THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Doyet A. Early, III, Circuit Court Judge

Case No. 2009-CP-02-1529

William R. Ferrara, ... Appellant,

v.

Michael E. Hunt, Sheriff of Aiken County and
Charles Cain in his individual capacity as Deputy Sheriff, ... Defendants,

Of whom Michael E. Hunt is the ..... Respondent.

BRIEF OF RESPONDENT MICHAEL E. HUNT

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STATEMENT OF THE CASE

This is a malicious prosecution and defamation action against the Respondent Michael E. Hunt, who is the Sheriff of Aiken County, and Charles Cain, who is an deputy and investigator with the Aiken County Sheriff's Office (ACSO).

On July 1, 2009, the Appellant William R. Ferrara filed a civil action in Aiken County Court of Common Pleas against Sheriff Hunt, Deputy Cain, then-Solicitor Barbara Morgan, Brenda Brisbin, and the ACSO. He filed his voluminous complaint as a *pro se* litigant. His complaint included federal constitutional causes of action, and as a result, the action was removed to the United States District Court. (R. 52-127).

On October 13, 2009, the claims against Defendants Morgan, Brisbin, and the ACSO were dismissed with prejudice by the Federal Court.

On December 29, 2010, United States District Judge Richard M. Gergel ruled on the dispositive motions filed by the remaining Defendants. At that time, the Court granted partial summary judgment, specifically maintaining the actions against Sheriff Hunt in his official capacity and Cain individually. However, many of the 21 causes of action were dismissed against one or both of these remaining Defendants.

On March 28, 2012, after additional discovery was completed, Judge Gergel granted the motions for summary judgment filed by Sheriff Hunt and Cain with respect to all remaining federal causes of action, including a Fourth Amendment malicious prosecution claim. (R. 21-31).

In his Order, Judge Gergel declined to exercise supplemental jurisdiction over the remaining state causes of action of malicious prosecution and defamation and thereby remanded the case to the Aiken County Court of Common Pleas. (R. 29-30).

After remand, Sheriff Hunt and Deputy Cain moved for summary judgment on the remaining state law claims for malicious prosecution and defamation. Those motions were heard by Circuit Court Judge Doyet A. Early, III, who in separate orders granted summary judgment to both Sheriff Hunt and Cain. (R. 1-20).

The Appellant William R. Ferrara did not file any Rule 59(e) motion. Instead, he file two appeals to this Court, one from each summary judgment order.

STATEMENT OF FACTS

On July 12, 2006, Aiken County Sheriff's Office (ACSO) Deputy Stuart Johnson responded to 2860-B Banks Mill Road in response to a complaint from a female resident named Kari Driggers. (R. 874-875). At that time, Driggers complained that at various times during the previous three months, the Appellant William R. Ferrara had physically assaulted her. (R. 874-875). An incident report was generated by Deputy Johnson, and Investigator Charles Cain was assigned to this investigation. (R. 909, 921).

On July 13, 2006, Cain went to personally interview Driggers. (R. 909). At that time, Driggers advised that she was renting an apartment from Ferrara and had done some sanding and painting for him in that apartment. (R. 910). She claimed that since June 1, 2006, she had been approached by Ferrara and the following events took place:

- Ferrara requested sex on several occasions. In fact, he offered her $50 cash and free rent in exchange for sex. On one occasion, she followed Ferrara to a vacant brick house he owned on Citadel Drive in Aiken. After entering, she saw a bed and containers of lotion. Again Ferrara requested sex. Driggers refused and left. Finally, she claimed that

Ferrara asked her to have sex with him which included bathing. (R. 910).

- Ferrara had fondled her on several occasions and while his advances were unsolicited, he continued. For instance, he touched her buttocks and body without her permission after she told him to stop. (R. 910).
- Ferrara showed her a picture of a male penis on his cellular phone. She further gave explicit detail about the cell phone, describing it as a blue in color Verizon cell phone with a camera. (R. 910).
- On two occasions, Ferrara exposed himself to her and apparently began to masturbate, all of which occurring inside Ferrara's truck. (R. 910).

Based upon the information received from Driggers, Deputy Cain prepared several warrant applications on July 13, 2006. (R. 911). Aiken County Magistrate Judge Patrick Sullivan reviewed the warrant applications and the affidavits, found probable cause, and issued five warrants sought against Ferrara. These included warrants for Assault and Battery of a High and Aggravated Nature (ABHAN), Solicitation of Prostitution, Disseminating Obscenity, and Indecent Exposure (two counts). (R. 826-835, 868-872, 911).

