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Aug 03 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable G. D. Morgan, Jr.
Circuit Court Judge

Appellate Case No. 2026-000199

Dennis Floyd Bivens,.....Appellant,

v.

York County and Joshua Edwards, York County Manager, Josh Reinhardt, York County Development Services Manager, and Jonathan Buono, York County Planning and Development Services Director, each in their official capacities,..... Respondents.

Return to Appellant's Motion for Expedited Review

Pursuant to Rule 240 of the South Carolina Appellate Court Rules (SCACR), Respondents York County, by and through Joshua Edwards, Josh Reinhardt, and Jonathan Buono, collectively serving in their official capacities (the County), respectfully submit this Return to Appellant Dennis Floyd Bivens' motion for expedited review.

As an initial matter, Appellant's request for expedited review rests on purported facts and events that do not appear or have any support in the Record on Appeal. *But see* Rule 210(h), SCACR ("[T]he appellate court will not consider any fact which does not appear in the Record on Appeal."). Despite pressing those "facts" to the Court, Appellant nevertheless concedes as much. *See* Mot. Ex. Rev. at 2, 7. Appellant's unsupported version of events does not justify a request for advanced consideration.

Beyond that, those facts laden in the motion all relate exclusively to Silfab Solar, Inc. (Silfab), underscoring the motion’s true effort to litigate grievances against Silfab. However, Silfab is not a party to the underlying litigation or this appeal. Therefore, even if Appellant obtained accelerated review, prevailed in securing a remand of the circuit court’s 12(b)(6) dismissal pursuant to this appeal, *and* then prevailed on the merits of his Complaint, the Court could not fashion the relief Appellant ultimately pursues.¹ And Appellant cannot obtain expedited review of this appeal based on the conduct—or “publicly proclaimed statements” regarding a *different* matter—of a party he did not sue. Again, the motion’s grounds concern Silfab’s conduct alone, and Appellant offers no basis for expediting review of his appeal against the party he actually sued.

Moreover, the procedural context of this appeal precludes any path to the quick relief Appellant envisions. That is, this appeal arises from an order granting the County’s motion to dismiss the Complaint for failure to state any plausible claims for relief. Given that posture, even if Appellant were to succeed in obtaining expedited review *and then* succeed on the merits of the appeal, the matter will simply return to the circuit court for it to proceed on the merits of his underlying claims. Further obviating any need for expedited review is the fact that Appellant failed to challenge the circuit court’s primary and dispositive holdings that the Complaint did not plead facts sufficient to support the elements of *any* of the causes of action. Therefore, even assuming

¹ Indeed, the County argued below that dismissal pursuant to Rule 12(b)(7), SCRCP, was appropriate for failure to join a necessary party, Silfab, under Rule 19, SCRCP. *See Spanish Wells Prop. Owners Ass’n, Inc. v. Bd. of Adjustment of Town of Hilton Head Island*, 295 S.C. 67, 367 S.E.2d 160 (1988) (holding that a permittee is a necessary party as it is the most vitally interested party to an action to revoke a permit). The circuit court denied this alternative basis for dismissal based on its dispositive determinations as to the County’s other grounds for dismissal, but an appellate court may affirm a trial court’s order based on any grounds found in the record, and the Appellant’s Silfab-specific motion reinforces that it seeks relief against non-party Silfab. Rule 220(c), SCACR; *I’On, L.L.C. v. Town of Mount Pleasant*, 338 S.C. 406, 420, 526 S.E.2d 716, 723 (2000) (holding that an appellate court may affirm the circuit court’s ruling using any additional reasons that are both raised by the respondent’s brief and found within the record).

that Appellant has met his burden in demonstrating error as to every issue that is raised in this appeal, the circuit court's dismissal of all of the causes of action of the Complaint remains fundamentally unchallenged. That being the case, even if the Court decided to fast track this appeal, a favorable decision does nothing to address the "change of circumstances" Appellant presses.

In all, no facts properly before the Court support Appellant's request and accelerating this appeal would serve no practical purpose, thereby wasting the Court's resources. The Court should therefore deny the motion.

Respectfully submitted,

s/Chad N. Johnston

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August 3, 2026
Columbia, South Carolina

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Proof of Service

This is to certify that I, Laura Lee Andrews, a paralegal with the law firm of Burr & Forman LLP, have caused to be served this day one (1) copy of Respondents' Return to Appellant's Motion for Expedited Review in the above-captioned matter upon counsel for Appellant via email at the email address reflected in the Attorney Information System and as set forth below:

J. Cameron Halford
J. Cameron Halford, LLC
PO Box 172
95 Allen Street
Barnwell, SC 29812
cam@halfordlaw.net

A copy of the email serving counsel as stated above is attached hereto.



Laura Lee Andrews
Paralegal

August 3, 2026
Columbia, South Carolina

Laura Lee Andrews

From: Laura Lee Andrews
Sent: Monday, August 3, 2026 4:50 PM
To: 'Cam@halfordlaw.net'
Cc: Chad Johnston (cjohnston@burr.com); Dorward, Samantha; 'jon.robinson@smithrobinsonlaw.com'; 'austin.reed@smithrobinsonlaw.com'
Subject: Dennis F. Bivens v. York County | Appellate Case No. 2026-000199
Attachments: 2026-08-03 County Return to Motion for Expedited Review.pdf; 2026-08-03 POS re County Return to Mot for Expedited Review.pdf

Good afternoon,

Attached for service in the above matter is Respondents' Return to Appellant's Motion for Expedited Review. We will be filing shortly with the Court of Appeals and will attach this email to the proof of service of same.