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Sep 17 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Jennifer B. McCoy, Circuit Court Judge

Appellate Case No. 2025-000025
Case No. 2023-CP-07-01905

Maria E. Walls, in her Capacity as Beaufort County
Treasurer Respondent,

v.

Beaufort County, a Body Politic Subdivision of the State
of South Carolina, and John Robinson, in his Capacity as
Interim Beaufort County Administrator Appellants,

APPELLANTS' PETITION FOR REHEARING

Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, Appellants respectfully petition this Court for rehearing of its Unpublished Opinion No. 2026-UP-431, filed September 2, 2026 (“Opinion”). The Opinion generally affirmed the trial court’s adoption of the County’s position. Because Appellants’ position was that the injunction against “forcing” the Treasurer to adopt Appellants’ Handbook policies (“the Handbook-Adoption Injunction”) was improper, and because the Opinion did not specifically and expressly address that portion of the circuit court’s order, the Appellants reasonably read the Opinion as having reversed the Handbook-Adoption Injunction by implication. Out of an abundance of caution, however, Appellants respectfully seek an express ruling confirming that reversal and removing any doubt. This petition is confined to that single issue and does not seek rehearing regarding any other portion of the Opinion.

INTRODUCTION

In Section III of the Opinion, titled “Threat of Irreparable Harm,” this Court framed Appellants’ argument as challenging two related injunctions on a single ground. As the Court put it, “Appellants contend that the court erred in enjoining them from threatening Treasurer’s employees and from forcing Treasurer to adopt the Handbook because Treasurer did not properly establish a threat of irreparable harm.” (Opinion at 7.) The Court answered that combined contention with two words: “We agree.” (*Id.*)

The Court then analyzed irreparable harm and, in its conclusion to Section III, reversed the injunction against Appellants—but only specifically addressed the alleged threats to employees. It held that Appellants’ emails “did not constitute a threat of irreparable harm to Treasurer or her ability to retain employees” and “therefore reverse[d] that portion of the circuit court’s Order enjoining Appellants from ‘threatening employees of the Treasurer’s Office for actions taken by them at the direction of the Treasurer.’” (Opinion at 9.) The Handbook-Adoption Injunction—the other part of the same argument to which the Court had just agreed—was not specifically and expressly addressed. Because the Court reversed the companion injunction on the shared irreparable-harm ground, Appellants reasonably read the Opinion as having reversed the Handbook-Adoption Injunction by implication. The Opinion’s Conclusion states only that “the decision of the trial court is AFFIRMED IN PART AND REVERSED IN PART,” without expressly stating the disposition of the Handbook-Adoption Injunction ruling. (*Id.*)

Because the Opinion does not specifically and expressly state that disposition, Appellants file this petition out of an abundance of caution. Rule 221(a), SCACR, directs that a petition for rehearing “state with particularity the points supposed to have been overlooked or misapprehended by the court.” This petition identifies the discrete ruling for which Appellants seek clarification; it

does not suggest that the Court necessarily intended to leave that issue unresolved. The Court has already agreed that the Treasurer failed to establish irreparable harm, and the same reasoning that compelled reversal of the “threats” injunction appears to compel reversal of the Handbook-Adoption Injunction as well.

STATEMENT OF THE CASE AND FACTS

Appellants believe the Opinion accurately and adequately sets out the procedural history and facts of this matter, and Appellants incorporate that recitation by reference. For the Court’s convenience, Appellants briefly summarize the facts pertinent to the discrete issue for which Appellants seek an express ruling.

The Treasurer moved for a preliminary injunction seeking, among other relief, an order enjoining Appellants from “forcing the Treasurer to adopt the Beaufort County Employee Handbook promulgated in February 2024 . . . or to follow any policies or procedures contained in the [handbook].” (Pl.’s Mot. for Prelim. Inj. at 5; R. 464.) The circuit court granted that request in part, enjoining Appellants “from forcing the Treasurer to follow policies or procedures . . . that infringe upon the Treasurer’s ability to employ or discharge personnel within the Treasurer’s Office.” (Circuit Court Order at 9; R. 9.) Appellants appealed this portion of the order, arguing that the Treasurer failed to establish a threat of irreparable harm because there is no evidence that Appellants ever attempted—or threatened—to force the Treasurer to adopt those policies.

