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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Richland County Court of Common Pleas
The Honorable Kristi F. Curtis, Circuit Court Judge
The Honorable Daniel Coble, Circuit Court Judge
Circuit Case No. 2024-CP-40-01737

APPELLATE CASE NO. 2025-000762

Alonzo C. Jeter, III, ...APPELLANT,

V

State of South Carolina; Alan McCrory Wilson; Chelsey F. Marto; Joseph Derham Cole; Mark J. Hayes, II; Ralph Keith Kelly; Brandy W. McBee; Tonnya K. Kohn; Jean Hoefer Toal; Donald W. Beatty, ...RESPONDENTS.

SECOND AMENDED INITIAL BRIEF OF APPELLANT

Alonzo C. Jeter, III, #282902
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, South Carolina 29067

APPELLANT ***PRO SE***

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IV. STATEMENT OF THE CASE

Appellant filed a complaint seeking a declaratory judgment and prospective injunctive relief in the Richland County Court of Common Pleas on March 18, 2024. Appellant sought to challenge the constitutionality of the role of the South Carolina Attorney General's Office as it relates to processes and procedures in post-conviction relief actions. Appellant also sought to challenge an Administrative Order which was put in place by former Chief Justice Jean Hoefer Toal, which relates to appointment of counsel in post-conviction relief actions. Appellant contended these things together which are current processes and procedures within South Carolina's post-conviction relief actions violate the Separation of Powers in Article 1, Section 8 of the South Carolina Constitution and violate Due Process and Equal Protection in Article 1, Section 3 of the South Carolina Constitution.

Respondents filed motions to dismiss the action pursuant to Rules 12(b)(1) and (6), of the South Carolina Rules of Civil Procedure, contending the circuit court lacked subject matter jurisdiction and for failure to state facts sufficient to constitute a cause of action.

The circuit court held a hearing on these motions to dismiss on June 13, 2024, before the Honorable Kristi Curtis. The hearing was held via WebEx and counsel appeared for the Respondents and Appellant appeared pro se.

At the outset of the hearing, Appellant objected to the hearing and strongly contended that he did not receive notice of the hearing. Appellant complained of not being prepared to argue his case and not having any case files related to the case with him at the hearing due to lack of notice.

Proceeding with the hearing, the court determined it would provide Appellant a post-hearing period of thirty-days to submit any other pleadings he would like the court to consider. Appellant did submit further pleadings as well as a written objection as to lack of notice. Appellant submitted an objection to defendants' request to dismiss and to the unfair surprise hearing, a motion for an additional hearing, a motion for a verbatim transcript of the hearing, a motion for judicial notice and exhibits (Exhibits A thru R).

Finding Appellant's pleadings insufficient to change the result in the case the court granted the Respondent's motions to dismiss by way of an order dated July 18, 2024 and filed and filed in the Richland County clerk of court's office on July 30, 2024. A formal order of dismissal was signed on September 5, 2024, and filed on September 13, 2024.

Appellant timely filed post-trial motions. On September 30, 2024, Appellant filed a motion to alter or amend judgment and motion for reconsideration, and also filed a motion for a hearing on the Rule 59(e), SCRCP, motions. Later, on November 12, 2024, Appellant filed a motion for judicial notice and an addendum to the Rule 59(e), SCRCP, motion to alter or amend judgment. On January 27, 2025 a renewed motion for a hearing on the Rule 59(e), SCRCP, a renewed motion for a new trial, a motion for judicial notice of public interest/public importance, and a motion to amend complaint was filed. Lastly, on January 31, 2025, Appellant filed a

supplemental motion to alter or amend judgment II, and on March 7 2025, Appellant filed a motion pursuant to Rule 60(b), SCRCP, for relief from judgment order & proceeding.

On March 17, 2025, a 'Mother Hubbasrd' Form 4 Order was signed by the Honorable Daniel Coble which stated, "The Motion to Reconsider is Denied". After receiving this order, Appellant then on April 14, 2025, filed a motion to alter or amend judgment and motion for additional facts and findings and motion for clarification. Appellant also filed a proposed amended complaint. [1]

This appeal follows.

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[1] As of the date of composing this brief, these motions remain outstanding as Judge Coble has not adjudicated these latest motions nor the remaining previous motions. Hudson v Hudson, 290 S.C. 215, 349 SE2d 341 (1986) (explaining that the serving and filing of a Notice of Appeal does not deprive the lower court of jurisdiction to consider post-trial motions.) *(See also Footnote No. 1 in Hudson)*; Pye v Estate v Fox, 369 S.C. 555, 633 SE2d 505 (2006) ("L[itigants] cannot force a trial judge to address a disputed issue.") (citing James F. Flanagan South Carolina Civil Procedure 475 (2ed. 1996); ("[A] properly requested ruling under Rule 59 is sufficient without a specific judicial decision on the matter.")

V. STANDARD OF REVIEW

Rule 12(b)(6), SCRCP

"The purpose of Rule 12(b)(6) is to assess the legal sufficiency of a complaint, rather than to weigh the evidence or reach a decision on the merits.") Saifullah v Johnson, 948 F2d 1282 (4th Cir. 1991); When reviewing a dismissal pursuant to Rule 12(b)(6), SCRCP, "the appellate court applies the same standard of review as the [circuit] court – whether the defendant demonstrates the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court.") Dawkins v Union Hosp. Dist., 408 S.C. 171, 176, 758 SE2d 510, 503 (2014); (If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper.") Doe v Marion, 373 S.C. 390, 395, 645 SE2d 245, 247 (2007)

Rule 12(b)(1), SCRCP

"Pursuant to Rule 12(b)(1), SCRCP, the movant challenges the power of the court over the subject matter.") Capital City Ins. Co. v BP Staff, Inc., 382 S.C. 92, 674 SE2d 524 (2009)

Subject Matter Jurisdiction

Subject matter jurisdiction is "the power to hear and determine cases of the general class to which the proceedings in question belong" (quoting Bank of Babylon v Quirk, 472 A.2d 21, 22 (1984); Subject matter jurisdiction "refers to a court's constitutional or statutory power to adjudicate a case." Johnson v S.C. Dep't of Prob., Parole, & Pardon Servs., 372 S.C. 279, 284, 641 SE2d 895, 897 (2007). "A court lacking subject matter jurisdiction…has no authority to act …" Dove v Gold Kist, 314 S.C. 235, 238, 442 SE2d 598, 600 (1994). "A court's subject matter jurisdiction is determined by whether it has the authority to hear the type of case in question." (quoting Allison v W.L. Gore & Assocs., 394 S.C. 185, 188, 714 SE2d 547, 549 (2011) Baddourah v McMaster, 433 S.C. 89, 96, 856 SE2d 561, 565 (2021); "Whether a court has subject matter jurisdiction is a question of law [this court] review[s] de novo." Deborah Dereede Living Tr. dated Dec. 18, 2013 v Karp, 427 S.C. 336, 346, 831 SE2d 435, 441 (2019); Johnson v Jackson, 401 S.C. 152, 735 SE2d 664 (2012) ("When deciding questions of law, [the appellate] court has the power and duty to review the entire record and decide the jurisdictional facts in accord with its view of the preponderance of the evidence.") (citing *Poch v Bayshore Concrete Prods./S.C., Inc.*, 386 S.C. 13, 21, 686 SE2d 689. 693 (2009)

Lack of Standing

"A motion to dismiss for lack of standing challenges the court's subject matter jurisdiction.") National Trust for Historic Preservation in United States v City of North Charleston, 439 S.C. 222, 886 SE2d 487 (2023); ("Whether subject matter jurisdiction exists is a question of law, which the Court of Appeals is free to decide with no particular deference to the circuit court.") id.; ("When deciding questions of law, [the appellate] court has the power and duty to review the entire record and decide the jurisdictional facts in accord with its view of the preponderance of the evidence.") Johnson v Jackson, 401 S.C. 152, 735 SE2d 664 (2012) (citing *Poch v Bayshore Concrete Prods./S.C., Inc.*, 386 S.C. 13, 21, 686 SE2d 689. 693 (2009); (The Appellate Court "reviews the circuit court's findings to support its decision as to whether subject matter

jurisdiction exists de novo.") South Carolina Public Interest Foundation v Wilson, 437 S.C. 334, 878 SE2d 891 (2022); Episcopal Church in S.C. v Church Ins. Co. of Vt., 997 F3d 149, 154 (4th Cir. 2021) (stating de novo standard of review for dismissals based on lack of standing)

Failure to State a Claim

Appellate courts apply a de novo standard of review for appeals of motions to dismiss for failure to state a claim. Roberts v Carter-Young, Inc., ___ F4th ___ (4th Cir., March 14, 2025), 2025 WL 807264

Rule 6(d), SCRCP, Ten-Day Notice of Hearing

"Rule 6(d), SCRCP, provides **notice of a hearing** shall be served not later than ten days before the time of the hearing, unless a different period is fixed…by order of the court.") Jackson v Speed, 326 S.C. 289, 486 SE2d 750 (1997) (internal quotations omitted); "[The South Carolina Supreme Court] construe[s] the rule to require that a specific notice of the day certain fixed for the hearing must be furnished not later than ten days prior to such hearing unless the exceptions stated in Rule 6(d), SCRCP, apply." Dedes v Strickland, 307 S.C. 152, 414 SE2d 132 (1992); "[T]he failure to provide the required statutory notice is [a] jurisdictional defect [in itself]." Forfeited Land Commission of Bamberg County v Beard, 424 S.C. 148, 817 SE2d 806 ( )

Continuance Procedural Questions

"Appellate courts apply the "discretion" standard to review decisions trial courts make on procedural questions.") Morris v BB&T Corporation, 438 S.C. 582, 885 SE2d 394 (Jan. 25, 2023); "Supreme Court defers to the exercise of discretion by any trial-level tribunal when making a procedural decisión." id.; "A motion for a continuance is a procedural matter involving the progress of a case.") Sellers v Nicholls, 432 S.C. 101, 851 SE2d 54 (2020); ("The grant or denial of a continuance is within the sound discretion of the [circuit court] and is reviewable on appeal only when an abuse of discretion appears from the record.") Plyler v Burns, 373 S.C. 637, 650, 647 SE2d 188, 195 (2007)

Rule 59(e), SCRCP, Motion

("A motion to amend is addressed to the sound discretion of the trial judge…") Lee v Bunch, 373 S.C. 654, 660, 647 SE2d 197, 200 (2007); ("The denial of a motion for reconsideration is reviewed under the deferential abuse of discretion standard.") Wojcicki v SCANA/SCE&G, 947 F3d 240 (4th Cir. 2020); See Pollard v Cnty. of Florence, 314 S.C. 397, 402, 444 SE2d 534, 536 (1994)(reviewing the circuit court's ruling on a Rule 59(e) motion pursuant to an abuse of discretion standard)

Rule 60(b), SCRCP Motion

Raby Const., L.L.P. v Orr, 358 S.C. 10, 594 SE2d 478, (2004)
("[The Appellate Court's] standard review [of the grant or denial of a motion under Rule 60(b)] is limited to determining whether there was an abuse of discretion.")

Res Judicata

Providence Hall Assocs. v Wells Fargo Bank, N.A., 816 F3d 273, 276 (4th Cir. 2016) (stating de novo standard of review for dismissals based on res judicata); Riedman Corp. Greenville Steel

Structures, Inc., 308 S.C. 467, 469, 419 SE2d 217, 218 (1992) ("To establish res judicata, three elements must be shown: (1) identity of the parties; (2) identity of the subject matter, and (3) adjudication of the issue in the former suit.")

Sealy v Dodge, 289 S.C. 543, 545, 347 SE2d 504, 505 (1986) (In order to establish a plea of res judicata, three elements must be established: (1) identity of parties; (2) identity of subject matter; and (3) adjudication of the issue in the former suit."); Garris v Governing Bd. Of South Carolina Reinsurance Facility, 333 S.C. 432, 511 SE2d 48 (1998) (The South Carolina Supreme Court emphasizes "[r]es judicata or claim preclusion, [ ] is not always an ironclad bar to a later lawsuit."); Providence Hall Assocs. v Wells Fargo Bank, N.A., 816 F3d 273, 276 (4th Cir. 2016) (stating de novo standard of review for dismissals based on res judicata)

Failure to Rule on Motions

It is a "court's duty to adjudicate a controversy properly before it." Quackenbush v Allstate Ins. Co., 517 U.S. 706, 116 Sct 1712 (1996); A "court's failure to rule on [a] motion was an abuse of discretion.") Tyree v U.S., 642 Fed. Appx. 228 (4th Cir. 2016); ("[F]ailure to rule on [a] motion is failure to exercise discretion and is reviewed de novo[.]") Phillips v General Motors Corp., 911 F2d 724 (4th Cir. 1990); ("Th[e] Court may not review the merits of the underlying order, but instead "may only review the denial of the motion with respect to the grounds set forth in [the authority the motion relies upon].") U.S. v Walker, 394 Fed. Appx. 2 (4th Cir. 2010)

Rule 15(a), SCRCP, Amendment to Complaint

"[A]n appellate court must consider the merits of an amendment to a complaint that in fact failed to state a claim, but was improperly dismissed with prejudice without granting leave to amend, in determining whether to remand to permit the plaintiff to amend.") Spence v Spence, 368 S.C. 106, 130, 628 SE2d 869, 881-82 (2006) (quotation marks omitted); ("In the absence of a proper reason, such as bad faith, undue delay, or prejudice, a denial of leave to amend a complaint is an abuse of discretion.") Doe v Oconee Memorial Hospital, 437 S.C. 574, 878 SE2d 920 (2022); Rule 15(a), SCRCP.

Public Interest / Public Importance Exception

National Trust for Historic Preservation in United States v City of North Charleston, 439 S.C. 222, 886 SE2d 487 (2023) ("When considering whether a party has standing under the public-interest doctrine, appellate courts must make their determination without regard to the merits of the underlying claim."); Whether [public importance standing] applies in a particular case turns on whether resolution of the dispute is needed for future guidance … [T]he need for future guidance generally dictates when [public importance standing] applies.") Carnival Corp. v Historic Ansonborough Neighborhood Ass'n, 407 S.C. 67, 79-80, 753 SE2d 846, 853 (2014); In otherwords, "[t]he key … is whether a resolution is needed for future guidance." ATC S., Inc. v Charleston Cnty., 380 S C. 191, 199, 669 SE2d 337, 341 (2008)

At the outset, Appellant does acknowledge the case he presents today is a difficult one as it concerns the conduct of this state's judiciary, its clerks, and agents of the office of the attorney general. The many inherent layers of conflict are certainly visible in this respect. However, Appellant proceeds and brings his case before the court while grasping at his last breath of faith in the justice system with hopes that justice and equity would reign.

