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S.C. SUPREME COURT

EXHIBIT A

ELECTRONICALLY FILED - 2024 Dec 09 3:13 PM - HORRY - COMMON PLEAS - CASE#2021CP2607309

STATE OF SOUTH CAROLINA COUNTY OF HORRY Baylis Griffin Hyman, individually and on behalf of all others similarly situated, Plaintiff, v. Steve Gosnell, in his official capacity as Horry County Administrator; Angie Jones, in her official capacity as Horry County Treasurer; Horry County Council; and Horry County, Defendants.	IN THE COURT OF COMMON PLEAS CASE NO.: 2021-CP-26-07309 **ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION**

A hearing was held in this matter on March 8, 2022. Plaintiff seeks reconsideration of the court's final order in this matter, filed May 9, 2022. After considering Plaintiff's Motion, it is denied.

LEGAL STANDARD

The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to "reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 22, 602 S.E.2d 772, 779 (2004). A party may wish to file such a motion when he believes the court misunderstood, failed to fully consider, or failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. *Elam*, 361 S.C. at 24, 602 S.E.2d at 779.

This court has reviewed Plaintiff's motion for reconsideration and Defendant's response.

Plaintiff has not shown that the court misunderstood, failed to fully consider, or failed to rule on an argument or issue before the court. As such, the motion is DENIED.

AND IT IS SO ORDERED.

Kristi F. Curtis, Circuit Court Judge

_____, 2024

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Horry Common Pleas

Case Caption: Baylis Griffin Hyman VS Steve Gosnell , defendant, et al

Case Number: 2021CP2607309

Type: Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

EXHIBIT B

ELECTRONICALLY FILED - 2022 May 09 10:45 AM - HORRY - COMMON PLEAS - CASE#2021CP2607309

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Baylis Griffin Hyman, individually and on behalf of those similarly situated, Plaintiff, vs. Steve Gosnell, in his official capacity as Horry County Administrator, Angie Jones, in her official capacity as Treasurer of Horry County, Horry County Council, and Horry County, Defendants.	Case No. 2021-CP-26-07309 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

Pending before the Court is Defendants' motion to dismiss filed on December 6, 2021. Having carefully considered the briefs submitted by the parties, the arguments raised by counsel at the hearing held on March 8, 2022, and the relevant authorities, it is the judgment of the Court that Defendant's motion to dismiss is granted, and Plaintiff's claims in the Complaint are dismissed.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff brought this action on behalf of herself and a putative class seeking a refund of all payments ever made to Defendant Horry County for its road maintenance fee (the "Charge") and a penalty of ten times that amount. *See* Compl. The Charge was implemented by Horry County in 1987 for the purpose of funding road maintenance and has been in place ever since. *Id.* ¶¶ 2, 16, 17. The South Carolina Supreme Court upheld the Charge in 1992 in *Brown v. County of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992). On June 30, 2021, the South Carolina Supreme Court held in *Burns v. Greenville County Council*, 433 S.C. 583, 861 S.E.2d 31 (2021), that Greenville County's road maintenance fee was an invalid tax.

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Plaintiff's Complaint alleges that Horry County's Charge is invalid pursuant to *Burns v. Greenville County Council*. Compl. ¶¶ 4, 21. The *Burns* decision is Plaintiff's sole basis for arguing that Horry County's Charge is invalid. *See* Compl. Each of Plaintiff's claims is asserted on behalf of a proposed class composed of all individuals who have ever paid the Charge at any time during the past thirty-five years. *Id.* at ¶¶ 39, 50-73. Plaintiff seeks a refund on behalf of herself and the putative class members of all amounts Horry County has ever collected in connection with the Charge, as well as a penalty of ten times that amount from Defendants Steve Gosnell and Angie Jones under S.C. Code § 8-21-30. *Id.* at ¶¶ 8, 54, 61, 67, 72-73. Unlike the Plaintiff in this case, the plaintiffs in *Burns* did not seek any refund or other monetary relief, nor did they assert their claims on behalf of a purported class.

Plaintiff filed her Complaint on November 2, 2021. On December 6, 2021, Defendants moved to dismiss the Complaint under South Carolina Civil Procedure Rule 12(b)(6). Defendants' motion to dismiss was fully briefed, and the Court held a hearing on March 8, 2022, during which counsel for Plaintiff and Defendants were present. Defendants' motion to dismiss is now ripe for resolution.