To the contrary, Appellants have consistently and expressly disclaimed any effort to force the Treasurer to adopt or adhere to the handbook. At the June 25, 2024 hearing, counsel for Appellants told the circuit court: “[T]hey’re saying they want an order from this Court that the treasurer not be forced to adhere to the Beaufort County Employee Handbook. Nobody’s asking the Treasurer to adhere to the handbook. Nobody’s asking for that.” (June 25, 2024 Tr. at 15; R.

777.) Throughout this litigation, Appellants have maintained that the Treasurer, as an elected official, is not subject to the County’s employee personnel policies. *See* S.C. Code Ann. § 4-9-30(7); *id.* § 4-9-650.

ARGUMENT

I. The Opinion’s Reasoning Supports Reversal of the Handbook-Adoption Injunction Because the Treasurer Failed to Establish Any Threat of Irreparable Harm.

The Opinion’s reasoning concerning irreparable harm supports reversal of the Handbook-Adoption Injunction. A preliminary injunction is a “drastic” remedy intended “to preserve the status quo and prevent possible irreparable injury to a party pending litigation.” *Greenville Bistro, LLC v. Greenville County*, 435 S.C. 146, 160, 866 S.E.2d 562, 569 (2021). An applicant must show “(1) [s]he will suffer immediate, irreparable harm without the injunction; (2) [s]he has a likelihood of success on the merits; and (3) [s]he has no adequate remedy at law.” *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011); *accord Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004). The absence of any one element is fatal to the request.

A. The Opinion’s irreparable-harm reasoning confirms that there is no threat of irreparable harm because Appellants never attempted or threatened to force the Treasurer to adopt handbook policies.

It is a longstanding principle under South Carolina law, Fourth Circuit precedent, and United States Supreme Court precedent that a party seeking injunctive relief must show more than a hypothetical, doubtful, or conjectural injury. *See Welborn v. Page*, 247 S.C. 554, 566, 148 S.E.2d 375, 381 (1966) (declining to impose an injunction based on “doubtful, contingent and conjectural” evidence that anticipated acts would occur); *Cartee v. Lesley*, 286 S.C. 249, 256, 333 S.E.2d 341, 345 (Ct. App. 1985) (“The general rule is that an injunction should be granted only where some irreparable injury is threatened for which there is no adequate remedy at law.”), *aff’d*, 290 S.C.

333, 350 S.E.2d 388 (1986); *Bloodgood v. Garraghty*, 783 F.2d 470, 475 (4th Cir. 1986) (an injunction “will not be granted against something merely feared as liable to occur at some indefinite time in the future”); *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991) (“the required ‘irreparable harm’ must be neither remote nor speculative, but actual and imminent”); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) (a movant must “demonstrate that irreparable injury is likely in the absence of an injunction”; a mere “possibility” is insufficient). The harm, whether actual or threatened, must instead be imminent or at least sufficiently likely to occur. *See Greenville Bistro*, 435 S.C. at 160, 866 S.E.2d at 569–70.

Measured against that standard—and consistent with the Opinion’s irreparable-harm reasoning—the Handbook-Adoption Injunction cannot stand. Appellants have never asserted that the Treasurer herself is subject to the handbook or that she must adopt any of its provisions. At the June 25, 2024 hearing, Appellants expressly disclaimed any effort to enforce the handbook against the Treasurer: “Nobody’s asking the Treasurer to adhere to the handbook. Nobody’s asking for that.” (June 25, 2024 Tr. at 15; R. 777.) Given Appellants’ consistent position that the Treasurer, as an elected official, is not subject to the County’s employee personnel policies, *see* S.C. Code Ann. § 4-9-30, the Treasurer’s request to enjoin Appellants from “forcing the Treasurer to adopt the . . . Handbook” targets conduct Appellants have neither undertaken nor threatened to undertake. An injunction may not issue to restrain conduct that a party has neither undertaken nor threatened. *See United Transp. Union v. State Bar of Mich.*, 401 U.S. 576, 584 (1971) (“An injunction can issue only after the plaintiff has established that the conduct sought to be enjoined is illegal and that the defendant, if not enjoined, will engage in such conduct.”) Because no evidence establishes imminent or threatened harm, the Treasurer failed to satisfy the first — and indispensable — element for injunctive relief.

