

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Jeremy Glenn Ahlum,]
Mark William Emery,]
and James Gary Gain,]
on behalf of themselves and all]
others similarly situated,]
Plaintiffs,]

vs.]

Civil Action No.: 9:10-CV-3227-SB

Town of Ridgeland,]
Ridgeland Police Department,]
Gary Hodges,]
Richard V. Woods,]
Officer J. Lowther,]
Officer B. Dobbs,]
Officer D.R. Swinehamer, and]
iTraffic Safety, LLC,]
Defendants.]

CLASS ACTION COMPLAINT

I. NATURE OF THE CASE

1. Plaintiffs bring this class action by and through their undersigned counsel of record, and on behalf of themselves and others similarly situated make this Civil Rights Complaint for monetary damages and injunctive relief against Defendants Town of Ridgeland; Richard V. Woods; iTraffic Safety, LLC, Officer J. Lowther, Officer B. Dobbs, and Officer D.R. Swinehamer for conspiring to make illegal and unlawful arrests for violations of a municipal ordinance for speeding, whereby Defendants conspired to attempt to serve allege violators of the municipal ordinance by direct mail and outside of their respective jurisdiction.

II. Parties

2. Plaintiff Jeremy Glenn Ahlum is a citizen and resident of Greer, South Carolina.
3. Plaintiff Mark William Emery is a citizen and resident of Dunnellon, Florida.
4. Plaintiff James Gary Gain is a citizen and resident of Kissimmee, Florida.
5. Defendant Town of Ridgeland is a municipality in Jasper County, South Carolina.
6. Defendant Ridgeland Police Department has law enforcement powers in the town of Ridgeland, which is in Jasper County, South Carolina.
7. Defendant Gary Hodges is the Mayor of the Town of Ridgeland.
8. Defendant Richard V. Woods is the Chief of Police of the Ridgeland Police Department, and upon information and belief, is a citizen of South Carolina.
9. Defendant J. Lowther is a police officer for the Ridgeland Police Department, and upon information and belief, is a citizen of South Carolina.
10. Defendant B. Dobbs is a police officer for the Ridgeland Police Department, and upon information and belief, is a citizen of South Carolina.
11. Defendant D.R. Swinehamer is a police officer for the Ridgeland Police Department, and upon information and belief, is a citizen of South Carolina.
12. Defendant iTraffic, LLC, is a limited liability company organized under the laws of South Carolina.

III. Jurisdiction and Venue

13. Jurisdiction is proper in this Court under 28 U.S.C. § 1331. Plaintiffs seek damages and injunctive relief for civil rights violations arising under federal law, namely violations of 42 U.S.C. §§ 1983 and 1985.
14. Venue is proper in this Court as a substantial portion of the events complained of occurred in South Carolina.
15. Beaufort is the proper division for this action pursuant to Local Civil Rule 3.01 DSC as a substantial part of the events or omissions giving rise to Plaintiffs causes of action occurred within the division.

IV. Factual Allegations

16. In July, 2010, the Town of Ridgeland (hereinafter “Town”) began enforcing a municipal ordinance for speeding with iTraffic Safety, LLC at the direction of its Mayor Gary Hodges and in collaboration with the Ridgeland Police Department.
17. In an effort to generate revenue and under the guide of improving public safety and preventing fatalities on I-95, the Town initiated the I-95 Public Safety Program. To that end, the Town contracted with a company known as iTraffic to catch speeding drivers using a recreational vehicle stationed on the interstate which is armed with a video camera and radar.
18. While Defendants contend that the traffic enforcement is to promote safety, the program was truly designed to generate revenue. Moreover, the traffic enforcement actually creates additional danger due to the placement of the traffic control vehicle and the blinding flash of light used to take a photograph of prospective and alleged violators.

