

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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FEB 28 2025

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

SC Court of Appeals

Jocelyn Newman, Circuit Court Judge

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Appellate Case No. 2024-000922  
Case No. 2023-CP-40-02377

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Anthony R. Taylor, Appellant,

v.

The State of South Carolina Office of Attorney General Alan Wilson, Honorable Frank R. Addy,  
and Attorney Jacqueline Marie Pavlicek<sup>1</sup>,

Of which Attorney Jacqueline Marie Pavlicek is the Respondent,

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**INITIAL BRIEF OF RESPONDENT, JACQUELINE MARIE PAVLICEK**

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Attorney for Respondent

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<sup>1</sup> Respondents Attorney General Alan Wilson and the Honorable Frank R. Addy have been dismissed by order of the Court on August 29, 2024.

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**COUNTER STATEMENT OF ISSUES ON APPEAL**

1. DID THE TRIAL COURT ERR IN DISMISSING THE APPELLANT’S COMPLAINT AGAINST JACQUELINE MARIE PAVLICEK FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF COULD BE GRANTED PURSUANT TO RULE 12 OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE?
2. DID THE TRIAL COURT ABUSE ITS DISCRETION IN DECLARING THE APPELLANT’S COMPLAINT A “FRIVOLOUS PROCEEDING” UNDER THE SOUTH CAROLINA FRIVOLOUS PROCEEDINGS ACT?
3. DID THE TRIAL COURT ABUSE ITS DISCRETION IN AWARDING SANCTIONS IN THE FORM OF INJUNCTIVE RELIEF TO AVOID FURTHER VEXACIOUS LITIGATION BY THE APPELLANT?

**COUNTER STATEMENT OF THE CASE**

The present action was commenced with a Summons and Complaint filed on May 8, 2023 against the South Carolina Attorney General, Alan Wilson, Circuit Court Judge Frank Addy<sup>2</sup>, and the Respondent, who was a full-time employee of the Office of the City Attorney for the City of Columbia. (2023 Summons and Complaint.) Despite the length of the Complaint, there is no discernable cause of action.

On May 26, 2023, the Respondent filed a motion to dismiss under SCRCP 12(b)(6) and requested sanctions in the form of injunctive relief under the South Carolina Frivolous

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<sup>2</sup> Honorable Frank R. Addy was never served with the Summons and Complaint.

Proceedings Act. (2023 Motion to Dismiss.) The Attorney General also filed a motion to dismiss on May 26, 2023. A hearing was held on February 16, 2024 on the Respondent's motion before the Honorable Jocelyn Newman, Circuit Judge for the Fifth Judicial Circuit and on May 15, 2024, an Order was issued (a) granting the motion to dismiss, (b) declaring the action a "frivolous proceeding" and (c) issuing an injunction that the Appellant could not file successive lawsuits without permission from the Circuit Court or a certificate from a licensed attorney as to the validity of the claims<sup>3</sup>. (2024 Newman Order.) This appeal was filed on May 30, 2024 from that Order.

However, the history and context of this action begins many years before the commencement and dismissal of the present case. The Appellant has an extensive history with litigation against law enforcement agencies, both in the criminal courts in the form of charges brought against him and in civil court for forfeitures and prisoner litigation. In 2019, the Appellant commenced an action against the South Carolina Attorney General in Civil Action 2019-CP-40-00486. (2019 Summons and Complaint.) In his complaint, there are no cognizable causes of action stated, nor any legal grounds for relief. The 2019 action was dismissed for being a frivolous proceeding on June 28, 2019. (2019 Manning Order.)

A subsequent action was commenced with the filing of another summons and complaint on May 26, 2020 in Civil Action 2020-CP-40-02482. (2020 Summons and Complaint.) That action was dismissed by an order of the Court on March 17, 2021 in which the Court found, "*The court cannot discern any possible or actionable claim lying in tort, statute, or under a constitutional right in this complaint.*" (2021 Manning Order.)

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<sup>3</sup> The Attorney General also obtained an order to dismiss, and the Appellant appealed that Order, but the Attorney General has been dismissed from this Appeal so the only order before this Court is the Pavlicek Order.

