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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Jocelyn C. Newman, Circuit Court Judge

Op. No. 2026-UP-418 (S.C. Ct. App. filed Aug. 19, 2026)

Christine Jernigan,……...…….……..…..……Appellant,

v.

Kershaw County South Carolina,…….……..…..……..……...Respondent.

PETITION FOR A WRIT OF CERTIORARI

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Undersigned counsel certifies that the Petition for rehearing of *Jernigan v. Kershaw County*, Op. No. 2026-UP-418 (S.C. Ct. App. filed Aug. 19, 2026) (the "Opinion"), was denied on October 16, 2026.

QUESTIONS PRESENTED

I. In *Freemantle v. Preston*, 398 S.C. 186, 195, 728 S.E.2d 40, 45 (2012), this Court held that FOIA's statutory standing requirements are satisfied where "Appellant has pled that he is a citizen of the State and that FOIA has been violated. Nothing more is required." The Opinion finds that Appellant, a life-long resident of this State, lacks statutory standing under newly-created "requestor standing" requirements. Did the Court of Appeals err by adding requestor standing requirements that conflict with the plain statutory text, this Court's decision in *Freemantle*, and the purpose of FOIA mandated by the legislature?

II. The interpretation and application of FOIA, Section 30-4-100(A) (eff. May 19, 2017), is a novel question. The Opinion does not consider the updated "must" and "shall" procedures/deadlines of Section 30-4-100(A), or apply these mandatory provisions in this case. Did the Court of Appeals err by ignoring the mandatory procedures/deadlines of Section 30-4-100(A) as most-recently updated by the legislature?

STATEMENT OF THE CASE

On July 24, 2023, Appellant initiated this special proceeding seeking equitable relief against Respondent Kershaw County ("KCSC"), 2023-CP-28-00538 (the "538 FOIA case"). (R. pp. 1-18). The FOIA Request seeks public records relevant to police-involved events of June 28-29, 2022. (R. pp. 6 at ¶29; 34-35; 54-57). The Request includes all records associated with the "Pinedale facility," and all "audio recordings" for the dispatch operators and officers personally involved. (R. pp. 7 at ¶36; 14-15 at ¶84; 55-57; 183-84).

The FOIA Request was initially submitted to the Kershaw County Sheriff's Office ("KCSO") on July 22, 2022. (R. pp. 7 at ¶¶33-34; 30-31; 107-08; 120-21 at ¶¶9-10). KCSO responded by claiming that the requested law enforcement communication/dispatch records "in

our system" must instead be obtained from KCSC's E-911/Dispatch Department. (R. pp. 7 at ¶35; 35; 107).[1]

The FOIA Request was formally submitted to KCSC on August 11, 2022, in a further effort to obtain the requested E-911/dispatch public records. (R. pp. 6 at ¶¶29-32; 34). Pre-suit counsel for KCSC and KCSO responded on August 18, 2022, as follows:

> I am responding to your Freedom of Information Act request dated August 4, 2022, on behalf of KC E9-1-1 Communications. Please find enclosed herewith all documents not subject to exemption under the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10, *et. seq*. as well as a CD containing the audio. If you have any other questions or concerns, do not hesitate to contact me.

(R. pp. 8 at ¶¶43-44; 59; 108; 121 at ¶11). The August 18, 2022, FOIA Response disclosed one computer-aided dispatch ("CAD") report, CFS2022-39001 (Aug. 18, 2022), and a CD optical disc with audio recordings for some of the communications documented by the CAD report. (R. pp. 9-10 at ¶¶49-50; 61-62; 109; 121 at ¶11). Specifically, the CD includes 12 audio recording files of phone conversations concerning or involving undersigned counsel. (R. pp. 10 at ¶53; 60; 109; 121 at ¶¶11-12).

