOUT THE DATE OF OFFENSE SHOWN AND IN THE COUNTY NAMED ABOVE THE DEFENDANT DID UNLAWFULLY, WILLFULLY

AND FELONIOUSLY DID -- AFFIDAVIT: I, DEPUTY JASON LAMBERT DULY SWORN, STATE THAT I RECEIVED A(X) NCIC [ ] DCI MSG [ ] FAX MSG [ ] WARRANT [ ] PHONE CALL FROM GREENVILLE COUNTY, STATE OF SC STATING THAT BRENDA BRYANT HAS BEEN CHARGED IN THAT STATE ON 04-16-2012 WITH CONTEMPT OF COURT THIS CRIME IS PUNISHABLE BY DEATH/1 YR IN PRISON. THE DEFENDANT HAS (X) FLED FROM JUSTICE [ ] ESCAPED FROM CONFINEMENT [ ] VIOLATED BAIL [ ] VIOLATED PROB/PAROLE.

WARRANT: I, THE UNDERSIGNED FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT ON THE DATE AND IN THE COUNTY AND STATE NAMED ABOVE, THE DEFENDANT DID UNLAWFULLY AND WILLFULLY FLEE THAT STATE AND IS NOW A RESIDENT IN BUNCOMBE CO, NC; THAT SUCH FLIGHT FROM THE JURISDICTION OF THAT STATE IS UNLAWFUL AND THAT A (X) WARRANT [ ] HAS BEEN ISSUED FOR THE ARREST OF BRENDA BRYANT [ ]

THIS ACT WAS IN VIOLATION OF THE LAW REFERENCED ON THIS MAGISTRATE ORDER. THIS MAGISTRATE ORDER IS ISSUED UPON INFORMATION FURNISHED UNDER OATH BY THE ARRESTING OFFICER OR OFFICERS SHOWN. A COPY OF THIS ORDER HAS BEEN DELIVERED TO THE DEFENDANT.

Signature  
 ALEXANDER, JAYC

MAGISTRATE

Location of Court

Court Date

Court Time



If this Warrant of Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted hereon. The officer must state all steps taken by the department in attempting to execute the warrant and any information obtained about the whereabouts of the defendant.

**RETURN OF SERVICE**

I certify that this Warrant was received and served as follows:

Date Received \_\_\_\_\_ Date Served \_\_\_\_\_ Date Returned \_\_\_\_\_

By arresting the defendant and bringing the defendant before:  
Name of Judicial Official \_\_\_\_\_

The Warrant WAS NOT served for the following reason:

Signature of Officer Making Return \_\_\_\_\_

Department or Agency of Officer \_\_\_\_\_

**REDELIVERY**

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Dep. CSC  
 Asst. CSC  
 CSC

**RETURN FOLLOWING REDELIVERY**

I certify that this Warrant was received and served as follows:

Date Received \_\_\_\_\_ Date Served \_\_\_\_\_ Date Returned \_\_\_\_\_

By arresting the defendant and bringing the defendant before:  
Name of Judicial Official \_\_\_\_\_

The Warrant WAS NOT served for the following reason:

Signature of Officer Making Return \_\_\_\_\_

Department or Agency of Officer \_\_\_\_\_

**APPEAL ENTRIES**

The defendant, in open court, gives notice of appeal to the Superior Court.

The current pretrial release order is modified as follows:

Date \_\_\_\_\_ Signature of District Court Judge \_\_\_\_\_

**WAIVER OF PROBABLE CAUSE HEARING**

The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.

Date Waived \_\_\_\_\_ Signature of Defendant \_\_\_\_\_  
 Signature of Attorney \_\_\_\_\_

District Attorney \_\_\_\_\_

Attorney For Defendant At Time of Trial or Plea

Appointed  
 Waived

Retained

Not/Level: 0

(0)

1(1-4)

3(3-5+)

PLEA:  guilty  no contest  
 guilty  no contest  
 not guilty

VERDICT:  guilty  not guilty  
 guilty  not guilty

M.C.I.  A1  1  2  3  
 M.C.I.  A1  1  2  3

JUDGMENT: The defendant appeared in open court and freely, voluntarily, and understandingly entered the above plea. on the above verdict it is ORDERED that the defendant:  pay costs and a fine of \$ \_\_\_\_\_  DOC. Pretrial credit \_\_\_\_\_ days served.

be imprisoned for a term of \_\_\_\_\_ days in the custody of the sheriff.  is recommended  is NOT recommended  is ordered. (use form AOC-CR-602)

Work release  longer  shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.

The court finds that a \_\_\_\_\_ With defendant's consent, execution of the sentence is suspended and the defendant is placed on unsupervised probation for \_\_\_\_\_ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction, (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and family obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine \$ \_\_\_\_\_ Restitution \$ \_\_\_\_\_ Attorney's Fee \$ \_\_\_\_\_ Community Service Fee \$ \_\_\_\_\_ Other \$ \_\_\_\_\_

\* Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution.

6. complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of probation, as directed by the community service coordinator, and pay the fee prescribed by G.S. 143B-475.1(b) within \_\_\_\_\_ days.

7. not be found in or on the premises of the complainant or \_\_\_\_\_

8. not assault, communicate with or be in the presence of the complainant or \_\_\_\_\_

9. Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  
 case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at the expiration of the sentence in \_\_\_\_\_

COMMITMENT: It is ordered that the clerk deliver two certified copies of the Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

PROBABLE CAUSE: Probable cause is found as to all Counts except \_\_\_\_\_, and the defendant is bound over to Superior Court for action by the grand jury.  No probable cause is found as to Count(s) \_\_\_\_\_ of the Warrant, and the Court(s) is dismissed.

Date \_\_\_\_\_ Name of District Court Judge (Type or Print) \_\_\_\_\_ Signature of District Court Judge \_\_\_\_\_

**CERTIFICATION**

I certify that this Judgment is a true and complete copy of the original which is on file in this case.

Date \_\_\_\_\_ Date Delivered to Sheriff \_\_\_\_\_ Signature \_\_\_\_\_

Dep. CSC  
 Assist. CSC  CSC

User: SICILIAA

Message

To: SD-COMM2 (SICILIAA)

From: SYSTEM (SYSTEM)

Received: 04/21/2012 00:14:31

TO: BCA3A -045804 20120421 00:14:29 [ 0006255A90 ]  
FROM: NC2K 20120421 00:14:29  
1L011EF500360F3QWA  
NC0110022

\*\*\*MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

MKE/WANTED PERSON - CAUTION

CMC/05 - VIOLENT TENDENCIES

EXL/C - EXTRADITION - SURROUNDING STATES ONLY

ORI/SC0230000 NAM/BRYANT, BRENDA W SEX/F RAC/W POB/MS

DOB/19640207 HGT/504 WGT/174 EYE/BLU HA/GRY FBI/995713J4

SMT/SC ABD0M

FPC/11AA1116081207111203 SOC/247046437

OLN/4823838 OLS/SC OLY/2016

OFF/FAILURE TO APPEAR - SEE MIS - COURT HEARING

OOC/CONTEMPT OF COURT - SEE MIS

DOW/20120416 OCA/2012-803405

WNO/2012002696 CTI/SC023015A

MIS/C A U T J O N-PRIOR ARREST FOR RESISTING ARREST-SURROUNDING STATES

MIS/ONLY-NC-GA-REQUEST NO BOND-GENERAL SESSIONS BENCH

MIS/WARRANT-2012002696-ORIGINAL CHARGE-CIVIL COURT-FAIL TO APPEAR FOR COURT

MIS/HEARING

DNA/N

ORI IS GREENVILLE CO SO GREENVILLE 864 271-5210

AKA/BRYANT, BRENDA

AKA/BRYANT, BRENDA SUE

AKA/BRYANT, BRENDA WINDHAM

AKA/BRYANT, BRENDA WINDHENN

AKA/WINDHAM, BREDNA SUZANN

AKA/WINDHAM, BRENDA SUE

SMT/SC NECK

NIC/W354863979 DTE/20120417 1100 EDT DLU/20120417 1102 EDT

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Reference: UNKNOWN  
Msg Key : YR  
Date/Time: 20120421003112  
Source : NLETS

UNKNOWN.NLETS.YR.20120421003112.  
TO: BCA -094359 20120421 00:31:12 0008580EB3  
FROM: NLETS 20120421 00:31:12

YR.SC0230002  
21:31 04/20/2012 96769  
21:31 04/20/2012 52543 NC0110000

TXT  
\*\*\*\*HIT CONFIRMATION RESPONSE\*\*\*\*  
THE RECORD BELOW IS CONFIRMED  
OCA/2012-803405.NIC/W354863979.  
\*\*\* WANTED PERSON \*\*\*

NAM/BRYANT, BRENDA W.  
DOB/19540207. SEX/F.  
NAME OF CONFIRMER: LAW, BRIAN UN 323  
CONFIRMING AGENCY: GREENVILLE CO SO  
PHONE: (864)271-5210  
FAX: (864)467-5454

REMARKS: THIS HIT IS CONFIRMED PLEASE PLACE HOLD AND ADVISE WHEN SUBJECT IS  
READY FOR PICKUP PLEASE SEND LOCATE

\*\*\*\*\*

cf. Exhibit D

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS )

COUNTY OF GREENVILLE )

2012 APR 16 P 12:27

BRENDA W. BRYANT, )  
Plaintiff, )

C.A. NO.: 10-CP-23-7631 )

[REDACTED] )  
[REDACTED] )

FILED CLERK OF COURT  
GREENVILLE CO. S.C.  
WICK

ORDER FOR BENCH WARRANT

vs. )

The Greenville County Disabilities and )  
Special Needs Board, The South Carolina )  
Department of Disabilities and Special )  
Needs, John King (individually and in his )  
official capacity), Brent Parker (individually )  
and in his official capacity, Melissa )  
Stubblefield (individually and in her official )  
capacity, Jennifer Bogart (individually and )  
in her official capacity), Tracy Parsons, )  
William H. Davidson, II, Esquire, and )  
Theresa A. Horton, Esquire, )

Defendants. )

This case came before this Court on March 14, 2012, at 2:00 PM., upon Defendant Parson's Second Rule to Show Cause. Defendant Parson's sought a ruling as to why the Plaintiff, Brenda Bryant, should not be held in contempt of court for failing to comply with the terms of this Court's June 24, 2011 order.

