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Aug 05 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 by and through Joshua Edwards, York County Manager; Josh Reinhardt, York County Development Services Manager; and Jonathan Buono, York County Planning and Development Services Director..... Respondents.

Appellant Reply to Return of Respondent

Appellant here files its Reply to the Return of the Respondent and would show the following in support of expedited review that has been requested.

Respectfully submitted,

HALFORD LAW FIRM

J. Cameron Halford-Attorney at Law-LLC

/s/. *J. Cameron Halford*

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REPLY BY APPELLANT

This is a review of a Rule 12 SCRCP dismissal by the trial court of a case Bivens brought against the county, not an action feigning or impersonating complaints against Silfab corporation. Respondent incorrectly characterizes Appellant's request for expedited hearing as an endeavor in futility; e.g., *false hope*. Even were reversal and remand to happen by order of the court of appeals, it would nonetheless require time for Appellant to seek injunctive relief from the trial court. Which, will inevitably take more time, of course. It is yet another reason Respondent misrepresents the Appellant's "*true effort*", therefore, to be a legal action posing as Silfab grievances where respondent erroneously argues Silfab was a necessary party that Biven's suit failed to name. This diversion misses the point.

It misses the point as Biven's causes of action were against the county. The problem with this argument is that the foreign corporation cannot issue permits. The corporation cannot change zoning classifications. The corporation cannot change land use, *at least one would think*. Nonetheless, a now-changed chemical manufacturing process land use sits in proximity to Appellant's home and two adjacent schools, where the local governing council sits in sheer trepidation in the shadow of Silfab corporation who operates with no zoning approval.

Respondent argues the motion's grounds concern Silfab's conduct alone, which is not factually accurate. Appellant's challenge of the circuit court order seeks remand even if "quick" relief is not possible, as the county has had two years of procedural delays already. Not surprisingly, Respondent seeks to evade that two years later a circuit court order ruled for the BZA and against Silfab. The lack of zoning approval leading to ongoing chemical operations are the practical consequence of the county's alleged inaction or failures to act, necessitating that citizens do so. It comes as no surprise, therefore, that Respondent colludes with the corporation and desperately seeks to shield facts, not "*purported*" facts, involving spills and the recent circuit court decision by

Judge William McKinnon. Silfab has now lost *twice*; once before a quasi judicial BZA board. And, again before a circuit court judge. Respondents' greatest fear is to deny citizens and local government of the meaning of the latin phrase written upon the great seal of our state Supreme Court . *Dum Spiro Spero*.

While appellant agrees generally with respondent's cite of Rule 210(h) SCACR, respondent has had greater weight and success in asking the circuit court to consider, in its discretion, matters outside of the record. And, to take judicial notice of the same. Yet, appellate is denied this same ability unfairly where the corporation outwardly defies law and the courts and out-paces legislative efforts and court rostering. It now fears what may affect its operations, yes. It is a worthwhile sensation for the Canadian executives to experience. This is because the county council has - at minimum - *awakened* and recognized it has the statutory authority and option to exercise police power, yet prudently waits on the circuit court's final say. However, the county is somehow sympathetic to the foreign corporation having severely miscalculated its influence upon local government and council officials. Again, *Dum Spiro Spero*. An awakening in York County (not just Fort Mill community) is rapidly occurring that respondent, nor Silfab, can do anything about. It is already in progress. Expedited review of this case may aide the local government's awakening, even if it takes time for Bivens to reach trial court review if this case meets with reversal and remand.

Regardless, *even if it will take time*, Appellant can nonetheless seek injunctive relief and extraordinary writs against county officials (not Silfab corporation) to perform a duties in exercise of the police power to protect established zoning and due process, for that matter. The respondent obtained dismissal from the trial judge before the rights to merits relief was ever adjudicated, even if the lengthy order seeks to factually try the entire case. The current posture is that a changed land use with no zoning approval (unless this court decides otherwise) sits next to Appellant's home and

is operating with hazardous chemicals, sufficient reason for this court to review the Exeter deed restrictions appellant points this court to, and which were filed in the trial court record; then proceed to review and decide this case even should the reversal Bivens seeks be denied.

Two chemical incidents have occurred, same week, inexplicably. Not surprisingly, Respondent now opposes expedited review on the grounds that the more time lag equals ignoring that which was prohibited by Exeter deed restrictions in the first place. Following respondents' logic, even if expedited review is granted, it merely results in a futile remand and more time. Provided, this is precisely why expedited review is necessary and respectfully requested by Appellant. Every additional day of delay allows Appellant's ability to challenge governmental inaction and each day is a corporation's separate misdemeanor violation of the law while no zoning approval exists, still. Where no legislatively approved change of land use was ever obtained. A changed land use sits now where Respondent has permitted, literally, operation of a chemical installation at 7149 Logistics Lane, but want Appellant barred from obtaining a merits determination in trial court as a neighboring home owner.