The next lawsuit was filed on December 1, 2021 against the Mayor of Columbia, Stephen K. Benjamin, the Columbia Chief of Police William H. Holbrook, and Lt. Jackson Sheard, an officer with the Columbia Police Department. (2021 Summons and Complaint.) The named Defendants in that action were represented by the Respondent in her capacity as an Assistant City Attorney in the Office of the City Attorney of Columbia. On their behalf, she filed various motions on December 30, 2021, including a motion to quash service; a motion to dismiss for failure to state a claim upon which relief may be granted; and a motion to strike portions of the complaint. A hearing was held before the Honorable Frank Addy, a Circuit Court Judge of the Court of Common Pleas for Richland County on November 20, 2022. Based upon the record in the case, the motion presented, and the arguments at the hearing, the 2022 Complaint was dismissed for failure to state facts sufficient to state a claim for relief against the defendants. (Addy Order.)

After the issuance of that Order from Judge Addy, the Appellant filed a Notice of Intent to Appeal on December 6, 2022. (2022 Appeal.) On March 27, 2022 that appeal was dismissed for failure to provide the filing fee for the Notice of Appeal. (2022 Court of Appeals Order.)

On May 8, 2023, forty-two days later, the present action was filed, but this time the Attorney General, Judge Addy and the Respondent were the named defendants. In the Complaint, the Appellant's allegations against the Respondent were:

*“Here, Jacqueline Marie Pavlicek’s frivolous motion to delay and deceive the court as well as Honorable Judge Frank R. Addy Jr. is at war with the constitution allowing collusion before his presence and court.”*

*“Here, the corruption of Attorney Jacqueline Marie Pavlicek, Esq. and the Honorable Judge Frank R. Addy, Jr. are both officers of the court who are bound by their solemn oaths to protect and defend the life and liberty of all individuals.”*

*“Both Jacqueline Marie Pavlicek Esq. and Honorable Judge Frank R. Addy, Jr. played their own legal game. Revised rules created under secret procedure known only to*

*the paid attorneys/lawyers, judges, prosecutors, and legislators are in breach their contract and sworn solemnly binding oaths to protect and to defend both the United States and South Carolina Constitutions, Honorable Bill of Rights and God nature. Our court systems are supposed to be open and transparent, not this failure and hiding secret operations outside of the law. These secret backroom deals under South Carolina Rules of Civil Procedure process 12(b)(6) procedure matter cannot be above the law.” (2023 Summons and Complaint.)*

At all times in this litigation, the Respondent was a full-time employee of the City of Columbia in the City Attorney’s Office. She was representing the people of the City of Columbia, their elected officials and the public municipal employees in the course and scope of her employment.

### **STANDARDS OF REVIEW**

In this appeal, there are two (2) separate standards for review arising from the order below.

#### **I. Standard of Review for Rule 12(b)(6) Dismissal**

The first standard of review is for reviewing the trial court’s granting of a dismissal pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. When reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRPC, the appellate court applies the same standard of review as the trial court. *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). If the facts alleged and inferences reasonably deducible from the allegations set forth in the complaint, viewed in the light most favorable to the plaintiff, entitle him to relief on any theory, dismissal under Rule 12(b)(6) is improper. *Id.* The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. *Id.* at 395, 645 S.E.2d at 248. When reviewing a motion to dismiss for failure to state facts sufficient to constitute a cause of action, the pleadings must be construed liberally, and all well pled facts must be presumed true. *Charleston County School Dist. v. Harrell*, 393 S.C. 552, 557, 713 S.E.2d 604, 607 (2011).

In South Carolina, our Supreme Court has held a *pro se* litigant who knowingly elects to represent himself assumes the full responsibility for complying with substantive and procedural requirements of the law. State vs. Burton, 356 S.C. 259, 589 S.E.2d 6 (2003). Giving “liberal construction” does not mean that the Court can ignore a petitioner’s clear failure to allege facts that set forth a cognizable claim. United States v. Wilson, 699 F.3d 789 (4th Cir. 2012).

In considering a motion to dismiss pursuant to Rule 12(b)(6), SCRCP, the circuit court must base its ruling solely upon the allegations set forth on the face of the complaint. Doe v. Greenville County Sch. Dist., 375 S.C. 63, 66–67, 651 S.E.2d 305, 307 (2007).