Most importantly, Appellant seeks that the Court would be mindful of the many lives its officers thereof impacts on a day-to-day basis with its decisions and matters – and that the Court is mindful of the fundamentals of Due Process, Equal Protection, and the Separation of Powers. This Court's decisions does have life-long, to include generational, impact on all who come before it. The scales of justice should not be tilted and the blindfold should remain in its proper positioning.

Appellant comes with candor and all due respect to this Court and the officers thereof, the Respondents and all officers of the Courts of this great State in general.

ISSUE I Did The Circuit Court Abuse Its Discretion In Declining To Grant A Continuance Of The Case When Appellant Objected To His Failure To Receive The Ten-Day Notice As Required By Rule 6, SCRCP?

Respondents filed motions to dismiss the action pursuant to Rules 12(b)(1) and (6), of the South Carolina Rules of Civil Procedure, contending the circuit court lacked subject matter jurisdiction and for failure to state facts sufficient to constitute a cause of action. Respondents also filed a memorandum in support of its motions to dismiss and had this personally served on Appellant by the SCDC on June 11th and 12th, 2024. (See Memoranda (Pgs. 251-267 of Appellant's Exhibits A-R) (ROA Pgs. _____).

A hearing on Respondents' motions to dismiss was held on June 13, 2024, via WebEx, before the Honorable Kristi Curtis. Counsel appeared on behalf of the Respondents and Appellant appeared pro se.

At the outset of the hearing, Appellant objected to the hearing and strongly contended that he did not receive notice of the hearing. Appellant complained of not being prepared to argue his case and not having any case files related to the case with him at the hearing due to lack of notice. (Tr. pgs. 5-8, 9, 15, 16, 21; ROA pgs. _____)

The trial court inserts a fallacy within its order with regard to Appellant's complaint as to lack of notice. The order of dismissal states that, "At the hearing, [Appellant] claimed that he did not receive sufficient notice of the hearing to prepare." (Order of Dismissal, pg. 1; ROA pg. _____) However, the truth is that Appellant argued that he did not receive <u>*any*</u> notice of the hearing and thus was not prepared.

Appellant emphasized that the exact same thing had happened on a past occasion due to the gamesmanship which is inherent in the allowance of the Office of Attorney General to schedule matters. (Tr. pgs. 5-8, 9, 15, 16, 21; ROA pgs. _____); (See also Appellant's

Explaining what happened to the trial judge, Respondents' counsel explained that the hearing on the Respondents' motions to dismiss was initially scheduled to be held on June 17, 2025, however, because Respondent's counsel and Appellant were both scheduled to be in attendance at a different hearing regarding a different matter (*Alonzo C. Jeter, III v Spartanburg Municipal Court et al*, Case No. 2023-CP-42-05085) on the initially scheduled date, Respondents' counsels had the clerk of court to reschedule the hearing to be held on June 13, 2025. (Tr. Pg. 5-7; ROA pgs. _____)

Crucially, when the hearing was rescheduled, neither the court, clerk of court, nor Respondents' counsels provided Appellant any notice of the rescheduled date for certain of the hearing. (Pgs. 257, 259-260 of Appellant's Exhibits A-R) (ROA Pgs. _____).

Finding that Appellant remained dissatisfied regarding lack of notice of the rescheduling and date for certain, Respondents' counsel then began to emphasize that it had both mailed a copies of its memorandums in support of its motions to dismiss and had also emailed a copy of its memorandums in support of its motions to dismiss to the South Carolina Department of Corrections ("SCDC") so as to have the SCDC personally serve those memorandums on Appellant. (Tr. p. 7; ROA pg. _____); (Pgs. 261-262 of Appellant's Exhibits A-R) (ROA Pgs. _____);

The Respondents' counsels contended that the memorandums contained notice of the rescheduled date for certain within. (Tr. p. 7, 23; ROA pgs. _____)

Appellant disputed the Respondents' contention in this regard. The trial judge noted that she did see the Respondents' memorandum in the court's electronic filing system and did express a serious doubt as to whether or not Appellant had yet received this memorandum. (Tr. p. 6, 8; ROA pgs. _____)

Respondents then again emphasized that it had provided a copy of the memorandum to the South Carolina Department of Corrections and also requested that the South Carolina Department of Corrections' serve the memorandum on Appellant. (Tr. 23; ROA pg. _____)

Appellant did not refute the Respondents' contention that the memorandum had been emailed and served on him by the SCDC. However, Appellant did refute the contention that the memorandum contained the rescheduled date for certain and did object on this basis. Respondents even admitted to not being certain whether or not the email itself, rather than only the memorandum, had been served on Appellant. (Tr. p. 24; ROA pg. _____) (See also the Memoranda also (Pgs. 251-267 of Appellant's Exhibits A-R) (ROA Pgs. _____); Appellant would inform the court that it is not reasonable to infer that the SCDC provided Appellant a copy of the email which was not directed to Appellant but rather was directed to the SCDC. This is actually a security breach. Importantly, only the Respondents and the court itself

is able to provide Appellant this such information as this is a judicial matter. Furthermore, it is the responsibility of the Respondents or the court to do so.

Also, arguendo, even if the memoranda itself did actually contain the rescheduled specific hearing date for certain - this still would have not been proper due to the fact that Rule 6(d) of the South Carolina Rules of Civil Procedure mandates that the notice of the hearing and date for certain must be provided to Appellant no less than ten-days prior to the hearing.

Rule 6(d), SCRCP, provides as follows:

> "A written motion other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than ten days before the time specified for the hearing, unless a different period is fixed by these rules or by an order of the court."

Proceeding with the hearing, the court determined it would provide Appellant a post-hearing period of thirty-days to submit any other pleadings he would like the court to consider. (Tr. p. 7,8 10; ROA pgs. _____) Appellant continued to express the unfairness to this and emphasized that he had none of the case files nor any of his notes which pertained to the case with him. Tr. pgs. 8, 29; ROA pgs. _____) Appellant also could not remember supportive case law to make his arguments (Tr. p. 20, 25, 26,27; ROA pgs. _____)

The trial judge's decision not to allow a continuance of a case but rather to attempt to cure the procedural and jurisdictional defect which resulted from lack of notice by providing Appellant additional time to add anything additional that he wants to submit – ultimately placed a burden on Appellant to attempt to remember everything that was said during the hearing and attempt to then refute this at a later time. This was an unreasonable expectation due to the fact that Appellant was so upset at the unfair surprise hearing and in addition, due to the fact that there would be another hearing convened immediately after the unfair surprise hearing. (Tr. p. 5-7, 29; ROA pgs. _____); (Pg. 258 of Appellant's Exhibits A-R) (ROA Pg. _____). Seeming to be aware of this, the trial judge assured Appellant that "everything were doing today is on the record." (Tr. p. 10; ROA pg._____).

Maness v Meyers, 419 U.S. 449, 95 Sct 584 (1974)
("[O]nce the court has ruled, counsel and others involved in the action must abide by the ruling and comply with the court's orders. While claims of error may be preserved in whatever way the applicable rules provide, counsel should [not] engage the court in extended discussion once a ruling is made[.]")

Immediately after the hearing Appellant did submit a written objection to defendants' request to dismiss and to the unfair surprise hearing, a motion for an additional hearing, and a motion for judicial notice. ROA pgs. _____). Within his objection, Appellant did also attach the schedules of the hearings as well as all emails which he had been provided by the Respondents. (Pgs. 254-255 of Appellant's Exhibits A-R) (ROA Pgs. _____). In particular, Appellant also provided an email correspondence which was emailed on June 11, 2024, at

3:14pm (*only two days prior to the hearing*) from Respondent counsel Emory Smith to the trial judge. (Pgs. 254-255 of Appellant's Exhibits A-R) (ROA Pgs. _____);.This email reflected that Respondent counsel provided the trial judge a copy of its memorandum in support of its motion to dismiss and a certificate of service regarding the same. The email also informed the trial judge that "I have emailed the documents [the memorandum in support of its motion to dismiss and a certificate of service regarding the same] to Appellant" and "I have emailed them to the South Carolina Department of Corrections for service on [Appellant]", and will also "mail [a copy of] this email to [Appellant]." Interestingly, this email also provides the trial judge the date that the motion hearing was set. (Pgs. 254-255 of Appellant's Exhibits A-R) (ROA Pgs. _____). Indulgence should be given to the inquiry as to why didn't the Respondents select to have this email served on Appellant by the SCDC. The Respondents' were cunning in its words and wordings and intentionally elected to not have any emails which provided the date certain of the hearing provided to Appellant. It could have easily opted to have the SCDC serve these emails on Appellant along with its pleadings, but rather it strategically mail the emails via postal mail delivery so as to ensure their late arrivals. (See the envelope which contained a copy of the Respondents' email and memorandum which bears a postage date of June 12, 2024, and not reaching Evans Correctional Institution until the date of June 17, 2023). (Appellant was in Court for the Spartanburg case on this date.) (Ex A-R pg. 253, 262, 265, 267; ROA pgs. _____)

Appellant also sent correspondence letters dated July 1, 2024, to several of the officers of the circuit court, wherein and whereby he inquired as to exactly who's responsibility it was to provide him notice of the date of the rescheduled hearing. A copy of this correspondence, along with a certificate of mailing, was also provided to the Richland County Clerk of Court's Office for filing in the case as well. (ROA. pgs. _____). To date, out of all eight people Appellant mailed the inquiry to, no one has responded.

Appellant filed exhibits as well (Exhibits A thru R). (ROA pgs. _____) Importantly, Appellant did also submit a motion for a verbatim transcript of the hearing. (ROA pg. _____) Appellant's motion for a verbatim transcript of the hearing was critical request as it would allow Appellant to be reminded of the arguments and statements of both he and the Respondents and would provide him clarity as to whether he sufficiently covered any and all concerns which would refute the Respondents' motions to dismiss.

For example, at the hearing which was held on the Respondents' motions to dismiss Appellant did respond to the Respondents' notions as to lack of standing. Appellant stated, "When they speak of no standing or whatever, its – I contend that this is a public interest concern because this is a repetitive process." (Tr. p. 19; ROA pg. _____). Also, in addressing res judicata, Appellant stated, "This issue has not been [adjudicated] in the PCR [context] and the reason why is because PCR is the way you challenge the conviction." (Tr. p. 17; ROA pg. _____). Appellant emphasized that he was not challenging his conviction but was rather seeking a declaration from the court and prospective injunctive relief. (Tr. pgs 22, ; ROA pg. _____)

The trial court denied Appellant opportunity of having a verbatim transcript of the unfair hearing proceeding and rather simply granted the Respondents' motions to dismiss. (See Order of Ruling filed July 30, 2024). (ROA pg. _____)

The circuit court abused its discretion in declining to grant a continuance of the case when Appellant objected to his failure to receive the ten-day notice as required by Rule 6, SCRCP. Rule 40(i)(1), SCRCP ("If good and sufficient cause for continuance is shown, the continuance may be granted by the court."); Sellers v Nicholls, 432 S.C. 101, 113, 851 SE2d 54, 60 (2020) ("A motion for continuance is a procedural matter involving the progress of a case."); Plyler v Burns, 373 S.C. 637, 650, 647 SE2d 188, 195 (2007) ("The grant or denial of a continuance is within the sound discretion of the [circuit court] and is reviewable on appeal only when an abuse of discretion appears from the record."); Ungar v Sarafite, 376 U.S. 575, 589 (1964) ("There are no mechanical tests for deciding when a denial of a continuance is so arbitrarily as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reason presented to the trial judge at the time the request is denied."); State v Lytchfield, 230 S.C. 405, 409, 95 SE2d 857, 859 (1957) ("[R]eversals of refusal of continuance are about as rare as the proverbial hen's teeth.")

Appellant must infer that the circuit court attempted to cure the lack of notice by providing Appellant additional time and opportunity to file any other material he wanted the court to consider. However, this did not cure the lack of notice. Appellant, within his pleadings filed immediately after the hearing did ask for a verbatim transcript of the hearing and did inform the court that he could not remember what was argued due to the frustration and stress caused by the lack of notice.

Appellant was placed in a position as not being allowed to effectively refute any of the Respondents defenses or assertions at the hearing. The record clearly represents Appellant's lack of ability to make any legal arguments, cite to case law, or reference any notes he had. (Tr. p. 20; ROA pg. _____) (Appellant unable to cite to *City of Rock Hill v Thompson*, 349 S.C. 197, 563 SE2d 101 (2002) and (Tr. p. 21; ROA pg. _____) (Appellant unable to cite to *Barnes v State*, 433 S.C. 399, 859 SE2d 260 (2021).

The Respondents argued that Appellant was "familiar" with his case. The Respondents made this argument seeking to have the court assume Appellant was not prejudiced in any way from the lack of notice. However, this is a red herring as Appellant pointed out being familiar with his case does not equate with the ten-day notice requirement set forth in Rule 6(d) of the South Carolina Rules of Civil Procedure. See Jackson v Speed, 326 S.C. 289, 486 SE2d 750 (1997) ("Rule 6(d), SCRCP, provides notice of a hearing shall be served not later than ten days before the time of the hearing, unless a different period is fixed…by order of the court.") (internal quotations omitted); CC/Devas (Mauritius) Limited v Antrix Corp. Ltd., 605 U.S ___, ___ Sct ___ (June 5, 2025), Opinion Nos. 23-1201 & 24-17, 2025 WL 1583292, ("[T]he use of the word 'shall' in a statute creates an obligation impervious to judicial discretion.")

Seeking to confuse both the court and the record, the Respondents contended that Appellant was provided notice of the hearing by way of a memorandum in support of the motion to dismiss. Appellant did agree that he did, in-fact, receive the memorandum in support on the previous day

and that this memorandum was personally served on him by and through personnel of the South Carolina Department of Corrections. However, Appellant made clear that the memorandum contained no notice within regarding what date the hearing would be held and that the memorandum was not notice. Continuing to seek to confuse the record and the court, the Respondents then contended that the notice was provided within an email and they were not sure whether or not the South Carolina Department of Corrections had shared a copy of the email with Appellant. Appellant made clear that no copy of email was provided to him nor was he otherwise noticed of the hearing. Notwithstanding, the memorandum nor any email would not have satisfied the ten-day notice requirement which Rule 6(d), SCRCP, mandates.

Dedes v Strickland, 307 S.C. 152, 414 SE2d 132 (1992) ("[The South Carolina Supreme Court] construe[s] the rule to require that a specific notice of the day certain fixed for the hearing must be furnished not later than ten days prior to such hearing unless the exceptions stated in Rule 6(d), SCRCP, apply.")