The June, 24, 2011 order directed Mrs. Bryant to arrange terms of payment of \$5,062.50 within thirty (30) days, and failure to do so would subject Mrs. Bryant to further court sanctions, including, but not limited to, imprisonment and/or payment of additional costs, attorney's fees and expenses. Plaintiff never contacted counsel for Defendant Parsons in writing to make mutually agreeable payment arrangements, as required by the Court's June 24, 2011 order.

*[Handwritten signature]*

The Rule to Show Cause was originally scheduled to be heard on January 5, 2012, but was ultimately continued to March 14, 2012. Plaintiff had requested the continuance on January 4, 2012, based on failure to receive notice and her intention to file a notice of intent to appeal the next day (January 5, 2012). By order issued January 9, 2012 Plaintiff and her attorney of record were directed to appear at the March 14, 2012 hearing.

On March 14, 2012, at the appointed hour, Plaintiff and her attorney failed to appear for the hearing. The Court swore in Mr. Steve Lopez, non-jury coordinator for the Greenville County Clerk of Court. Mr. Lopez confirmed that notice of the hearing had been properly served upon Plaintiff and Plaintiff's Counsel.

The Court finds and concludes that Plaintiff is in violation of the June 24, 2011 order, is in arrears in her payments to Defendant in the amount of Five Thousand Sixty-Two and No/100 (\$5,062.00) Dollars. Plus, the amount of interest on the \$5,062.50 award from the date of the order to March 14, 2012 of \$592.98. The Court also finds that Mr. Pillsbury, Counsel for Defendant Parsons, is entitled to a reasonable attorney's fee of Three Thousand Nine Hundred Eighty-Three and 52/100 (\$3,983.52) Dollars in attorney's fees for his work in this case.

Based on the record of this case, the Court's June 24, 2011 order, and Plaintiff's failure to appear at the March 14, 2012 hearing, it is

**ORDERED, ADJUDGED, AND DECREED** that Plaintiff is in willful contempt of the Orders of this Court dated June 24, 2011. As a result of her willful contempt of the Orders of this Court, Plaintiff shall be arrested by the Greenville County Sheriff's Office and incarcerated until a further hearing can be held. The Greenville County Clerk's Office shall issue a bench warrant for the arrest of the Plaintiff due to her contempt, and it is

FURTHER ORDERED, ADJUDGED, AND DECREED, that, upon the payment to counsel for Defendant of the sum of Nine Thousand Six Hundred Thirty-Nine and No/100 (\$9,639.00) Dollars in cash or certified check, Plaintiff may be purged of her contempt and released from incarceration.

AND IT IS SO ORDERED.

Dated: April 16, 2012



The Honorable Edward W. Miller

4/11/12

JAMM001 Inmate Maintenance (GCDC)  
Jail# 0819 Pack# 257556 Juv# Cell NOT SENT INACTIVE  
Inmate Type N Canteen Priv? Y NxtScr  
Booked In Absence N Ten Finger Roll N Translator Needed N

Name (L/F/M/S) BRYANT BRENDA  
Addr 264 ASHTON CR C LEXINGTON S SC Z 29073  
POB MI DOB 02/07/1954 Race W Sex F WgtIn 179 HgtIn 504 HIP N  
CC SSN 247-04-6437 Hair GRAY Eyes BLU WgtOut 174 HgtOut 504 DNA N  
Phone 803-356-7639 Rel Pref NOP Educ 12 Ins Spk Eng Y MHH N  
Attorney Photo# 3200232 B.Money \$49.00

NextKin (L/F/M/S) BRYANT RICKY  
Phone 803-356-7639 Relationship HU  
Addr SAME AS C ABOVE S SC Z 29073

Recvd 17:13 09/22/2011 Arrs Off CLAUDE Rec Clk JMOFFAT Notify Vio? N  
Booked 19:25 09/22/2011 B.ORI 000 B.Off JMOFFAT S.Off WMARSHALL  
3=Lang/Rls Restr 6=Print 30=Expung 95=RC 97=B0 98=SO

Command ===>  
F1=Ext. Help F2=Desc F3=Exit F5=Refresh F6=Update Stay F7=Backwards  
F9=Find F10=Modify F12=Popup

*Open - I'm not sure if this is the same Brenda Bryant?*

*264 Ashton circle  
Lexington, SC 29073*

*2010CPA2307631  
order dated 4/02/12*

*Court to issue Bench Warrant for her immediate arrest (if \$9,639.00 was not pd) the BW was to be issued for "FTA." (Not for payment at all)*

*(764) 478-2135 telephone number that appeared on telephone when she called Brenda on 4/10/12*

Robert H.

**RULE 3**  
**COMMENCEMENT OF ACTION**

(a) **Commencement of civil action.** A civil action is commenced when the summons and complaint are filed with the clerk of court if:

- (1) the summons and complaint are served within the statute of limitations in any manner prescribed by law; or
- (2) if not served within the statute of limitations, actual service must be accomplished not later than one hundred twenty days after filing.

(b) **Filing *In Forma Pauperis*.**

(1) Except as provided in (2) below, a plaintiff who desires to file an action *in forma pauperis* shall file in the court a motion for leave to proceed *in forma pauperis*, together with the complaint proposed to be filed and an affidavit showing the plaintiff's inability to pay the fee required to file the action. If the motion is granted, the plaintiff may proceed without further application and file the complaint in the court without payment of filing fees.

(2) Where a party is represented in a civil action by an attorney working on behalf of or under the auspices of a legal aid society or a legal services or other nonprofit organization funded in whole or substantial part by funds appropriated by the United States Government or the General Assembly of the State of South Carolina, which has as its primary purpose the furnishing of legal services to indigent persons, or the South Carolina Bar Pro Bono Program, fees related to the filing of the action shall be waived without the necessity of a motion and court approval. Before the filing fees will be waived, the attorney representing the party must file with the clerk a written certification that representation is being provided on behalf of or under the auspices of the society, organization or program, and that the party is unable to pay the filing fees.

**Note to 2004 Amendment:**

This amendment rewrote subsection (a), deleted subsection (b), and renumbered subsection (c) as subsection (b). These changes are intended to reflect the legislative intent expressed in § 15-3-20 as amended by 2002 S.C. Act No. 281, § 1.

**Note to 2011 Amendment:**

This amendment added the language of (b)(2) which allows for the waiver of the filing fees for an action when a party is represented by an attorney working on behalf of or under the auspices of a legal aid society, a legal services or other nonprofit organization, or the South Carolina Pro Bono Program.



**RULE 205**  
**EFFECT OF APPEAL**

Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

*E. Hubert I*

**RULE 241**  
**STAY AND SUPERSEDEAS IN CIVIL ACTIONS**

**(a) General Rule.** As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

**(b) Exceptions.** The exceptions to the general rule are found in statutes, court rules, and case law. Where specific conditions must be met before the exception applies, those conditions must be strictly complied with. A list of some, but not all, of the exceptions to the general rule is:

- (1) Money judgments as provided in S.C. Code Ann. § 18-9-130.
- (2) Judgments directing the assignment or delivery of documents or personal property as provided in S.C. Code Ann. § 18-9-150.
- (3) Judgments directing the execution of conveyances or other instruments as provided in S.C. Code Ann. § 18-9-160.
- (4) Judgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170.
- (5) Judgments directing the sale of perishable property as provided in S.C. Code Ann. § 18-9-220.
- (6) Family court orders regarding a child or requiring payment of support for a spouse or child as provided in S.C. Code Ann. § 63-3-630.
- (7) Worker's compensation awards as provided in S.C. Code Ann. § 42-17-60.
- (8) An appeal from an order granting an injunction or temporary restraining order.
- (9) Family court orders awarding temporary suit costs or attorney's fees as provided in S.C. Code Ann. § 63-3-530(A)(2).
- (10) Ejectment orders as provided in S.C. Code Ann. § 27-37-130 and S.C. Code Ann. § 27-40-800.
- (11) Appeals from administrative tribunals as provided in S.C. Code Ann. § 1-23-380(A)(2) and § 1-23-600 (G)(5).