Most importantly, the August 18, 2022, FOIA Response withheld all records and audio recordings of the E-911/dispatch communications from the morning of June 29, 2022, accusing Appellant and undersigned counsel of unlawful conduct. (*See* R. pp. 11 at ¶59; 13 at ¶71; 41; 59-62; 110; 122 at ¶¶16-18; 186-87). On August 23, 2022, near the expiration of FOIA, Section 30-4-30(C)'s disclosure deadlines, Appellant offered to extend the disclosure deadlines for all

[1] The facts of this case overlap with the earlier-filed, related FOIA case against KCSO, 2022-CP-28-00782 (filed Sept. 12, 2022) (the "782 FOIA case"), which is also pending before this Court on Petition for a Writ of Certiorari, App. No. 2026-002267 (S.C. Sup. Ct., filed Oct. 14, 2026). Both Petitions raise the question of whether the Court of Appeals erred by failing to consider and apply the procedures/deadlines of Section 30-4-100(A) (eff. May 19, 2017).

other requested public records if pre-suit counsel for KCSC and KCSO would agree to provide these unlawfully withheld E-911/dispatch communications. (R. pp. 11 at ¶60; 41; 110; 120 at ¶9; 187). This offer was rejected that same night at 9:00pm. (R. pp. 11 at ¶61; 40).

The CFS2022-39009 (Nov. 17, 2022) CAD report, which was disclosed on December 2, 2022, in the related 782 FOIA case, documents the E-911/dispatch communications that were unlawfully withheld by KCSC's August 18, 2022, FOIA Response. (*See* R. pp. 12 at ¶69; 64-65; 110; 122 at ¶21; 186-87). This CAD report shows that the Administrator of the Pinedale facility, Mr. Hudson, called KCSC's E-911/Dispatch Department at 10:55am on June 29, 2022, and asserted that Appellant and undersigned counsel had committed unlawful acts. (*Id.*). These E-911/dispatch communications total approximately one hour, lasting from 10:55am to 11:53am. (R. pp. 12 at ¶70; 64-65; 110-11).

At the December 19, 2022, initial hearing in the 782 FOIA case, litigation counsel for KCSO (and later for KCSC also) stated that he would "go[] to central dispatch to get that additional recording. I presume that it does, but I don't know. But we're going to Kershaw County Dispatch to get that." (R. pp. 13 at ¶75; 76, lns. 7-10). The unlawfully withheld June 29, 2022, E-911/dispatch recordings were, however, never disclosed after the December 19, 2022, initial hearing in the 782 FOIA case. (R. pp. 13 at ¶76; 111).

Count I seeks equitable relief (*i*) finding that KCSC's August 18, 2022, Response and incomplete disclosures violate FOIA, Section 30-4-30(C); and (*ii*) ordering that the unlawfully withheld records, primarily the June 29, 2022, E-911/dispatch recordings, be disclosed. (R. pp. 14-15, 17).[2] The Complaint requests "an initial hearing within ten days of the date of service;"

[2] Count II is an alternative claim seeking equitable relief if withheld public records were subsequently destroyed after the FOIA Request was submitted. (R. pp. 16-17).

i.e., on or before August 7, 2023. (R. pp. 15 at ¶87; 17 at ¶A; 142). In this respect, the legislature updated FOIA, Section 30-4-100(A) (eff. May 19, 2017, emphasis added) to include procedures and deadlines (underlined below) that the chief administrative judge ("CAJ") of the circuit court must follow to resolve FOIA cases.

> A citizen of the State may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases if the application is made no later than one year after the date of the alleged violation or one year after a public vote in public session, whichever comes later. Upon the filing of the request for declaratory judgment or injunctive relief related to provisions of this chapter, the chief administrative judge of the circuit court *must* schedule an initial hearing within ten days of the service on all parties. If the hearing court is unable to make a final ruling at the initial hearing, the court *shall* establish a scheduling order to conclude actions brought pursuant to this chapter within six months of initial filing. The court may extend this time period upon a showing of good cause. The court may order equitable relief as it considers appropriate, and a violation of this chapter *must* be considered to be an irreparable injury for which no adequate remedy at law exists.

