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May 14 2026

SC Court of Appeals

EXHIBIT – A

ARGUMENTS PRESENTED:

This matter is before the Court pursuant to a Rule 12(b)(1) and 12(b)(6), SCRCF Motion to Dismiss of Defendant requesting dismissal of Plaintiff's Complaint against Defendant on the grounds of lack of jurisdiction over the subject matter of this action and for failure to state a claim upon which relief can be granted.

Defendant argues in support of the motion that Plaintiff's allegations against this Defendant are barred because the proper method of raising the allegations in the complaint is to bring a petition or an action under the S.C. Post Conviction Relief Act, that the action is governed by a two-year statute of limitations, and the Defendant, at the time of the actions complained of, was employed as an Assistant Solicitor. Defendant was an employee of a "governmental entity" acting within the course and scope of his employment as defined in the South Carolina Tort Claims Act. In conclusion, Defendant requests that the claims against him as contained in the Complaint be dismissed with prejudice in their entirety.

Plaintiff objects to the motion and argues that the Motion to Dismiss should be denied at this time because in ruling on a motion to dismiss the Court is to consider the facts contained in the complaint and any reasonable inferences drawn therefrom in the light most favorable to the plaintiff. Further, this Action is a direct attack on the very foundation of the State's power to Prosecute Plaintiff, the constitutional and statutory validity of the grand jury that issued the indictments. Plaintiff's core allegation is that his indictments are void *ab initio* null from their inception because the grand jury was not lawfully impaneled. A void indictment means the trial court never acquired subject matter jurisdiction, rendering its judgment a legal nullity.

Defendant's Motion to Dismiss attempts to force a square-peg into a round hole. Defendant's

Motion rests on a fundamental error. It conflates a forward-looking action for declaratory relief, which seeks only to clarify legal rights and the constitutionality of State proceedings, with a backward-looking tort action for damages. This conflation leads Defendant to misapply the South Carolina Tort Claims Act's statute of limitations, the doctrine of prosecutorial immunity, and is a factually distinct Circuit Court case. As properly understood, the Declaratory Judgment Act is a unique procedural vehicle to which these tort-based defenses do not apply. Defendant's Motion misapplies procedural bars designed for valid judgments and must fail when confronting a fundamentally void proceeding. This critical mischaracterization forms the flawed foundation of the Defendant's statute of limitations and immunity arguments. The Defendant is using procedural rules as a shield to avoid answering a simple, factual question as to whether a lawful grand jury ever convened. If the answer is no, then all of Defendant's procedural arguments rest on a foundation that does not exist. The Defendant's Motion asks this Court to dismiss the Complaint against Defendant without ever examining the evidence of this breakdown. This Court should look at the substance of the relief requested not at tort-based labels the Defendant tries to assign it. For those reasons the Defendant's Motion should be denied.

APPLICABLE LAW:

Rule 12(b), SCRC, provides as follows:

(b) How Presented. Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state facts sufficient to constitute a cause of action, (7) failure to join a party under Rule 19, (8) another action is pending between the same parties for the same claim. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a

responsive pleading or motion. If a pleading sets forth a cause of action or defense to which an adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that cause of action or defense. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state facts sufficient to constitute a cause of action, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

A defendant may move to dismiss a complaint based on a plaintiff's failure to state facts sufficient to constitute a cause of action. Rule 12(b)(6), SCRCP; Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). A court's decision to grant a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth in the complaint. Spence, 368 S.C. at 116, 628 S.E.2d at 874; Clearwater Trust v. Bunting, 367 S.C. 340, 343, 626 S.E.2d 334, 335 (2006).

A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court." Doe v. Marion, 361 S.C. 463, 468, 605 S.E.2d 556, 559 (Ct. App. 2004).

"Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint." *Id.* "A copy of a document which is an exhibit to a pleading is a part of the pleading for all purposes if a copy is attached to such a pleading." Brazell v. Windsor, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009) (citing Rule 10(c), SCRCP).