**(c) Supersedeas or Lifting of Automatic Stay.**

(1) Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal. The issuance of an ex parte order or decision, or an unnecessary delay by the lower court or administrative tribunal in ruling on this application shall constitute an extraordinary circumstance.

(2) After the lower court or administrative tribunal has ruled, any party may petition the appellate court where the appeal is pending or an individual judge or justice for review of this order. The individual judge or justice may grant or deny the relief on a temporary basis, and refer the matter to the full appellate court to hear and determine the matter, or he or she may issue a final order. Upon the issuance of a final order by an individual judge or justice, an aggrieved party may petition the full appellate court for review of that decision.

(3) A person seeking an order lifting an automatic stay or granting a writ of supersedeas must file a written petition verified by the client. The petition shall *be captioned the same as the appeal. In addition to the petition and verification, the moving party must contemporaneously file a certified copy of the order, judgment, decree or decision of the lower court or administrative tribunal and a copy of the notice of appeal with its proof of service.*

(4) The petition shall contain:

(A) the factual background necessary for an understanding of the petition. If the facts are subject to dispute, the petition shall be supported by affidavits or other sworn statements;

(B) the grounds for the petition, and legal arguments with supporting *points and authority*;

(C) a showing that an application for this relief was made to the lower court or administrative tribunal, and was unjustifiably denied or that the relief granted failed to afford the relief which the petitioner requested. A certified copy of the lower court's or administrative tribunal's ruling must be included. If no application was made to the lower court or administrative tribunal, then the petition shall state the extraordinary circumstances which made it impracticable to make such an application.

(5) The petition and accompanying documents shall be served on the opposing party(ies). Upon application to the full appellate court, one original and six copies, and a certificate of service shall be filed with the clerk of the appellate court. If the relief is sought from an individual judge or justice, the original and two copies must be filed with the judge or justice. The individual judge or justice shall forward the original documents, including a copy of any order issued by the judge or justice in the matter, to the clerk of the appellate court as soon as possible.

(6) A supersedeas or order lifting the automatic stay may be issued *ex parte* only where exigent circumstances require that action be taken before there is time for a hearing. An *ex parte* order shall issue only if:

(A) it clearly appears from specific facts shown by affidavits or included in the verified petition that immediate and irreparable injury, loss or damage will result before the opposing party can respond; and

(B) the moving party's attorney certifies in writing, as an officer of the court, the efforts which have been made to give notice, or the reasons supporting the claim that notice should not be required.

(7) Any party aggrieved by the decision of the lower court, the administrative tribunal, or an individual judge or justice may petition under this Rule for a review of that decision.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by order of the same date.

# South Carolina Legislature

South Carolina Law >

## Title 15 - Civil Remedies and Procedures

### CHAPTER 36

#### South Carolina Frivolous Civil Proceedings Sanctions Act

##### SECTION 15-36-10. Frivolous lawsuits; signing pleadings; imposition of sanctions; notice and opportunity to respond; reporting violations.

(A)(1) A pleading filed in a civil or administrative action on behalf of a party who is represented by an attorney must be signed by at least one attorney of record who is an active member of the South Carolina Bar or who is admitted to practice in the courts of this State and must include the address and telephone number of the attorney signing the document.

(2) A document filed in a civil or administrative action by a party who is not represented by an attorney must be signed by the party and must include the address and telephone number of the party.

(3) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:

(a) the person has read the document;

(b) a reasonable attorney in the same circumstances would believe that under the facts his claim or defense may be warranted under the existing law or, if his claim or defense is not warranted under the existing law, a good faith argument exists for the extension, modification, or reversal of existing law;

(c) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of a civil cause is not intended merely to harass or injure the other party; and

(d) a reasonable attorney in the same circumstances would believe his claim or defense is not frivolous, interposed for delay, or brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based.

(4) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

(i) the person has not read the frivolous pleading, motion, or document;

(ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party, or

(iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

(B)(1) If a document is not signed or does not otherwise comply with this section, it must be stricken unless it is signed promptly or amended to comply with this section after the omission is called to the attention of the attorney or the party.

(2) If a document is signed in violation of this section, or an attorney or pro se litigant has violated subsection (A)(4), the court, upon its own motion or motion of a party, may impose upon the person in violation any sanction which the court considers just, equitable, and proper under the circumstances.

(C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(D) A person is entitled to notice and an opportunity to respond before the imposition of sanctions pursuant to the provisions of this section. A court or party proposing a sanction pursuant to this section shall notify the court and all parties of the conduct constituting a violation of the provisions of this section and explain the basis for the potential sanction imposed. Upon notification, the attorney, party, or pro se litigant who allegedly violated subsection (A)(4) has thirty days to respond to the allegations as that person considers appropriate including, but not limited to, by filing a motion to withdraw the pleading, motion, document, or argument or by offering an explanation of mitigation.

(E) In determining if an attorney, party, or a pro se litigant has violated the provisions of this section, the court shall take into account:

- (1) the number of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);
- (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation;
- (5) previous violations of the provisions of this section;
- (6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.
- (F) In determining whether sanctions are appropriate or the severity of a sanction, the court shall consider previous violations of the provisions of this section.
- (G) Sanctions may include:
- (1) an order for the party represented by an attorney or pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section. Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage, parking, costs of reports, and any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding;
- (2) an order for the attorney to pay a reasonable fine to the court; or
- (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.
- (H) If the court imposes a sanction on an attorney in violation of the provisions of this section, the court shall report its findings to the South Carolina Commission of Lawyer Conduct.
- (I) This act shall not alter the South Carolina Rules of Civil Procedure or the South Carolina Appellate Court Rules.
- (J) The provisions of this section shall not apply where an attorney or pro se litigant establishes a basis to proceed with litigation, or to assert or controvert an issue therein, that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of the existing law.
- (K) The provisions of this section apply in addition to all other remedies available at law or in equity.
- (L) The amount requested for damages in a pleading may not be considered in a determination of a violation of the provisions of this section.
- (M) All violations of the provisions of this section must be reported to the South Carolina Supreme Court and a public record must be maintained and reported annually to the Governor, Senate, and House of Representatives.

HISTORY: 1988 Act No. 432, Section 6; 2005 Act No. 27, Section 5, eff July 1, 2005, applicable to causes of action arising on or after that date.

#### Effect of Amendment

The 2005 amendment rewrote this section.

**SECTIONS 15-36-20 to 15-36-50.** Repealed by 2005 Act No. 27, Section 12, eff July 1, 2005.

#### Editor's Note

Former Section 15-36-20 was entitled "Factors supporting finding of proper purpose for action" and was derived from 1988 Act No. 432, Section 6.

Former Section 15-36-30 was entitled "Recovery of attorney's fees and court costs" and was derived from 1988 Act No. 432, Section 6.

Former Section 15-36-40 was entitled "Burden of proof" and was derived from 1988 Act No. 432, Section 6.

Former Section 15-36-50 was entitled "Court to determine fees and costs" and was derived from 1988 Act No. 432, Section 6.

**SECTION 15-36-100.** Complaint in actions for damages alleging professional negligence; contemporaneous affidavit of expert specifying negligent act or omission.

(A) As used in this section, "expert witness" means an expert who is qualified as to the acceptable conduct of the professional whose conduct is at issue and who:

- (1) is licensed by an appropriate regulatory agency to practice his or her profession in the location in which the expert practices or teaches; and
- (2)(a) is board certified by a national or international association or academy which administers written and oral examinations for certification in the area of practice or specialty about which the opinion on the standard of care is offered; or
- (b) has actual professional knowledge and experience in the area of practice or specialty in which the opinion is to be given as the result of having been regularly engaged in:
- (i) the active practice of the area of specialty of his or her profession for at least three of the last five years immediately preceding the opinion;
- (ii) the teaching of the area of practice or specialty of his or her profession for at least half of his or her professional time as an employed member of the faculty of an educational institution which is accredited in the teaching of his or her profession for at least three of the last five years immediately preceding the opinion; or
- (iii) any combination of the active practice or the teaching of his or her profession in a manner which meets the requirements of subitems (i) and (ii) for at least three of the last five years immediately preceding the opinion;
- (3) is an individual not covered by subsections (A)(1) or (2), that has scientific, technical, or other specialized knowledge which may assist the trier of fact in understanding the evidence and determining a fact or issue in the case, by reason of the individual's study, experience, or both. However, an affidavit filed pursuant to subsection (B) by an expert qualified under this subsection must contain an explanation of the expert's credentials and why the expert is qualified to conduct the review required by subsection (B). The defendant is entitled to challenge the sufficiency of the expert's credentials pursuant to subsection (E).