STANDARD OF REVIEW

"Under Rule 12(b)(6), a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action." *Brazell v. Windsor*, 384 S.C. 512, 515, 682 S.E.2d 824, 826 (2009). The court should dismiss a complaint when the defendant demonstrates that the complaint fails to state facts sufficient to constitute a cause of action. Rule 12(b)(6), SCRCP; *see also, e.g.*, *Williams v. Condon*, 347 S.C. 227, 232-33, 553 S.E.2d 496, 499 (Ct. App. 2001).

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ANALYSIS

Defendants maintain that each of Plaintiff's claims must be dismissed pursuant to S.C. Code § 12-60-80(C) because the statute prohibits class actions for the refund of taxes as well as any class action against a political subdivision, such as Horry County. Plaintiff responds that the South Carolina Revenue Procedures Act (the "Act"), of which § 12-60-80(C) is a part, is inapplicable to this case. Plaintiff argues that the Act, including the class action prohibition in § 12-60-80(C), applies only to disputes with the South Carolina Department of Revenue and disputes concerning "property taxes" as defined by the Act, and Plaintiff contends this case is not a dispute involving either. Plaintiff argues that interpreting the final clause of § 12-60-80(C) to prohibit all class actions against political subdivisions would be "nonsensical." Defendants reply that the plain language of § 12-60-80(C), as well as precedent from the South Carolina Supreme Court, make clear that the statute prohibits any class action against a political subdivision in addition to any class action for the refund of taxes.

S.C. Code § 12-60-80(C) provides:

> Notwithstanding subsections (A) and (B), a claim or action for the refund of taxes may not be brought as a class action in the Administrative Law Court or any court of law in this State, and the department, **political subdivisions, or their instrumentalities may not be named or made a defendant in any other class action brought in this State.**

(emphasis added). The South Carolina Supreme Court has upheld § 12-60-80(C) and dismissed or affirmed the dismissal of class actions based on the statute multiple times. *Aiken v. S.C. Dep't of Rev.*, 429 S.C. 414, 422, 839 S.E.2d 96, 100 (2020); *Lightner v. Hampton Hall Club*, 419 S.C. 357, 368, 798 S.E.2d 555, 560 (2017); *Drummond v. State*, 378 S.C. 362, 370 n. 5, 662 S.E.2d 587, 591 n. 5 (2008); *see also Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 576, 703 S.E.2d

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197, 204 (2010); *Morgan v. S.C. Dep't of Rev.*, No. 2012-CP-40-7331, 2013 S.C. C.P. LEXIS 2, 26 (Feb. 27, 2013).

The language of § 12-60-80(C) is clear and unambiguous. The Court agrees with Defendants that the statute prohibits any class action against the Department of Revenue, political subdivisions, such as Horry County, and their instrumentalities. Plaintiff's argument that interpreting the final clause of § 12-60-80(C) to prohibit all class actions against political subdivisions would be "nonsensical" is contradictory to the plain language of the statute, which states that "political subdivisions, or their instrumentalities may not be named or made a defendant **in any other class action** brought in this State." § 12-60-80(C) (emphasis added).

The South Carolina Supreme Court has clearly established that "[w]here [a] statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Senate of the State of S.C. v. McMaster*, 425 S.C. 315, 322, 821 S.E.2d 908, 912 (2018) (quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)); *see also, e.g.*, *Creswick v. Univ. of S.C.*, 434 S.C. 77, 81, 862 S.E.2d 706, 708 (2021) (per curium) ("If a statute's language is plain, unambiguous, and conveys a clear and definite meaning, there is no need to employ the rules of statutory interpretation, and this Court must apply the statute according to its literal meaning." (citation omitted)); *Aiken*, 429 S.C. at 419, 839 S.E.2d at 99; *Rainey v. Haley*, 404 S.C. 320, 323, 745 S.E.2d 81, 82 (2013). The Supreme Court has further directed that "[u]nder the plain meaning rule, this Court has no right to search for or impose another meaning or resort to subtle or forced construction to change the scope of a clear and unambiguous statute." *Creswick*, 434 S.C. at 81-82, 862 S.E.2d at 708 (citations omitted). Here, the plain language of § 12-60-80(C) provides that

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a political subdivision and its instrumentalities, including Horry County, may not be named as a defendant in *any* class action.

