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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Jennifer B. McCoy, Circuit Court Judge

Appellate Case No. 2025-000025
Case No. 2023-CP-07-01905

Marie E. Walls, in her Capacity as Beaufort County
Treasurer Respondent,

v.

Beaufort County, a Body Politic Subdivision of the State
of South Carolina, and John Robinson, in his Capacity as
Interim Beaufort County Administrator Appellants,

FINAL REPLY BRIEF OF APPELLANTS

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ARGUMENT

Appellants (hereinafter collectively “the County”) submit this reply in support of their appeal in this matter, and to respond to the points and arguments made by Respondent (“Treasurer” or “Treasurer Walls”) in her Initial Brief. The County will not address every argument made by the Treasurer in her brief, but instead refers the Court to its Initial Brief for a full articulation of its position in this appeal. But the County does wish to bring to this Court’s special attention the following erroneous factual or legal statements in Treasurer Walls’ brief.

I. The County’s Personnel Handbook and C&C Study/Plan do not dictate who the Treasurer may hire, retain, or terminate.

In 2024, consistent with the Beaufort County Personnel Handbook (“the Personnel Handbook”) and the Beaufort County Code §§ 2-316 to -317, Beaufort County initiated the 2024 Beaufort County Employee Classification and Compensation Studies (“C&C Study”) to analyze the existing Beaufort County Employee Classification and Compensation Plan (“the C&C Plan”) in order to determine if the then-current C&C Plan was in line with similar counties and the local job market for similar positions, and to establish a new C&C Plan.

Treasurer Walls refused to allow County employees who work under her direction to participate in the then-current C&C Study. (Appellants’ Initial Brief “AB” 8.) Further, Treasurer Walls approved certain travel expenses from two remote employees, referred to as Employees #1 and #2, in violation of S.C. Code Ann. § 4-1-80 (requiring an elected official’s expenses to be “necessary to the proper transaction of the legitimate business” of that office) as well as the provisions in the County’s Personnel Handbook regulating employee travel and reimbursable expenses. (AB 8-10.) These two actions by Treasurer Walls—hindering County employees from participating in the C&C Study, and approving employee expenses that were not “necessary and

proper”—were the basis for the County moving for a preliminary injunction on April 24, 2024. The trial court granted the County’s motion, enjoining Treasurer Walls “from hindering Beaufort County’s preparation and implementation of the C&C Study/Plan” and “from approving or authorizing the travel expenses (including but not limited to airfare, mileage, rental car, hotel lodgings and food per diems)” of employees #1 and #2. (Order at 9; R. 9.)

Treasurer Walls now argues that the County’s Personnel Handbook and C&C Study/Plan restricts the Treasurer’s “discretion to set individual employees’ compensation and working conditions, in a manner that controls and dictates who the Treasurer’s Office may hire, retain, or terminate.” (Respondent’s Initial Brief “RB” 6). She is wrong.¹ The County does not—and never has—argued that it has authority to hire, retain, or terminate, or discipline any employees who work under the direction of the Treasurer. Instead, the County agrees that under section 4-9-30(7), the County’s general authority to hire and fire County employees does not extend to personnel employed in departments run by an elected official, including the Treasurer’s Office. The Personnel Handbook and C&C Study/Plan do not dictate to the Treasurer who she may hire, retain, or fire. Instead, they constitute valid personnel system policies that the County is authorized to develop under section 4-9-30(7) and (14). Among those valid personnel policies are policies

¹ In addition to being wrong, the Treasurer moved for a preliminary injunction as to this matter seeking to enjoin the County from: (1) refusing to allow the Treasurer to compensate the employees of the Treasurer’s Office in amounts as determined for each employee solely by the Treasurer; (2) refusing to process employee expense reimbursement for any employees of the Treasurer’s Office in amounts as determined by the Treasurer; (3) refusing to distribute to the Treasurer the entire balance of the budget approved by Beaufort County Council for the Treasurer’s Office, including but not limited to amounts budgeted for personnel; (4) forcing the Treasurer to adopt the Personnel Handbook or to follow any policies or procedures contained in the Personnel Handbook; and (5) forcing the Treasurer or employees of the Treasurer’s Office to participate in any post-suit C&C Study. Except as noted in the County’s Initial Brief and herein, the Treasurer’s motion for an injunction was denied, and she did not appeal that denial.

setting the classification and salary of County employees, and others providing rules about reimbursable expenses incurred by County employees. Setting salaries in accordance with an appropriate process and maintaining the legal guardrails for expense reimbursements is not akin to hiring, retaining, or firing.