Appellant contends that the updated "must" and "shall" procedures/deadlines of Section 30-4-100(A) are mode of trial rights that should automatically apply to the benefit of FOIA plaintiffs without requiring formal motion practice. *See Osmundson v. School District 5*, 443 S.C. 610, 905 S.E.2d 418 (Ct. App. 2024) (interpreting the 10-day initial hearing requirement as a matter of first impression). Even so, Appellant filed a July 28, 2023, Motion for Equitable Relief that explicitly requests (*i*) the 10-day initial hearing; (*ii*) an order finding that KCSC's Response violates FOIA, Section 30-4-30(C), and requiring disclosure of the unlawfully withheld records; and (*iii*) a scheduling order to conclude this case by January 24, 2024. (R. pp. 100-14, 120-23).

Appellant's Motion for Equitable Relief was fully supported via arguments/evidence, and was not opposed by responsive briefing. (*See id.*). At the initial hearing on August 8, 2023, however, the circuit court determined that Appellant lacks statutory standing, under FOIA,

Section 30-4-100(A)'s "citizen of the State" provision, because she was not specifically identified as the requestor, or client, of the FOIA Request. (R. p. 219, lns. 3-10). The circuit court also determined that undersigned counsel, as the identified requestor of the FOIA Request, would lack statutory standing under Section 30-4-100(A)'s "citizen of the State" provision because he was currently an out-of-state member of the Bar residing in North Carolina. (*See*, *e.g.*, R. pp. 212, lns. 23-25; 213, lns. 3-5; 215, lns 13-16).

The circuit court's August 8, 2023, Form 4 Order states that "[f]ollowing a hearing on August 8, 2023, Plaintiff['s] '…Motion for…Equitable Relief…' (filed on 7/28/23) is DENIED," and that this Order did not end the case. (R. p. 144). Thus, the Form 4 Order did not include any findings of fact and conclusions of law for denying the equitable relief, and scheduling order, that was requested pursuant to the procedures/deadlines of Section 30-4-100(A) (eff. May 19, 2017). Rule 52(b), SCRCP; S.C. Code Ann. § 14-3-330(4).

Appellant filed an August 15, 2023, Motion seeking clarification and reconsideration of the August 8, 2023, Form 4 denial. (R. pp. 147-61, 169-98). Appellant submitted a follow-up Letter dated September 15, 2023. (R. pp. 233-35). Appellant contacted the CAJ's law clerk on October 24, 2023, regarding the pending Motion to clarify/reconsider. The law clerk responded on October 27, 2023, stating that Appellant "will receive a ruling on [the] Motion in the near future." (R. pp. 266).

Rather than issuing a timely ruling on the August 15, 2023, Motion to clarify/reconsider, the Motion remained pending when this case was placed on the non-jury roster calendar for the August 27, 2024, term. Unfortunately, undersigned counsel did not properly docket the August 27, 2024, term of non-jury court. After realizing this mistake, undersigned counsel promptly contacted the circuit court on August 30, 2024, to apologize for missing the hearing, and to again

request a ruling on the still-pending August 15, 2023, Motion to clarify/reconsider. (R. pp. 259-60, 263-64, 266).

The circuit court's October 17, 2024, written Order states that Appellant's August 15, 2023, Motion to clarify/reconsider is denied, and that KCSC's August 27, 2024, oral Motion for judgment on the pleadings is granted, because Appellant lacks "requestor standing" to proceed under Section 30-4-100(A)'s "citizen of the State" statutory standing provision. (R. pp. 243-46).[3] Appellant contends, at pages 7-10 below, that the newly-created requestor standing requirements under Section 30-4-100(A)'s "citizen of the State" statutory standing provision conflict with the plain text, this Court's decision in *Freemantle*, and the purpose of FOIA mandated by the legislature.