## II. Standard of Review Under S.C. Frivolous Proceedings Act

In this appeal, the trial court also declared the underlying action a “frivolous proceeding” under §15-36-10(A)(4) of the South Carolina Frivolous Proceedings Act (SCFPA, also hereinafter referred to as the “Act”). The decision to sanction for a frivolous proceeding is a question of law for the Court, not a question of fact for a jury because it sounds in equity. Father v. S.C.D.S.S. 353 S.C. 254, 578 S.E.2d 11 (2003).

As to the sanction ordered by the trial court which limited the Appellant’s right to file more lawsuits, the appellate court applies an equitable standard of review. The determination of whether sanctions should be awarded under Rule 11<sup>4</sup> or under the Act is treated as one in equity. In re Beard, 359 S.C. 351, 357, 597 S.E.2d 835, 838 (Ct.App.2004) (applying an equitable standard of review of factual findings in action for sanctions under Rule 11 and the Act). In an action in equity tried by the judge alone, the appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of the evidence. Id. “However, the abuse of discretion standard plays a role in the appellate review of a sanctions award.” Ex parte Gregory,

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<sup>4</sup> The Respondent did not move for sanctions pursuant to Rule 11. Rule 11 specifically references attorney’s fees and costs, but the Respondent was seeking non-monetary, injunctive relief under the SCFPA

378 S.C. 430, 437, 663 S.E.2d 46, 50 (2008). Where the appellate court agrees with the trial court's findings of fact, it reviews the decision to award sanctions under an abuse of discretion standard. *Id.* Under the abuse of discretion standard, the imposition of sanctions will not be disturbed on appeal unless the decision is controlled by an error of law or is based on unsupported factual conclusions. *Id. Site Prep, LLC v. Atl. Coast Builders & Contractors, LLC*, 394 S.C. 97, 104, 713 S.E.2d 650, 653–54 (Ct. App. 2011).

## ARGUMENTS

1. THE TRIAL COURT PROPERLY DISMISSED THE APPELLANT'S COMPLAINT FOR FAILURE TO STATE A CLAIM FOR WHICH RELIEF COULD BE GRANTED UNDER SCRPC RULE 12(b)(6).

In this case, the Appellant filed the underlying action solely because he was unhappy with the result of the 2021 lawsuit against Mayor Benjamin, Chief Holbrook and Lt. Sheard. This action was clearly just a retaliatory action, based upon baseless allegations, taken against the lawyer and judge who properly reviewed the previous action as meritless. Unhappy with that result, on May 8, 2023, Plaintiff filed the present lawsuit in the Richland County Court of Common Pleas against this Defendant alleging no causes of action, requested no relief, and grossly misinterpreting the law for his own self-aggrandizing purposes.

The relief sought by Plaintiff is not within the power of this Court, despite its inherent authority, to grant. The relief the Appellant asks for, contained in ten paragraphs in the prayer for relief in the Complaint, while perhaps laudable, are beyond the power of the Respondent to grant.

*1. We seek exemption from under this mental illness of color and classification of the Black-African American, the White Caucasian American of hate and ignorance under Democracy.*

2. *We seek promises of freedom and compensation for a debt that was never fulfilled.*

3. *We seek the recognition for our slave-ancestor's name (the "N" word) to be placed in this America history with the greatest honor for the role that they played.*

4. *We seek an immediate compensation for 152 years of, war of 1871 White Supremacy under Democracy against the God image, the God-like, the dark, the light skinned/complexion and the 1/81h% that Democracy labels the "inferior one's".*

5. *We seek our liberty, our freedom to live in the peace and harmony that we were promised by our slave ancestors who won their freedom after the Civil War 1760-1763.*

6. *We seek the return of all personal properties unlawfully confiscated under indictment number 92GS-40-1613 violation, false imprisonment \$5,000,000 (five million) U.S. dollars per day, per occurrence, per officer, official, agent or representative involved plus 18% annual interest.*

7. *96GS-40 10975 (nolle prosequi. 8-18-93) (Marijuana Third Offence (b)(2) Distribution and Possession with Intent (Ten (10) years plus twenty (20) years, cruel and unusual punishment as per Title 18 U.S.C.A.} 241 and 242, or definitions contained herein; \$2,000,000.00 (two million) U.S. Dollars per occurrence, per officer, official, agent, or representative involved.*