Had the memorandum provided notice or had the email been provided to Appellant – neither would meet and satisfy the ten-day notice requirement of Rule 6(d), SCRCP, because this such notice would have been provided only one day prior to the hearing. This lack of notice was also jurisdictional defect. See Forfeited Land Commission of Bamberg County v Beard, 424 S.C. 137, 148, 817 SE2d 801, 806 (2018) ("[T]he failure to provide the required statutory notice is [a] jurisdictional defect [in itself].")

Appellant also attempted to make an argument as to public importance and public interest. (Tr. p. 19; ROA pg. _____), The Respondents didn't argue in refute of Appellant's claim. Appellant was at a total disadvantage without a verbatim transcript as he couldn't remember any things that he needed to bring to the court's attention and couldn't remember much of the hearing as he was forced to immediately proceed into another hearing on a different case and matters.

Corner Post, Inc. v Board of Governors of Federal Reserve System, 603 U.S. 799, 144 Sct 2440 (2024) ("Pleas of administrative inconvenience never justify departing from a statute's clear text.")

ISSUE II Did The Trial Court Err In Failing To Address And Adjudicate Upon All Post-Trial Motions?

It is a "court's duty to adjudicate a controversy properly before it." Quackenbush v Allstate Ins. Co., 517 U.S. 706, 116 Sct 1712 (1996); A "court's failure to rule on [a] motion was an abuse of discretion.") Tyree v U.S., 642 Fed. Appx. 228 (4th Cir. 2016); ("[F]ailure to rule on [a] motion is failure to exercise discretion and is reviewed de novo[.]") Phillips v General Motors Corp., 911 F2d 724 (4th Cir. 1990); ("Th[e] Court may not review the merits of the underlying order, but instead "may only review the denial of the motion with respect to the grounds set forth in [the authority the motion relies upon].") U.S. v Walker, 394 Fed. Appx. 2 (4th Cir. 2010)

Immediately after the hearing Appellant did submit a written objection to defendants' request to dismiss and to the unfair surprise hearing, a motion for an additional hearing, and a motion for

judicial notice. (ROA pgs. _____). The trial court did not address these motions. Rather it simply granted the Respondents' motions to dismiss without ever acknowledging or adjudicating these motions. (See Order of Ruling filed July 30, 2024) (ROA pg. _____)

Also, and in addition, after the formal order of dismissal was filed on September 13, 2024 dismissing Appellant's action, Appellant filed the following post-trial motions:

(1) On September 30, 2024, Appellant filed a motion to alter or amend judgment and motion for reconsideration, and also filed a motion for a hearing on the Rule 59(e), SCRCP, motions, (ROA pgs. _____)

(2) On November 12, 2024, Appellant filed a motion for judicial notice and an addendum to the Rule 59(e), SCRCP, motion to alter or amend judgment, (ROA pgs. _____)

(3) On January 27, 2025 Appellant filed a renewed motion for a hearing on the Rule 59(e), SCRCP, a renewed motion for a new trial, a motion for judicial notice of public interest/public importance, and a motion to amend complaint, (ROA pgs. _____)

(4) On January 31, 2025, Appellant filed a supplemental motion to alter or amend judgment II, and (ROA pg._____)

(5) On March 7 2025, Appellant filed a motion pursuant to Rule 60(b), SCRCP, for relief from judgment order & proceeding. (ROA pg. _____)

The trial court issued a "Mother Hubbard" Form 4 Order on March 17, 2025, which only addressed Appellant's motion for reconsideration. This Form 4 Order simply stated "The Motion to Reconsider is Denied". (ROA pg. _____). This Form 4 Order failed to adjudicate upon or even acknowledge any of the other post-trial motions Appellant had filed in the case.

After receiving this order, Appellant sought to ensure that his motions were noticed, sought to ensure that he be ensured that his matters were preserved for appellate review, and most importantly sought that he would not be looked over and caused to advance his case to the Appellate court without the trial court making a decision and providing opportunity to amend his complaint – thus Appellant then on April 14, 2025, filed a motion to alter or amend judgment and motion for additional facts and findings and motion for clarification. (ROA pgs. _____). Appellant also filed a motion to amend his complaint on January 27, 2025 (ROA pg. _____)

A. *Rule 60(B), SCRCP Motion*

With regard to Appellant's Rule 60(b), SCRCP motion he filed specifically seeking that the trial court would relieve him from its order dismissing the case based on surprise (the unfair surprise hearing which resulted from the court and Respondents' failure to provide notice of the hearing) and based on misrepresentation and misconduct of the adverse party (the Respondent's strategically failing to provide notice and attempts to confuse the court and record by providing a memorandum in support of its motions to dismiss a day prior to the hearing), the trial court abused its discretion in failing to acknowledge and adjudicate upon this motion. (ROA pgs. _____)

The relevant portion of Rule 60(b), SCRCP, states as follows:

> ("On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; ... (3) fraud, misrepresentation, or other misconduct of an adverse party [.] The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken.")

BB & T v Taylor, 369 S.C. 548, 551, 633 SE2d 501, 502 (2006) ("Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the [court]."); Raby Const., L.L.P. v Orr, 358 S.C. 10, 17-18, 594 SE2d 478, 482 (2004) (stating an abuse of discretion standard governs *review of a decision* to grant or deny a motion for relief from judgment) (emphasis added); Rouvet v Rouvet, 388 S.C. 301, 309, 696 SE2d 204, 208 (2010) (explaining that in deciding whether to grant relief under Rule 60(b)(1), SCRCP, a court must consider among other factors, whether a "meritorious defense" exists).

B. *Failure to Adjudicate Motions Generally*

With regard to any and all other motions the trial court failed to rule on this was also an abuse of discretion. Importantly, also, as there was no rulings made on the motions, this Court , and certainly the Appellant, has no way of truly knowing the mind or thought process of the circuit court. Consequently, should this Court adjudicate upon these motions rather than remand to the circuit court for its adjudication upon the motions, this Court would then transform itself into a court of *first view* of these matters rather than a court of *review*.

Importantly, Appellant's motions did contain sufficient cures which would have allowed the court to recognize that dismissal of the case was improper. For example, with regard to the public importance exception to standing, Appellant did file motions seeking that this argument be ruled upon and in the alternative that he be allowed opportunity to amend the complaint pursuant to Rule 15(a) or (b), SCRCP, so as to ensure that this exception was noticed, heard and is adjudicated upon. (ROA pgs. _____)

The trial court abused its discretion in failing to rule on Appellant's motions and the trial courts failure and/or decision to do so is arbitrary and thus is also an abuse of discretion in itself. Ruling on a motion is a ministerial duty.

See Phillips v General Motors Corp., 911 F2d 724 (4th Cir. 1990) ("[F]ailure to rule on [a] motion is failure to exercise discretion and is reviewed denovo[.]"); Fontaine v Peitz, 291 S.C. 536, 538, 354 SE2d 565, 566 (1987) ("When the trial judge is vested with discretion, but his ruling reveals no discretion was, in fact, exercised, an error of law has occurred."); Johnson v Johnson, 296 S.C. 289, 304, 372 SE2d 107, 115 (1998) ("A decision lacking a discernible reason is arbitrary and constitutes an abuse of discretion."); Hatcher vSouth Carolina District Council of Assemblies of God, Inc., 267 S.C. 107, 226 SE2d 253 (1976) ("A decision is arbitrary if it is without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.")

ISSUE III Did The Trial Court Err And Abuse Its Discretion In Failing To Indicate Whether The Dismissal Of The Complaint Was With Or Without Prejudice?

The conclusion of the trial court's order of dismissal filed September 13, 2024, stated as follows:

> "For the foregoing reasons, the Motions to Dismiss are granted and this case is dismissed. AND IT IS SO ORDERED."

(See Order of Dismissal; ROA pg. _____)

Appellant made a motion seeking that the trial court would provide clarification within its order as to whether its dismissal of Appellant's complaint was with or without prejudice. (_____; ROA pg. _____)

This inquiry was crucial because were the complaint to be dismissed with prejudice Appellant's only recourse would be to file a notice of an appeal. Had the complaint been dismissed without prejudice, Appellant would have had opportunity to file another complaint. However, had Appellant simply filed another complaint not knowing and the complaint would later be determined improper – Appellant would be denied his opportunity to file a notice of appeal of the dismissal of the complaint to the appellate court.

The other important matter is the fact that Appellant is an indigent prisoner who was proceeding in the action as a pro se litigant and pursuant to a granted motion to proceed in forma pauperis. When Appellant's only option was to file a notice of appeal to the appellate courts – this came with a $250.00 filing cost. Albeit Appellant did submit a motion to the appellate court seeking to proceed in forma pauperis, this motion was denied.

The Respondents and judicial system seem to have resorted to the use financial burdens and barriers in effort to ultimately silence Appellant. Appellant has been denied opportunity to

proceed in forma pauperis in his action albeit there is no finding that Appellant's pleadings have been abusive, frivolous nor without merit. Appellant was forced to come before the Appellate court with his issues rather than have them heard in the circuit court – simply by the circuit court's act of turning a blind eye and putting on death ears.

Financial barriers are real for Appellant as he is an indigent prisoner confined within the South Carolina Department of Corrections who is proceeding in his action pro se. As a prisoner, Appellant is also subjected to the Slavery Exception Clause which exists within the Thirteenth Amendment of the United States Constitution and South Carolina's Constitution.

See the Thirteenth Amendment to the United States Constitution which provides as follows:

> "Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

This forced-to-work-without-pay scheme has been adopted by the South Carolina Department of Corrections. See Section 40.7 of SCDC Policy OP-21.04, "Inmate Classification Plan Section, which provides as follows:

> "Refusing to Work/Failure to Work/ Refusing to Attend the Compulsory School Program: An inmate's refusal to work or participate in a mandatory educational program will result in disciplinary action pursuant to SCDC policies pertaining to inmate discipline. (See [Sections 826, 829, and 841 of] SCDC Policy OP-22.14, "Inmate Disciplinary System.")"

Appellant is indigent and thus is not a pauper by his own free will. Appellant is in-fact employed within the South Carolina Department of Corrections, however, is prevented from earning any wages or compensation for his employment due to South Carolina law and the State's adoption of the forced-to-work-without-pay scheme which is allowed by the Thirteenth Amendment of the United States Constitution. The State should not be so inequitable so as to adopt such scheme on one hand and them on the other hand close the door to the courthouse to those persons who have been submitted to the forced-to-work-without-pay scheme on the sole basis that the person cannot afford to pay the filing fees associated with proceeding in the action.

This has become a tactic in itself and has become an effective tool for the court's use when litigants such as Appellant bring meritorious matters of public interest and of public importance to the courts' attention. This has happened in Appellant's circumstance.

Appellant did request that the trial court make a finding as to whether or not the case was dismissed with or without prejudice. Rather than answer this important question – the trial court thought it strategically wise to simply allow Appellant to attempt to continue to figure it out with the courts' hopes that Appellant would simply either procedurally default by failing to file a timely notice of appeal or that Appellant would timely file the notice of appeal and then the

Appellate Court dismiss on the basis that Appellant not be able to afford the transcript of the lower court proceeding or not be able to afford the costs associated with the filing of the appeal.

These concepts are strategic snares and traps. In re November 4, 2008 Bluffton Town Council Election, 385 S.C. 632, 686 SE2d 683 (2009) ("Courts should not interpret procedural rules to create a trap for unwary [pro se litigants].")

The trial court erred and abused its discretion in failing to indicate and make a ruling as to whether the complaint was dismissed with or without prejudice.

ISSUE IV Did The Trial Court Err In Failing To Provide Appellant Opportunity To Amend His Complaint After It Was Determined The Court Lacked Subject Matter Jurisdiction And The Complaint Failed To State A Cause Of Action?

Elam v S.C. Dep't of Transp., 361 S.C. 9, 24, 602 SE2d 772, 780 (2004) ("The decision whether to allow a party to amend a pleading to conform to the evidence is left to the sound discretion of the trial judge."); Doe v Oconee Memorial Hospital, 437 S.C. 574, 878 SE2d 920 (2022) ("In the absence of a proper reason, such as bad faith, undue delay, or prejudice, a denial of leave to amend a complaint is an abuse of discretion.") See Rule 15(a), SCRCP.

Rule 15(a) of the South Carolina Rules of Civil Procedures, in relevant portion, provides as follows:

> "A party may amend his pleading once as a matter of course at any time before or within 30 days after a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial roster, he may so amend it at any time within 30 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party; and *leave shall be freely given when justice so requires and does not prejudice any other party*." (emphasis added)

Rule 15(a), SCRCP

Appellant did file a motion seeking that the circuit court would allow him to amend his complaint. Appellant's motion and relative pleadings did inform the court that Appellant sought to amend his complaint so as to cure his complaint by pleading that the matter was of public interest and thus the 'public importance' exception to standing was applicable to Appellant's complaint. Appellant did also seek to amend his complaint so as to plead the fact that Appellant suffers ongoing financial harms as additional injury. (See Motion To Amend; ROA pgs. _____)

The court has held that a plaintiff should be allowed opportunity to the amend his/her complaint once the court has made its decision. See Skydive Myrtle Beach , Inc. v Horry County, 426 S.C. 175, 826 SE2d 585 (2019) ("Rule providing for dismissal for failure to state a claim permits the

trial court to address the sufficiency of a pleading stating a claim; it is not a vehicle for addressing the underlying merits of the claim."); ("A court's decision to deny a motion to amend should not be based on the court's perception of the merits of an amended complaint.") id.

The circuit court never acknowledged or ruled on Appellant's motion for judicial notice, nor his motion to amend his complaint. This failure to acknowledge and rule on Appellant's motion was in itself an abuse of discretion. *See,* Phillips v General Motors Corp., 911 F2d 724 (4th Cir. 1990) ("[F]ailure to rule on [a] motion is failure to exercise discretion and is reviewed denovo[.]")

Skydive Myrtle Beach , Inc. v Horry County, 426 S.C. 175, 826 SE2d 585 (2019) (When a trial court finds a complaint fails to state facts sufficient to constitute a cause of action, court should give the plaintiff an opportunity to amend the complaint before filing final order of dismissal.")

Secondly, the circuit court had a duty to make a ruling as to whether (1) the 'public importance' exception was applicable to Appellant's complaint (2) whether Appellant's showing of financial harm (pocketbook injury) was sufficient as to satisfy constitutional standing a remedy therefrom which could be had, and (3) whether or not it finds Appellant's proffered amendments and consequently the motion to amend futile. The circuit court made none of these assessments and its failure to adjudicate upon these motions and matters constitutes an abuse of discretion. *See,* Phillips v General Motors Corp., 911 F2d 724 (4th Cir. 1990) ("[F]ailure to rule on [a] motion is failure to exercise discretion and is reviewed denovo[.]")