The October 17, 2024, written Order states that KCSC's August 27, 2024, oral Motion to dismiss for failure to prosecute would normally be granted without prejudice; i.e., with leave to refile. The Order finds, however, that "the ruling on [KCSC's] motion for judgment on the pleadings . . . dictates that this case must be dismissed with prejudice" because undersigned counsel, as the identified requestor of the FOIA Request, would also lack statutory standing as an out-of-state member of the Bar residing in North Carolina.[4] (R. pp. 243, 245-46). Appellant contends, at pages 10-14 below, that the circuit court denied Appellant the mode of trial rights enacted by the legislature at Section 30-4-100(A) (eff. May 19, 2017) by failing to make a final

[3] *See* R. p. 244 (stating that "[t]he grounds for [KCSC's Motion for judgment on the pleadings] have already been presented to and ruled upon by the Court in connection with [denying Plaintiff's Motion for Equitable Relief]. Plaintiff has filed a motion to reconsider that prior ruling that is still pending. In accordance with the ruling below, that motion to reconsider is denied.").

[4] Undersigned counsel was resident of Weddington, North Carolina, when this case was filed on July 24, 2023, but subsequently moved to Seneca, South Carolina, in January 2024.

ruling on the equitable relief requested by Count I at the initial hearing, and by failing to enter a scheduling order to fully conclude proceedings in this case by January 24, 2024.

The circuit court's disposition of Appellant's August 15, 2023, Motion to clarify and reconsider the August 8, 2023, Form 4 Order's general denial resulted in a substantively-altered order; i.e., the October 17, 2024, written Order. Accordingly, Appellant timely-filed a Motion to reconsider the October 17, 2024, written Order on October 28, 2024. (R. pp. 248-269). The circuit court denied this Motion to reconsider on November 21, 2024. (R. p. 270). Appellant timely-filed and served a Notice of Appeal on December 16, 2024. (R. pp. 273-89). The Orders subject to appeal include the August 8, 2023, Form 4 denial; the October 17, 2024, written Order; and the November 21, 2024, Form 4 Order. (*Id.*).

ARGUMENT

I. The Court of Appeals erred by adding "requestor standing" requirements that conflict with the plain statutory text, this Court's decision in *Freemantle*, and the purpose of FOIA mandated by the legislature

FOIA was "enacted to prevent the government from acting in secret," and its provisions should be "liberally construed to carry out the purpose mandated by the legislature." *Campbell v. Marion County Hosp. Dist*., 354 S.C. 274, 580 S.E.2d 163 (Ct. App. 2003) (citations omitted). In construing a statute, this Court examines and enforces the statutory language as written. *Smith v. Tiffany*, 419 S.C. 548, 555, 799 S.E.2d 479, 483 (2017). "Determining the proper interpretation of a statute is a question of law, and this Court reviews questions of law *de novo*." *Catawba Indian Tribe v. State*, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007).

Rather than construing and applying FOIA, Section 30-4-100(A)'s "citizen of the State" statutory standing provision as written, and consistent with the purpose mandated by the

legislature, the Opinion adds newly-created "requestor standing" requirements that have never been recognized or applied in any published decision.

> [Appellant's] complaint contains numerous fatal issues. First, [Appellant] never filed a FOIA request with [KCSC] or any other entity; [undersigned counsel] made the FOIA request at issue, and [undersigned counsel] did not assert that he was making the request in a representative capacity. [Undersigned counsel] was listed as the 'requestor' and utilized first-person language throughout the request. Thus, [Appellant] has nothing to enforce under the FOIA. Moreover, [undersigned counsel] is not a party to this action, and even if he was, he would not be able to pursue relief under FOIA because he is not a South Carolina citizen.[5]

Op. at 3.