8. *EC2021-047) Appellate Case No. 2022-001712, unlawful arrest without a lawful correct and complete warrant \$2,000,000.00 (two million) U.S. dollars per occurrence, per officers, official, agent, or representative.*

9. *We seek that unalienable Birthright, that liberty of freedom and compensation for the injuries suffered under this secret war against God-nature and the creation. From the darkness came the blessing from God who demanded one God-nature, not this democracy and this evil system that it creates while disguising itself by playing the role of good.*

10. *We, the people, the God image, the God-like, the dark, the light, the 1/81h % exercise that unalienable Birthright of liberty preserved by God-nature with dominion over the land south, southwest, southeast, north, northeast, and west of Main Street Columbia, South Carolina. These geographical areas/locations for the re-establishing of a nation of people in America that has been prosecuted, condemned to life under poverty, the new slave masters, the political slave running elections every 1, 2, 4, or 6 times a year voting democracy in, when slavery in all its form, is unlawful and illegal. God-nature common sense proved this system is wrong. Even modern-day slavery is prohibited and no statutory procedure, secret processes, no backroom deals are going to work. We are walking with God-nature, and we do not consent to this form of government under democracy (de facto). (2023 Summons and Complaint.)*

Plaintiff does not allege any duty or act by this Respondent upon which any relief can be granted. Further, while the complaint was filed in the Clerk's office as "legal malpractice" the Appellant and the Respondent had no privity. The Respondent did not represent the Appellant and she owed him no duties.

There is no way to read or construe any claim or fact in the underlying Complaint which would constitute any theory upon which the Appellant would be entitled to any relief from this Respondent. The Court properly dismissed this action pursuant to Rule 12 of the South Carolina Rules of Civil Procedure.

2. THE TRIAL JUDGE DID NOT ABUSE HER DISCRETION IN DECLARING THAT THE UNDERLYING COMPLAINT FILED BY THE APPELLANT WAS A "FRIVOLOUS PROCEEDING" UNDER THE SOUTH CAROLINA FRIVOLOUS PROCEEDINGS ACT

As stated above, the fundamental motivation for the filing of the present action was the dismissal of the previous action in a manner which the Appellant did not like. The Defendants were the Attorney General, who he has sued multiple times, the Judge who dismissed the previous action and the lawyer who moved for a dismissal.

Chapter 36 of Title 15 of the Code of Laws of South Carolina is the "South Carolina Frivolous Proceedings Act" (SCFPA). The Act prohibits, among other acts, filing a frivolous pleading. The exact definition of a "frivolous proceeding" is not spelled out by the Act, but the clear intent of the legislature may be found in the language of §15-36-10(A)(3) and (4). Throughout the statute, the legislature has chosen to apply a "reasonable attorney" standard. For instance, a pleading may be frivolous if "*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”* S.C. Code Ann. §15-36-10(A)(4)(ii).

But the Act provides more guidance. In §15-36-10(E), the statute tells the court to consider:

(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.

The trial court in determining that the present action was frivolous the Court took judicial notice of the many lawsuits against public officials which have been unsuccessfully filed by the Appellant, and all of which are public record and contained in the offices of the Clerk of Court. Under any analysis, the underlying action of this appeal was retaliatory in nature.

### 3. THE TRIAL COURT ACTED WITHIN ITS DISCRETION IN AWARDING INJUNCTIVE RELIEF AS A SANCTION FOR VIOLATING THE FRIVOLOUS PROCEEDINGS ACT.