Albeit the decision to allow a party to amend a pleading to conform to the evidence is left to the sound discretion of the trial judge and there is deference given to the decision, the trial judge is not entitled to the deference associated with this discretion until the trial judge has earned the deference by fulfilling the responsibility to exercise its discretion. In fact, when the trial judge fails to exercise its discretion that failure alone is an abuse of discretion. See Sellers v Nicholls, 432 S.C. 101, 851 SE2d 54 (2020) ("A failure to exercise discretion amounts to an abuse of that discretion.")

The trial judge had a duty to not only to rule on Appellant's motion to amend his complaint, but also, when exercising its discretion – to provide reasons for its denial which were not arbitrary. The circuit court's failure in this matter is deserving on no deference to its discretion, because it actually in-fact never used any discretion. *See,* Morris v BB&T Corporation, 438 S.C. 582, 885 SE2d 394 (Jan. 25, 2023) ("No court is entitled to the deference associated with the discretion standard of review until that court has earned deference by fulfilling the responsibility of exercising its discretion according to law.")

Johnson v Oroweat Foods Co., 785 F2d 503 (4th Cir. 1986) ("Leave to amend [ ] should only be denied on the ground of futility when the proposed amendment is clearly insufficient or frivolous on its face.") (citing *Davis v Piper* Aircraft Corp., 615 F2d 606, 613 (4th Cir. 1980). Cert. dismissed, 448 U.S. 911, 101 Sct 25 (1980)

Thus, this Court should make a de novo ruling as to Appellant's amendments, that is, to make the ultimate determination as to whether Appellant is permitted to amend his complaint and if so, the complaint should be remanded to the circuit court for its adjudication on the merits thereof.

Doe v Marion, 373 S.C. 390, 395, 645 SE2d 245, 247 (2007) ("If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the [claimant], would entitle the [claimant] to relief on any theory, then dismissal under Rule 12(b)(6) is improper.")

Spence v Spence, 368 S.C. 106, 130, 628 SE2d 869, 881-82 (2006) (quotation marks omitted) ("[A]n appellate court must consider the merits of an amendment to a complaint that in fact failed to state a claim, but was improperly dismissed with prejudice without granting leave to amend, in determining whether to remand to permit the plaintiff to amend.")

The circuit court certainly can make declarations as to the constitutionality matters. *See e.g.*, Powell v Keel, 433 S.C. 457, 860 SE2d 344 (2021) (circuit court making a declaration as to the constitutionality of a matter); Owens v Stirling, 443 S.C. 246, 904 SE2d 580 (2024) (circuit court making a declaration as to the constitutionality of a matter); Richardson on behalf of 15th Circuit Drug Enforcement Unit v Twenty Thousand Seven Hundred Seventy-One and 00/100 Dollars, 437 S.C. 290, 878 SE2d 868 (2022) (circuit court making a declaration as to the constitutionality of a matter)

A

The 'Public Importance' Exception To Standing

National Trust for Historic Preservation in United States v City of North Charleston, 439 S.C. 222, 886 SE2d 487 (2023) ("When considering whether a party has standing under the public-interest doctrine, appellate courts must make their determination without regard to the merits of the underlying claim.")

"Standing [is] a fundamental perquisite to instituting an action … " Youngblood v S.C. Dep't of Soc. Servs., 402 S.C. 311, 317, 741 SE2d 515, 518 (2013). "Standing has been called one of 'the most amorphous [concepts] in the entire domain of public law.' "Flast v Cohen, 392 U.S. 83, 99, 88 Sct 1942 (1968) (alteration in original) (citation omitted). In its most basic sense, "[s]tanding refers to a party's right to make a legal claim or seek judicial enforcement of a duty of right." S.C. Dep't of Soc. Servs. V Boulware, 422 S.C. 1, 7, 809 SE2d 223, 226 (2018) (quoting *Michael P. v Greenville Cty. Dep't of Soc. Servs.*, 385 S.C. 407, 415, 684 SE2d 211, 215 (2009). The burden of proving standing is on the party seeking to establish it. Town of Arcadia Lakes v S.C. Dep't of Health & Env't Control, 404 S.C. 515, 529, 745 SE2d 385, 392 (2013). "Standing may be acquired: (1) through the rubric of 'constitutional standing'; (2) under the 'public importance' exception; or (3) by statute." Freemantle v Preston, 398 S.C. 186, 192, 728 SE2d 40, 43 (2012) (quoting *ATC South, Inc. v Charleston County*, 380 S.C. 191, 195, 669 SE2d 337, 339 (2008)).

Unlike with constitutional standing, a party is not required to show he has suffered a concrete or particularized injury in order to obtain public importance standing. S.C. Pub. Interest Found. v

S.C. Transp. Infrastructure Bank, 403 S.C. 640, 645, 744 SE2d 521, 524 (2013). Nor must he "show he has an interest greater than other potential plaintiffs." Davis v Richland Cnty. Council, 372 S.C. 497, 500, 642 SE2d 740, 742 (2007). Requiring otherwise would undermine the purpose of public importance standing, which is to "[a]llow [ ] interested citizens a right of action in our judicial system when issues are of significant public importance to ensure [ ] ... accountability and the concomitant integrity of government action." Sloan v Greenville Cnty., 356 S.C. 531, 551, 590 SE2d 338, 349 (2003); Whether [public importance standing] applies in a particular case turns on whether resolution of the dispute is needed for future guidance ... [T]he need for future guidance generally dictates when [public importance standing] applies.") Carnival Corp. v Historic Ansonborough Neighborhood Ass'n, 407 S.C. 67, 79-80, 753 SE2d 846, 853 (2014); In otherwords, "[t]he key ... is whether a resolution is needed for future guidance." ATC S., Inc. v Charleston Cnty., 380 S C. 191, 199, 669 SE2d 337, 341 (2008)

The issues Appellant brings before the court under the Declaratory Judgment Act and wherein he also seeks prospective injunctive relief - are of public interest and do satisfy the requirement for the public importance exception as to standing.

The issue of whether (1) a clerk of court may pass its ministerial duties of scheduling motions which are filed by pro se post-conviction relief applicants and hearings upon the same - over to the Office of Attorney General, (whom which also serves as the adversary in post-conviction relief actions), is one of public importance as it involves both the conduct of the conduct of clerks of courts, agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution. (*cf.* State v Langford, 400 S.C. 421, 735 SE2d 471 (2012))

The issue of whether (2) judges in post-conviction relief actions may blatantly refuse and decline to rule on motions which are filed by indigent pro se applicants is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

The issue of whether (3) the allowance of agents of the South Carolina Attorney General's office to make the ultimate determination as to whether indigent, pro se, post-conviction relief applicants shall receive appointment of counsel or not equates to a judicial ruling as to whether or not genuine issues of material fact exist in a case or not actions is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

See e.g., Woelhoff v State, 531 NW2d 566 (1995) ("Trial court's duty of determining whether counsel should be appointed to represent defendant who petitions for postconviction relief requires trial court to determine whether substantial issue of law or fact may exist."); State v McClary, 876 NW2d 29 (2016) ("Court could not rule on defendant's postconviction motion to

correct an illegal sentence without first addressing his requests for appointed counsel; it was defendant's first postconviction proceeding, and his motion, viewed in the light most favorable to him, was not frivolous."); State v McClary, 876 NW2d 29 (2016) ("While the Uniform Postconviction Procedure Act places the initial duty on the clerk of court to notify a convict who petitions for post-conviction relief without assistance of counsel, about the procedure to obtain counsel if indigent, the trial court is delegated the ultimate duty to determine if counsel shall be appointed.")

The issue of whether (4) the Administrative Order issued by Former Chief Justice Jean Hoefer Toal, should be rescinded or amended on the basis of ambiguity, vagueness, and violation of the separation of powers doctrine is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, a Former Chief Justice, an Administrative Order which is still relied upon which was put in place by this Former Chief Justice the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

Clear and undisputable evidence of the effect of Former Chief Justice Jean Hoefer Toal's Administrative Order, resides in the fact that there has been absolutely no pro se hearings with regards to procedural questions of successiveness, the applicability of the statute of limitations , or newly discovered evidence – since Judge Toal's Administrative Order was put in place. Further, Appellant has an abundance of proof in the Record which reflects that South Carolina's clerks and courts in general, are intentionally silent with regard to these matters.

With all due respect to the Court and to the Former Chief Justice Jean Hoefer Toal – Appellant shows that by simply taking a look back in history and at the timing of the placement of this Administrative Order – the Court may be reminded of appointment of counsel and take on the United State's Supreme Court's holding in Alabama v Shelton 535 U.S. 654, 122 Sct 1764 (2002) during this period. (See Robert C. Boruchowitz et al., *'Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts'* , NAT'L ASS'N CRIM. DEF. LAW (April 2009) (Speaking of Former Chief Justice Jean Hoafer Toal's speech at a public meeting in held in 2007 with regard to her stance on appointment of counsel) (See also Argersinger v Hamlin, 407 U.S. 25, 37, 92 Sct 2006 and also please be reminded of the "*Dear Colleague*" Letters which were recently sent to all Courts by the U.S. Department of Justice's Civil Rights Division and Former Chief Justice Beatty's Memorandum titled, ,"Sentencing Unrepresented Defendants To Imprisonment", which was issued to all South Carolina Magistrate on September 15, 2017 courts in response to this matter. Some called this issuing of this Memorandum, which informs South Carolina's Courts of the U.S. DOJ's Dear Colleague Letters, and reminds the Courts of the United States Supreme Court's mandates of *Alabama v Shelton* and *Argersinger v Hamlin*, a "mess". *See,* Brown v Lexington County, South Carolina C/A No. 3:17-1426-SAL (Aug. 22, 2022), 2022 WL 3588065

See e.g., South Carolina Public Interest Foundation v Wilson, 437 S.C. 334, 878 SE2d 891 (2022) (The South Carolina Supreme Court applying the public importance exception to the attorney general's actions.); S.C. Constitution Art. I, §8 – Separation of Powers

("In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no persono r persons exercising the functions of one of said departments shall asume or discharge the duties of any other.")

S.C. Constitution Art. VIII, § 14 – General law provisions not to be set aside

> In enacting provisions required or authorized by this article, general law provisions applicable to the following mattes shall not be set aside:
>
> (1) The freedoms guaranteed every person; (2) election and suffrage qualifications; (3) bonded indebtedness of governmental units; (4) the structure for and the administration of the State's judicial system; (5) criminal laws and the penalties and sanctions for the transgression thereof; and (6) the structure and the administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity.
>
> Rule 501, SCACR, Code of Judicial Conduct, Canon 3
>
> A. Judicial Duties in General
> The judicial duties of a judge take precedence overa ll the judge's other activities. The judge's duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.
>
> B. Adjudicative Responsibilities
> (1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.
>
> (2) A judge shall be faithful to the law and maintain profesional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.
>
> (3) A judge shall require order and decorum in proceedings before the judge.
>
> (4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an oficial capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.
>
> C. Administrative Responsibilities
> (1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain profesional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their oficial duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond their fair value of services rendered.

E. Disqualification
(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

The action in which Appellant seeks declaratory judgment and prospective injunctive relief involves issues of public interest and of public importance; thus, future guidance is needed and a declaration and adjudication of the matters thereof will promote judicial economy as the matters are repetitive and question the propriety of conduct, policies and procedures implemented within South Carolina's post-conviction relief actions. CC/Devas (Mauritius) Limited v Antrix Corp. Ltd., 605 U.S ___, ___ Sct ___ (June 5, 2025), Opinion Nos. 23-1201 & 24-17, 2025 WL 1583292, ("[T]he use of the word 'shall' in a statute creates an obligation impervious to judicial discretion.")

S.C. Code Ann. §30-4-20(a) defines a public body in South Carolina. S.C. Code Ann. §30-4-20(a), in relevant portion, states as follows:

(a) "Public Body" means any department of th estate, a majority of director sor their representatives of departments within the executive branch of state government as outlined i Section 1-30-10, any state board, commission, agency, and authority,any public or governmental body or political subdivisión of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known ...")

See also, S.C. Code Ann. §1-1-110

("The executive department of this State is hereby declared to consist of the following officers, that is to say: The … Attorney General")

S.C. Code Ann. §1-7-50

"In the event that any officer or employee of the State, or of any political subdivisión thereof, be prosecuted in any action, civil or criminal, or special proceeding in the courts of this State, or of the United States, by reason of any act done or omitted in good faith in the course of his employment, it is made the duty of the Attorney General… to appear and defend the action or proceeding in his behalf. Such appearance may be by any member of his staff or by any solicitor or assistant solicitor when directed to do so by the Attorney General."

District Attorney's Office for Third Judicial Dist. v Osborne, 557 U.S. 521, 129 Sct 2308 (2009) ("Although states are under no obligation to provide mechanisms for postconviction relief, when they chose to do so, the procedures they employ must comport with the demands of the Due Process Clause. See Evitts v Lucey, 469 U.S. 387, 393, 105 Sct 830 (1985), by providing litigants with fair opportunity to assert their state-created rights."); Zinermon v Burch, 494 U.S. 113, 110 Sct 975 (1990) ("The Due Process Clause [ ] encompasses [ ] a guarantee of fair procedure."); United States v Hall, 551 F3d 257, 272 (4th Cir. 2009) (" '[T]he inability of a [PCR applicant] adequately to prepare his case skews the fairness of the entire system.' ")

The Appellant would argue that South Carolina's Post-Conviction Relief Courts, in collaboration with the South Carolina Office of Attorney General have taken a page directly from the playbook of Louisiana's Fifth Circuit Judges. [2]

In addition, adjudication of the issues in this case globally would bring clarity, remove several uncertainties, and would also serve in the interest of both judicial economy and litigation harm, as adjudication of all matters thereof will significantly remove the possibility that Appellant and others similarly situated, will be prevented from having unjust prefiling injunctions (Maxton Orders, *See* In re Maxton, 325 S.C. 3, 478 SE2d 679 (1996)) issued upon them by the courts – simply as a result of Appellant and others similarly situated continuously and diligently pursuing their rights to be heard and have matters adjudicated upon. This would also significantly decrease other pocketbook injuries as well.

B

The Pocketbook Injury (financial harm)

Appellant has suffered financial harm as he has accumulated a substantial amount of debt to the South Carolina Department of Corrections simply due to his continually having to bring has actions before the post-conviction relief courts in search of a full and fair bite of the apple.

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[2] See, *'The Scandal That Never Happened'*, https://www.propublica.org/article/louisiana-judges-ignored-prisoners-petitions-without-review-fifth-circuit

Appellant also experiences ongoing and continuous effects and injury due to this injury as he is unable to have monies deposited to his inmate trust fund account without this money being garnished by the South Carolina Department of Corrections to satisfy this debt. This causes an inability for Appellant to afford hygiene products, medication, T-shirts, and shoes. Appellant is especially harmed by the inability to acquire shoes and is thus forced to walk on concrete daily wearing only "crocs" which cause the health of his feet, knees, back and spine to decline.