No doubt Treasurer Walls makes her hire-retain-fire argument to try and fit her case within *Eargle v. Horry County*, 335 S.C. 425, 517 S.E.2d 3 (Ct. App. 1999), *aff'd*, 344 S.C. 449, 545 S.E.2d 276 (2001). But the present case is not remotely like *Eargle*. In that case, the South Carolina Supreme Court held that a county administrator lacks authority to temporarily suspend employees of elected officials for violation of county policies. The Court of Appeals and Supreme Court concluded that the power to suspend the employee of an elected official would give “the administrator too much control over the operation of the elected official’s office.” *Id.* at 431, 517 S.E.2d at 6. But here, setting a County-wide classification and salary plan and County-wide employee reimbursement rules cede little to no control over the operation of any elected official’s office, including the Treasurer’s Office, to the County. The Treasurer still has the full authority to decide who to hire, and whether to retain or fire them.

Further, in *Eargle*, there was no express statutory provision giving a county administrator authority to temporarily suspend an employee of an elected official. But here, section 4-9-30(7) expressly provides that each county government has the power “to develop **personnel system policies and procedures** for county employees by which **all county employees** are regulated except those elected directly by the people.” S.C. Code Ann. § 4-9-30(7) (emphasis added). Further, the county administrator “has the **duty**” to “supervise the expenditure of appropriated funds,” and to “be responsible for the administration of county personnel policies including salary and classification plans approved by the council.” § 4-9-630(5) and (7) (emphasis added). Setting

county-wide salary and classification plans and county-wide employee reimbursement rules fit squarely within the statutory authority of the County and its administrator. Thus, what was lacking in *Eargle*—express statutory authorization for the claimed power—is present here. But what was present in *Eargle*—too much control over the operation of the elected official’s office—is absent here. *Eargle* is therefore inapposite.

II. The County’s prior historical practices are irrelevant as to whether its actions here accord with the law.

Treasurer Walls argues in several places that the County’s historic practices and policies differ from the positions they take in this lawsuit. For example, she claims that the County did not previously “challenge [travel expenses for remote employees] or the Treasurer’s discretion to authorize them,” or “object to the Treasurer’s management of her budget or the compensation structure within her office.” AB 8. She further claims the “2024 Handbook was introduced during the litigation and sought to alter long-standing, legal employment practices of the Treasurer’s Office contrary to past County practices,” including the “discretion to set individual compensation consistent with her managerial authority.” PB 13-14. As an initial matter, Treasurer Walls is incorrect in her assertion that she previously set the salaries and compensation for the county employees under her direction or that the 2024 Handbook imposed new rules regarding reimbursement for remote employee travel to Beaufort County. Since Treasurer Walls’ election as Treasurer in 2014, the personnel employed in the Treasurer’s Office have been included in the County’s C&C Plan and have actively participated in the related C&C Study. (Mead Affidavit at ¶ 16; R. 71.) Additionally, the 2016 version of the Beaufort County Handbook contained the same provisions prohibiting reimbursements for an employee’s travel from their home to work. (2016

Beaufort County Handbook, Plaintiff's Motion for Preliminary Injunction, Exhibit A, Sub-Exhibit D at § 3.5; R. 514-15.)

Assuming for the sake of argument that the Treasurer is correct in her analysis of past County practices, that does not answer the question before this Court: where has the legislature drawn the line between the Treasurer's power and authority to make management decisions for the Treasurer's Office on the one hand, and the County's power and authority to regulate personnel employed in departments run by an elected official on the other. The Treasurer's argument about alleged past practices misses the mark, because it does not grapple with the statutory text that, as argued *supra*, expressly grants the County the power to set county-wide salary and classification plans and county-wide employee reimbursement rules. Further, estoppel does not generally apply against a governmental body to thwart the application its public policies. *DeStefano v. City of Charleston*, 304 SC. 250, 258, 403 S.E.2d 648, 653 (1991).

Further, the Treasurer's past-practices argument ignores the fact that, per County ordinance, the County's Human Resources Department is *required* to conduct an internal review of the C&C every two years, and every four years the C&C Plan must be reviewed by an outside consultant and an updated plan submitted for approval by the County Council. (*See* Beaufort County Code § 2-318; R. 692.) Accordingly, even if relevant, the Treasurer's past-practices argument lacks merit.