(B) Except as provided in Section 15-79-125, in an action for damages alleging professional negligence against a professional licensed by or registered with the State of South Carolina and listed in subsection (G) or against any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of South Carolina and listed in subsection (G), the plaintiff must file as part of the complaint an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit.

(C)(1) The contemporaneous filing requirement of subsection (B) does not apply to any case in which the period of limitation will expire, or there is a good faith basis to believe it will expire on a claim stated in the complaint, within ten days of the date of filing and, because of the time constraints, the plaintiff alleges that an affidavit of an

expert could not be prepared. In such a case, the plaintiff has forty-five days after the filing of the complaint to supplement the pleadings with the affidavit. Upon motion, the trial court, after hearing and for good cause, may extend the time as the court determines justice requires. If an affidavit is not filed within the period specified in this subsection or as extended by the trial court and the defendant against whom an affidavit should have been filed alleges, by motion to dismiss filed contemporaneously with its initial responsive pleading that the plaintiff has failed to file the requisite affidavit, the complaint is subject to dismissal for failure to state a claim. The filing of a motion to dismiss pursuant to this section, shall alter the period for filing an answer to the complaint in accordance with Rule 12(a), South Carolina Rules of Civil Procedure.

(2) The contemporaneous filing requirement of subsection (B) is not required to support a pleaded specification of negligence involving subject matter that lies within the ambit of common knowledge and experience, so that no special learning is needed to evaluate the conduct of the defendant.

(D) This section does not extend an applicable period of limitation, except that, if the affidavit is filed within the period specified in this section, the filing of the affidavit after the expiration of the statute of limitations is considered timely and provides no basis for a statute of limitations defense.

(E) If a plaintiff files an affidavit which is allegedly defective, and the defendant to whom it pertains alleges, with specificity, by motion to dismiss filed contemporaneously with its initial responsive pleading, that the affidavit is defective, the plaintiff's complaint is subject to dismissal for failure to state a claim, except that the plaintiff may cure the alleged defect by amendment within thirty days of service of the motion alleging that the affidavit is defective. The trial court may, in the exercise of its discretion, extend the time for filing an amendment or response to the motion, or both, as the trial court determines justice requires. The filing of a motion to dismiss pursuant to this section shall alter the period for filing an answer to the complaint in accordance with Rule 12(a), South Carolina Rules of Civil Procedure.

(F) If a plaintiff fails to file an affidavit as required by this section, and the defendant raises the failure to file an affidavit by motion to dismiss filed contemporaneously with its initial responsive pleading, the complaint is not subject to renewal after the expiration of the applicable period of limitation unless a court determines that the plaintiff had the requisite affidavit within the time required pursuant to this section and the failure to file the affidavit is the result of a mistake. The filing of a motion to dismiss pursuant to this section shall alter the period for filing an answer to the complaint in accordance with Rule 12(a), South Carolina Rules of Civil Procedure.

(G) *This section applies to the following professions:*

- (1) architects;
- (2) attorneys at law;
- (3) certified public accountants;
- (4) chiropractors;
- (5) dentists;
- (6) land surveyors;
- (7) medical doctors;
- (8) marriage and family therapists;
- (9) nurses;
- (10) occupational therapists;
- (11) optometrists;
- (12) osteopathic physicians;
- (13) pharmacists;
- (14) physical therapists;
- (15) physicians' assistants;
- (16) professional counselors;
- (17) professional engineers;
- (18) podiatrists;
- (19) psychologists;
- (20) radiological technicians;
- (21) respiratory therapists; and
- (22) veterinarians.

HISTORY: 2005 Act No. 32, Section 4, eff July 1, 2005, for causes of action arising after that date.

## Contents

- 1) Witness Affidavit Form
- 2) Affidavit of Ruckey B. Bryant
- 3) Exhibits

A. Statement of Brenda W. Bryant

B. Original Fed Suit (with no Certificates of Service) Letter from  
Rob. Stillwell

C. Time Line

D. Order for Bench Warrant

E. Roster from the Court of Appeals.

F. ARREST because of Misuse of N.C. IC

G. Letter from Attorney General's office on use of N.C. IC

H. Rule for Commencement of a Fed Suit -

I. Rule 205. Effect of Appeal.

J. Rule 241 - Stay and supersedeas in civil actions

K. S.C. Regulations Title 15 Chapter 30



To: The Judicial Merit Selection Commission  
Re: Candidate: Edward Miller - Circuit Court Judge

I am Rocky Bryant, I am a resident of 264 Ashton Cir, Lexington SC. I am 70 years old. I am married to Brenda Bryant for 45 years. SC has been my home all my life.

I am here today to speak in the matter of reappointment of Edward Miller.

In 2010, Alice Perkins, attorney at law, filed a lawsuit on behalf of my wife against DDSN, Greenville County Disabilities and Special Needs, Tracy Farrow, Teresa Horton, and others. Mrs. Perkins filed the suit and left out the Certificate of Service. That way the time would not run out and the suit would be clocked in evidence but she would still have time to amend it before serving it. We all knew that it was not a legal or complete law suit without the Certificate of Service. An Attorney Rodney Pillsbury (for Tracy Farrow) Mr. Pillsbury's overzealous reaction of going to the Court and picking up a copy of the law suit and filing to have it dismissed should have been deemed a frivolous motion but it was not. This led to a snowball of illegal hearings and actions by Judge Miller.

after the final hearing that was scheduled

this hassle even when she goes through a simple license check or traffic stop.

We have lived through torment because a judge thought he was above following the rules of civil procedure and abused the power that he has been given to protect the citizens of SC. My wife has filed several motions to dismiss and he has turned them down. It's been 9 years now. We have suffer enough - I am not looking for sympathy, I'm looking for fairness and justice for us and anyone that has not been given fair treatment by judges that think they don't have to follow rules and are self proclaimed kings and gods of the legal system. I am only speaking from the experience and the life changing results from an abuse to the American legal system. We must take a stand and do all that we can to preserve and maintain the integrity of our courts, judges and our entire legal system. That is why I am filing this complaint and am willing to testify before the Judicial Merit Selection Commission. Thank you for your time. Be blessed and stay safe.

I do understand that all that I do provide  
to the Judicial Merit Selection Commission is  
true and factual to the best of my knowledge.

Tracy B. Bryant

Deborah Paul  
South Carolina, Richland County

My Commission Expires May 21, 2023

# Timeline

submitted

Exhibit C

By

Brenda

Bryant

Time line

Brenda Bryant, the Plaintiff, is Stephanie Windham Mother, Conservator and Guardian. Ms. Bryant is also serves as Successor Special Needs Trustee for Ms. Windham's care and custody.

Parson's submitted invoices to Ms. Bryant for payment.

Ms. Bryant submitted a letter to the Court requesting that Ms. Parson's not receive any compensation for her services.

September 12, 2008 determined that Brenda Bryant's daughter was being subjected to Psychological Abuse by the staff at the Hill Lane CTH II, Greenville SC facility.

December 31, 2008 Brenda Bryant filed action in Court of Common Pleas Greenville County appealing a ruling by the Probate Court. 2008-CP-23-9774

The decision remanded the matter to Probate Court.

February 17, 2009 Theresa A. Horton the Defendant in the first appeal filed on December 31, 2008 filed an appeal of the second Probate Ruling. 2009-CP-23-01247

March 24, 2009 The Plaintiff's daughter, Stephanie Windham was assaulted

May 13, 2009 Ms. Bryant requested that her daughter be moved to another facility in order to protect her from the abuse and assaults. (Request to Court Appointed Guardian Tracy C. Parsons)

June 12, 2009 the Plaintiff's daughter, Stephanie Windham was a  
2009-CP-23-01247 was dismissed on June 25, 2009.

June 15, 2009 Tracy Parsons, Court appointed Guardian submitted a letter to Robin Stilwell of Hunter, Tomaszek & Stilwell regarding the request to move Stephanie Windham to a Florence Facility.

September 22, 2011 Edward M Sauvain issued an order of Civil Contempt and sentenced the Plaintiff, Brenda Bryant to 6 months in The Greenville County Detention Center.

The Plaintiff, Ms. Bryant was not served with the Order of Civil Contempt.

October 13, 2010 Ms. Bryant filed a complaint in the Court of Common Pleas against Greenville County Disabilities and Special Needs Board, The South Carolina Department of Disabilities and Special Needs; John King (individually and in his official capacity); Brent Parker (individually and in his official capacity); Melissa Stubblefield (individually and in Her Officially capacity); Jennifer Bogart (individually and in her official capacity); Tracy Parsons; William H Davidson, II, Esquire, Theresa A. Horton, Esquire for Negligence, Gross Negligence, Willful Indifference, Outrage, Intentional Infliction of Emotional Distress, Conspiracy. (Alice J. Perkins, Plaintiff's Attorney)

During Ms. Windham's stay she was assaulted on five different occasions while in the care and custody of Greenville County Disabilities and Special Needs Board, South Carolina Department of Disabilities and Special Needs.

The Complaint was not served on the Defendants.

Ms. Bryant's attorney did not serve the Summons and Complaint as she was doing to be amending the Summons and Complaint.