In addition, Appellant experiences ongoing and continuous financial injury and costs as a result of his having to continue in litigation in an effort to be heard as guaranteed by the Due Process Clause and to receive the one-bite of the apple as is available under the Post-Conviction Relief Act, and to satisfy the AEDPA and comity.

Appellant's pocketbook injury does constitute injury-in-fact. *See,* Penegar v Liberty Mutual Insurance Company, 115 F4th 294 (4th Cir. 2024) ("Past monetary loss is a quintessential injury-in-fact, for the purpose of Article III standing."); California v Texas, 593 U.S. 659, 141 Sct 2104 (2021) (" A financial or so-called "pocketbook" injury constitutes injury in fact, and even a small pocketbook injury-like the loss of $1 – is enough."); Czyzewski v Jevic Holding Corp., 580 U.S., 137 Sct 973, 983 (2017) ("For standing purposes, a loss of even a small amount of money is ordinarily an 'injury' "); MOAC Mall Holdings, LLC v Transform Holdco LLC, 598 U.S. 288, 143 Sct 927 (2023) (Case remains "live" as long as the parties have a concrete interest, however small, in the outcome of the litigation.")

Allowance of Amendment To Complaint and Consideration of Amendment

The circuit failed to provide Appellant opportunity to amend his complaint so as to allow him to cure any deficiencies therof. The circuit court should have issued an order which informed Appellant that the the court found in favor of the Respondents' motions to dismiss, however, provided Appellant fair time and opportunity to amend the complaint.

Had the circuit court allowed Appellant this opportunity, Appellant would have then (1) known that his complaint was deficient, and (2) amended his complaint within the allotment of time provided by the court's order. In this circumstance the Appellant failed to acknowledge the fact that Appellant sought to amend his complaint, acknowledge the complaint, and make a determination after the court has considered the amendments made to the complaint.
Skydive Myrtle Beach, Inc. v Horry County (Skydive II), 426 S.C. 175, 826 SE2d 585, 587 (2019) (The Supreme Court emphasizing that, "[t]he circuit court erred in failing even to consider allowing [Appellant] to amend [his] complaint."); Love v State, 428 S.C. 231, 834 SE2d 196 (2019) (finding that the court erred in denying the motion to amend without separately considering each proposed amendment); Skydive Myrtle Beach, Inc. v Horry County (Skydive

II), 426 S.C. 175, 181, 826 SE2d 585, 588 (2019) ("Ordinarily, … the time for requesting leave to amend to correct a Rule 12(b)(6) pleading defect is *after* the trial court has determined the original pleading was deficient.") (emphasis added); Doe v Oconee Memorial Hospital, 437 S.C. 574, 878 SE2d 920 (2022) ("In the absence of a proper reason, such as bad faith, undue delay, or prejudice, a denial of leave to amend a complaint is an abuse of discretion.") See Rule 15(a), SCRCP.

ISSUE V Did The Circuit Court Err In Dismissing Appellant's Action Seeking Declaratory And Prospective Injunctive Relief Based On Lack Of Subject Matter Jurisdiction?

The circuit court based its conclusion that it lacked subject matter on two subsidiary findings: (1) lack of standing, and (2) lack of authority.

A.

I. Lack of Standing

Public Interest / Public Importance Exception to Standing

National Trust for Historic Preservation in United States v City of North Charleston, 439 S.C. 222, 886 SE2d 487 (2023) ("When considering whether a party has standing under the public-interest doctrine, appellate courts must make their determination without regard to the merits of the underlying claim.")

Eidson v South Carolina Department of Education, 444 S.C. 166, 906 SE2d 345 (2024) ("[S]tanding rules may be relaxed when the case involves a matter of wide, public importance and resolution of the case is needed for future guidance affecting the public interest, not merely the interest of private litigants."); South Carolina Public Interest Foundation v Wilson, 437 S.C. 334, 878 SE2d 470, 472 (2004) (finding that the matter rises to the level of public importance because the issue will inevitably rise again in the future); South Carolina Public Interest Foundation v South Carolina Transp. Infrastructure Bank, 403 S.C. 640, 744 SE2d 521 (2013) (finding that an issue 'rises to the level of public importance" when "the issue transcends a purely private matter" .); *See* , South Carolina Public Interest Foundation v Wilson, 437 S.C. 334, 878 SE2d 891 (2022) (The South Carolina Supreme Court applying the public importance exception to the attorney general's action)

The 'Public Importance' Exception To Standing

As he has discussed above and will continually be discussed throughout this brief, Appellant does not lack standing to bring suit as the matters are of public interest. The 'public importance' exception is applicable in this case.

The issues Appellant brings before the court under the Declaratory Judgment Act and wherein he also seeks prospective injunctive relief - are of public interest and do satisfy the requirement for the public importance exception as to standing.

The issue of whether (1) a clerk of court may pass its ministerial duties of scheduling motions which are filed by pro se post-conviction relief applicants and hearings upon the same - over to the Office of Attorney General, (whom which also serves as the adversary in post-conviction relief actions), is one of public importance as it involves both the conduct of the conduct of clerks of courts, agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution. (*cf.* State v Langford, 400 S.C. 421, 735 SE2d 471 (2012)

The issue of whether (2) judges in post-conviction relief actions may blatantly refuse and decline to rule on motions which are filed by indigent pro se applicants is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

The issue of whether (3) the allowance of agents of the South Carolina Attorney General's office to make the ultimate determination as to whether indigent, pro se, post-conviction relief applicants shall receive appointment of counsel or not equates to a judicial ruling as to whether or not genuine issues of material fact exist in a case or not actions is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

See e.g., Woelhoff v State, 531 NW2d 566 (1995) ("Trial court's duty of determining whether counsel should be appointed to represent defendant who petitions for postconviction relief requires trial court to determine whether substantial issue of law or fact may exist."); State v McClary, 876 NW2d 29 (2016) ("Court could not rule on defendant's postconviction motion to correct an illegal sentence without first addressing his requests for appointed counsel; it was defendant's first postconviction proceeding, and his motion, viewed in the light most favorable to him, was not frivolous."); State v McClary, 876 NW2d 29 (2016) ("While the Uniform Postconviction Procedure Act places the initial duty on the clerk of court to notify a convict who petitions for post-conviction relief without assistance of counsel, about the procedure to obtain counsel if indigent, the trial court is delegated the ultimate duty to determine if counsel shall be appointed.")

The issue of whether (4) the Administrative Order issued by Former Chief Justice Jean Hoefer Toal, should be rescinded or amended on the basis of ambiguity, vagueness, and violation of the separation of powers doctrine is one of public importance as it involves both the conduct of agents within Office of the South Carolina Attorney General, circuit court judges, a Former Chief Justice, an Administrative Order which is still relied upon which was put in place by this Former Chief Justice the separation of powers doctrine existing within the South Carolina Constitution, and Due Process as guaranteed by both the United States Constitution as well as the South Carolina Constitution.

See e.g., South Carolina Public Interest Foundation v Wilson, 437 S.C. 334, 878 SE2d 891 (2022) (The South Carolina Supreme Court applying the public importance exception to the attorney general's actions.); S.C. Constitution Art. I, §8 – Separation of Powers ("In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.")

The action in which Appellant seeks declaratory judgment and prospective injunctive relief involves issues of public interest and of public importance; thus, future guidance is needed and a declaration and adjudication of the matters thereof will promote judicial economy as the matters are repetitive and question the propriety of conduct, policies and procedures implemented within South Carolina's post-conviction relief actions.

S.C. Code Ann. §30-4-20(a) defines a public body in South Carolina. S.C. Code Ann. §30-4-20(a), in relevant portion, states as follows:

> (a) "Public Body" means any department of th estate, a majority of directors or their representatives of departments within the executive branch of state government as outlined i Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivisión of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known ...")

See also, S.C. Code Ann. §1-1-110

> ("The executive department of this State is hereby declared to consist of the following officers, that is to say: The ... Attorney General")

S.C. Code Ann. §1-7-50

> "In the event that any officer or employee of the State, or of any political subdivisión thereof, be prosecuted in any action, civil or criminal, or special proceeding in the courts of this State, or of the United States, by reason of any act done or omitted in good faith in the course of his employment, it is made the duty of the Attorney

> General... to appear and defend the action or proceeding in his behalf. Such appearance may be by any member of his staff or by any solicitor or assistant solicitor when directed to do so by the Attorney General."

District Attorney's Office for Third Judicial Dist. v Osborne, 557 U.S. 521, 129 Sct 2308 (2009) ("Although states are under no obligation to provide mechanisms for postconviction relief, when they chose to do so, the procedures they employ must comport with the demands of the Due Process Clause. See Evitts v Lucey, 469 U.S. 387, 393, 105 Sct 830 (1985), by providing litigants with fair opportunity to assert their state-created rights."); Zinermon v Burch, 494 U.S. 113, 110 Sct 975 (1990) ("The Due Process Clause [ ] encompasses [ ] a guarantee of fair procedure."); United States v Hall, 551 F3d 257, 272 (4th Cir. 2009) (" '[T]he inability of a [PCR applicant] adequately to prepare his case skews the fairness of the entire system.' ")

The reliance upon Former Chief Justice Jean Hoefer Toal's Administrative Order and further unwritten policies and procedures which place the ministerial duties and judicial duties and quasi-judicial duties of the judges and clerks of courts into to the hands of the Office of the Attorney General, whom also serves as the adversary party in post-conviction relief actions, amounts to improper gatekeeping, virtually swallows the Rules as set forth in the Uniform Post-Conviction Relief Act as well as the fundamental guarantees of Due Process, Equal Protection, and the Separation of Powers.

In addition, adjudication of the issues in this case globally would bring clarity, remove several uncertainties, and would also serve in the interest of both judicial economy and litigation harm, as adjudication of all matters thereof will significantly remove the possibility that Appellant and others similarly situated, will be prevented from having unjust prefiling injunctions (Maxton Orders, *See* In re Maxton, 325 S.C. 3, 478 SE2d 679 (1996)) issued upon them by the courts – simply as a result of Appellant and others similarly situated continuously and diligently pursuing their rights to be heard and have matters adjudicated upon. This would also significantly decrease other pocketbook injuries as well.

II. Action not raised by way of an action for PCR or present action for PCR

The trial court also concluded that Appellant lacked standing because he "fails to meet th[e] standards [to establish standing] because he has not raised [his issues] pursuant to a current application for post-conviction relief." (Order of Dismissal pg 4; ROA pg. _____) The trial court further reasons that "Appellant's] prior action has ended[, and t]herefore, he has no 'injury in fact', and even if he did, it would not be 'likely' to be 'redressed by a favorable decision..." (Order of Dismissal pg. 4; ROA pg. _____)

His prior action has ended." (Order of Dismissal pg. 4; ROA pg. _____). The trial court assumes the notion that the Uniform Post-Conviction Relief Act comprehends and take place of Appellant's action seeking declaratory judgment and prospective injunctive relief. However, this is an error.

The circuit court reliance on the PCR Act is misplaced. It erroneously relied upon Subsection S.C. Code Ann. §17-27-20(B) of the Uniform Post-Conviction Relief Procedures Act in making this determination. S.C. Code Ann. §17-27-20(B) provides as follows:

> (B) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

S.C. Code Ann. §17-27-20(B)

However to grasp a complete understanding of the concept and subject matter of which is cognizable within the Act and which it comprehends, one must look to the entirety of Subsection S.C. Ann. §17-27-20 of the Act. This subsection provides as follows:

S.C. Ann. §17-27-20, titled 'Persons who may institute proceeding; exclusiveness of remedy.

> (A) Any person who has been convicted of, or sentenced for, a crime and who claims:
>
> (1) *That the conviction or the sentence* was in violation of the Constitution of the United States or the Constitution or laws of this State;
>
> (2) That the court was without jurisdiction to impose *sentence*;
>
> (3) *That the sentence* exceeds the maximum authorized by law;
>
> (4) That there exists evidence of material facts, not previously presented and heard, that requires *vacation of the conviction or sentence* in the interest of justice;
>
> (5) *That his sentence* has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
>
> (6) *That the conviction or sentence* is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.
>
> (B) This remedy is not a substitute for nor does it affect any remedy incident to the

proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, *it comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.*

As Appellant will discuss more throughout his brief, the trial court failed to realize that the Uniform Post-Conviction Relief Act only "comprehends and takes the place of all other common law, statutory or other remedies heretofore available for ***challenging the validity of the conviction or sentence***." In other words, the PCR Act is reserved for collateral challenges to a conviction or sentence. In fact, it is the exclusive remedy for mounting such challenges.

PCR Court's Lack of Subject Matter Jurisdiction

The Uniform Post-Conviction Relief Act has exclusive jurisdiction of cases wherein persons seek to mount collateral attacks against their ***conviction or sentence*** under *any* theory. See Carpenter v South Carolina Department of Corrections, 431 S.C. 512, 848 SE2d 346 (2020).

S.C. Code Ann. §17-27-10 – This chapter may be cited as the Uniform Post-Conviction Procedure Act.

S.C. Ann. §17-27-20, titled 'Persons who may institute proceeding; exclusiveness of remedy.

(A) Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) *That the conviction or the sentence* was in violation of the Constitution of the United States or the Constitution or laws of this State;

(2) That the court was without jurisdiction to impose *sentence*;

(3) *That the sentence* exceeds the maximum authorized by law;

(4) That there exists evidence of material facts, not previously presented and heard, that requires *vacation of the conviction or sentence* in the interest of justice;

(5) *That his sentence* has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(6) *That the conviction or sentence* is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

(B) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, *it comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.*

Jones v State, 440 S.C. 14, 889 SE2d 590 (2023) ("In a post-conviction relief proceeding, a defendant collaterally attacks his conviction and may raise any claims of constitutional violations *relating to his conviction.*") (emphasis added); ("Person who has been convicted of a crime can initiate a post-conviction relief proceeding when he alleges his *conviction or sentence* violates either the United States Constitution or South Carolina Constitution.") (emphasis added) id.; (explaining that the defendant properly chose the avenue of a post-conviction relief application when sought to challenge the constitutionality of a statute which was *related to his confinement*) id.

It is clear that any expectancy that Appellant would raise his issues in the post-conviction relief forum would be in proper, as the Uniform Post-Conviction Relief Act does not encompass such claims because Appellant's complaint does not seek to mount any challenge regarding the subject matter of his conviction nor sentence.