19. Under the program, an officer is stationed on the side of the road in a motor home equipped with radar and camera. An officer monitors the cameras, which will take a picture of the alleged speeding driver and the driver's license tag if the driver is driving 11mph or more over the posted state speed limit of 70mph.¹
20. On information and belief, the speeding enforcement is fully automated, and the monitoring officer does not make decisions on which vehicles to photograph.
21. The officer then pulls the driver's license of the person registered to the vehicle.
22. On information and belief, a traffic ticket is automatically generated on a South Carolina Uniform Traffic Ticket, and not an ordinance summons.
23. The officer does not initiate a traffic stop and does not personally serve the driver within the officer's jurisdiction pursuant to S.C. Code Ann. § 5-7-110.
24. Several days later, the Ridgeland Police Department sends a letter under the signature of Richard Woods, to the driver along with a State of South Carolina Uniform Traffic Ticket. Although the letter is signed by Richard Woods, the Chief of Police, the ticket has the electronic name of another officer printed on it.
25. The letter informs the driver that he or she has violated a town ordinance regarding speeding and that he or she must pay a fine. The letter further states that because the driver has violated a town ordinance, the citation will not

¹ Although the speed limit is posted at 70mph based upon state law, Defendants state that they only issue tickets for violations exceeding 80mph.

affect the driver's driving record. The letter does state, however, that if the driver fails to appear in court, the Town of Ridgeland may issue a bench warrant for the driver's arrest or take action to suspend the driver's license.

26. The Town's jurisdiction is only related to a seven mile stretch of I-95. Most drivers ticketed for speeding are traveling from out of state and simply pay the fine to avoid the hassle of traveling back to South Carolina to attend traffic court. The amount of the fine ranges from \$100.00 to \$300.00.
27. According to the Ridgeland Municipal Court Traffic Court Roster, there were approximately 1,373 people charged for a traffic violation in the month of November who were scheduled to appear in traffic court on Monday, December 6, 2010.
28. At fines ranging from \$100-\$300, this is an extremely profitable way for the Town to generate revenue, especially considering the fact that the majority of people stopped are traveling through South Carolina to an out of state destination and will likely pay the fine to avoid traffic court.
29. On information and belief, iTraffic loaned the town the traffic enforcement motor home and hired and pays for the salary of the town's two traffic officers. In return, the Town of Ridgeland splits the profits from the traffic tickets with iTraffic.
30. While the letter sent under the signature of Richard Woods states that the Ticket, if fully paid, will not appear on a person's driving record, Woods letter threatens to initiate action to suspend the driver's license if the bond amount is not paid and the driver fails to attend Court on the date specified on the ticket.

31. While Woods letter states that the violation will not appear on the person's driving record, the South Carolina Uniform Traffic Ticket informs the person that the failure to post bond or appear in court will result in notification of the person's home state Motor Vehicle Division for action to suspend the person's driver's license.
32. Each time an officer writes a ticket, the officer falsifies the ticket, noting that the date of arrest is the same as the date of the violation, notwithstanding that the officer knows that the ticket will neither be mailed nor received until well after the date of the offense.
33. The Ridgeland Police Department issues South Carolina Uniform Traffic Tickets via United States Mail knowing that such service is improper to effectuate an arrest.
34. No where does Woods' letter or the alleged arresting officer state that the mailing of the letter is not proper service of a traffic ticket, that a Uniform Traffic Ticket cannot be used for a municipal ordinance violation, or that the officers are exceeding their territorial jurisdiction when attempting to serve the ticket on a driver outside of Jasper County.
35. Notwithstanding the defective service and upon information and belief, Defendants have been requesting and have received bench warrants for the arrest of persons who have not paid the bond or appeared in court.
36. According to the Town's website, even if the ticket is issued to a person who was not driving the vehicle at the time the iTraffic unit photographed the alleged speeding violation, that person must pay the ticket or appear in Court.

IV. Plaintiff Jeremy Glenn Ahlum

37. Plaintiff Ahlum was allegedly photographed by the iTraffic unit on October 22, 2010 and was alleged to have been traveling 82 miles per hour in a 70 miles per hour speed zone.
38. Officer B. Dobbs issued a ticket noting an arrest date of October 22, 2010, although the ticket was not mailed to Plaintiff Ahlum until several days later. (Attached to the Complaint as Exhibit A is a redacted version of Plaintiff Ahlum's cover letter and ticket). Defendant Dobbs falsified the date of arrest on the traffic ticket knowing that it would not be mailed or received until several days later.
39. On information and belief, Officer B. Dobbs never mailed Plaintiff Ahlum the ticket and instead the ticket was mailed under a cover letter from Defendant Woods several days after the alleged violation.
40. Plaintiff Ahlum was charged with a municipal ordinance violation, although the charging document was a South Carolina Uniform Traffic Ticket and not an ordinance summons.
41. Plaintiff Ahlum posted the \$133.00 bond amount. The bond was forfeited on December 6, 2010 even though upon information and belief Defendant Dobbs did not establish the necessary requirement to try Plaintiff Ahlum in his absence as neither Defendant Dobbs nor Defendant Woods proved on the record that he served Plaintiff Ahlum the traffic ticket within Defendant Dobb's or Defendant Wood's jurisdiction.