The Defendant's attorney contends that service was completed with he picked up a copy of the Complaint from the Clerk of Court's office.

On September 17, 2010, Parson's attorney filed a Motion to Dismiss and For Sanctions.

On October 13, 2010 an amended complaint was filed by Brenda Bryant's attorney.

On November 1, 2010 Parson's attorney filed a Second Motion to Dismiss and for Sanctions

On November 16, 2010 an order was issued dismissing Tracy Parsons and giving sanctions.

On November 10, 2010 the Plaintiff, Brenda Bryant was ordered to pay \$5,062.50 within 15 days of entry of the Order.

On November 16, 2010 the Order was filed with the Court.

On January 10, 2011 the Plaintiff, Brenda Bryant was notified by counsel that she was to pay the money for a Rule to Show Cause should be filed.

On February 7, 2011 Parsons filed a Motion and Rule to Show Cause.

On February 8, 2011 the Court sent a notice of Motions Roster to Ms. Bryant.

On March 1, 2011 the Defendant DDSN filed a Motion to Dismiss.

On March 2, 2011 the Defendant Disabilities and Special Needs Board for Greenville County filed a Motion to Dismiss.

On March 3, 2011 Exhibits were filed by Brenda Bryant.

On March 3<sup>rd</sup> and 4<sup>th</sup> Answers were filed by DDSC and GCDSNB.

On April 12, 2011 the Plaintiff was served with Notice of the Rule to Show Cause.

On April 12, 2011, the Rule To Show Cause hearing was continued.

On April 12, 2011 the Court sent a notice of hearing.

On May 18, 2011 A form 4 was issued granting Motions to Dismiss, Compel and Produce.

On May 19, 2011 a notice of Motions Roster was sent to all parties.

On May 31, 2011 an Order dismissing the SC Department of Special Needs was issued

On June 6, 2011 a Notice of Hearing was sent.

On June 10, 2011 a hearing was held on the rule to show cause. Plaintiff's counsel failed to attend. The Plaintiff, Brenda Bryant attended the hearing and explained to the Court that she had been told the contempt proceedings were a separate matter and did not require counsel's attendance. The Plaintiff stated she had no intentions of paying the money and would appeal the decision.

On June 20, 2011 King, Parker, Stubblefield & Bogart filed Motions to Dismiss.

On June 20, 2011 Notice of Motions Roster was sent.

On June 21, 2011 Disabilities and Special Needs Board Greenville County filed Motions.

On June 24, 2011 the Court issued an Order of Contempt regarding the November 10, 2010.

On July 1, 2011 Notice of Motions Roster Publication was sent.

July 7, 2011 the plaintiff filed a motion for Reconsideration.

August 18, 2011 the Plaintiff's Motion for Reconsideration was denied.

September 22, 2011, the Plaintiff was incarcerated for being held in contempt of court for failing to pay guardian fees on a related, but separate matter.

On November 8, 2011 Parsons filed a second Rule to Show Cause.

On December 9, 2011 the Dismissal of the Complaint was completed by the Clerk of Court.

January 4, 2012 the hearing on the Rule to Show Cause to March 14, 2012

On April 2, 2012 the Court issued an Order regarding a hearing on March 14, 2012. At that time the Court found Brenda Bryant and Alice Perkins to be in Willful Contempt of Court.

The Court order Ms. Bryant to pay \$9,639.00 to Parsons' Counsel and issued an bench warrant for her immediate arrest and ordered that she be incarcerated until a further hearing and/or order from this court.

The arrest warrant was entered into NCIC . The Plaintiff was listed as violent offender and a fugitive from the law.

The Plaintiff was driving in North Carolina and was picked up. The Plaintiff was placed in detention and held without bond because of the listing in NCIC.

On April 21, 2012 the Plaintiff was arrested in North Carolina.

The Plaintiff remained in jail for a period of \_\_\_\_\_ days.

The Plaintiff remained in jail until such time as it was determined that she would not be extradited.

The Plaintiff, Brenda Bryant has not been served with any warrants for her arrest.



*Ephraim G*



ALAN WILSON  
ATTORNEY GENERAL

October 8, 2012

Mark Keel, Chief  
South Carolina Law Enforcement Division  
P.O. Box 21398  
Columbia, SC 29221-1398

Dear Chief Keel:

We received your letter on behalf of the South Carolina Law Enforcement Division ("SLED") requesting an opinion of this Office regarding civil contempt being transmitted to SLED via live scan for placement on the National Crime Information Center ("NCIC").

Law/Analysis

By way of background, we note that in South Carolina the gathering of information upon the charging and arresting of a person for a criminal offense is a function of and is governed by statute. Chapter 3, Article 3 of Title 23 of the South Carolina Code establishes the "Criminal Information and Communication System," of which SLED has exclusive and statewide authority regarding its operation and maintenance. See S.C. Code Ann. §23-3-15(A)(4). Accordingly, a department was created within SLED to serve as a statewide criminal information and communication repository to the various criminal justice agencies in South Carolina, pursuant to §§23-3-110 *et seq.* As to the reporting of criminal justice data, §23-3-120 provides that:

{a}ll law enforcement agencies and court officials must report all criminal data and related information within their respective jurisdictions to [SLED's] Central Record Repository at such times and in such form as [SLED] requires. [Emphasis added].

See also §14-17-325 [clerk of court is to report to SLED the disposition of each case in the Court of General Sessions].

In an opinion of this Office dated January 24, 1990 (1990 WL 482403), we addressed the dissemination of criminal data by SLED, pursuant to South Carolina's Freedom of Information Act. Generally, as to dissemination of such information, we advised that at least two statutes must be considered. In relevant part, §23-3-130 provides:

[SLED] is authorized to determine ... the methods by which such information [compiled pursuant to § 23-3-120] shall be ... disseminated....

[SLED] shall disseminate criminal history conviction records upon request to local school districts for prospective teachers and to the State Department of Social Services for personnel of child day care facilities. This service must be provided to the local school districts without charge.

Additionally, we noted that §23-3-140 provides that:

[t]he provisions of [Article 3 of Chapter 3 of Title 23] shall not be construed to require or permit the disclosure or reporting of any information in the manner prohibited by existing law.

SLED is further authorized by §23-3-130 to promulgate rules and regulations relative to collection and dissemination of criminal history records.

Pursuant to this statutory authorization, SLED has adopted 26 S.C. Code Ann. Regs. 73-20 *et seq.* [Computerized Criminal History] relative to criminal information and communications. Of importance to your opinion request, we note that Reg. 73-21 provides:

A. The State Law Enforcement Division Criminal Justice Information System, known as SLED/CJIS, acting as the State's central criminal justice information repository shall collect, process, and store criminal justice information and records necessary to the operation of the criminal justice information system of the State Law Enforcement Division. The SLED/CJIS is comprised of the State Crime Information Center (SCIC) which includes the Computerized Criminal History (CCH) department, the Criminal Records Department, and such other departments as may be deemed necessary.

(1) The Computerized Criminal History (CCH) Department has the responsibility for converting manual criminal history record information to computerized data. The mission of the computerized criminal history unit is to serve criminal justice agencies and to assist non-criminal justice agencies throughout the State and nation by providing current criminal history record information. Conversion of existing computerized criminal history will be compatible with established concepts and operating policies of the Federal Bureau of Investigation's National Crime Information Center (NCIC) to enable an accurate exchange of criminal history data. . . . South Carolina offense codes are assigned to each specific charge. The offense codes must meet State and national requirements for the entering of criminal history data.

(2) The Criminal Records Department has the responsibility of collecting, processing and storing all fingerprint cards and dispositions of persons arrested in the State. The Criminal Records Department supervisor will serve as the custodian of records. Fingerprints will be the basis for establishing computerized criminal history. The Criminal Records Department is responsible for the timely processing of all supporting documents for criminal history record information as provided to the SLED/CJIS by other criminal justice agencies. The department is also responsible for handling expungements as required by South Carolina statute. After the processing at SLED is completed, the department is responsible for forwarding the necessary documentation to the FBI/CJIS Division in Clarksburg, West Virginia.

The Criminal Records Department will be responsible for entering, editing, and storing all criminal fingerprint card images on the automated fingerprint identification system.

(3) The Data Communications Department has the responsibility of providing the necessary systems and programming support to develop, manage, and modify various computer applications and programs as deemed necessary by the Computerized Criminal History Department, the Criminal Records Department, the Uniform Crime Reporting Department and other criminal justice entities to facilitate the automated processing of various information. This department is further charged with the responsibility of maintaining computer equipment and associated software to ensure effective and efficient information processing and message switching, and to ensure that adequate levels of security are provided throughout the electronic data processing system. The Data Communications Department is also responsible for the maintenance and operation of the statewide communications network, the computer interface with the Federal Bureau of Investigation's National Crime Information Center, the National Law Enforcement Telecommunication System, the South Carolina Department of Public Safety, the South Carolina Automated Fingerprint Identification System, and other automated criminal justice systems.