The procedural rules should not be used nor construed to set a trap for the Appellant. *See* In re November 4, 2008 Bluffton Town Council Election, 385 S.C. 632, 686 SE2d 683 (2009). However, the circuit court's interpretation of §17-27-20(B) has did just that. Its interpretation, coupled with the fact that Appellant actually did - out of an abundance of caution - raise his claims pursuant to §17-27-20(B) during the 2019 PCR proceeding, did raise his claims in accordance with Rule 243(c), SCACR, and did attempt to raise his claims in the original jurisdiction of the South Carolina Supreme Court pursuant to Rule 245, SCACR, all together ping ponged Appellant from court-to-court and Appellant has been trapped by way of procedural rules and the circuit courts' interpretations thereof.

See Rule 57, SCRCP ("The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate.") Appellant's case is certainly one in which it is appropriate.

Furthermore, ("Currently, [i]n South Carolina, 'subject matter jurisdiction' refers to the court's power to hear and determine cases of the general class to which the proceedings in question belong.' ") Rivers v Smith, ___ S.C. ___, ___ SE2d ___(February 19, 2025), Opinion No. 28260 S.C. Supr. Ct., 2025 WL 542848. (citing *Williams v Jeffcoat*, 444 S.C. 224, 239, 906 SE2d 588, 596 (2024)

("Recently, [ ] the Court has corrected old case law which imprecisely described certain procedural and substantive rules as questions of subject matter jurisdiction.") id.

PCR Act's Discretionary Review - vs -Declaratory Judgment Act's Appeal of Right

Appellant would further show, for indulgence, that the PCR Act carries with it only discretionary review from the appellate court. However, there exists an appeal of right within the Declaratory Judgment Act. This important distinction also provides further reasoning why the avenue of PCR is an improper forum for bringing such claims.

See Poston v State, 339 S.C. 37, 528 SE2d 422 (2009) (A petition for a writ of certiorari to the Court of Appeals is a discretionary appeal, not an appeal to which a defendant is entitled as a matter of right.") (overruled on other grounds by *Douglas v State*, 369 S.C. 213, 631 SE2d 542 (2006));

But see S.C. Code Ann. §15-53-110 – Review of Declaratory Judgments, which provides as follows:

> ("All orders, judgments and decrees under this chapter may be reviewed as other orders, judgments and decrees.")

See also, Rule 201, SCACR – Right To Appeal, which provides as follows:

> "(a) Judgments, Orders, and Decisions Subject to Appeal. Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The procedure for petitioning for a writ of certiorari to review final judgments in post-conviction relief cases is provided by Rule 243[, SCACR]. Further, the review of decisions of the State Board of Canvassers in election cases shall be by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270."

Rule 201, SCACR, specifically provides that a person may appeal from any final judgment or appealable order or decision by simply filing an appeal to the appellate courts. However, this Rule also makes the important distinction with regard to final judgments in post-conviction relief cases and decisions of the State Board of Canvassers in election cases. Specifically, the final judgments and decisions which are issues in those two type cases may be heard only by way of discretionary review by filing a petition for a writ of certiorari.

See, Hodges v Rainey, 341 S.C. 79, 533 SE2d 578 (2000) ("The canon of construction 'expressio unius est exclusion alterius' or 'inclusio unius est exclusion alterius' holds that 'to express or include one thing implies the exclusion of another, or of the alternative.' "); Poston v State, 339 S.C. 37, 528 SE2d 422 (2009) (A petition for a writ of certiorari to the Court of Appeals is a discretionary appeal, not an appeal to which a defendant is entitled as a matter of right.") (overruled on other grounds by *Douglas v State*, 369 S.C. 213, 631 SE2d 542 (2006));

This certainly provides further reasoning why the avenue of PCR is an improper forum for bringing such claims as Appellant has brought before the court via a Declaratory Judgment action. Importantly, the fact that Appellant has come before this Court via the case at bar by way of Appeal of Right is quite telling. Appellant is allowed to be heard in this matter of public interest and public importance without being constrained to only the hopes of the acceptance of review by filing a petition for a writ of certiorari.

B.
Lack of Authority to Issue Statewide Scheduling Order or Overrule the Rules and Orders of the Supreme Court

The trial court further concluded that Appellant lacked standing because "Appellant's] prior action has ended[, and t]herefore, he has no 'injury in fact', and even if he did, it would not be 'likely' to be 'redressed by a favorable decision…" (Order of Dismissal pg. 4; ROA pg. _____)

Appellant injury in fact is likely to be redressed by a favorable decision in many ways which he will mention throughout this brief. Appellant's prior and ongoing financial injuries ("pocketbook injuries") could be redressed. Appellant has accumulated significant debt to the South Carolina Department of Corrections due to his continually having to come before the court seeking to be heard as to even his "first" full, one bite of the apple – as is provided for within post-conviction relief matters. Appellant has yet to receive a full and fair bite. Appellant's debt continues as he also does continue to be affected by those same actions of the defendants. Appellant has also initiated another post-conviction relief action with the Cherokee County Common Pleas Court. MOAC Mall Holdings, LLC v Transform Holdco LLC, 598 U.S. 288, 143 Sct 927 (2023) (Case remains "live" as long as the parties have a concrete interest, however small, in the outcome of the litigation.")

The trial court bases this subsidiary determination on the notion that Appellant sought that the trial court overrule the Supreme Court's rules, the Supreme Court's Administrative orders, and that the trial court would issue statewide scheduling orders in post-conviction relief cases. The trial court also assumed the position that Appellant sought that it would compel the Respondents to disregard the rules and orders of the Supreme Court. However, the trial court's reasoning in which it based this subsidiary determination – was actually born of a fallacious reasoning and of a reframing of Appellant's arguments.

Albeit the trial court is right in as so much as it concludes that it lacks authority to overrule the Supreme Court's rules, the Supreme Court's Administrative orders, and to attempt to issue statewide scheduling orders in post-conviction relief cases. Appellant would also agree that the trial court is unable to compel the Respondents to disregard the rules and orders of the Supreme Court.

However, the trial court's fallacious reasoning is in-fact presents a red herring as Appellant never requested that the trial court overrule the Supreme Court's rules, the Supreme Court's Administrative orders, that it would issue statewide scheduling orders in post-conviction relief cases, nor that it would compel the Respondents to disregard the rules and orders of the Supreme Court.

Appellant's complaint is for a declaratory judgment and further is for prospective injunctive relief should the court deem the conduct of the Respondent, and the processes and procedures implicated by the State's PCR courts, and Former Chief Justice Jean Hoefer Toal's administrative order – which Appellant complains of as unconstitutional.

The trial court reframed Appellant's arguments and thus construed Appellant's complaint as one of a petition for mandamus. As a matter of fact, notice should be given the fact that the circuit court's order declines to mention anywhere in its order that the action was one brought under the Uniform Declaratory Judgment Act. Nor does the order even set forth the standard or any other related authority for the Declaratory Judgment Act. This court does have subject matter jurisdiction under the Uniform Declaratory Judgments Act (S.C. Code Ann. §15-53-10) to declare the constitutionality of those matters Appellant has brought to the trial court's attention.

S.C. Code Ann. §15-53-20. Courts of record may declare rights, status and other legal relations.

> ("Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the forcé and effect of a final judgment or decree.")

The trial court did also have subject matter jurisdiction to provide prospective injunctive relief had the court deemed the conduct of the Respondent, and the processes and procedures implicated by the State's PCR courts, and Former Chief Justice Jean Hoefer Toal's administrative order – which Appellant complains of as unconstitutional.

S.C. Code Ann. §15-53-120

> "Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated

by the declaratory judgment or decree to show cause why further relief should not be granted forthwith."

Furthermore the Act should be liberally administered and Appellant should not be denied when he has brought his complaint to the court and seeks relief from uncertainty and insecurity with respect to his rights and the propriety of PCR actions as this is also an issue of public interest and of public concern.

S.C. Code Ann. §15-53-130

> "This chapter is declared to be remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations. It is to be liberally construed and administered."

Appellant has also sought to commence another post-conviction relief action with the Cherokee County Common Pleas Court, and as such, remains in imminent danger of the same conduct of the Respondents, which he complains of.

ISSUE VI Did The Circuit Court Err In Determining That Appellant Failed To State A Cause Of Action Against Any of The Defendants In His Action Seeking Declaratory Judgment And Prospective Injunctive Relief?

The trial court based its conclusion that Appellant failed to state a cause of action on two subsidiary findings: (1) barred by res judicata, and (2) barred by any applicable statute of limitations.

A

Res Judicata

Riedman Corp. Greenville Steel Structures, Inc., 308 S.C. 467, 469, 419 SE2d 217, 218 (1992) ("To establish res judicata, three elements must be shown: (1) identity of the parties; (2) identity of the subject matter, and (3) adjudication of the issue in the former suit.")

Sealy v Dodge, 289 S.C. 543, 545, 347 SE2d 504, 505 (1986) (In order to establish a plea of res judicata, three elements must be established: (1) identity of parties; (2) identity of subject matter; and (3) adjudication of the issue in the former suit."); Garris v Governing Bd. Of South Carolina Reinsurance Facility, 333 S.C. 432, 511 SE2d 48 (1998) (The South Carolina Supreme Court emphasizes "[r]es judicata or claim preclusion, [ ] is not always an ironclad bar to a later lawsuit."); Providence Hall Assocs. v Wells Fargo Bank, N.A., 816 F3d 273, 276 (4th Cir. 2016) (stating de novo standard of review for dismissals based on res judicata)

The trial concluded Appellant's action barred by res judicata on the notion that Appellant "either raised or could have raised [his] issues in the 2019 case he references, [and thus,] he is barred now from asserting them [now]." (Order of Dismissal pg. 5; ROA pg. _____)

In addressing res judicata at the hearing on the Respondents' motions to dismiss, Appellant stated, "This issue has not been [adjudicated] in the PCR [context] and the reason why is because PCR is the way you challenge the conviction." (Tr. p. 17; ROA pg. _____). Appellant emphasized that he was not challenging his conviction but was rather seeking a declaration from the court and prospective injunctive relief. (Tr. pgs 22, ; ROA pg. _____).

As will be discussed elsewhere in this brief, Appellant questions also the post-conviction relief court's subject matter jurisdiction to hear such a claim.

Prior Attempt To Raise Issues In PCR Forum

Jeter v State, PCR Case No. 2019-CP-11-00457 (Cherokee County Common Pleas)

Notwithstanding, Appellant has in-fact attempted to bring his matters before the post-conviction court. Indulgence should be given to the fact that Appellant's issues did not actually arise until his 2019 PCR action was dismissed. Appellant filed motions in his 2019 PCR action and these motions were never addressed and no order adjudicating upon these motions was ever issued. Seeking to obtain a ruling on these motions, Appellant filed objections and motions pursuant to Rule 59(e), SCRCP. (See the post-trial motions filed in *Jeter v State*, Case No. 2019-CP-11-00457: Motion To Alter Or Amend Judgment, (Pgs. 186-210 of Appellant's Exhibits A-R) (ROA Pgs. _____); Supplemental Motion To Alter or Amend Judgment, (Pgs. 213-223 of Appellant's Exhibits A-R) (ROA Pgs. _____);and Additional Supplemental Motion To Alter or Amend Judgment, (Pgs. 224-227 of Appellant's Exhibits A-R) (ROA Pg. _____); See also Appellant's Objection (Pgs. 241-243 of Appellant's Exhibits A-R) (ROA Pg. _____) See also the Form 4 Order denying the Appellant's post-trial motions (Pg. 59 of Appellant's Exhibits A-R) (ROA Pg. _____)

Wilder Corp. v Wilke, 330 S.C. 71, 77, 497 SE2d 731, 734 (1998) (stating, post-trial motions "are used to preserve [issues] that have been raised to the trial court but [were not] ruled upon by it."); Humbert v State, 345 S.C. 332, 337, 548 SE2d 862, 865 (2001) (stating the failure to file a Rule 59(e) motion as to an issue not addressed by the PCR court leaves the issue unpreserved); South Carolina Dep't of Transp. v First Carolina Corp. of S.C., 372 S.C. 295, 641 SE2d 903 (2007) ("It is a litigant's duty to bring to the trial court's attention any perceived error ...")

Appellant was most troubled by the PCR court's failure to acknowledge and adjudicate upon his filed motions for appointment of counsel (Pgs. 125-127; 130-132 of Appellant's Exhibits A-R) (ROA Pgs. _____; _____) and its failure to acknowledge Appellant's motion for discovery and requests for assistance with discovery. (Pgs. 310-319 of Appellant's Exhibits A-R) (ROA Pgs. _____)

See S.C. Code Ann. § 17-27-150, 'Discovery in post-conviction relief proceeding', which provides as follows:

S.C. Code Ann. § 17-27-150(A)

> "A party in a noncapital post-conviction relief proceeding shall be entitled to invoke the process of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that, the judge *in the exercise of his discretion* and for good cause shown grants leave to do so, *but not otherwise*." (emphasis added).

See also, as S.C. Code Ann. § 17-27-150(A), further provides:

S.C. Code Ann. § 17-27-150(A)

> "If necessary for the effective utilization of discovery procedures, counsel may be appointed by the judge for an applicant who qualifies for appointment pursuant to Section 17-27-60 or similar applicable provisions of law."

Appellant was also extremely troubled by the PCR court's seemingly bias toward his pleadings, the PCR court's rapid response time in reacting to the Office of Attorney General's filings, and the cause and timing of the PCR court's ultimate decision to dismiss Appellant's PCR application. ROA pgs. _____).

See Brown v Lexington County, South Carolina, C/A No. 3:17-cv-1426-MBS (D.S.C. 2018), 2018 WL 1556189 ("[F]undamentally, a court is entitled to have before it a proper record, sufficiently developed through discovery proceedings, to accurately assess any claim[.]") (citing *Al Shimari v CACI Intern, Inc.*, 679 F3d 205, 220 (4th Cir. 2012)

Important to also realize and keep in mind, is the fact that South Carolina does not allow prisoners to exercise the South Carolina Freedom of Information Act. Any FOIA request which is submitted by "individuals serving a sentence of imprisonment" are denied.

See S.C. Code Ann. § 30-4-30, 'Right to inspect or copy public records', which provides as follows:

S.C. Code Ann. § 30-4-30(A)(1)

> "A person has a right to inspect, copy, or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, or

other state and federal laws, in accordance with reasonable rules concerning time and place of access. This right does not extend to individuals serving a sentence of imprisonment in a state or county correctional facility in this State, in another state, or in a federal correctional facility; however, this may not be construed to prevent those individuals from exercising their constitutionally protected rights, including, but not limited to , their right to call for evidence in their favor in a criminal prosecution under the South Carolina Rules of Criminal Procedure."