In her motion to dismiss, the Respondent asked the trial court to issue sanctions in the form of injunctive relief to prevent successive litigation in the vein of this action. (Motion to Dismiss.) Under the Act, §15-36-10(B)(2) provides that if a pleading is determined to be frivolous, the trial court “*may impose upon the person in violation any sanction which the court considers just, equitable, and property under the circumstances.*” Sanctions may include an order to pay attorney’s fees and costs, an order to pay a fine into the court, or “*a directive of a nonmonetary*

*nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.” S.C. Code Ann. §15-36-10(G).*

The Respondent requested only nonmonetary, injunctive relief and provided the court with support that other courts around the country have made similar provisions. The Respondent gave the court three separate suggestions for injunctive relief, and in her order Judge Newman chose two of them as alternate solutions. Her order provided:

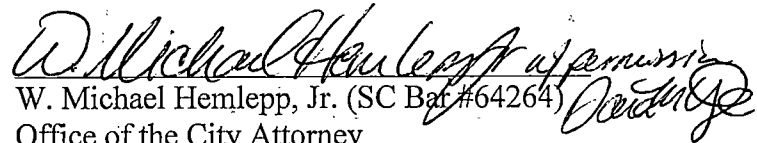
*“That the Plaintiff is hereby enjoined from filing any further pro se complaints in the Circuit Courts of this State without prior permission of a judge of that Court who has read the complaint in the light more favorable to the Plaintiff and determined the relief requested by the Plaintiff is within the jurisdictional authority of the Court if the allegations contained in the Complaint are proven to be true. In the alternative to prior judicial authorization, Plaintiff may attach to his pleadings a signed affidavit from a licensed attorney authorized to practice law in the State of South Carolina that the causes of action and claims made in the pleading are warranted under existing law, and are supported by adequate facts. This affidavit shall identify discernable causes of action contained [in] the pleadings, together with the facts supporting each element of the causes of action.” (2024 Newman Order.)*

The trial court complied with all of the applicable provisions of the SCFPA and properly balanced the interests and rights of the Appellant with the aims and purposes of §15-36-10(G).

### **CONCLUSION**

The Respondent strongly believes the trial court appropriately dismissing the present action, declared it frivolous correctly under the statute, and ordered any subsequent litigation by this Appellant be conditioned on some basic safeguards against further meritless litigation. The Respondent would pray that this Appeal be dismissed and uphold the findings of fact and conclusions of law contained in the Order below.

Respectfully submitted,



W. Michael Hemlepp, Jr. (SC Bar #64264)

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*Attorney for Respondent Jacqueline Marie  
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February 28, 2025

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
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Of whom Attorney Jacqueline Marie Pavlicek is the Respondent,

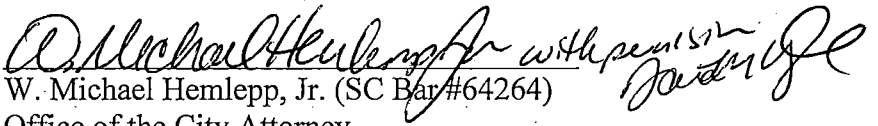
Respondent.

**PROOF OF SERVICE**

I certify that I have served upon the Appellant the *INITIAL BRIEF OF RESPONDENT*,  
*JACQUELINE MARIE PAVLICEK* and the *RESPONDENT'S DESIGNATION OF MATTER TO*  
*BE INCLUDED IN THE RECORD ON APPEAL* by depositing copies of them in the United  
States Mail, postage prepaid to him at his address shown below on this 28<sup>th</sup> day of  
February, 2025:

**ANTHONY TAYLOR**  
1549 Lilly Avenue  
Columbia, South Carolina 29204

Respectfully submitted,

  
W. Michael Hemlepp, Jr. (SC Bar #64264)

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February 28, 2025

Columbia, South Carolina



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SC Court of Appeals

Office of the City Attorney  
Post Office Box 667 • Columbia, SC 29202 • (803) 737-4242 • Fax (803) 737-4250

February 28, 2025

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

**RE: Anthony R. Taylor v. The South Carolina Office of Attorney General Alan Wilson, Honorable Frank R. Addy, and Attorney Jacqueline Marie Pavlicek, Appellate Case No. 2024-000922  
Case No. 2023-CP-40-02377**

Dear Ms. Kitchings:

Attached for filing please find the original and one copy of the *Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal* along with the *Proof of Service* in the above referenced matter. After filing same, please return the extra clocked copy to the courier of this letter.

By copy of this letter I am serving a copy of the documents on the Appellant by regular mail.

Sincerely,

W. Michael Hemlepp, Jr.  
Attorney for Respondent

WMH/lrl  
Attachments as Stated

cc: Jacqueline Marie Pavlicek, Esquire (*w. encl.*)  
Anthony Taylor (*w. encl.*)