(4) The Uniform Crime Reporting (UCR) Department has the responsibility for processing, analyzing, coding and compiling incident, supplemental, and booking reports received from law enforcement agencies, whether such reports are submitted on paper or by automated means. The Uniform Crime Reporting Department will classify and count incident, supplemental, and booking reports submitted by other agencies according to procedures defined by the International Association of Chiefs of Police Committee on Uniform Crime Reports,

the Uniform Crime Records Committee of the National Sheriffs Association, the Uniform Crime Reports Section of the Federal Bureau of Investigation and the State Law Enforcement Division. The Uniform Crime Reporting Department will assure through training and quality control measures that all automated incident, supplemental, and arrest data submitted to the State Uniform Crime Reporting program are classified and counted according to these procedures.

B. When practicable, the SLED/CJIS will develop systems which will facilitate the exchange of criminal justice information between criminal justice agencies.

C. The SLED/CJIS will collect, process, maintain, and disseminate information and records with due regard to the privacy of individuals, and will maintain and disseminate only accurate and complete records.

Significantly, Reg. 73-23(A) provides that:

SLED/CJIS will operate and maintain a criminal justice information system which will support the collection, storage, retrieval, and dissemination of criminal history record information, both intrastate and interstate. SLED/CJIS will make available to bona fide criminal justice agencies, upon request, any information which will aid these agencies in the performance of their official duties, provided that the dissemination of such information will not be a violation of state or federal laws and regulations restricting its use. Dissemination will include disposition and non-disposition data. [Emphasis added].

Also, Reg. 73-23(F) authorizes SLED to disseminate:

. . . criminal history record information, unless sealed, to private persons, governmental entities, businesses, commercial establishments, professional organizations, charitable organizations and others. The dissemination of criminal history record information will include all unsealed conviction data, non-conviction data and non-disposition data as well as findings of not guilty, *nolle prosequi*, dismissals, and similar dispositions which show any final disposition of an arrest. . . . [Emphasis added].

"Criminal History Record Information" is defined in Reg. 73-20(C) as "records, fingerprint cards, dispositions, and data collected by criminal justice agencies on adult individuals who are at least seventeen years of age consisting of identifiable descriptors and notations of arrests, detentions, indictments, information, or other formal charges, and any dispositions arising therefrom. . ." In addition, Reg. 73-20(F) defines "conviction data" as "information which shows that an individual has been convicted or found guilty of a crime." Further, Reg. 73-20(O) defines "disposition" as "information which states that a criminal charge contained in a criminal history record has been dealt with by proper judicial

authority and that a final disposal of the charge has been made through a finding of guilty or not guilty, or that the charge has been dismissed, or that adjudication has been indefinitely postponed. In findings of guilt, a disposition will include information showing the final action of any court of appropriate jurisdiction including, but not limited to fines, sentencing, probation, pardon and restitution information."

In our 1990 opinion, we discussed requirements of the federal regulations regarding dissemination of criminal history information, upon which our State regulations are based. We observed therein:

[t]hese federal regulations are made applicable to state agencies which collect, store, and disseminate criminal history records, by virtue of 28 C.F.R. §20.20(a). The regulations are not applicable to criminal history record information contained in original records of entry maintained in chronological order which by law or custom are made public; court records of public judicial proceedings; published court or administrative opinions; public judicial or administrative proceedings; and other records specified in 28 C.F.R. §20.20(b). In addition, a criminal justice agency may release information "related to the offense for which an individual is currently within the criminal justice system," as well as specified information upon request of the news media or any other person, according to the provisions of 28 C.F.R. §20.20(c). Reference must be made to the regulation for more specific guidance.

As noted above, 28 C.F.R. §20.21(b) contains limitations on dissemination of data, virtually identical to [Reg.] 73-24 of our state regulations. Subsection (b) specifically states, however, that "[t]hese dissemination limitations do not apply to conviction data." Subsection (c)(3) specifically provides: "States and local governments will determine the purposes for which dissemination of criminal history record information is authorized by State law, executive order, local ordinance, court rule, decision or order." 28 C.F.R. §20.33(a)(3) governs the use of criminal history record information for certain purposes such as licensing and employment if the requirements therein are followed; other provisions of 28 C.F.R. §20.33 govern dissemination of this type information for other purposes.

Also relevant to your inquiry, we note that Congress in 1968 mandated that the United States Department of Justice ("DOJ") establish a nationalized system to track criminal history records and exchange such records with "the States, cities and penal and other institutions." See 28 U.S.C. §534(a)(4). The NCIC is the computerized information system linking local, state, and federal criminal justice agencies for the purpose of collecting and exchanging certain criminal history information. 28 C.F.R. §20.31(a)(b); 28 C.F.R. §20.33(a)(1). Information from NCIC is available to criminal justice agencies for criminal justice purposes. 28 C.F.R. §20.33(a). The Federal Bureau of Investigation is vested with authority for operation of the NCIC. 28 C.F.R. §20.31(a).

As a general matter, information to be entered into the data bases from a South Carolina criminal justice agency must be submitted from an authorized state criminal justice control terminal. 28 C.F.R. §20.36(b); see also 28 C.F.R. §20.37 ("[i]t shall be the responsibility of each criminal justice agency contributing data to the III System and the FIRS to assure that information on individuals is kept complete, accurate, and current so that all such records shall contain to the maximum extent feasible dispositions for all arrest data included therein"). All entries into the South Carolina and NCIC data bases must be made in accordance with federal regulations and NCIC rules, policies, and procedures. 28 C.F.R. §20.36(a).

Regulations issued by the DOJ govern access to the NCIC. In part, the federal regulations provide that "[c]riminal history record information contained in [NCIC] may be made available . . . to criminal justice agencies for criminal justice purposes . . . for use in connection with licensing or employment . . . and for other for which dissemination is authorized by federal law. . . [and] to criminal justice agencies for the conduct of background checks. . ." 28 C.F.R. §20.33(a). [Emphasis added]. As set forth in the aforementioned SLED regulations, for purposes of 28 C.F.R. §§20.1 to 20.38, §20.3(d) defines "criminal history record information," stating:

[c]riminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual's involvement with the criminal justice system.

In addition, 28 C.F.R. §20.32 further elaborates on the types of data that constitute "criminal history record information," which includes:

(a) Criminal history record information maintained in the III System and the FIRS<sup>1</sup> shall include serious and/or significant adult and juvenile offenses.

(b) The FIRS excludes arrests and court actions concerning nonserious offenses, e.g., drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic violations (except data will be included on arrests for vehicular manslaughter, driving under the influence of drugs or liquor, and hit and run), when unaccompanied by a §20.32(a) offense. These exclusions may not be applicable to criminal history records maintained in state criminal history record repositories, including those states participating in the NFF.

Pursuant to these regulations, criminal history record information collected and retained in NCIC data bases relates to the arrest, detention, prosecution, sentencing, correctional supervision, or release of an

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<sup>1</sup>"FIRS" is the Fingerprint Identification Records System.

individual, and is made available to other criminal justice agencies for criminal justice purposes. 28 C.F.R. §20.33(a)(1).

We refer to the opinion of the Ohio Attorney General dated April 12, 1999 (1999 WL 221301), which discussed an analogous query regarding the entry of contempt citations into NCIC and Ohio's Law Enforcement Automated Data System ("LEADS") wanted persons databases. After discussing the aforementioned federal regulations and relevant Ohio laws regulating LEADS, the opinion explained:

. . . pursuant to 28 C.F.R. §§20.3(b), 20.32, and 20.33(a), criminal history record information collected and retained in the data bases of NCIC relates to the arrest, detention, prosecution, sentencing, or correctional supervision of an individual, and is made available to state criminal justice agencies for criminal justice purposes. Therefore, information may be entered into NCIC through LEADS only if the information pertains to the arrest, detention, prosecution, sentencing, or correctional supervision of a person and is used by state criminal justice agencies for criminal justice purposes.

Although no definition of the phrase "criminal justice purposes" appears in the federal regulations, the use of this phrase connotes purposes that relate to the administration and enforcement of the criminal laws. As defined in Black's Law Dictionary 372 (6<sup>th</sup> ed. 1990), the word "criminal," as an adjective, means "[t]hat which pertains to or is connected with the law of crimes, or the administration of penal justice, or which relates to or has the character of crime. Of the nature of or involving a crime." Black's Law Dictionary at 370, in turn, defines "crime," in part, as "[a] positive or negative act in violation of penal law; an offense against the State or United States.... A crime may be defined to be any act done in violation of those duties which an individual owes to the community, for the breach of which the law has provided that the offender shall make satisfaction to the public." See generally In re Jacoby, 74 Ohio App. 147, 150, 57 N.E.2d 932, 934 (Marion County 1943) ("[a] 'crime' is a wrong which the government notices as injurious to the public"); State v. Bundy, 79 Ohio L. Abs. 253, 255, 154 N.E.2d 924, 926 (Findlay Mun. Ct. 1956) ("a 'crime' may be defined as a violation of, or neglect to perform, a legal duty of such importance to the protection of society that the State takes notice thereof and imposes a penalty or punishment for such violation or neglect"). In addition, the phrase "justice" is defined in Black's Law Dictionary at 864 as "[p]roper administration of laws."