Appellant does not contend in any way that expedited review is a substitute for merits relief. The point is that expedited review of the threshold Rule 12 dismissal issues determines whether Bivens can return to the circuit court seeking merits relief before additional delays substantially impair or diminish the practical value of the relief where a county permits a foreign corporation to continue chemical operations even though (a) no zoning approval and (b) no vested use. Before Silfab, there existed only a distribution warehouse. Silfab evolved into a *retrofitted* warehouse, now operating a changed land use involving chemicals, exhaust towers, and chemical infrastructure not permitted by zoning in a Light Industrial district.

This type use never existed *before* Silfab, and it impacts the sensitivity of surrounding zoning at properties where citizens, including appellant, have for decades relied upon existing

zoning law in choosing their homes and schools. The citizens were there first. The zoning law pre-dates Silfab's use which is not vested. Had zoning and due process been followed by the Respondent in the first place, this change of land use would not have haphazardly taken shape. Because the shadow of Silfab has placed the council in sheer trepidation¹ it would not act, and it affirmatively permitted a changed land use that occurred under the radar. Zoning Compliance Verification does not equate to Zoning Approval. While justice in the courts admittedly moves slow, the county has now had the benefit of over two years of delay. From Appellant's perspective, however, the truth of what has now occurred in the form of changed land use without zoning approval, and the paramount interest of protecting his health, safety and welfare of his home environment alone, *even if you take schools out of the equation*, necessitates expedited review.

Contrary to respondents' Rule 12(b)(7) assertions, the corporation did not need to be named as it cannot as a matter of law issue change to zoning law, change land use, or engage in permitting. It likewise should not be enabled to engage in spot zoning next to Appellant's home where public safety is paramount to operations of a party not required to have been named in the trial court below by Mr. Bivens. This is not an appeal against Silfab *masquerading* as an appeal against York County. Rather, Appellant wishes by Remand to challenge the county's alleged conduct that has now resulted in land use absent legislatively authorized change of use and no zoning approval by "zoning compliance verification" letter. The foreign corporation's continued defiance and recalcitrance as to the zoning, law, quasi judicial BZA ruling, and now the circuit court ruling

¹ Appellant has cited the *Whitfield* case in memorandums in which the supreme court of this state has stated "[G]enerally speaking, however, South Carolina case law recognizes that the exercise of police power – to protect the health and safety of the citizenry – cannot be hampered by a business' reliance upon and receipt of permits. Moreover the existence of a vested right to a nonconforming use depends upon whether the use was in existence at the time the zoning ordinance was adopted. Our court has concluded that the police power is, however, usually paramount provided it has a sound and reasonable basis. *Whitfield v. Seabrook*, 259 S.C. 66, 73, 190 S.E.2d 743, 746 (1972).

illustrate why expedited relief is needed and requested by Appellant; if not granted, it may deprive appellant of meaningful access to the hearing on the merits and equal protection under the law.

Lastly, in response to Respondent arguments lets be clear here. Appellant is not breaking the law, rather seeking protection of the laws. York County in trepidation ignores a foreign corporation that has no proper zoning for what it is doing by daily operations. And, Silfab is brazenly breaking the law on a daily basis. How or why it happened is irrelevant, but the courts should hold the line as to the law and due process. The asserted circumstances are offered only to underscore the practical time-sensitivity of resolving this appeal involving a Rule 12 SCRCPP review. It is not asking this court to decide extraneous documents not in the record or engage in merits determination. However, appellant avers this court can, *if it deems proper*, take judicial notice of factors Respondent desperately seeks to hide under citing Rule 210(h) SCACR.

Appellant thanks the court again for its consideration and asks for expedited review.

Respectfully submitted,

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v.

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Proof of Service

This is to certify that I, Sarah Caldwell, paralegal to J. Cameron Halford, have caused to be served on August 5, 2026 one (1) copy of Appellant Reply to Return of Respondent upon counsel for Respondent by AIS email as follows to the attorneys for Respondent identified below.

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Respectfully submitted,

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Appellant's Reply to Return of Respondent 2026-000199

From Sarah Caldwell <sarah@halfordlaw.net>

Date Wed 8/5/2026 4:56 PM

To Johnston, Chad <cjohnston@burr.com>; sdoward@burr.com <sdoward@burr.com>; jon.robinson <jon.robinson@smithrobinsonlaw.com>; austin.reed <austin.reed@smithrobinsonlaw.com>

Cc J Cameron Halford <Cam@halfordlaw.net>

 2 attachments (208 KB)

REPLY BIVENS TO RETURN OF YC ...pdf; PROOF OF SERVICE REPLY TO RETURN.pdf;

Good Afternoon Counsel,

Please find attached the Proof of Service along with the Appellant's Reply to Return of Respondent that is being efiled with the Appeals Court of South Carolina.

A copy of this email will also be on file of record with the Court of Appeals for the service hereof.

Kind regards,

Sarah Caldwell

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Thank you-