RECEIVED
Aug 21 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY COURT OF COMMON PLEAS

THE HONORABLE R. FERRELL COTHRAN, JR., CIRCUIT COURT JUDGE

Appellate Case No. 2022-000674

Kevin Dion Hollinshead, Senior…… Appellant,

v.

Thomas J. Bell, individually and as Executive Director of Charleston Coalition for Kids, Charleston Coalition for Kids, a nonprofit Organization, Angelica M. Colwell, Lee P. Deas, Godfrey A. Gibbison, Eric P. Strickland, Loren R. Ziff, Courtney S. Waters, Leeza D. Steward, and Teach for America, Inc.…….Respondents.

APPELLANT'S RETURN TO RESPONDENT'S PETITION FOR REHEARING

PLEASE TAKE NOTICE THAT Appellant hereby respectfully submits this return to Respondent's Petition for Rehearing dated August 7, 2025.

REHEARING STANDARD

"A petition for rehearing . . . shall state with particularity the points supposed to have been overlooked or misapprehended by the court." Rule 221, S.C.A.C.R. As explained in *Kennedy v. South Carolina Retirement Sys*., 49 S.C. 531, 532 – 522, 564 S.E.2d 322, ___ (2001):

> In order to prevail on a petition for rehearing, appellants must demonstrate the Court overlooked or misapprehended their argument. The dissent argues the appellants' petition should be granted because of 'one significant argument not previously considered by the Court.' The argument was not considered because it was never presented to this Court. Further, there is no evidence contained in the Record on Appeal which supports the appellants' new argument. Appellants present this argument for the first time in this second petition for rehearing, even though this Court has heard this case twice before—once on appeal and once on rehearing. 'The purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is it the purpose of the petition for rehearing to have the

> case tried in the appellate court a second time. Appellants had the opportunity to present their arguments and evidence when this case was originally heard by the trial court. Therefore, contrary to the dissent's argument, this Court should not consider appellants' previously unpresented evidence when deciding whether to grant the petition for rehearing.
>
> . . . We reiterate this Court's longstanding principle of error preservation. 'Preserving issues for appellate review is a fundamental component of appellate practice. South Carolina appellate courts do not recognize the plain error rule.' The appellants have the responsibility to identify errors on appeal, not the Court. South Carolina cases clearly hold that one cannot present and try a case on one theory and then attack the result below by presenting another theory on appeal. . . . As Chief Judge Alex Sanders so aptly stated, '[A]ppellate courts, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.'

(citations omitted); s*ee also Arnold v. Carolina Power & Light Co.*, 168 S.C. 163, 167 S.E. 234 (1933).

Because Respondents fail to establish that this Court failed overlook or misapprehend any point, Respondent's Petition for Rehearing dated August 7, 2025, must be denied.

THIS COURT CORRECTLY HELD THAT THE SECOND AMENDED COMPLAINT STATES FACTS SUFFICIENT TO CONSTITUTE A DEFAMATION CAUSE OF ACTION

Respondents in no way "state with particularity the points supposed to have been overlooked or misapprehended by the court" in regard to Appellant's defamation cause of action. Instead, Respondents do little more than recycle and regurgitate the same points and arguments advanced in their brief previously, properly, and correctly rejected by this Court. The obvious reason for Respondents' failure in this regard is that there are no points which this Court overlooked or misapprehended in reversing the Circuit Court's dismissal of Appellant's defamation cause of action. Having failed to "state with particularity the points supposed to have been overlooked or misapprehended by the court" Respondents' Petition for Rehearing should be rejected.

