THE STATE OF SOUTH CAROLINA
In The Supreme Court

American Civil Liberties Union of South Carolina Foundation,

Plaintiff,

v.

Alan Wilson, in his official capacity as South Carolina Attorney General; Joel Anderson, in his official capacity as Interim Director of South Carolina Department of Corrections,

Defendants,

and

Henry McMaster, in his official capacity as Governor of the State of South Carolina,

Intervenor.

Appellate Case No. 2025-002469

ON CERTIFICATION FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Hon. Joseph F. Anderson, Jr., United States District Judge

Opinion No. 28350
Heard June 16, 2026 – Filed September 2, 2026

CERTIFIED QUESTIONS ANSWERED

David Allen Chaney, Jr., and Meredith Dyer McPhail, both of the American Civil Liberties Union of South Carolina Foundation, of Columbia; and Jonathan E. Spratley and Steven M. Cady, both of Williams & Connolly LLP, of Washington DC, all for Plaintiff.

Austin Tyler Reed, Daniel Clifton Plyler, and Frederick Newman Hanna, Jr., all of Smith Robinson Holler DuBose Morgan, LLC, of Columbia, for Defendants Alan Wilson, in his official capacity as South Carolina Attorney General, and Joel Anderson, in his official capacity as Interim Director of South Carolina Department of Corrections.

Solicitor General Thomas Tyler Hydrick and Deputy Solicitor General Joseph David Spate, both of Columbia, for Defendant Alan McCrory Wilson, in his official capacity as Attorney General.

Chief Legal Counsel William Grayson Lambert, Deputy Legal Counsel Erica Wells Shedd, and Deputy Legal Counsel Tyra S. McBride, all of the Office of the Governor, of Columbia; and Thomas Ashley Limehouse, Jr., of Limehouse LLC, of Charleston, all for Intervenor.

JUSTICE HILL: The South Carolina General Assembly has taken steps to statutorily protect the identities of people participating in the planning or carrying out of death sentences. Section 24-3-580 of the South Carolina Code (2025) prohibits the knowing disclosure of "identifying information" about "a current or former member of an execution team." Pursuant to Rule 244, SCACR, the United States District Court for the District of South Carolina has certified the following questions to us: (1) whether publicly available information can be considered

"identifying information" under subsection 24-3-580(A)(2); and (2) whether a person can "knowingly disclose" publicly available information under subsection 24-3-580(C). We answer both questions "No."

I. Overview of Section 24-3-580

Before we address the certified questions, we note several things about § 24-3-580. The statute establishes civil liability and criminal penalties for the knowing disclosure of identifying information about current or former execution team members. § 24-3-580(C). A 2023 amendment to the statute broadened its reach to protect the identity of the suppliers of lethal injection drugs and other medical material used in carrying out death sentences and exempted these suppliers from licensing and procurement regulations and other laws. *See* § 24-3-580(A)(1), (D)–(F).

II. Whether publicly available information can be considered "identifying information" under subsection 24-3-580(A)(2)?

In interpreting a statute, our first task is to look to its language. As Judge Friendly reminded, every journey of statutory interpretation should begin with three steps: "(1) Read the statute; (2) read the statute; (3) read the statute!" Henry J. Friendly, *Benchmarks* 202 (1967). If the language is clear and plain, there is no need to look beyond the text of the statute to divine its meaning. *Smith v. Tiffany*, 419 S.C. 548, 555–56, 799 S.E.2d 479, 483 (2017). A statute's words must be construed in context and in light of the intended purpose of the statute and in harmony with its subject matter. *In re Manigo*, 398 S.C. 149, 157, 728 S.E.2d 32, 36 (2012); *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012) ("[W]ords are given meaning by their context, and context includes the purpose of the text.").

We hold that publicly available or nonconfidential information is not "identifying information" within the meaning of subsection 24-3-580(A)(2). The statute defines "identifying information" as including "any record or information that reveals a name, date of birth, social security number, personal identifying information, personal or business contact information, or professional qualifications" and "any residential or business address; any residential, personal, or business telephone number; any residential, personal, or business facsimile number; any residential, personal, or business email address; and any residential, personal, or business social media account or username" of an execution team member. § 24-3-580(A)(2).

Importantly, the statute does not define "identifying information" as a record or information that includes or contains certain data (such as the name or address) of an execution team member. Instead, it defines "identifying information" as any record or information that *reveals* such data.

The use of the verb "reveal" is therefore significant. We construe undefined statutory words based on their ordinary and popular meaning. *See Adkins v. Varn,* 312 S.C. 188, 191, 439 S.E.2d 822, 824 (1993) ("[W]ords must be given their plain and ordinary meaning without resort to a subtle or forced construction which limits or expands the statute's operation"). Reveal means "to make (something secret or hidden) publicly or generally known." *Reveal*, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/reveal (last visited July 12, 2026); *see reveal*, The American Heritage Dictionary, https://www.ahdictionary.com/word/search.html?q=reveal (last visited July 12, 2026) (defining reveal as "[t]o make known (something concealed or unknown)").

This definition aligns with the legislature's use of the word reveal in other statutes that protect confidential information. *See, e.g.*, S.C. Code Ann. § 44-117-360 (2018) (providing, in a section of the Prescription Information Privacy Act entitled "Improper revealing of confidential information," certain licensing consequences if a licensee "allows the divulging or revealing of confidential information" regarding a patient's prescription information or other health care information); S.C. Code Ann. § 60-4-10 (2022) (providing, in a statute entitled "Records identifying library patrons as confidential information; disclosure," that library registration and circulation records that contain "names or other personally identifying details regarding the users" of library systems supported by public funds or records that "would reveal the identity of the library patron checking out or requesting an item from the library or using other library services are confidential information" and may not be "disclosed" except in certain situations). Accordingly, the use of the word reveal supports the interpretation that "identifying information" must not have previously been publicly known or must have been confidential.