Appellant submits that the Opinion's newly-created "requestor standing" requirements are contrary to the plain statutory text, this Court's decision in *Freemantle*, and the purpose of FOIA mandated by the legislature. This Court has previously addressed the minimal statutory standing requirements for FOIA-plaintiffs as follows:

> The traditional concepts of constitutional standing are inapplicable when standing is conferred by statute. FOIA contains a specific standing provision allowing *any citizen* of South Carolina to seek a declaratory judgment or injunctive relief to enforce the Act's requirements. S.C. Code Ann. § 30-4-100(a).
> …
>
> The legislature has specifically conferred standing upon *any citizen* of South Carolina to bring a FOIA claim against a public body for declaratory or injunctive relief, or both. Appellant has pled that he is a citizen of the State and that FOIA has been violated. *Nothing more is required*. Therefore, the trial court erred in finding Appellant lacked standing to assert his FOIA claims.

Freemantle, 398 S.C. at 194-95, 728 S.E.2d at 44-45 (emphasis added).

Under FOIA, all "persons" have a statutory "right to inspect, copy, or receive" a "public record of a public body" upon submission of a "written request for records" to the public body. S.C. Code Ann. §§ 30-4-20(b), 20(c), 30(A)(1) & (C). FOIA's definition of "person" – i.e., the

[5] *See* fn. 4, above.

"requestor" of the FOIA request – broadly encompasses any "individual, corporation, partnership, firm, organization or association" without limitation. *Id*., §§ 30-4-20(b) & 30(D).

The Opinion effectively rewrites Section 30-4-100(A)'s "citizen of the State" provision by limiting statutory standing to only include the specifically-identified requestor, or client, of a FOIA Request. As this Court held in *Freemantle*, however, a FOIA-plaintiff need only plead citizenship/residency of the State, and that FOIA has been violated, to establish statutory standing under Section 30-40-100(A). 398 S.C. at 95, 728 S.E.2d at 45. This Court explicitly stated that "[n]othing more is required." *Id*. Appellant submits that she satisfied the statutory standing requirements of Section 30-40-100(A) in this case by pleading that she is a citizen/resident of South Carolina and that FOIA has been violated. (R. p. 2 at ¶1; 14-15; 263 at ¶5).

To correct the record, Appellant further submits that the Complaint accurately alleges that undersigned counsel formally submitted the FOIA Request to KCSC as a "person" under FOIA, and as an attorney on behalf of Appellant, from undersigned counsel's law firm email. (R. p. 3 at ¶11; R. p. 6 at ¶29). The requested public records were relevant to a third related case, *Jernigan v. Wright*, 2022-CP-28-00967 (filed Nov. 2, 2022) (the "967 case"), that included breach of fiduciary duty claims against third parties who asserted that Appellant and undersigned counsel committed unlawful acts by picking up Mrs. Martin from the Pinedale facility for a previously scheduled visit with Appellant Mrs. Jernigan on June 29, 2022. (R. pp. 116-19, 125-41). Although the FOIA Request does not specifically state that it was being made in a representative capacity, and utilizes first-person language, it seeks public records documenting the June 28-29, 2022, police-involved incidents that relate to Appellant, Mrs. Martin, and undersigned counsel. (R. p. 55). Indeed, in the related 782 FOIA case, counsel for the parties

conferred as required pursuant to Rule 11, SCRCP, and the "requestor standing" matter was resolved amicably amongst the parties. (*See* 782 FOIA case, App. Br. 5).

Upon the foregoing, Appellant submits that the Opinion's newly-created requestor standing requirements are contrary to the plain statutory text, this Court's decision in *Freemantle*, and the purpose of FOIA mandated by the legislature. Appellant respectfully requests that this Court issue a Writ of Certiorari to review the Opinion on this question, and subsidiary questions fairly comprised therein, pursuant to Rule 242, SCACR.