A comparative reading of pages 4 through 7 of Respondents' Petition for Rehearing with pages 9 through 16 their Final Brief filed July 17, 2023, demonstrates that the arguments advanced by Respondents in their Petition for Rehearing are nothing more than a condensed, summarized Cliff Note version of the arguments and analysis in their Final Brief. All of the arguments raised by Respondents have been fully briefed by both Appellant and Respondent and Respondents' positions have been correctly rejected by this Court. Nothing has changed since the briefs were filed, except that this Court has issued its July 23, 2025, Opinion the outcome of which Respondents apparently do not like and seemingly disagree with. That Respondents do not like or disagree with this Court's Opinion is not a proper basis for granting a rehearing. *See* Rule 221; *Kennedy v. South Carolina Retirement Sys*., *supra*; *Arnold v. Carolina Power & Light Co.*, *supra*. Rule 221 requires Respondents to point out with specificity what this Court overlooked or misapprehended, rather than simply making the same arguments made in their Final Brief. *See Id.* Respondents have utterly failed to meet the standard necessary for granting a rehearing. Thus, Respondents Petition for Rehearing should be rejected.

Moreover, to the extent Respondents advance new and different Arguments not previously made in their Final Brief, such arguments are not appropriately considered on a Petition for Rehearing. *See Id.* "'The purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is it the purpose of the petition for rehearing to have the case tried in the appellate court a second time.'" *Kennedy v. South Carolina Retirement Sys*., *supra* at 532, 564 S.E.2d at ___.

Further, the Petition for Rehearing completely ignores the crux of Appellant's position, which is stated succinctly in the Reply Brief on pages 10 through 11:

> The crux of the libelous statements as alleged in the Second Amended Complaint are that: (1) 'Kevin Hollinshead is using our money to help himself.

Hollinshead was successfully sued for stealing one-hundred fifty thousand dollars ($150,000) from a local HBCU and lied to cover it up.' (2) Hollinshead was successfully sued for stealing one-hundred fifty thousand dollars ($150,000) from Benedict College.' (3) 'We can't have someone like that managing the tax dollars for our schools.' *R*., pp. 036 - 050. The statements in question were fabricated by the defendants and tend ''to impeach the honesty or integrity or reputation'' of Appellant which 'expose him to public hatred, contempt, ridicule, or obloquy, or to cause him to be shunned or avoided, or to injure him in his office, business, or occupation.'' That was obviously the Respondents' intent. On this, reasonable minds cannot differ.

The claim that Appellant is 'using our money to help himself" implies that Appellant is misappropriating and/or stealing taxpayer money. This is especially when put into context with the later statement that 'We can't have someone like that managing the tax dollars for our schools.'

The statement that Appellant is 'using our money to help himself" implies that Appellant is misappropriating and/or stealing taxpayer money. The statement that 'We can't have someone like that managing the tax dollars for our schools' when coupled with and put in context with the statement that Appellant is 'using our money to help himself" cannot be plausibly construed as an opinion: it is a statement to the effect that Respondent is misappropriating and/or stealing taxpayer money. This is unquestionably defamatory.

[D]efamation need not be accomplished in a direct manner.

> To render the defamatory statement actionable, it is not necessary that the false charge be made in a direct, open and positive manner. A mere insinuation is as actionable as a positive assertion if it is false and malicious and the meaning is plain.

Tyler v. Macks Stores of S.C., Inc., 275 S.C. 456, 458, 272 S.E.2d 633, 634 (1980).

The clear and unequivocable insinuation is that Appellant is misappropriating taxpayer money to his own use; in other words stealing. Appellant has never stolen or misappropriated taxpayer dollars or funds designated for or allocated to a school district, any school or any governmental entity or agency. This representation is pure and simply a lie created by the Respondents out of whole cloth.

The reason for Respondent's omission is evident: this clearly presents a question of fact, which, if proven, is irrefutably defamatory and not protected by any privilege.

Respondents maintain on page 6 of the Petition for Rehearing that "'[u]nder the substantial truth doctrine, 'slight inaccuracies . . . are immaterial provided the defamatory charge is true in substance.'" This must be rejected as it is not a proper basis for granting a rehearing.