42. Moreover, the traffic ticket was not countersigned by a deputy in Greenville County where the traffic ticket was sent.

V. Plaintiff Mark William Emery

43. Plaintiff Emery was allegedly photographed by the iTraffic unit on November 11, 2010 and was alleged to have been traveling 86 miles per hour in a 70 miles per hour speed zone.

44. Officer D.R. Swinehamer issued a ticket noting an arrest date of November 11, 2010, although the ticket was not mailed to Plaintiff Emery until several days later. Defendant Swinehamer falsified the date of arrest on the traffic ticket knowing that it would not be mailed or received until several days later.

45. On information and belief, Officer D.R. Swinehamer never mailed Plaintiff Emery the ticket and instead the ticket was mailed under a cover letter from Defendant Woods several days after the alleged violation.

46. Plaintiff Emery was charged with a municipal ordinance violation, although the charging document was a South Carolina Uniform Traffic Ticket and not an ordinance summons.

47. Plaintiff Emery posted the \$133.00 bond amount. The bond was forfeited on December 15, 2010 even though upon information and belief Defendant Swinehamer did not establish the necessary requirement to try Plaintiff Emery in his absence as neither Defendant Swinehamer nor Defendant Woods proved on the record that he served Plaintiff Emery the traffic ticket within Defendant Swinehamer's or Defendant Wood's jurisdiction.

48. Moreover, the traffic ticket was not countersigned by a deputy in Florida where the traffic ticket was sent.

VI. Plaintiff James Gary Gain

49. Plaintiff Gain was allegedly photographed by the iTraffic unit on November 7, 2010 and was alleged to have been traveling 81 miles per hour in a 70 miles per hour speed zone.

50. Officer J. Lowther issued a ticket noting an arrest date of November 11, 2010, although the ticket was not mailed to Plaintiff Gain until several days later. Defendant Lowther falsified the date of arrest on the traffic ticket knowing that it would not be mailed or received until several days later.

51. On information and belief, Officer J. Lowther never mailed Plaintiff Gain ticket and instead the ticket was mailed under a cover letter from Defendant Woods several days after the alleged violation.

52. Plaintiff Gain was charged with a municipal ordinance violation, although the charging document was a South Carolina Uniform Traffic Ticket and not an ordinance summons.

53. Plaintiff Gain posted the \$133.00 bond amount. The bond was forfeited on December 15, 2010 even though upon information and belief Defendant Lowther did not establish the necessary requirement to try Plaintiff Gain in his absence as neither Defendant Lowther nor Defendant Woods proved on the record that he served Plaintiff Gain the traffic ticket within Defendant Lowther's or Defendant Wood's jurisdiction.

54. Moreover, the traffic ticket was not countersigned by a deputy in Florida where the traffic ticket was sent.

VII. Class Action Allegations

55. This case is brought as a class action under Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure. The proposed classes would be defined as follows:

All persons who were sent a State of South Carolina Uniform Traffic Ticket in the mail for violation of town ordinance from Ridgeland Police Department for speeding on I-95. Excluded from this class definition are individuals whose mailing address is within Jasper County, South Carolina.

56. Plaintiffs believe that the class is comprised of several thousand drivers who received State of South Carolina Uniform Traffic Ticket from the Ridgeland Police Department. The joinder of all drivers in one lawsuit is impracticable, and the disposition of claims in this transaction will provide a substantial benefit both to the parties and to the Court.
57. Plaintiffs are entitled to have this cause of action maintained as a class action pursuant to Rule 23 for the following non-exclusive reasons:
- a) The persons constituting the class is so numerous that individual joinder of all parties is impracticable;
 - b) Common questions of law and fact exist between the class representatives and the unnamed members of the Plaintiff class;
 - c) The class representative's claims are typical of the claims of the class;