See also, Rule 210(h), SCACR explaining that no matter will be considered which is not in the record. See also, Shinn v Ramirez, 596 U.S. 366, 142 Sct 1718 (2022) (explaining that when a PCR applicant's case proceeds to the federal habeas court by way of a §2254, the federal habeas court will not consider any evidence which is not in the state court record of that particular PCR action) Cullen v Pinholster, 563 U.S. 170, 181 (2011) (explaining that "review under § 2254(d)(1) is limited to the record that was before the court that adjudicated the claim on the merits.")

The Appellant, being confused and upset as to how this could possibly be happening seemingly as business as usual, he began to submit inquiries to the Cherokee County Clerk of Court as well as to other clerks of courts in the state. Appellant also began to submit inquiries to the South Carolina Office of Court Administration and to the South Carolina Supreme Court. (Pgs.100-106, 108 of Appellant's Exhibits A-R) (ROA Pgs. _____); See also (Pgs.244-250 of Appellant's Exhibits A-R) (ROA Pgs. _____);

Appellant began to question the propriety of the conduct of the PCR judges, the clerk of court and the agents of the attorney general's office and Office of the Attorney General as a whole.

Through diligent research and attempts to put the puzzle together, Appellant ultimately became aware of an Administrative Order which was issued by Former Chief Justice Jean Hoefer Toal on October 6, 2008, titled, "Appointment of Counsel in Post-Conviction Relief Cases Before the Circuit Court". (Pgs. 33 & 34 of Appellant's Exhibits A-R) (ROA Pgs. _____)

This Administrative Order [3] provides, in pertinent part:

If the Attorney General opposes the appointment of counsel for an indigent applicant, counsel will only be appointed as follows:

(1) If the Attorney General asserts that the application is barred as being successive or as being untimely under the statute of limitations, [S.C. Code Ann. §17-27-45] counsel will not be appointed except upon written order of the Chief Judge for Administrative Purposes for the Court of Common Pleas in the circuit. In these cases, the Chief Judge will insure that counsel is only appointed for an indigent

[3] *See* https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=477

applicant when the facts raise a material issue regarding the applicability of the rule forbidding successive applications or the statute of limitations. Cf. *Gary v State*, 347 S.C. 627, 557 SE2d 662 (2001) (statute of limitations)

(2) In all other cases in which the State opposes the appointment of counsel, counsel will only be appointed upon written order of a circuit court judge under the standard contained in Rule 71.1, SCRCP.

Normally issues may not be raised on a Rule 59(e) motion. *See* Stevens v Wilkinson of S.C., Inc. v City of Columbia, 409 S.C. 563, 567, 762 SE2d 693, 695 (2014) ("[A] party cannot use a Rule 59(e) motion to advance an issue the party could have raised to the circuit court prior to judgment but did not."); Williams v Reed, 604 U.S. ___, 145 Sct 465, No. 23-191, (February 21, 2025) ("A procedural due process claim is not complete when the deprivation occurs; rather, the claim is complete only when the State fails to provide due process.")

However, in Appellant's circumstance, it was proper to raise the issues pursuant to and within Appellant's Rule 59(e) motion *after* the 2019 PCR court issued its final decision dismissing the case.

Appellant had no way of knowing that the 2019 PCR court would (1) not adjudicate upon motions which were filed in the case (Pgs. 123-147; 187 of Appellant's Exhibits A-R) (ROA Pgs. _____); (2) not make an independent assessment and ruling as to the appointment of counsel (Pgs. 42; 54; 125-127; 130-132 of Appellant's Exhibits A-R) (ROA Pgs. _____); (3) allow the adversary to tacitly determine whether or not the case presented genuine issues of material facts (Pgs. 93-95; 96-98 of Appellant's Exhibits A-R) (ROA Pgs. _____); and (4) not address all issues raised due to the clerk of court's reliance upon the Office of Attorney General for scheduling, inter alia. (Pgs. 73-79, 97-98, 93-98, 230-231, 238-239, 241-243 of Appellant's Exhibits A-R) (ROA Pgs. _____

_____).

Thus, Appellant did file post-trial motions seeking to bring these matters to the 2019 PCR court's attention and to receive an adjudication with regard to the matters and concerns. (See the post-trial motions filed in *Jeter v State*, Case No. 2019-CP-11-00457: Motion To Alter Or Amend Judgment, (Pgs. 186-210 of Appellant's Exhibits A-R) (ROA Pgs. _____); Supplemental Motion To Alter or Amend Judgment, (Pgs. 213-223 of Appellant's Exhibits A-R) (ROA Pgs. _____); and Additional Supplemental Motion To Alter or Amend Judgment, (Pgs. 224-227 of Appellant's Exhibits A-R) (ROA Pg. _____); See also Appellant's Objection (Pgs. 241-243 of Appellant's Exhibits A-R) (ROA Pgs. _____);

Texas v United States, 523 U.S. 296, 300, 118 Sct 1257 (1998) ("A claim is not ripe for adjudication if it rests upon 'contingent future events that may not occur as anticipated, or indeed

may not occur at all.' ") (quoting Thomas v Union Carbide Agric. Prods. Co., 473 U.S. 568, 580-81, 105 Sct 3325 (1985); The ripeness doctrine addresses "the appropriate timing of judicial intervention" Cooksey v Furtrell, 721 F3d 226, 240 (4th Cir. 2013) (internal quotation marks omitted), and "prevents judicial consideration of issues until controversy is presented in 'clean-cut and concrete form'. " Miller v Brown, 462 F3d 312, 318-19 (4th Cir. 2006) (quoting *Rescue Army v Mun. Court of City of L.A.*, 331 U.S. 549, 584, 67 Sct 1409 (1947); Steves and Sons, Inc. v JELD-WEN, Inc., 988 F3d 690 (4th Cir. 2021) ("A claim is fit for adjudication when it is not dependent on future uncertainties."); Corner Post, Inc. v Board of Governors of Federal Reserve System, 603 U.S. 799, 144 Sct 2440 (2024) ("[A] cause of action does not become complete and present ... until the plaintiff can file suit and obtain relief." (internal quotation marks omitted); id. ([A] cause of action accrues on [the] date that damage is sustained and not [the] date when causes are set in motion which ultimately produce injury.") (alterations in original) (internal quotation marks omitted); Doe v Va. Dep't of State Police, 713 F3d 745, 758 (4th Cir. 2013) ("A case is not ripe for judicial determination if the Plaintiff has not yet suffered injury and any future impact remains wholly speculative.") (citation and internal quotation marks omitted); Spokeo, Inc v Robins, 578 U.S. 330, 340, 136 Sct1540 (2016) ("a 'concrete' injury must also be 'de facto', meaning[-] it must actually exist.")

Appellant properly raised his issued within his Rule 59(e) motion(s) as soon as the matters and injuries therefrom occurred. (See the post-trial motions filed in *Jeter v State*, Case No. 2019-CP-11-00457: Motion To Alter Or Amend Judgment, (Pgs. 186-210 of Appellant's Exhibits A-R) (ROA Pgs. _____); Supplemental Motion To Alter or Amend Judgment, (Pgs. 213-223 of Appellant's Exhibits A-R) (ROA Pgs. _____);and Additional Supplemental Motion To Alter or Amend Judgment, (Pgs. 224-227 of Appellant's Exhibits A-R) (ROA Pgs. _____); See also Appellant's Objection (Pgs. 241-243 of Appellant's Exhibits A-R) (ROA Pg. _____);

The 2019 PCR court thus was presented with these issues and thus were put on notice of the issues and concerns. The PCR court also had a ministerial duty to adjudicate upon the issues, however, the 2019 PCR court failed to adjudicate upon them.

The Respondents collaboratively engaged in the fraudulent concealment of the facts which were the basis of Appellant's complaint (the justiciable controversy/injury-in-fact). The Respondents remained intentionally vague in responding to Appellant's inquiries, would strategically construe Appellant's inquiries as of seeking legal advice, or would simply not answer Appellant's inquiries at all. (Pgs.100-106, 108 of Appellant's Exhibits A-R) (ROA Pgs. _____); See also (Pgs.244-250 of Appellant's Exhibits A-R) (ROA Pgs. _____);

The conduct of the Respondents were not based on any written policies and procedures, but were rather unwritten. The closest indication that Appellant come across at getting at the truth of the matters and of what was actually happening was when Appellant discovered the Administrative Order of Former Chief Justice Jean Hoefer Toal.

Interestingly, due to the circumstances and the nature of the issues brought before the court – Appellant questions if it even would have been proper for the 2019 PCR court to make a ruling as to the issues. This would have also been improper as no judge should be a judge in its own

case against itself. See Williams v Pennsylvania, 579 U.S. 11, 136 Sct 1899 (2016) ("[An] objective risk of bias is reflected in the due process maxim that "no man can be a judge in his own case and not man is permitted to try cases where he has an interest in the outcome.") (citing *In re Murchison*, 349 U.S. 133, 136, 75 Sct 623 (1955) The issues raised concerned actions of the 2019 PCR court in total (judges, clerk of court, and the Office of the South Carolina Attorney General and its assistant attorney generals (the adversary)). *See also,* State v Bruce, 412 S.C. 504, 772 SE2d 753 (2015) ("Trial courts cannot sit in judgment of their own rulings and proceedings.")

Albeit the 2019 PCR court did in-fact acknowledge the fact the Appellant raised his issues by allowing this to be reflected within its "Mother Hubbard" Form 4 Order denying Appellant's Rule 59(e) motion - this does not equate to a ruling on those issues, but rather simply equates as a reflection that Appellant did raise the issues, that they were acknowledged, and that they were preserved for review should the appellate court elect to hear those issues.

See, Zurich Am. Ins. Co. v Tolbert, 378 S.C. 493, 500, 662 SE2d 606, 610 (2008) (holding an issue preserved for appellate review when the circuit court's order failed to address an issue, the appellants raised the issue in a Rule 59(e) motion, and the circuit court still did not rule on it), aff'd 387 S.C. 280, 692 SE2d 523 (2010); *See also, e.g.,*Palmetto Wildlife Extractors, LLC v Lundy, 435 S.C. 690, 869 SE2d 859 (2024) ("Following the circuit court's order [adjudicating the case, the appellant] filed a Rule 59(e), SCRCP, motion[.] The circuit court's order denied the motion without further explanation.")

It is clear that, "[i]f the [appellant] has raised an issue in the lower court, but the court fails to rule upon it, the [appellant] must file a motion to alter or amend the judgment in order to preserve the issue for appellate review." I'On, L.L.C. v Town of Mt. Pleasant, 338 S.C. 406, 422, 526 SE2d 716, 724 (2000). "Once [an] issue has been properly raised by a Rule 59(e) motion, it appears that it is preserved and a second motion is not required if the trial court does not specifically rule on the issue so raised." Coward Hund Constr. Co. v Ball Corp., 336 S.C. 1, 4, 518 SE2d 56, 58 (1999) (quoting James F. Flanagan, South Carolina Civil Procedure 475 (2d. ed. 1996)). " '[T]he Supreme Court identifies two ways to preserve the issue: "a ruling by the trial judge or a post-trial motion." The language implies that a properly requested ruling under Rule 59 is sufficient without a specific judicial decision on the matter.' " Pye v Est. of Fox, 369 S.C. 555, 566, 633 SE2d 505, 511 (2006) (footnotes omitted by court) (quoting *Flanagan, South Carolina Civil Procedure* 475-76), overruled on other grounds by Paradis v Charleston Cnty. Sch. Dist. 433 S.C. 562, 861 SE2d 774 (2021).

See also Zurich Am. Ins. Co. Tolbert, 378 S.C. 493, 500, 662 SE2d 606, 610 (2008) (holding an issue preserved for appellate review when the circuit court's order failed to address an issue, the appellants raised the issue in a Rule 59(e) motion, and the circuit court still did not rule on it), aff'd 387 S.C. 280, 692 SE2d 523 (2010)

Res judicata mandates that issues be adjudicated on the merits for it to apply. In Appellant's circumstance there was no ruling on the merits. *See* Plott v Justin Enterprises, 374 S.C. 504, 649 SE2d 92 (2007) ("[A] judgment is not res judicata as to any matters which a court expressly refused to determine.") (citing *47 Am.Jur.2d Judgments §495*, at 56 (2006). Simply because

Appellant raised the issues during the PCR stage within his Rule 59(e), SCRCP, motion, this alone does not equate to a ruling on the merits of those issues.

Prior Attempt To Raise Issues In PCR Forum - On Appeal of Dismissal of PCR
Jeter v State, App. Case No. App. Case No. 2022-000750 (South Carolina Supreme Court)

Appellant did also raise these issues to the South Carolina Supreme Court on appeal of the dismissal of the 2019 PCR action. (Pgs. 269-289 of Appellant's Exhibits A-R) (ROA Pgs. _____) However, the South Carolina Supreme Court declined to adjudicate and even acknowledge these issues as well. (ROA Pgs. _____); This is mostly because of two important factors. (1) Appellant was coming to the South Carolina Supreme Court on an appeal of a PCR action by way of a petition for a writ of certiorari. This is a discretionary appeal. This is an appeal that the South Carolina Supreme Court has an option to hear or not hear. This appeal concerns dismissals of actions seeking post-conviction relief. (2) As Appellant PCR action was dismissed on the basis of successiveness and the statute of limitations – Appellant was mandated to first provide the South Carolina Supreme Court an explanation pursuant to Rule 243(c), SCACR, so as to provide any explanation why successiveness and statute of limitations should not apply and why the South Carolina Supreme Court should hear his claims.

The Court must be mindful that Appellant was coming to the appellate court by way of an appeal of the dismissal of a post-conviction relief application. The Court must be mindful of the fact that the Uniform Post-Conviction Relief Procedure Act and consequently PCR proceedings only concern with issues which concern a PCR Applicant's challenge to his/her conviction or sentence, *not to challenges to the PCR process itself*).

Thus, at this juncture, the only thing the South Carolina Supreme Court is concerned with is reasons why *successiveness and statute of limitations should not apply to the* case. Thus, the South Carolina Supreme Court used its available discretion and declined to grant certiorari and hear these issues.

Notwithstanding this fact, Appellant did raise the issues to the South Carolina Supreme Court on appeal of the dismissal of his 2019 PCR action.

The South Carolina Supreme Court declined to grant certiorari to hear the issues, however, that did not equate to an adjudication and ruling on the merits of those issues. Thus this was not res judicata as to those issues.

See, Hambsch v U.S., 490 U.S. 1054, 109 Sct 1969 (1989) ("There are times when it is important to emphasize the fact that an order denying a petition for a writ of certiorari is not a ruling on the merits of any question presented by the petition.")