The South Carolina Supreme Court has elaborated that, "The [PCR] Act 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." Gibson v. State, 329 S.C. 37, 40-41, 495 S.E.2d 426, 428 (1998).

S.C. Code Ann. § 15-78-30(d)(Supp. 2025) of the Tort Claims Act, governs all tort claims against governmental entities, see, e.g., Pollard v. County of Florence, 314 S.C. 397, 444 S.E.2d

534 (Ct.App.1994); Searcy v. Dep't of Educ. Transp. Div., 303 S.C. 544, 402 S.E.2d 486 (Ct.App.1991), provides a strict statute of limitations period: Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered. Joubert v. S.C. Dep't of Soc. Servs., 341 S.C. 176, 185-86, 534 S.E.2d 1, 6 (Ct. App. 2000); citing S.C. Code Ann. § 15-78-110. The Act contains a general two-year statute of limitations. Id.

Prosecutorial immunity is a common law immunity doctrine that shields prosecutors from suits related to acts taken in their official capacity as a prosecutor. Williams v. Condon, 347 S.C. 227, 237, 553 S.E.2d 496, 501-502 (Ct. App. 2001).

A “prosecutor, in her official capacity, is immune from a Tort Claims Act suit involving ‘judicial’ or ‘quasi-judicial’ acts.” Id.; see also S.C. Code Ann. § 15- 78-60(1)(2). Further, S.C. Code Ann. § 15-78-60(23) codifies prosecutorial immunity and makes it a bar to actions against state agencies and individual prosecutors, immunizing state agencies and employees for the “institution or prosecution of any judicial or administrative proceeding.” S.C. Code Ann. § 15-78-60 (23).

CONCLUSION:

The Court acknowledges and appreciates the amount of research and preparation for the hearing by Counsel and the Pro-Se litigant, as well as the professionalism of the parties in their presentations to the Court. After consideration of the record, arguments made, and the applicable law, the Court finds that the Motion to Dismiss on behalf of Defendant Hunter filed with the Court on August 6, 2025, should be and is therefore respectfully granted.

IT IS SO ORDERED.



Honorable Grace Gilchrist Knie
Resident Judge, Seventh Judicial Circuit

November 7, 2025
Spartanburg, South Carolina

RECEIVED

May 14 2026

SC Court of Appeals

EXHIBIT – B

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

John Garvin,)
)
Plaintiff(s),)

-vs-

ORDER REGARDING MOTION
FOR RECONSIDERATION

State of South Carolina and)
Asst. Solicitor, James E. Hunter,)
Defendant(s).)
_____)

Case No.: 2025CP4203614

A Rule 59 (e), SCRPC, Motion to Reconsider and to Alter or Amend has been received from the Plaintiff filed with and served on the Court on November 26, 2025, regarding the Court's Order issued on November 7, 2025, granting Defendant Hunter's Motion to Dismiss. This matter was before the Court on Monday, March 23, 2026, at 9:30 a.m. upon the Plaintiff's Motion for Reconsideration. John Garvin, the pro-se Plaintiff was present and not represented by legal counsel. J. Nathan Ozmint, Esq., was present on behalf of Charles F. Turner, Jr., Esq., for Defendant Hunter. This hearing was conducted in person and recorded by the WebEx record function.

After careful consideration of the arguments of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered.

Accordingly, the Plaintiff's Motion for Reconsideration made pursuant to Rule 59, SCRPC, is respectfully DENIED.

AND IT IS SO ORDERED.

April 3, 2026

Grace Gilchrist Knie, Judge
Circuit Court, Seventh Judicial Circuit



Spartanburg Common Pleas

Case Caption: John Garvin #355509 VS State Of South Carolina

Case Number: 2025CP4203614

Type: Order/Other

IT IS SO ORDERED.

S/GRACE GILCHRIST KNIE - 2760