- d) The Defendants' defenses against the class representatives, to the extent any will be asserted, are typical of the claims of the class;
 - e) The named Plaintiffs are representative of the Plaintiff class and members of the Plaintiff class are so situated as to provide adequate representation for the unnamed Plaintiff class members;
 - f) The case is primarily for injunctive relief and monetary relief is incidental to the injunctive relief sought;
 - g) The common questions of law and fact involved in this matter predominate over questions affecting other class members; and
 - h) The prosecution of separate actions by Plaintiff class members will create serious risk of inconsistent or varying adjudications that may prejudicially affect the claims of other class members in subsequent litigation.
58. The class action is a superior procedural vehicle for this litigation because the primary objective of the class action, economies of time, effort, and expense, will be achieved and the class action may be more easily managed than some other procedural vehicle considering the opportunity to afford reasonable notice of significant phases of the litigation, including, *inter alia*, discovery to the Plaintiff class members and the Defendants.
59. The named Plaintiffs' damages are not substantially different from the damages of other members of the Plaintiff class. The Plaintiffs will fully and adequately protect the interests of the other members of the Plaintiff class who are too numerous to be named individually and to individually appear in this proceeding.

60. There is a well-defined community of interest and the questions of law and fact affecting the parties to be represented.
61. The claims or defenses of the representative parties are typical of the claims or defenses applicable to the entire class.
62. The Plaintiffs have retained counsel competent in the prosecution of this type of litigation.
63. The questions of law and fact applicable to the entire Plaintiff class predominate over questions that affect class members, including the following issues:
 - a) Whether a State of South Carolina Uniform Traffic Ticket can be used for a municipal violation under S.C. Code Ann. § 56-7-10;
 - b) Whether a municipal court has jurisdiction over a driver if the driver was served with the ticket via United States Mail;
 - c) Whether personal service is required for a municipal violation;
 - d) Whether a municipal officer may arrest an individual with the service of a State of South Carolina Uniform Traffic Ticket outside of the municipality that is the officer's jurisdiction;
 - e) Whether a municipal officer may arrest an individual with the service of a State of South Carolina Uniform Traffic Ticket outside of the county in which the municipality exists;
 - f) Whether the issuance of the State of South Carolina Uniform Traffic Ticket by mail outside of the officer's jurisdiction is an unconstitutional arrest; and

g) Whether Defendants' procedures for issuance of tickets, collection, and forfeiture of bond constitutes a due process violation.

64. Because of the size of some of the individual class member claims, few, if any, class members could afford to seek legal action for the wrongs complained of herein.
65. The Plaintiffs and the class alleged that Defendants conspired to violate their civil rights to issue and improperly serve illegal State of South Carolina Uniform Traffic Tickets primarily for the purpose to generate revenue for the Town.
66. The Plaintiffs and the class have suffered damages as a result of the Defendants' civil rights violations, resulting in improper forfeiture of bond and costs associated with court procedures.

FOR A FIRST CAUSE OF ACTION
(Declaratory and Injunctive Relief Against All Defendants)

67. Plaintiffs repeat and reallege paragraphs 16 - 66 as if fully restated herein.
68. Defendants operation of the I-95 Public Safety Program relies on unauthorized mail service on Plaintiffs and Class Members to locations outside of Jasper County and outside of Defendants' jurisdiction, making the arrests and collection of fines and bonds through bond forfeitures unconstitutional.
69. Plaintiffs and Class Members are at risk for future harm if Defendants are not enjoined from such conduct.
70. Moreover, the flash of light used to photograph Plaintiffs and Class Members puts Plaintiffs and Class Members at an unreasonable risk of losing control of

their vehicles, resulting in an accident. As a result, the operation of the I-95 Public Safety Program is a public safety risk and should be enjoined.

71. Accordingly, Plaintiffs are entitled to a permanent injunction.

FOR A SECOND CAUSE OF ACTION
(Conspiracy to Violate Civil Rights
Pursuant to 42 U.S.C. § 1985 Against All Defendants)

72. Plaintiffs repeat and reallege paragraphs 16 - 66 as if fully restated herein.
73. Defendants have conspired to deprive Plaintiffs and Class Members property through illegal and unlawful arrests and have collected fines and bonds absent jurisdiction in violation of the constitution, the Fourth, Fifth, and Fourteenth Amendments and 42 U.S.C. § 1985(3).
74. Plaintiffs and Class Members have been damaged as a result of the conspiracy.