See also, Equality Foundation of Greater Cincinnati, Inc. v City of Cincinnati, 525 U.S. 943, 119 Sct 365 (1998) ("[T]he denial of a petition for a writ of certiorari is not a ruling on the merits. Sometimes such an order reflects nothing more than a conclusion that a particular case may not constitute an appropriate forum in which to decide a significant issue.") See also Brown v Texas,

522 U.S. 940, 942, 118 Sct 355 (1997) (stating the same); cf. Darr v Burford, 339 U.S. 200, 227, 70 Sct 587 (1950) (Frankfurter, J. dissenting) ("Nothing is more basic to the functioning of this Court than an understanding that denial of certiorari is occasioned by a variety of reasons which precludes the implication that were the case here the merits would go against the petitioner")

Res judicata mandates that issues be adjudicated on the merits for it to apply. In this circumstance there was no ruling on the merits. *See* Plott v Justin Enterprises, 374 S.C. 504, 649 SE2d 92 (2007) ("[A] judgment is not res judicata as to any matters which a court expressly refused to determine.") (citing *47 Am.Jur.2d Judgments §495*, at 56 (2006)

Besides as Appellant has made clear, the Uniform Post-Conviction Relief Procedure Act clearly informs exactly what matters PCR actions encompass. The Act does not encompass and allow PCR applicants to use the PCR Act to mount constitutional challenges to the PCR Act itself nor to any of the procedures, processes, policies, and administrative orders thereof. This is simply not the correct forum for making such challenges.

Al-Shabazz v State, 338 S.C. 354, 527 SE2d 742 (2002) ("[The Supreme Court of South Carolina] hold[s] that, aside from two non-collateral matters specifically listed in the PCR Act, PCR is a proper avenue of relief *only when the applicant mounts a collateral attack challenging the validity of his conviction or sentence* as authorized by Section 17-27-20(a).") (emphasis in original)

Also, ("The only exceptions to [this] holding are two non-collateral matters [which are] specifically listed in Section 17-27-20(a)(5): the claim that an applicant's sentence has expired and the claim that an applicant's probation, parole, or conditional release has been unlawfully revoked. [T]hese claims are non-collateral matters because neither constitutes *a challenge to the validity of the underlying conviction or sentence*.") (emphasis added) id.

Finklea v State, 273 S.C. 157, 255 SE2d 447 (1979) ("The substance of s17-27-20 is identical to the Uniform Act under which the Commissioners drafting that Act noted:

> The aim of this section is to bring together and consolidate into one simple statute all the remedies... which are at present available for challenging the validity of a Sentence of imprisonment. (emphasis added). 11 U.L.A., Post-Conviction Procedure Act, s1, p. 486.

Finklea (Implied Overruled on other grounds by *Brown v State*, 423 S.C. 56, 814 SE2d 146 (2018)

Simply put, the Uniform Declaratory Judgment Act is actually the correct forum for making such challenges. Appellant has been ping ponged from court to court seeking that his issues be heard. There is no other logical forum as any other is improper and is rather simply a Morton's Fork. [4] Appellant no longer wishes to impale himself on this Fork and this Court should not compel him to do so, as such illusory choice would only lead to further ping ponging.

The South Carolina Court of Appeals, in Carpenter v South Carolina Department of Corrections,431 S.C. 512, 848 SE2d 346 (2020), expressed that Carpenter's "appeal involve[d] appraisal of the framework under which an inmate may challenge the validity of his sentence and SCDC's interpretation and administration of that sentence.

Appellant's case is certainly distinguished from *Carpenter* as Appellant does not come via the forum allowed under the Declaratory Judgment Act seeking to challenge the validity of his sentence and SCDC's interpretation and administration of that sentence. Simply put, Appellant does not seek to challenge his conviction nor sentence via the Declaratory Judgment Act, thus Appellant claims a properly raised within this such forum.

Based on the plain meaning of the text within the Uniform Post-Conviction Relief Procedure Act and the Declaratory Judgment Act, the interplay between the two statutes can be best understood as creating two categories: (1) the PCR Act is reserved for and is the exclusive avenue for persons making challenges which specifically relate to the conviction or sentence, and (2) the Declaratory Judgment Act is available for all others. Appellant has been continuously ping ponged and without this understanding of the Court – he is again ping ponged only to the ends of a Catch-22 due to Sophie's Choice. [5]

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[4] "The expression Morton's Fork originates from a policy of tax collection devised by John Morton, Lord Chancellor of England in 1487, under the rule of Henry VII. His approach was that if a subject lived a life of luxury, then clearly he spent a lot of money and, therefore, had sufficient income to spare for the king. However, if the subject lived frugally, and did not display signs of wealth, then apparently he had substantial savings and could then afford to give it to the king. These arguments were the two prongs of the fork and regardless of whether the subject was rich or poor, he did not have a favorable choice." *Illinois Central R. Co. v Broussard*, 19 So3d 821 (Miss. Ct. App. 2009)

[5] Excellent 'Dear Scrivener' note, authored by Scott Moise, and published in the March 2011 edition of the South Carolina Lawyer, which provides great insight on the usage of the terms Catch-22, Hobson's Choice, Sophie's Choice, and Morton's Fork.

B

Barred by Statue of Limitations

The trial court also concluded that Appellant's "action is also time barred as to the conviction that was the subject of the 2019 application." (Order of Dismissal pg. 6; ROA pg. _____). Also, the trial court reasoned "this suit is also time barred under the PCR Act." (Order of Dismissal pg. 6; ROA pg. _____).

The trial court erroneously determines Appellant's action as time barred basis its notion that Appellant's action should be brought under the Uniform Post-Conviction Relief Procedure Act. This is evident as the trial court states, "The Uniform Post-Conviction Procedure Act takes the place of all other remedies to challenge the validity of a conviction or sentence." (Order of Dismissal pg. 6; ROA pg. _____).

The trial court further makes absolutely clear that this the PCR Act is what it basis its determination upon as it cited to S.C. Code Ann. §17-27-20(B), which provides as follows:

> "Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them."

The trial court further supports its determination on its further notion that Appellant's 2019 PCR application was filed untimely.

The basis in which the trial court made its determinations that the declaratory action was barred by the statute of limitations was erroneous basis as Appellant's complaint and his arguments in support thereof are in direct contradiction to the trial court's notion. Appellant has made extremely clear that he was not seeking to challenge his conviction nor sentence by way of the action, but rather was seeking a declaration as to the procedures, written and unwritten policies and Former Chief Justice Jean Toal's Administrative Order. (Tr. pgs. 17, 20, 27, ROA pgs. _____).The statute of limitations for bringing post-conviction relief actions are inapplicable in this case and circumstance as Appellant has not brought his action pursuant to an action seeking post-conviction relief.

Appellant did not file an application for post-conviction relief neither should applicant's application be construed as an application for post-conviction relief, nor should it be construed as an attempt to file such application. Therefore, the statute of limitations for post-conviction relief matters as set forth in S.C. Code Ann. § 17-27-45 of the PCR Act, is inapplicable to Appellant's action.

In addition, and to be clear, Appellant would even go so far as to argue that the PCR court does not have jurisdiction to hear Appellant's matters. Appellant would base his argument on two

different concepts: (1) that no person should be a judge in their own case against themselves, and (2) the Uniform Post-Conviction Relief Act only comprehends action whereby PCR applicants are challenging the validity or the conviction or sentence. (S.C. Code §17-27-20(B).

A

No Person Should Be A Judge In Their Own Case Against Themselves

Appellant's complaint sought to challenge the conduct and actions of post-conviction relief judges, clerks of courts, the Office of the South Carolina Attorney General and the agents thereof.

Should Appellant bring such natured complaint in the forum of his post-conviction relief action – the exact same post-conviction relief judges, clerk of court, and Office of the South Carolina Attorney General and the agents thereof – would inherently become the adjudicators, quasi-adjudicators and filers in the actions which are actually complaints against their selves. (See Tr. pgs. 16-23, 26, 26; ROA pgs. _____)

Williams v Pennsylvania, 579 U.S. 11, 136 Sct 1899 (2016) ("[An] objective risk of bias is reflected in the due process maxim that "no man can be a judge in his own case and not man is permitted to try cases where he has an interest in the outcome.") (citing *In re Murchison*, 349 U.S. 133, 136, 75 Sct 623 (1955).

It is clear that any expectancy that Appellant would raise his issues in the post-conviction relief forum would inherently result in bias, partiality and ultimately a denial of fundamental fairness as is guaranteed by the concepts of Due Process within United States Constitution and Constitution of South Carolina. See e.g. Appellant's attempts to raise his issues in this forum and the results thereof. (ROA. pgs. _____ ;Exhb A-R pgs. 186-227; 59)

B

PCR Court's Lack of Subject Matter Jurisdiction

The Uniform Post-Conviction Relief Act has exclusive jurisdiction of cases wherein persons seek to mount collateral attacks against their ***conviction or sentence*** under *any* theory.

S.C. Code Ann. §17-27-10 – This chapter may be cited as the Uniform Post-Conviction Procedure Act.

S.C. Code Ann. §17-27-20, titled 'Persons who may institute proceeding; exclusiveness of remedy.

(A) Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) *That the conviction or the sentence* was in violation of the Constitution of the United States or the Constitution or laws of this State;

(2) That the court was without jurisdiction to impose *sentence*;

(3) *That the sentence* exceeds the maximum authorized by law;

(4) That there exists evidence of material facts, not previously presented and heard, that requires *vacation of the conviction or sentence* in the interest of justice;

(5) *That his sentence* has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(6) *That the conviction or sentence* is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

(B) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, *it comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.*

S.C. Ann. §17-27-20 (emphasis added).

Jones v State, 440 S.C. 14, 889 SE2d 590 (2023) ("In a post-conviction relief proceeding, a defendant collaterally attacks his conviction and may raise any claims of constitutional violations *relating to his conviction*.") (emphasis added); ("Person who has been convicted of a crime can initiate a post-conviction relief proceeding when he alleges his *conviction or sentence* violates either the United States Constitution or South Carolina Constitution.") (*emphasis added*) id.; (explaining that the defendant properly chose the avenue of a post-conviction relief application when sought to challenge the constitutionality of a statute which was *related to his confinement*) id.

It is clear that any expectancy that Appellant would raise his issues in the post-conviction relief forum would be in proper, as the Uniform Post-Conviction Relief Act does not encompass such

claims because Appellant's complaint does not seek to mount any challenge regarding the subject matter of his conviction nor sentence.

See Ass'ad-Faltas v South Carolina, C/A No. 8:20-cv-008800-TLW-JDA (D.S.C. 2022), 2022 WL 837577, ("a claim which does not challenge the conviction or sentence, but rather concerns South Carolina's PCR procedure, is not [a] cognizable [post-conviction relief nor] habeas claim")

Notably, Ass'ad-Faltas, did in the alternative, attempt to challenge by way of a § 1983 suit. Her only demise was the fact that she failed to name the defendants personally – as the State of South Carolina is not a "person" subject to suit under § 1983. *See also*, Wilkinson v Dotson, 544 U.S. 74, 81-82 (2005) ("[A] state prisoner's § 1983 action is barred (absent prior invalidation) – no matter the relief sought (damages or equitable relief), no matter the target of the prisoner's suit [such as] state conduct leading to the conviction …) – if success in that action would necessarily demonstrate the invalidity of confinement or its duration.")

CONCLUSION

Because Appellant has no choice of an alternative forum and his action concerns fundamental rights, the sanctity of the guarantees of the South Carolina Constitution and United States Constitution, affect more than Appellant personally and are of public interest and of public importance – this Court should find in favor of Appellant. Boddie v Connecticut, 401 U.S. 371, 374, 91 Sct 780 (1971) ("[T]he ability to seek regularized resolution to conflicts is fundamental to an organized and cohesive society."); Moses v CashCall, Inc., 781 F3d 63 (4th Cir. 2015) ("[T]he unique circumstances of this case could give rise to … [a] 'procedural nightmare' and [a] lack of 'orderly administration of justice' ") (quoting *Nat'l Farmers Union Ins. Co. v Crow Tribe of Indians*, 471 U.S. 845, 856, 105 Sct 2447 (1985)

The Court in *Carpenter* expressed that it "outline[s] th[e] process [for which an inmate may challenge the validity of his sentence and SCDC's interpretation and administration of that sentence] in the hope that inmates may be able to avoid procedural ping pong of [those such] claims and undertake the most efficient and effective method to receive relief to which they may be eligible.") Carpenter v South Carolina Department of Corrections, 431 S.C. 512, 848 SE2d 346 (2020). This Court should use this opportunity to address this matter so as to allow this Court's precedent to distinguish Appellant's case and circumstance from *Carpenter* as Appellant should have never submitted to the procedural ping ponging he has had to endure.

Appellant prays this Court issue an order which finds that Appellant's action seeking declaratory judgment and prospective injunctive relief with regard to public bodies and public agents does qualify for the 'public importance' exception to standing. Appellant also prays that this Court issue an order finding that the circuit court erred/abused its discretion in failing to rule on pending trial and post-trial motions and failing to provide Appellant opportunity to amend his complaint.

Appellant further prays this Court issue an order which finds as follows:

The circuit court erred in determining that it lacked subject matter jurisdiction over Appellant's action seeking declaratory judgment and prospective injunctive relief. The circuit court erred in determining that Appellant lacked standing to bring an action seeking declaratory judgment and prospective injunctive relief. The circuit court erred in determining that Appellant failed to state a cause of action. The circuit court erred in determining that Appellant's action seeking declaratory judgment and prospective injunctive relief was barred by res judicata. The circuit court erred in determining that Appellant's action seeking declaratory judgment and prospective injunctive relief was barred by statute of limitations.

This Court should provide de novo review of the issues of standing and the applicability of the public importance exception thereof, the applicability of res judicata, subject matter jurisdiction and should make a de novo review and ruling of this case in general. Although the Appellant is aware that this Court is a court of review rather than of first view – this case provides the unusual characteristics for making an acceptation to this.

Appellant has been ping ponged from court-to-court for several years and does experience litigation and financial harms thereby. Appellant prays this Court would make a ruling globally as to the issues of this case and upon the merits of each.

State v Plumer, 439 S.C. 346, 887 SE2d 134 (2023) ("[I]t is inefficient and a waste of judicial resources to delay the inevitable …"); State v Johnston, 333 S.C. 459, 510 SE2d 423 (1999) (finding when a case presents exceptional circumstances wherewith the facts are unique, the case demands an expedited result); State v Vick, 384 S.C. 189, 202, 682 SE2d 275, 282 (2009) ("[O]ur courts have at times considered an issue in the interest of judicial economy.")

Should the Court determine that this case should be remanded to the circuit court for its adjudication on the merits of Appellant's issues, Appellant asks that should an appeal of the circuit court's decision arise – that Appellant be allowed to proceed in forma pauperis or, in the alternate, as a continuance of this appeal.

Respectfully Submitted, _____

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This 13th day of November, 2025
~~Bishopville~~, South Carolina
Kershaw