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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
Hon. Grace Gilcrest-Knie, Circuit Court Judge**

Case No. 2025-CP-42-03614

John Garvin. Appellant,

v.

The State of South Carolina, et al. Appellee.

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Plaintiff, John Garvin, proceeding as pro se, appeals to the South Carolina Court of Appeals from the final orders entered in this action:

1. The **Order Granting Defendant, James E. Hunter’s Motion to Dismiss, (see Exhibit – A)**, entered on November 7, 2025; and
2. The **Order Denying Plaintiff’s Rule – 59(e) Motion to Alter or Amend Judgment, (see Exhibit – B)**, entered on April 3, 2025.

This appeal is taken from the final judgment and all interlocutory orders merged therein.

**I.
NATURE OF THE CASE**

This is a declaratory judgment action seeking a judicial declaration that the grand jury proceedings leading to Plaintiff’s indictment and subsequent conviction were *void ab initio* because the grand jury was not lawfully impaneled under South Carolina law. Plaintiff alleged that the trial court lacked subject matter jurisdiction, rendering his conviction a legal nullity.

The trial court granted Defendant's Motion to Dismiss, holding that Plaintiff's claims were barred by the South Carolina Post-Conviction Relief Act, the statute of limitations, prosecutorial immunity, and res judicata. Plaintiff timely filed a Rule – 59(e) Motion to Alter or Amend Judgment, which the trial court denied.

II. ISSUES TO BE RAISED ON APPEAL

1. Whether the trial court erred by applying the PCR Act's exclusivity bar to a declaratory judgment action seeking a jurisdictional determination that the grand jury was never lawfully impaneled, where the underlying criminal judgment is alleged to be *void ab initio* for lack of subject matter jurisdiction, rather than merely voidable for trial error.
2. Whether the trial court committed reversible error by failing to recognize that a judgment entered without subject matter jurisdiction is void and may be challenged at any time, not subject to procedural bars such as res judicata or the PCR Act.
3. Whether the trial court committed reversible error by applying the South Carolina Tort Claims Act's statute of limitations to a declaratory judgment action seeking prospective, non-monetary relief.
4. Whether the trial court committed reversible error by applying prosecutorial and sovereign immunity to a suit seeking purely declaratory and injunctive relief, which imposes no personal monetary liability on the Defendant.
5. Whether the trial court committed reversible error by dismissing the action at the pleading stage without allowing jurisdictional discovery on the factual question of whether the grand jury was lawfully impaneled, particularly where the State's own representative stated that the mandatory impanelment documents "do not exist."

III. RELIEF SOUGHT

Plaintiff respectfully requests that the South Carolina Court of Appeals:

- Reverse the trial court's Order Granting Defendant's Motion to Dismiss;
- Reverse the trial court's Order Denying Plaintiff's Rule – 59(e) Motion;
- Remand this matter to the Court of Common Pleas for further proceedings consistent with the Court of Appeals' ruling, including, at a minimum, limited jurisdictional discovery on the issue of whether the December 6, 2012, grand jury was lawfully impaneled; and


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- Grant such other and further relief as the Court deems just and proper.

IV.
CERTIFICATE OF SERVICE

I, John Garvin, certify that I have serve a NOTICE OF APPEAL on the Court to be delivered, by via e-mail on April 24, 2026, addressed to the Hon. Jenny A. Kitching, Clerk of S.C. Court of Appeals, at e-mail: ctappfilings@sccourts.org and also delivering to Defendant's and the Spartanburg County Clerk of Court a filed date-stamped copy by depositing in the United States Mailbox to be delivered via United States First Class Postage Priority Mail on or about April 27, 2026, addressed to Mr. J. Nathan Ozmint, Esq., at 325 Rocky Slope Road, Suite # 201, Greenville, S.C. 29607 and to Hon. Amy W. Cox, Clerk, 180 Magnolia Street, Spartanburg, S.C., 29304-3484.

Dated: April 24, 2026

Respectfully Submitted,


John Garvin, # 355509, Pro-se
Ridgeland Correctional Institution
P.O. Box # 2039
Ridgeland, S.C., 29936

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**John Garvin
Ridgeland Correctional Institution
P.O. Box # 2039
Ridgeland, S.C. 29936**

Attn: Hon. Jenny A. Kitching, Clerk
South Carolina Court of Appeals Clerk's Office
P.O. Box # 11629
Columbia, S.C. 29211

**RE: *John Garvin v. State of South Carolina and Asst. Solicitor James E. Hunter*,
Trial Court Case No.: 2025-CP-42-03614, Notice of Appeal**

Dear Hon. Clerk Kitching:

Enclosed for filing please find the following documents on behalf of Appellant, John Garvin, who is proceeding as pro-se in this matter:


1. Notice of Appeal
2. Certificate of Service

This appeal is taken from the final orders entered in the Court of Common Pleas, Seventh Judicial Circuit, Spartanburg County:

- Order Granting Defendant James E. Hunter's Motion to Dismiss, entered November 7, 2025; and
- Order Denying Plaintiff's Rule – 59(e) Motion to Alter or Amend Judgment, entered April 3, 2026.

Thank you for your assistance in this matter.

Dated: April 24, 2026

Respectfully,


John Garvin, # 355509, Pro-se

Enclosures:

- Notice of Appeal
- Certificate of Service

cc: J. Nathan Ozmint, Esquire (via first-class mail)