

EXHIBIT A

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

J. BRADFORD MCILVAIN,) Civil Action No. 2023-CP-10-03550
)

Plaintiff,)

vs.)

ORDER

THE TOWN OF KIAWAH ISLAND,)

Defendant.)

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SC Court of Appeals

This matter is before the Court upon J. Bradford McIlvain's ("Plaintiff") Motion for Reconsideration of Judgment Order dated August 17, 2023 ("Motion for Reconsideration"), filed on August 28, 2023. The Court granted Plaintiff's Motion for Reconsideration on August 29, 2023, and filed a Notice of Rehearing regarding the issues previously presented to this Court regarding Plaintiff's action for declaratory and injunctive relief pursuant to the South Carolina Freedom of Information Act and Defendant's Motion for Summary Judgment on the Pleadings or, in the alternative for Summary Judgment.

On September 13, 2023, the Court held a hearing to reconsider Defendant's Motion for Judgment on the Pleadings, or in the alternative, Defendant's Motion for Summary Judgment. Mr. Brad McIlvain appeared *pro se* and Mr. Joe Wilson appeared on behalf of the Town of Kiawah Island. Following the hearing, the Court requested additional briefing on whether the Court is required to go through the Attorney Memorandum at issue, line by line, to determine whether the attorney-client privilege or work product doctrine applies.

First, the Court declines to amend its previous Order entered on August 17, 2023, in which

this Court found: (1) the Attorney Memorandum at issue is protected by the work product and attorney-client privileges, (2) the Town of Kiawah Island (“Defendant”) never waived the attorney-client privileges as to the Attorney Memorandum, and (3) the Attorney Memorandum was exempt from public disclosure under the South Carolina Freedom of Information Act (“FOIA”) pursuant to S.C. Code Ann. § 30-4-40(a)(7).

Last, the Court disagrees with Plaintiff’s argument this Court is required to review the Attorney Memorandum for the reason that the entire Attorney Memorandum is exempt under § 30-4-40(a)(7) of the FOIA. Thus, the Court is not required to separate the exempt from nonexempt material, as the entire Attorney Memorandum is exempt. As stated in the hearing, this Court has reviewed the Attorney Memorandum *in camera* and confirmed it is exempt under § 30-4-40(a)(7) of the FOIA.

Therefore, for the reasons set forth in the Order dated August 17, 2023 and entered by this Court, the Court grants the Motion for Judgment on the Pleadings in favor of Defendant and denies the relief asked by the Plaintiff.

AND IT IS SO ORDERED.

[JUDGE’S SIGNATURE PAGE FOLLOWS]



Charleston Common Pleas

Case Caption: J Bradford Mcilvain VS Kiawah Island Town Of

Case Number: 2023CP1003550

Type: Order/Other

So Ordered

Jean H. Toal

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