First, the substantial truth doctrine was raised and argued on pages 11 and 12 of and by Respondents Final Reply Brief. There is nothing which would in any way indicate that this Court overlooked or misapprehended this point and Respondent's point to nothing which would suggest that this Court in any way overlooked the substantial truth doctrine. It is, of course, the Respondent's burden to state with particularity that this Court overlooked or misapprehended the substantial truth doctrine and provide support for this position, which they have completely failed to do. Second, Respondent's position regarding the substantial truth doctrine disregards the fact that whether an inaccuracy is "slight" is one of fact for determination by a trier of fact, rather than law, thus consideration of the same is inappropriate when passing on a Rule 12(b)(6), S.C.R.CIV.P., motion.

AMENDMENT

In an apparent attempt to mislead, Respondents argue that it would be inappropriate to permit Appellant to amend the Complaint for a fourth time. Respondents conveniently omit the procedural history of the matter, as the procedural history is inconvenient to Respondents' narrative.

The initial complaint was filed January 29, 2021, and only alleged defamation. *R*., p. 12. The first amended complaint was filed four days later on February 2, 2021, well before service on any of the defendants was even attempted to correct some inaccuracies in the prior version. *R*., p. 24. The second amended Complaint was filed August 12, 2021, which the Respondents consented to, to add new causes of action as a result of the intervening change in the law brought about in

the Supreme Court's opinion issued in *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021), issued May 19, 2021, which provides a different pleading standard for a cause of action for civil conspiracy. *R*., pp. 1 & 51. Having consented to the only amendment of the complaint after they were served were well aware of this but inexplicably failed to mention any of this Petition for Rehearing. Thus, if Appellant is permitted to subsequently amend the complaint, this will be the first time he will have done so to address any pleading deficiencies brought about by a challenge to the complaint advanced by Respondents.

Despite clearly knowing what actually took place and their roll in it, Respondents double down on this misleading argument. Respondents argue that what this Court overlooked or misapprehended was the that the complaint has been amended three prior times and Appellant should not be allowed to amend it a fourth.

After treating the reader to an irrelevant discussion on the contents of Appellant's December 14, 2021, Memorandum in Opposition and an equally irrelevant but riveting discussion of Rule 15(a), S.C.R.CIV.P., Respondents contend that this Court's "heavy" reliance on *Skydive Myrtle Beah, Inc. v. Horry County*, 426 S.C. 175, 826 S.E.2d 585 (2019), is misplaced. Specifically, according to Respondents, because *Skydive Myrtle Beah, Inc. v. Horry County*, *supra*, "concerns materially different facts." Respondents based this on their contention that "[u]nlike Skydive, Appellant has already been allowed to file three operative complaints, and the Court's decision here permits Appellant to file an unprecedented *fourth* complaint[1]. Permitting Appellant to file a fourth complaint goes well beyond the confines of *Skydive*."

[1] It can only be assumed that Respondents' claim that a third amendment is "unprecedented" is either hyperbole or a product of Respondents having limited litigation experience. The undersigned has been involved in numerous cases in which the complaint has been amended three or more times. There is nothing in Rule 15, S.C.R.CIV.P., which put a cap on the number of times a complaint can be amended. In fact, the undersigned is currently involved in at least one case in which the complaint has been amended three times

Of course, the entire premise upon which this argument rests is, as clearly established above, misleading. The reasons for the first two amendments have been explained above. The first amendment occurred before Respondents were involved and the second they consented to as a result of a change in the law after the first amended complaint was filed. Given this ay suggestion that were the complaint amended again it would be the fourth "operative" complaint is simply not true and any suggestion that it is misleading at best.

Because Respondents' claim that the Court reliance om *Skydive Myrtle Beah, Inc. v. Horry County*, *supra*, is misplaced is premised on a misrepresented version of what took place, it is clearly without merit. Clearly this Court overlooked nor misapprehended nothing in permitting the amendment of the complaint, the Petition for Rehearing should be denied.

Respondents, adopting the roll of soothsayer, attempt a hail mary, arguing that permitting Appellant to amend the complaint as to the civil conspiracy and intentional infliction of emotional distress is an act of futility. Of course, the complaint has not yet been amended so how could they know this? Not surprisingly, Respondents offer no real support for their position regarding this.