The phrase "criminal justice" thus connotes the administration or enforcement of the criminal laws. . . . Accordingly, the use of the words "criminal justice" to modify "purposes" thus indicates that the federal regulations refer to purposes that further the enforcement of the criminal laws.

This conclusion is buttressed by the definition of “administration of criminal justice” set forth in 28 C.F.R. §20.3(d), which reads as follows:

The administration of criminal justice means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information. State and Federal Inspector General Offices are included.

... The definition of “administration of criminal justice” set forth in 28 C.F.R. §20.3(d) clearly illustrates that the term “criminal justice” refers to proceedings by which a person is charged with a crime, tried, and, if convicted, sentenced. Therefore, as used in 28 C.F.R. §§20.1 to 20.38, the phrase “criminal justice purposes” refers to purposes that advance the enforcement of the criminal laws.

Most relevant to our analysis here, the Ohio Attorney General considered the reporting of civil contempt citations and concluded:

[i]t is our opinion that a contempt citation or bench warrant issued by a court of record against a person for the person's failure to pay spousal or child support, to surrender real property to his spouse, to seek work, to accept responsibility for marital debts, or to appear for a hearing in a civil proceeding is not a matter that advances or relates to the enforcement of the criminal laws of this state. . . . Accordingly, such contempt citations do not constitute “criminal history record information,” as defined in 28 C.F.R. §§20.3(b) and 20.32, for purposes of being entered into the LEADS/NCIC wanted persons data base.

Generally, in South Carolina “[t]he power to punish for contempt is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.” Miller v. Miller, 375 S.C. 443, 652 S.E.2d 754, 759 (Ct. App. 2007) [quoting Curlee v. Howle, 277 S.C. 377, 287 S.E.2d 915, 917 (1982)]; see also In re Brown, 333 S.C. 414, 511 S.E.2d 351, 355 (1998) [“The power to punish for contempt is inherent in all courts and is essential to preservation of order in judicial proceedings”]; State ex rel. McLeod v. Hite, 272 S.C. 303, 251 S.E.2d 746, 748 (1979) [instructing that a court has the inherent authority to punish offenses calculated to obstruct, degrade, and undermine the administration of justice, and such power cannot be abridged].



Relevant to our analysis, the determination of whether contempt is civil or criminal depends on the underlying purpose of the contempt ruling.<sup>2</sup> In *Miller*, the South Carolina Court of Appeals provided a comprehensive review of the differences between civil and criminal contempt:

The major factor in determining whether a contempt is civil or criminal is the purpose for which the power is exercised, including the nature of the relief and the purpose for which the sentence is imposed. The purpose of civil contempt is to coerce the defendant to do the thing required by the order for the benefit of the complainant.

The primary purposes of criminal contempt are to preserve the court's authority and to punish for disobedience of its orders. If it is for civil contempt the punishment is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court.

An unconditional penalty is criminal in nature because it is solely and exclusively punitive in nature. The relief cannot undo or remedy what has been done nor afford any compensation and the contemnor cannot shorten the term by promising not to repeat his offense. If the relief provided is a sentence of imprisonment, ... it is punitive if the sentence is limited to imprisonment for a definite period. If the sanction is a fine, it is punitive when it is paid to the court. However, a fine that is payable to the court may be remedial when the contemnor can avoid paying the fine simply by performing the affirmative act required by the court's order.

In civil contempt cases, the sanctions are conditioned on compliance with the court's order. The conditional nature of the punishment renders the relief civil in nature because the contemnor can end the sentence and discharge himself at any moment by doing what he had previously refused to do. If the relief provided is a sentence of imprisonment, it is remedial if the defendant stands committed unless and until he performs the affirmative act required by the court's order.... Those who are imprisoned until they obey the order, carry the keys of their prison in their own pockets. If the sanction is a fine, it is remedial

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<sup>2</sup>Contempt proceedings are divided into two general classes, direct and indirect. "Direct contempt" is defined as contemptuous conduct occurring in the presence of the court. *Miller*, 652 S.E.2d at 760. "Constructive contempt" is contemptuous conduct occurring outside the presence of the court. *Id.* The *Miller* Court explained that "[t]he distinction between direct and constructive contempt is important because it determines how the contempt proceedings must be brought . . . A rule to show cause for direct contempt may be issued without a supporting affidavit or verified petition. . . . However, a charge of constructive contempt brought by a rule to show cause must be based on an affidavit or verified petition." *Id.*

and civil if paid to the complainant even though the contemnor has no opportunity to purge himself of the fine or if the contemnor can avoid the fine by complying with the court's order. [Citations omitted].

Id., 652 S.E.2d at 761 [citing Poston v. Poston, 331 S.C. 106, 502 S.E.2d 86, 88-89 (1998)].<sup>3</sup>

Certainly and within the discretion of the court, “[i]ncarceration under certain factual circumstances may be included as a component of civil contempt.” Cheap-O’s Truck Stop, Inc. v. Cloyd, 350 S.C. 596, 567 S.E.2d 514, 521 (Ct. App. 2002). However, unlike the constitutional protection afforded a criminal contemnor, the United States Supreme Court has held that a civil contempt proceeding resulting in incarceration does not require a jury trial. Shillitani v. United States, 384 U.S. 364 (1966). In Shillitani, two witnesses refused to testify before a grand jury after being given immunity. They were sentenced to two years imprisonment for contempt of court with the provision for release if they answered the grand jury’s questions. Id. at 368. The Court reasoned the character and purpose of the contempt rendered it civil rather than criminal. The sentence of imprisonment was conditional, imposed for the obvious purpose of compelling the two grand jury witnesses to obey the court’s orders to testify. The Court stated that “[w]hile any imprisonment has punitive and deterrent effects, it must be viewed as remedial if the court conditions the release upon the contemnor’s willingness to [obey a court’s order].” Id. “The conditional nature of the imprisonment, based entirely upon the contemnor’s continued defiance, justified holding civil contempt proceedings absent the safeguards of indictment and a jury.” Id. at 370-71. Thus, when the court orders imprisonment for contempt, whether the sanction is civil or criminal depends upon whether the sentence is conditional or for a definite period. See Poston, 502 S.E.2d at 89.

In Curlee, the South Carolina Supreme Court followed the Shillitani test to determine whether a jury trial was warranted in a contempt proceeding. In Curlee, the appellant had been brought before the Greenville County Family Court on a Rule to Show Cause for violating provisions of a child custody order. As a result of the appellant’s violations, the respondent had incurred expenses in excess of \$12,000 to obtain a return of lawful custody of her children. The family court found the appellant in contempt, sentenced him to one year imprisonment, but provided that he be allowed to purge himself of the contempt by paying the expenses incurred by the respondent. The issue on appeal was whether the family court had the authority to issue such an excessive sentence without a jury trial. In examining the sentence, the Court characterized the action as one for civil contempt, not criminal contempt, because its purpose was “to compel appellant to pay the expenses, not for punishment.” The Court explained that criminal contempt and civil contempt serve separate functions. The principal purpose of criminal contempt is punishment. In civil contempt, however, the contemnors “carry the keys of prison in their own pockets”

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<sup>3</sup>The distinction between civil and criminal contempt is critical, because criminal contempt triggers additional safeguards. See, e.g., Bloom v. Illinois, 391 U.S. 194 (1968) [holding prosecutions for serious criminal contempts are subject to the jury trial protections of the Sixth Amendment]; Floyd, 615 S.E.2d at 476 [in a criminal contempt proceeding, the burden of proof is beyond a reasonable doubt; civil contempt must be proved by clear and convincing evidence]; State v. Bevilacqua, 316 S.C. 122, 447 S.E.2d 213, 217 (Ct. App. 1994) [intent for purposes of criminal contempt is subjective, not objective, and must necessarily be ascertained from all the acts, words, and circumstances surrounding the occurrence].

as the contempt serves to secure "compliance with judicial decrees." *Id.*, 287 S.E.2d at 919. The Court concluded that "[t]he conditional nature of the imprisonment, based entirely upon appellant's refusal to pay respondent's expenses, justified the civil contempt proceeding without a jury trial." *Id.*<sup>4</sup>

By way of illustration, this Office has previously characterized "arrest orders" for failure to pay child support or obey a child support order of a family court as "civil" in nature. See, e.g., *Ops. S.C. Atty. Gen.*, June 9, 1998 (1998 WL 746076); August 18, 1982 (1982 WL 155024). Our courts have similarly characterized contempt actions for failure to pay child support as typically civil in nature. See, e.g., *Taylor v. Taylor*, 294 S.C. 296, 363 S.E.2d 909 (1987). In the *Matter of Mixson*, 258 S.C. 408, 189 S.E.2d 12 (1972); see also §63-3-620 [providing for, among other penalties, imprisonment for up to one year for contempt of family court].<sup>5</sup>

The *Taylor* Court noted the following:

[T]he evidence indicates and the trial judge found, the husband was in a perilous financial situation. He sentenced him to six months in jail but provided he could purge himself by paying (\$60) per month. By ordering the husband to pay the arrearage in this manner, he was ensuring the payments could be made by him. The primary purpose of civil contempt is to exact compliance with the court's order, not to punish the contemnor. *McMiller v. McMiller*, 77 N.C. App. 808, 336 S.E.2d 134 (1985).