III. The County did not seek to compel the Treasurer's participation in the 2024 C&C Study.

The Treasurer argues that after she filed the present action, "the County sought to compel [her] participation in a new Classification and Compensation Study." (RB 9.) That is not true. The County did not seek to compel participation in the C&C Study by any employees under the

direction of the Treasurer, much less the Treasurer herself. Instead, the County, consistent with its duties pursuant to state and local law, moved for a preliminary injunction to prevent the Treasurer from inhibiting any employees who work under her direction from participating in the C&C Study. And the trial court correctly granted the County's motion, enjoining Treasurer Walls "from hindering Beaufort County's preparation and implementation of the C&C Study/Plan." (Order at 9; R. 9.) Participation in the C&C Study is voluntary; County employees are given the opportunity to participate in the C&C Study by completing Job Profile Questionnaires ("JPQ"). (Mead Affidavit at ¶ 10; R. 70.) The County did not ask for a court order commanding participation, and the trial court did not require anyone to complete a JPQ or otherwise participate in the C&C Study. Prohibiting the Treasurer from *hindering* the C&C Study is very different from *requiring* the Treasurer or any employees who work under her direction from participating in the Study.

IV. The County did not threaten any employees who work under the direction of the Treasurer.

The Treasurer claims that the County threatened Employees #1 and #2 in the past and the trial court therefore correctly enjoined the County from threatening any employees who work under the direction of the Treasurer in the future. (RB 11.) The only alleged "threat" identified by the Treasurer is a single email exchange between Treasurer Walls and the Interim County Administrator in April and May 2024 whereby the administrator asked Treasurer Walls to explain whether the travel expenses of Employees #1 and #2 were necessary to the proper transaction of the legitimate business of the Treasurer's Office. (RB 11; AB 29.) On its face, there is nothing threatening about this email exchange (and the Employees were not copied on it in any event). Nor has the Treasurer identified why she thinks the exchange constitutes a "threat." A "threat" is a "communicated intent to inflict harm or loss on another or on another's property, esp. one that

might diminish a person’s freedom to act voluntarily or with lawful consent; a declaration, express or implied, of an intent to inflict loss or pain on another.” Black’s Law Dictionary (12th ed. 2024). The interim administrator’s email asking for clarification whether specific expenses were necessary and proper is objectively not a communication intended to inflict harm or loss to the Treasurer or any employees who work under her direction. Instead, the email is simply a request for clarification to determine whether certain expenses are properly reimbursable under the Handbook. Far from an unlawful threat, the email exchange seeks compliance *with the law*. Again, the county administrator “has the duty” to “supervise the expenditure of appropriated funds.” § 4-9-630(5) (emphasis added). The administrator would therefore arguably be violating his duties if he did not ensure compliance with the County’s ordinances precluding reimbursement for travel to and from home to work.

Further, the County has not threatened termination or any adverse employment consequences with respect to the Employees. For these reasons, and those provided in the County’s Initial Brief, the portion of the trial court’s order enjoining the County from threatening any employees who work under the direction of the Treasurer should be reversed. There is no basis or grounds for any injunction order against the County.

V. There is no evidence that Employees #1 and #2 will be forced to resign because of the County’s reimbursement and travel policies.

The Treasurer claims that application of the 2024 Handbook to the Treasurer’s Office would effectively “empower the County, through its administration, to force the resignation or termination of [Employees #1 and #2.]” (RB 14.) In support of that argument, the Treasurer cites her affidavit at paragraphs 12-21. (R. 468-69.) But a review of her affidavit provides no support for her allegation. In her affidavit, the Treasurer does not claim that the County’s refusal to pay

certain discrete travel expenses—absent evidence (and here, there is not even an averment) that such expenses are necessary and proper—will force the resignation or termination of any employees. Nor should it. According to the Treasurer, these two employees can do their work fully remotely except that Employee #1 comes to Beaufort County one time per year for work and periodic in-person training, and Employee #2 has only traveled to Beaufort County five times for work since 2019. (Walls Affidavit at ¶¶ 14-20; R. 468-69.) The Treasurer’s baseless claim that the County’s lawful actions will force the resignation or termination of Employees #1 and #2 does not support the Treasurer’s motion for preliminary injunction and should be rejected by this Court.

CONCLUSION

Based on the foregoing, and for the reasons articulated in its Initial Brief, the County respectfully requests that this Court reverse the portions of the trial court order granting a preliminary injunction against the County. There is no basis for such an injunction. Further, this Court should reverse the trial court’s statement in its Order that it was “denying in part” the preliminary injunction motion of the County and reverse the inconsistent statement made by the trial court in its order regarding the Treasurer’s powers to set the “salary or compensation” of employees in the Treasurer’s Office as a “management decision.”

Signature Page Attached

Respectfully submitted,

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