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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY

IN THE COURT OF COMMON PLEAS

HON. H. STEVEN DEBERRY, IV, CIRCUIT COURT JUDGE

CASE NUMBER 2025 - 001773

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, JOHN J. MCCANN AND
STEPHEN G. RILEY.....APPELLANTS,

vs.

BEAUFORT COUNY, SOUTH CAROLINA.....RESPONDENT.

RETURN TO RESPONDENT’S MOTION TO DISMISS
OR TRANSFER CASE TO COURT OF APPEALS

The Town of Hilton HeMcCann,and, South Carolina, John J. McCann, and Stephen G. Riley (herein, “the Town, McCann, and Riley”) file their response to the “Motion to Dismiss Appeal or Transfer to the Court of Appeals.”¹ The thrust of the motion

¹ There is no basis to dismiss the appeal. The appeal was properly filed in the Supreme Court under the authority of S. C. Code § 14-8-200(b)(3)(Supp. 2025) and Rule 203(d)(1)(A)(ii), SCACR. As is discussed below, the Supreme Court has the discretion to

is the claim that the Town, McCann, and Riley have failed to raise or properly preserve their equal protection arguments, and even if the argument was properly raised and preserved, such is not the principal issue.²

The Respondent's argument is undone by the record for this case. The argument is raised in the Town, McCann, and Riley's September 19, 2023, Amended Complaint,³ the Stipulation of Facts agreed to by the Respondent includes facts upon which the argument is based,⁴ the Town, McCann and Riley's March 5, 2025, Motion for Summary Judgment;⁵ in the Town, McCann and Riley's Motion to Alter or Amend,⁶ and in the Initial Brief of the Town, McCann, and Riley filed contemporaneously with this document.⁷

The Respondent complains that the argument is simply stated. The fact that the argument can be stated in simple terms, based on stipulated facts, does not make the argument cursory or unimportant in the litigation.

S. C. Code § 14-8-200(b)(3)(Supp. 2025) and Rule 203(d)(1)(A)(ii), SCACR, authorize filing an appeal with the Supreme Court instead of the Court of Appeals when a constitutional challenge is made. Transfer of the case to the Court of Appeals is

transfer the appeal to the Court of Appeals, but there is nothing in either S. C. Code § 14-8-200(b)(3)(Supp. 2025) and Rule 203(d)(1)(A)(ii), SCACR, authorizing dismissal.

² Respondent's Motion, paragraphs 20 – 26.

³ Exhibit 1.

⁴ Exhibit 2, Stipulations 6 – 11.

⁵ Exhibit 3.

⁶ Exhibit 4.

⁷ The Respondent's motion veers into its argument on appeal which not relevant to its motion, and which is addressed in the Town, McCann, and Riley's Initial Brief.

discretionary with the Supreme Court, even where the Supreme Court finds the constitutional issue is not a significant issue.⁸

The constitutional issue has been raised and preserved at each point where it could be in this litigation. The Town, McCann, and Riley urge this Court to deny the Respondent's motion.

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This 2nd Day of October, 2025.

⁸ *Burns, et al. v. Greenville County Council, et al.*, 433 S. C. 583, 861 S.E.2d 31 (2021).