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In *Poston*, the South Carolina Supreme Court provided the following examples of civil contempt sanctions: (1) the contemnor is ordered to pay a fine to the court; however, he may purge himself of the fine by complying with the prior court order; (2) the contemnor is given a jail sentence to be served until he agrees to comply with the prior court order; (3) the contemnor is ordered to pay a fine/damages to complainant and is ordered to pay a fine to the court; however, the contemnor may purge himself of the fine payable to the court by complying with the prior court order; and (4) the contemnor is ordered to pay a fine/damages to complainant and is given a jail sentence to be served until he agrees to comply with the prior court order. The Court also provided examples of criminal contempt sanctions: (1) the contemnor is ordered to pay a fine to the court. Even if the contemnor performs the affirmative act required by the prior court order, the fine must still be paid; (2) the contemnor is sentenced to jail for a definite period of time. Even if the contemnor performs the affirmative act required by the prior court order, the contemnor must still serve the entire jail sentence; (3) the contemnor is given a choice between paying a fine to the court or serving a definite period of time in jail. The contemnor must do one or the other, thus he cannot purge himself entirely of the sanction. *Id.*, 502 S.E.2d at 90-91.

In *Price v. Turner*, 387 S.C. 142, 691 S.E.2d 470 (2010), *vacated on other grounds*, *Turner v. Rogers*, U.S. \_\_\_, 131 S.Ct. 2507 (2010), the South Carolina Supreme Court observed that the family court found Turner in willful contempt of the support order and sentenced him to twelve months in a detention facility, stating, "[h]e may purge himself of the contempt and avoid the sentence by having a zero balance on or before his release." The Court concluded, "[t]his conditional sentence is a classic civil contempt sanction." *Turner*, 691 S.E.2d at 472.

Id., 363 S.E.2d at 911. In Mixson, the Court emphasized that:

... under the circumstances. ... [respondent's] civil contempt sentence is not a ground for disciplinary action. The contempt power was involved in respondent's case not as a punishment but in an effort to secure compliance with his obligations of alimony and child support. Civil contempt in such cases, though a drastic remedy, does not differ in purpose from other civil remedies available for use in enforcing a money judgment. It carries, *per se*, no connotation of moral dereliction.

Id., 189 S.E.2d at 13.

Significantly, we note prior opinions of this Office advising that civil contempt is not a crime or offense against the State. See, e.g., Ops. S.C. Atty. Gen., December 7, 1983 (1983 WL 142762); February 15, 1979 (1979 WL 29035). This remains the opinion of this Office. Therefore, we conclude that a civil contempt citation issued by a court of competent jurisdiction would not constitute "criminal history record information" as defined by federal or SLED regulations for purposes of being entered into the respective databases.

Also relevant is the decision of the South Carolina Court of Appeals in White v. State, 375 S.C. 1, 649 S.E.2d 172 (Cl. App. 2007), discussing whether "offenses" and/or "convictions" could be considered under the South Carolina Sexually Violent Predator Act (the "Act"). Specifically, the Court explained as follows:

... [o]ffense is commonly defined as "a violation of the law; a crime, often a minor one." Black's Law Dictionary 885 (7<sup>th</sup> ed. 2000). Further, "the terms 'crime,' 'offense,' and 'criminal offense' are all said to be synonymous, and ordinarily used interchangeably." 22 C.J.S. Criminal Law §3 (2007). Distinguished from a crime or offense, a conviction is "[t]he act or process of judicially finding someone guilty of a crime [or][t]he judgment ... that a person is guilty of a crime." Black's Law Dictionary 271 (7<sup>th</sup> ed. 2000)...

White, 649 S.E.2d at 176: see id. [holding that, because the Legislature failed to limit or was silent on whether offenses can include only convictions, the Legislature intended to include in the Act both convictions and offenses not resulting in convictions].

Further supportive of our analysis here is the opinion of this Office dated July 29, 1998 (1998 WL 746101), where we discussed whether a commitment for contempt is eligible for a reduction of a term of imprisonment by "good time" credits, such as those authorized in §24-13-210.<sup>6</sup> We advised that where the

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<sup>6</sup>This statute provides, in part, that:

(A) An inmate convicted of an offense against this State, except a "no parole offense" as defined in Section 24-13-100, and sentenced to the custody of the

contempt is civil, good time credits are not applicable. To reach this conclusion, the opinion defined civil contempt in the following explanation:

[I]n civil contempt cases, the sanctions are conditioned on compliance with the court's order... "The conditional nature of the punishment renders the relief civil in nature because the contemnor "can end the sentence and discharge himself at any moment by doing what he had previously refused to do." . . . Civil contempt includes situations where . . . the contemnor is given a jail sentence to be served until he agrees to comply with the prior court order . . . [T]he rationale of these authorities is that, because the civil contemnor "holds the keys to his incarceration," good time credits are not part of his indefinite and indeterminate sentence.

Accord Ops. S.C. App. Gen., May 19, 2004 (2004 WL 1182084); July 8, 1977 (1977 WL 24555).

#### Conclusion

The purpose of criminal contempt is to punish a party for disobedience and disrespect. Criminal contempt sanctions are unconditional. By contrast, civil contempt is intended to coerce the individual to comply with the court's order. Civil contempt sanctions are conditioned on compliance with the court's order. A contemnor imprisoned for civil contempt is said to hold the keys to his cell, because he may end the imprisonment and purge himself of the sentence at any time by doing the act he had previously refused to do.

The primary purpose of NCIC and the State's Criminal Information and Communication System is to collect and disseminate "criminal history record information," for criminal justice purposes, as defined by federal and SLED regulations. A civil contempt citation is not a matter that advances or relates to the enforcement of the criminal laws of this State. Therefore, it is the opinion of this Office that

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Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement . . . whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty days for each month served. . . .

(C) An inmate convicted of an offense against this State and sentenced to a local detention facility, or upon the public works of any county in this State, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined, and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of one day for every two days served. . . .

Chief Keel  
Page 14  
October 8, 2012

citations for civil contempt would not constitute "criminal history record information" for purposes of being entered into the State's Criminal Information and Communication System or NCIC databases.

If you have any further questions, please advise.

Very truly yours,



N. Mark Rapoport  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Deputy Attorney General



*Exhibit E*

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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June 14, 2012

The Honorable Paul B. Wickensimer  
Courthouse  
305 E North St  
Greenville SC 29601-2121

ENTERED COMPUTER

REMITTITUR

Re: Bryant, Brenda v. Greenville DSNB  
Lower Court Case No. 2010CP2307631  
Appellate Case No. 2012-209448

DEC 16 11 56 AM '12

*gw*

Dear Mr. Wickensimer

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

# The South Carolina Court of Appeals

Brenda W. Bryant, individually and in capacity as  
Guardian for Madison, a mentally disabled person,  
Appellant,

v.

The Greenville County Disabilities and Special Needs  
Board, The South Carolina Department of Disabilities  
and Special Needs, John King, individually and in his  
official capacity, Brent Parker, individually and in his  
*official capacity*, Melissa Stubblefield, individually and  
in her official capacity, Jennifer Bogart, individually and  
in her official capacity, Tracy Parsons, William H.  
Davidson, II, Esquire, and Theresa A. Horton, Esquire,  
Respondents.

Appellate Case No. 2012-209448

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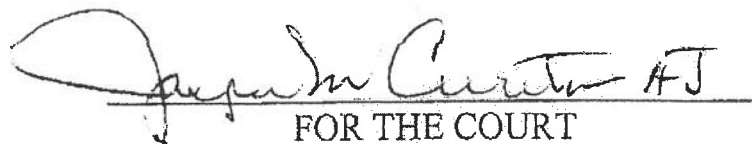
## ORDER

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Appellant has filed a motion to proceed *in forma pauperis* and a motion to relieve her counsel. Appellant also served and filed an "Amended Notice of Intent to Appeal Out of Time," which indicated Appellant and her attorney received notice of the entry of the order "on or about November 2011." Appellant's proof of service indicates she did not serve Respondents with the Notice of Appeal until March and April 2012. Because Appellant did not timely serve all respondents with the notice of appeal, this appeal is dismissed. *See* Rule 203(b)(1), SCACR ("A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment."); Rule 263(b) ("The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal under Rules 203 . . .* may be extended or shortened by the appellate court . . . ." (emphasis added)).



Because this appeal has been dismissed, this Court declines to act on Appellant's remaining motions.

  
FOR THE COURT

Columbia, South Carolina

cc:

Alice Jefferies Perkins  
Rodney F. Pillsbury  
Russell W. Harter, Jr.

**FILED**

Harter 5/22/12