B. The Opinion’s reasoning likewise supports the conclusion that the Treasurer cannot establish a likelihood of success, because Appellants’ authority to maintain personnel policies does not dictate whom the Treasurer may hire, retain, or terminate.

The injunction as entered enjoins Appellants only from forcing the Treasurer to follow policies “that infringe upon the Treasurer’s ability to employ or discharge personnel within the Treasurer’s Office.” (Circuit Court Order at 9; R. 9.) Appellants have always acknowledged that, under S.C. Code Ann. § 4-9-30(7), the Treasurer—not Appellants—has “employment and discharge” authority over the employees in the Treasurer’s Office. The County’s Personnel Handbook and its Classification and Compensation Study/Plan do not dictate whom the Treasurer may hire, retain, or fire. They are valid personnel system policies that Appellants are authorized to develop under sections 4-9-30(7) and (14). County-wide salary and classification plans and county-wide employee reimbursement rules “cede[s] little to no control over the operation of any elected official’s office” and do not amount to hiring, retaining, or firing. *Eargle v. Horry County* is not to the contrary. There, the claimed power lacked express statutory authorization; here, that authorization is present. And there, the authority at issue exercised too much control over the operation of the elected official’s office; here, the challenged policies do not. *See Eargle v. Horry County*, 335 S.C. 425, 430–31, 517 S.E.2d 3, 6 (Ct. App. 1999), *aff’d*, 344 S.C. 449, 545 S.E.2d 276 (2001). Because it is undisputed that Appellants are not forcing the Treasurer to comply with the handbook, it is unclear how Appellants could be infringing upon the Treasurer’s ability to employ or discharge her personnel. The Treasurer therefore cannot show a likelihood of success on the merits of this claim, and the same reasoning supports the reversal that the Opinion appears to have reached by implication.

C. The Opinion’s reasoning further supports reversal because the injunction also fails to satisfy Rule 65(d), SCRPC.

An order granting a preliminary injunction must “set forth the reasons for its issuance,” be “specific in terms,” and “describe in reasonable detail . . . the act or acts sought to be restrained.” Rule 65(d), SCRPC. An injunction order cannot simply state that the grantee would suffer irreparable harm if the injunction does not issue; rather, it must identify the injury and sufficiently elaborate on it. *See Spartanburg Buddhist Ctr. of S.C. v. Ork*, 417 S.C. 601, 609, 790 S.E.2d 430, 435 (Ct. App. 2016) (finding error where an order granting an injunction did not name the harm threatened). The circuit court’s order identifies no irreparable harm arising from the handbook-adoption issue, and the record reveals none. For this independent reason, consistent with the Opinion’s reasoning, the Handbook-Adoption Injunction should be reversed.

CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court grant rehearing, out of an abundance of caution. Appellants reasonably read the Opinion as having reversed the Handbook-Adoption Injunction by implication because the Opinion agreed with Appellants on irreparable harm and reversed the companion injunction on that shared ground. For the reasons set forth above and in Appellants' Final Brief and Final Reply Brief—all of which are incorporated herein by reference—Appellants request that this Court issue a substituted opinion confirming and expressly addressing the reversal of that portion of the circuit court's order because the Treasurer failed to establish any threat of irreparable harm arising from conduct Appellants have never undertaken or threatened.

Signature Page Attached

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September 17, 2026