CONCLUSION

As conclusively demonstrated above, the Respondents' Petition for Rehearing is meritless. Accordingly, it should be denied and this Court's July 23, 2025, Opinion should stand unaltered.

[THIS SPACE INTENTIONALLY LEFT BLANK]

[SIGNATURE APPEARS ON NEXT PAGE]

RESPECTFULLY SUBMITTED,

PRITCHARD LAW GROUP, LLC

/s/ Edward K. Pritchard III
Edward K. Pritchard, III Esq.
South Carolina Bar No. 9710
8 Cumberland Street, Suite 200
Post Office Box 630
Charleston, South Carolina 29402
Phone: (843) 722-3300
Fax: (843) 722-3379
e-mail: epritchard@pritchardlawgroup.com
ATTORNEY FOR APPELLANT,
KEVIN DION HOLLINSHEAD, SENIOR

August 21, 2025
Charleston, South Carolina

IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY COURT OF COMMON PLEAS

THE HONORABLE R. FERRELL COTHRAN, JR., CIRCUIT COURT JUDGE

Docket No. 2021-CP-10-00426

Kevin Dion Hollinshead, Senior,…… Appellant,

v.

Thomas J. Bell, individually and as Executive Director of Charleston Coalition for Kids, Charleston Coalition for Kids, a nonprofit Organization, Angelica M. Colwell, Lee P. Deas, Godfrey A. Gibbison, Eric P. Strickland, Loren R. Ziff, Courtney S. Waters, Leeza D. Steward, and Teach for America, Inc.…….Respondents.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a complete and accurate copy of the foregoing *Appellant's Return to Respondent's Petition for Rehearing* was served upon all counsel of record, as listed below, on August 21, 2025, via e-mail as follows:

Brittany Tanya Bihun, Esq.
(SC Bar No.: 102496)
E-mail: bbihun@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
40 Calhoun Street, Suite 350
Charleston, South Carolina 29401
ATTORNEYS FOR RESPONDENTS, CHARLESTON COALITION FOR KIDS, THOMAS J. BELL, ANGELICA M. COLWELL, LEE P. DEAS, GODFREY A. GIBBISON, ERIC P. STRICKLAND AND LOREN R. ZIFF

Dwayne Green, Esq.
(SC Bar No. 9559)
E-mail: dwayne@greenlawsc.com
GREEN LEGAL AND CONSULTING LLC
720 Magnolia Road Suite 24
Charleston, South Carolina 29407
Telephone: (843) 266-2626
ATTORNEY FOR RESPONDENT COURTNEY WATERS

Joseph M. McCulloch, Esq.
(SC Bar No. 3760)
e-mail: joe@mccullochlaw.com
Kathy R. Schillaci, Esq.
(SC Bar No. 17248)
e-mail: kathy@mccullochlaw.com
MCCULLOCH & SCHILLACI, ATTORNEYS AT LAW
1116 Blanding Street
Post Office Box 11623 (29211)
Columbia, South Carolina 29201
Telephone: (803) 779-0005
Fax: (803) 779-0666
ATTORNEYS FOR RESPONDENT, LEEZA D. STEWARD

David S. Cobb, Esq.
(SC Bar No. 66569)
E-mail: dcobb@turnerpadget.com
Nickisha M. Woodward, Esq.
(SC Bar No. 101432)
E-mail: nwoodward@turnerpadget.com
R. Hawthorne Barrett, Esq.
(SC Bar No. 16973)
E-mail: tbarrett@turnerpadget.com
TURNER PADGET GRAHAM LANEY
40 Calhoun Street, Suite 200
Charleston, South Carolina 29401
Telephone: (843) 576-5805
ATTORNEYS FOR RESPONDENT, TEACH FOR AMERICA, INC.

Pritchard Law Group, LLC

/Edward K. Pritchard III
Edward K. Pritchard III, Esq.

August 21, 2024
Charleston, South Carolina