II. The Court of Appeals erred by failing to consider and apply the mandatory "must" and "shall" provisions of Section 30-4-100(A) (eff. May 19, 2017) in this FOIA case

Pursuant to Section 30-4-100(A) (eff. May 19, 2017), Appellant's Complaint and Motion for Equitable Relief request an order finding that KCSC's August 18, 2022, FOIA Response violates FOIA, Section 30-4-30(C), and requiring disclosure of the June 29, 2022, E-911/dispatch communications. Appellant submits that the deadlines and legal standards of Section 30-4-100(A) are mode of trial rights that automatically apply to the benefit of FOIA plaintiffs without requiring resort to formal motion practice. *See Creed v. Stokes*, 285 S.C. 542, 331 S.E.2d 351 (1985) (holding that orders affecting the mode of trial are immediately appealable and become law of the case if a timely appeal is not filed). Appellant contends that the Opinion errs by failing to apply the required procedures and deadlines of Section 30-4-100(A) (eff. May 19, 2017) to resolve this FOIA case, and by incorrectly stating that it affirms "dismissal of [Appellant's] action for failure to prosecute," which never occurred below, as an alternative ground to dismiss this case *with prejudice.*[6] Op. 2.

[6] As discussed above at page 6, the October 17, Order specifies that the oral Motion to dismiss for failure to prosecute "would result in the case being dismissed without prejudice" (i.e., with leave to refile) but-for the circuit court's ruling dismissing the case, with prejudice, on lack-of-requestor standing grounds. (R. p. 243).

In *Osmundson*, the Court of Appeals held that the circuit court is responsible for scheduling an initial hearing within ten days of the service on all parties. 443 S.C. 610, 905 S.E.2d 418 (interpreting the 10-day hearing requirement as a matter of first impression). Appellant requests that this Court extend the holding in *Osmundson* by finding that the declaratory/injunctive relief of the Complaint, and Motion for Equitable Relief, should have been resolved at the 10-day initial hearing like a motion for temporary injunction, and that a scheduling order should have been entered to fully conclude this FOIA case by January 24, 2024.

The prevailing rule of statutory interpretation is that "use of words such as 'shall' or 'must' indicates the legislature's intent to enact a mandatory requirement." *Richland Cnty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 309, 811 S.E.2d 758, 767 (2018) (citation omitted). Statutory provisions are generally regarded as mandatory when, as in the present case, the power or duty to which it relates is for the security or protection of important rights. *See State v. Blair*, 275 S.C. 529, 273 S.E.2d 536 (1981) (citation omitted); *Seago v. Horry Cnty.*, 378 S.C. 414, 423, 663 S.E.2d 38, 42 (2008) ("FOIA grants the public an immutable right to access public records"). Indeed, mandamus may be an appropriate remedy to compel a public official to perform mandatory "must" and "shall" duties, and in cases where clear abuse of discretion would otherwise result the matter is effectively a ministerial decision. *Redmond v. Lexington County School Dist. No. Four*, 314 S.C. 431, 445 S.E.2d 441, 444 (1994).

The legislature previously updated Section 30-4-100 (eff. May 26, 1987) to mandate that all FOIA violations "must be considered an irreparable injury for which no adequate remedy at law exists." 1987 Act No. 118, Section 8. The most recent amendments were added to impose "time constraints within which determinative hearings on the requests for relief must be made." 2017 Act No. 67 (H. 3352), Section 4, Effect of Amendment. When H. 3352 was considered by

the Judiciary Committee, Senator Margie Bright Matthews explained that adding the scheduling/time constraints would "create an avenue of filing FOIA requests like a temporary [injunction] motion so that it would have [to be] fast-tracked within ten days."[7] Thus, Appellant submits that Section 30-4-100(A) (eff. May 19, 2017) was updated by the legislature to require that FOIA actions be resolved on an expedited basis like a temporary injunction motion. *See Scratch Golf v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004) (applying temporary injunction factors)

"The General Assembly has the power and authority to change the statutes in any manner in which, in its best judgment, it may deem wise." *Fort Sumter Hotel v. S.C. Tax Comms.*, 201 S.C. 50, 60, 21 S.E. 2d 393, 397 (1942). The circuit court can "now only carry out by its order the plain meaning and intent of the statutes as they appear on the books today. That course alone constitutes the cornerstone of constitutional government." *Id.* Appellant submits that the circuit court's failure to follow the expedited resolution requirements of Section 30-4-100(A) (eff. May 19, 2017) in this case denied Appellant the mode of trial rights enacted by the legislature for the benefit of FOIA plaintiffs. This places Appellant, and all similarly-situated FOIA-plaintiffs, in an untenable situation.