The legislature's use of "reveal" parallels its use of "disclose"—a synonym of "reveal"—in other subsections of the statue. *See* § 24-3-580(C) ("A person shall not knowingly disclose the identifying information of a current or former member of an execution team or disclose a record that would identify a person as being a current or former member of an execution team."); § 24-3-580(G) ("Notwithstanding any other provision of law, including the South Carolina Freedom of Information Act, Section 30-4-10, et seq., no department or agency of this State, no political subdivision, and no other government or quasigovernment entity shall disclose the

identifying information of any member of an execution team or any details regarding the procurement [of the lethal injection drugs]."). Disclose means "to make known or public." *Disclose*, Merriam-Webster's Dictionary, https://www.merriam-webster.com/dictionary/disclose (last visited July 12, 2026); *see disclose*, The American Heritage Dictionary, https://www.ahdictionary.com/word/search.html?q=disclose (last visited July 12, 2026) (defining disclose as "1. To expose to view, as by removing a cover; uncover. 2. To make known (something heretofore kept secret)"). As with its use of the word "reveal," the legislature's use of "disclose" supports the conclusion that "identifying information" must be information that is confidential, private, or unknown to or not accessible by the general public. Both "reveal" and "disclose" derive from—and are antonyms of—ancient French words meaning, respectively, to veil and close. *See* 13 Reveal, Oxford English Dictionary (2d. ed. 1989); 4 Disclose, Oxford English Dictionary (2d. ed. 1989).

Because one cannot reveal something that is already known to the public, it follows that to reveal identifying information one must release information that was confidential or private up to the moment it was released. Here we are assisted by the General Assembly's express intent, for the statute commands that it "shall be broadly construed by the courts of this State so as to give effect to the General Assembly's intent to ensure the absolute confidentiality of the identifying information of any person or entity directly or indirectly involved in the planning or execution of a death sentence within this State." § 24-3-580(I). This firms up our conclusion that the identifying information referenced in the statute is confidential, known only to the small circle of people that the South Carolina Department of Corrections (SCDC) has deemed entitled to possess it, or has otherwise been kept private by SCDC or the execution team member. In general, publicly available information is information that has lost its confidential nature.

This interpretation also comports with the title of § 24-3-580, other subsections of § 24-3-580, and 2023 S.C. Acts No. 16, § 1, the Act that amended the statute to its current form, which all stress the importance of "identifying information" being kept "confidential" or private. § 24-3-580 (entitled "Execution team and drugs used to administer death sentence confidential"); § 24-3-580(B) (providing "any identifying information of a person or entity that participates in the planning or administration of the execution of a death sentence shall be confidential" and not "subject to discovery, subpoena, or any other means of legal compulsion or process. . . ."); 2023 S.C. Acts No. 16, § 1 (providing "the intent of this section is to ensure the absolute confidentiality of identifying information of persons or entities involved in the planning or execution of a death sentence . . ."); *see confidential*, Merriam-Webster's

Dictionary, https://www.merriam-webster.com/dictionary/confidential, (last visited July 12, 2026) (defining confidential as "intended for or restricted to the use of a particular person, group, or class: private, secret"); *Confidential*, *Black's Law Dictionary* (12th ed. 2024) (defining confidential as "(Of information) meant to be kept secret; imparted in confidence"); *Confidential Information*, *Black's Law Dictionary* (12th ed. 2024) (defining confidential information as "[k]nowledge or facts not in the public domain but known to some, esp. to those having a fiduciary duty not to misuse the knowledge or facts for their own advantage").

Therefore, applying the plain and ordinary meaning of the words the legislature chose to use, we hold § 24-3-580 unambiguously provides that public or nonconfidential information cannot be "identifying information."

III. Whether a person can "knowingly disclose" publicly available information, such that they are subject to the civil and criminal penalties defined in subsection 24-3-580(C)?

As we have seen, § 24-3-580 uses the word "disclose" twice. *See* § 24-3-580(C) and (G). The plain language of the statute supports the interpretation that "identifying information" cannot be disclosed unless the information was confidential, private, or unknown to or not accessible by the general public before the disclosure. This, along with the legislature's use of the word "reveal" and its overt intent to keep "identifying information" confidential, supports our conclusion that the legislature did not intend for § 24-3-580 to apply to public or nonconfidential information.

We therefore hold that it would appear only the first person to publicly disclose "identifying information"—i.e., the source of the disclosure or revelation—can violate subsection 24-3-580(C). Once such information has been disclosed and becomes publicly available, the information ceases to be "identifying information" covered by the statute because it is no longer confidential or private.

IV. Conclusion

We hold (1) "identifying information" as defined in subsection 24-3-580(A)(2) does not include publicly available or nonconfidential information, and (2) a person cannot "knowingly disclose" such publicly available or nonconfidential information under subsection 24-3-580(C). We thank Judge Anderson for certifying the questions to us, and we commend the parties and their counsel for presenting the issues in a concise and collegial manner. The certified questions are

ANSWERED.

KITTREDGE, C.J., JAMES, VERDIN, JJ., and Acting Justice Thomas W. Cooper, Jr., concur.