FOR A THIRD CAUSE OF ACTION
(Violation of Civil Rights for Deprivation of Property Without
Due Process of Law Pursuant to 42 U.S.C. § 1983
against Defendants Woods, Dobbs, Lowther, and Swinehamer)

75. Plaintiffs repeat and reallege paragraphs 16 - 66 as if fully restated herein.
76. Defendants Woods, Dobbs, Lowther, and Swinehamer acted under color of state law at all times relevant to this Complaint and are being sued in their individual capacities for monetary damages.
77. Defendants Woods, Dobbs, Lowther, and Swinehamer have collected fines from Plaintiffs and Class Members without jurisdiction over the Plaintiffs and Class Members because service of process was defective.

78. Defendants Woods, Dobbs, Lowther, and Swinehamer have collected fines from Plaintiffs and Class Members because Defendants have not provided Plaintiffs and Class Members with proper notice of the violation and date and time of the hearing due to the lack of personal service within the Defendant's jurisdiction.
79. As a result, the collection of fines and bonds from Plaintiffs and Class Members for South Carolina Uniform Traffic Tickets without properly noticed trials constituted deprivation of property from Plaintiffs and Class Members in violation of the Fifth, and Fourteenth Amendments.
80. Plaintiffs and Class Members have been damaged as a result of the illegal arrests.

FOR A FOURTH CAUSE OF ACTION
(Violation of Civil Rights for Illegal Arrest Pursuant to 42 U.S.C. § 1983
against Defendants Woods, Dobbs, Lowther, and Swinehamer)

81. Plaintiffs repeat and reallege paragraphs 16 - 66 as if fully restated herein.
82. Defendants Woods, Dobbs, Lowther, and Swinehamer acted under color of state law at all times relevant to this Complaint and are being sued in their individual capacities for monetary damages.
83. In their individual capacities and acting under color of state law, Defendants Woods, Dobbs, Lowther, and Swinehamer have attempted to effect illegal arrests of Plaintiffs and class members by improperly serving Plaintiffs with traffic tickets outside of their jurisdiction and by improper service methods.
84. Defendants Woods, Dobbs, Lowther, and Swinehamer have illegally arrested Plaintiffs and Class Members through the following violations:

- a) Attempting to serve Plaintiffs and Class Members South Carolina Uniform Traffic Tickets for municipal violations where there is no legal authority for same under S.C. Code Ann. § 56-7-10;
- b) Attempting to serve Plaintiffs and Class Members South Carolina Uniform Traffic Tickets for municipal violations by mail where there is no legal authority for same;
- c) Attempting to serve Plaintiffs and Class Members South Carolina Uniform Traffic Tickets for municipal violations at locations outside of Defendant's jurisdiction and authority pursuant to S.C. Code Ann. § 5-7-110; and
- d) Attempting to serve Plaintiffs and Class Members South Carolina Uniform Traffic Tickets for municipal violations where the only evidence for prosecution was photographic evidence.

85. Defendants Woods, Dobbs, Lowther, and Swinehamer knew attempting to serve South Carolina Uniform Traffic Tickets for municipal violations were not legally authorized under S.C. Code Ann. § 56-7-10.

86. As a result, the attempted service of the South Carolina Uniform Traffic Tickets constituted illegal arrests of Plaintiffs and Class Members and constitute violations of the Fourth, Fifth, and Fourteenth Amendments.

87. Plaintiffs and Class Members have been damaged as a result of the illegal arrests.

JURY DEMAND

88. Plaintiffs demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray that this Honorable Court enter judgment against Defendant as follows:

1. For an Order declaring that the action be maintained as a class action under the appropriate provisions of Rule 23(b)(2) and Rule 23(b)(3) of the Federal Carolina Rules of Civil Procedure, and appointing Plaintiffs and their counsel to represent the Class;
2. For actual, compensatory, and punitive damages against Defendants in favor of Plaintiffs and the Class;
3. For a permanent injunction prohibiting Defendants from operating the I-95 Public Safety Program;
4. For attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
5. For any such relief as the Court deems just and proper.

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