"The interpretation of a statute is a question of law." *Brock v. Town of Mount Pleasant*, 415 S.C. 625, 628, 785 S.E.2d 198, 200 (2016) (citations omitted). Declaratory and injunctive relief are equitable remedies and "this Court may make factual findings based on its own view of the preponderance of the evidence." *Lambries v. Saluda Cnty. Council*, 409 S.C. 1, 760 S.E.2d 785, 788 (2014) (citation omitted).

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[7] S. Judiciary Comm. Meeting, 122d Gen. Assemb., 1st Reg. Sess. (S.C. May 2, 2017), available at https://www.scstatehouse.gov/video/archives.php, at 01:53:00 to 1:54:50; *see also* Rule 65, SCRCP.

Pursuant to the expedited resolution requirements of FOIA, Section 30-4-100(A), the declaratory relief requested with respect to Count I – a finding that the written determination and incomplete disclosures provided by KCSC on August 18, 2022, violate the requirements of FOIA, Section 30-4-30(C) – should have been settled as a matter of law at an initial hearing held within 10 days of service. KCSC's August 18, 2022, FOIA Response did not attempt to address the availability of the requested records, or to explain how any FOIA exemptions could potentially apply to any of the specific records of the FOIA Request pursuant to Section 30-4-30(C). It is impossible to determine which specific records of the FOIA Request were available, not available, and/or withheld as potentially exempt based upon the bare assertions of the August 18, 2022, Response stating that "*all* public records and audio recordings *not subject to exemption*" were provided therewith. *See Sloan v. S.C. Dep't of Rev.*, 409 S.C. 551, 554-55, 762 S.E.2d 687, 688-89 (2014) (holding that the DOR's "equivocal and evasive" FOIA response was "manifestly at odds with the clarity mandated by" Section 30-4-30(C)).[8]

It is also clear that KCSC's August 18, 2022, FOIA Response unlawfully withheld all public records and audio recordings of the third-party E-911/dispatch calls from the morning of June 29, 2022, accusing Appellant and undersigned counsel of unlawful conduct, and thereby triggering KCSO's police-actions. Following the 10-day initial hearing, a scheduling order to resolve the injunctive relief of Count I – i.e., ordering KCSC to disclose the unlawfully withheld June 29, 2022, E-911/dispatch communications – should have been entered. If the circuit court

[8] The 2017 FOIA amendments provided public bodies the right to seek declaratory relief via an expedited hearing under Section 30-4-110(A) with respect to (*i*) alleged "unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests," or (*ii*) where the public body "received a request but it is unable to make a good faith determination as to whether the information is exempt from disclosure." S.C. Code Ann. § 30-4-110(A). KCSC did not request a hearing or seek declaratory relief pursuant to Section 30-4-110(A) in this case.

had granted Appellant's Motion for Equitable Relief, and KCSC had subsequently disclosed the unlawfully withheld public records, the only remaining matter would have been the Complaint's request for costs/expenses pursuant to FOIA, Section 30-4-100(B).

Upon the foregoing, Appellant submits that the Court of Appeals erred by failing to consider and apply the mandatory "must" and "shall" provisions of Section 30-4-100(A) (eff. May 19, 2017) in this FOIA case. Appellant respectfully requests that this Court issue a Writ of Certiorari to review the Opinion on this question, and subsidiary questions fairly comprised therein, pursuant to Rule 242, SCACR.

CONCLUSION

For the reasons set forth herein, Appellant respectfully requests that this Court, or any two justices thereof, issue a Writ of Certiorari to review the Opinion on the questions presented pursuant to Rule 242, SCACR.

Respectfully submitted,

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