Contrary to Plaintiff's suggestion, the language in § 12-60-80(C) barring "any other class action" against a political subdivision and its instrumentalities does not mean only class actions involving certain types of taxes, and the plain meaning rule prevents it from being narrowed in that way. The Court must enforce the clear and unambiguous language of § 12-60-80(C) as written. *See, e.g.*, *McMaster*, 425 S.C. at 322, 821 S.E.2d at 912. Furthermore, interpreting the second half of the statute as only barring class actions involving certain types of taxes, as Plaintiff urges, would render that portion of the statute meaningless and superfluous to the first part of the statute, which prohibits all class actions for the refund of taxes. Such an interpretation must be avoided. *See McMaster*, 425 S.C. at 322, 821 S.E.2d at 912 ("[N]o word, clause, provision or part [of a statute] shall be rendered surplusage, or superfluous, for the General Assembly obviously intended the statute to have some efficacy, or the legislature would not have enacted it into law." (internal quotations omitted) (alterations in original) (citation omitted)).

Moreover, the South Carolina Supreme Court has already ruled on this issue. In *Aiken v. S.C. Dep't of Rev.*, 429 S.C. 414, 422, 839 S.E.2d 96, 100 (2020), the court held that the second half of § 12-60-80(C), which bars class actions against political subdivisions, is not limited to certain types of class actions. *Id.*, 429 S.C. at 419, 839 S.E.2d at 99. When considering the scope of the second half of § 12-60-80(C) in *Aiken*, the Supreme Court dubbed that portion of the statute the "catchall clause." *Id.*, 429 S.C. at 418, 839 S.E.2d at 98. The court held that the catchall clause of § 12-60-80(C) is not limited to certain types of class actions, and that to interpret it that way would be "absurd and forced":

> We hold subsection 12-60-80(C) indicates no intent to limit or restrict the general words "any other class action" in the catchall clause of subsection (C) to the specific

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> subject of "taxes" set forth in the first portion of subsection (C). To interpret the catchall clause in this fashion would simply amount to an unnecessary re-recitation of the first portion of subsection (C); this would be an absurd and forced construction of the catchall cause of subsection (C).

Id., 429 S.C. at 419, 839 S.E.2d at 99 (citation omitted). The court explained that "the plain language of subsection (C), by itself, clearly prohibits the instant action from proceeding as a class action[,]" and it further held that § 12-60-80(C) prohibited the *Aiken* case from proceeding as a class action regardless of whether the Revenue Procedures Act otherwise applied to the case. *Id.*, 429 S.C. at 421-422, 839 S.E.2d at 100 ("We hold the plain language of subsection 12-60-80(C) prohibits this action from proceeding as a class action. We therefore reverse the circuit court . . . . [W]e express no opinion on the merits of the case, and we express no opinion as to whether the Revenue Procedures Act applies to other issues in this case."). Thus, controlling case law from the South Carolina Supreme Court holds that the second half of § 12-60-80(C) must be enforced according to its plain meaning, which means that the statute bars *all* types of class actions against political subdivisions, not just class actions relating to certain types of taxes or even taxes generally.

Accordingly, this Court holds that, pursuant to the plain language of § 12-60-80(C) as well as precedent from the South Carolina Supreme Court, Plaintiff is prohibited from bringing this case as a class action because it is asserted against a political subdivision (Horry County) and its instrumentalities. Therefore, Plaintiff's claims, which are each asserted on behalf of a purported class, fail as a matter of law and must be dismissed. Because the Court holds that § 12-60-80(C) mandates dismissal of Plaintiff's claims, the Court need not address the parties' remaining arguments.

CONCLUSION

For the foregoing reasons, it is the judgment of the Court that Defendants' motion to dismiss is GRANTED, and Plaintiff's claims are dismissed.

_____
The Honorable Kristi F. Curtis
South Carolina Circuit Judge, Fifteenth Circuit

_____, 2022

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Horry Common Pleas

Case Caption: Baylis Griffin Hyman VS Steve Gosnell , defendant, et al

Case Number: 2021CP2607309

Type: Order/Dismissal

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762