On July 14, 2006, Ferrara was granted a bond with restrictions, including house arrest with electronic monitoring and the seizure of his passport. (R. 66-67).

On October 11, 2006, a preliminary hearing was held, resulting in the dismissal of the charges for Disseminating Obscenities and both counts of Indecent Exposure. (R. 762-764).

On October 14, 2008, a consent order was signed removing the bond conditions of house arrest and electronic monitoring. On October 17, 2008, the remaining criminal charges were dismissed by the Second Circuit Solicitor. On March 6, 2009, all the records associated with Ferrara's charges were expunged. (R. 33).

At the time of Ferrara's arrest in July 2006, the Sheriff's Public Information Officer Michael Frank issued a press release with information pertaining to Ferrara's arrest, the charges, and a brief recitation of his professional and public background (i.e., previous Aiken County Councilman). (R. 1151). Further, this release was initially posted and later accessible on the Sheriff's website for a period of time beyond the issuance of the expungement order. (R. 504-505).

ARGUMENTS

I. The Circuit Court was correct in granting summary judgment on the state law malicious prosecution claim where the Federal Court has already ruled that probable cause existed for the Appellant's arrest.

Circuit Court Judge Doyet A. Early, III granted summary judgment to Sheriff Michael E. Hunt on the Appellant William R. Ferrara's malicious prosecution claim on the basis that a finding a probable cause in the federal action was entitled to preclusive effect. In the federal action, United States District Judge Richard E. Gergel determined that "Defendant Cain had probable cause for the arrest of Plaintiff based upon the multiple consistent written and oral statements of the alleged victim and the corroborating statement of the neighbor." (R. 28). Judge Gergel agreed that "there was probable cause to effect Plaintiff's arrest." (R. 28). Ferrara did not appeal from Judge Gergel's rulings nor file any post-judgment motion.

On remand from federal court, Judge Early ruled that the unappealed finding that probable cause existed for Ferrara's arrest is entitled to preclusive effect in the state court action. (R. 4). Judge Early cited *res judicata*, issue preclusion and law of the case as three separate methods by which the probable cause finding was entitled to preclusive effect. Without dispute, the lack of probable cause is an essential element for a malicious prosecution cause of action. *Jackson v. City of*

Abbeville, 366 S.C. 662, 623 S.E.2d 656 (Ct. App. 2005). Because the existence of probable cause had already been established as a matter of law, Judge Early correctly ruled that Ferrara could not prevail on his state law malicious prosecution claim.

On appeal, Ferrara contends that Judge Gergel's order is "inconsistent" and he also attempts to re-litigate the very issues that he raised, argued and lost in federal court.

First, Ferrara contends that the summary judgment order issued by Judge Gergel was inconsistent. He acknowledges on the one hand that Judge Gergel found that probable cause existed for his arrest. Yet, on the other hand, he contends that Judge Gergel declined to adjudicate Ferrara's remaining state law claims for malicious prosecution and defamation. Ferrara contends that an inconsistency exists. However, Ferrara is ignoring the obvious: there is a difference between the adjudication of a "claim" and the adjudication of an "issue." Central to Judge Gergel's rulings on the federal constitutional claims was his finding of probable cause for Ferrara's arrest. That probable cause finding represents the law of the case given that this same action was before Judge Early on remand from the federal court. In other words, this is the same case arising from the same complaint. It was first filed in state court, then removed to federal

court, and then remanded to state court. Thus, the law of the case doctrine is applicable.

Alternatively, Judge Gergel's probable cause finding is entitled to preclusive effect based upon the doctrine of collateral estoppel. "Collateral estoppel or issue preclusion prevents a party from relitigating in a subsequent suit an issue actually and necessarily litigated and determined in a prior action." *Shelton v. Oscar Meyer Foods Corp.*, 325 S.C. 248, 481 S.E.2d 706, 707 (1997). As the South Carolina Supreme Court has explained, "[p]rinciples of finality, certainty, and the proper administration of justice suggest that a decision once rendered should stand unless some compelling countervailing consideration necessitates relitigation." 481 S.E.2d at 708. The concept of probable cause is the same under both federal and state law. If probable cause existed so as to defeat Ferrara's Fourth Amendment malicious prosecution claim, it likewise existed so as to defeat his state law malicious prosecution claim. There was no inconsistency in Judge Gergel's decision. He decided the existence of probable cause as an *issue* in adjudicating the Fourth Amendment malicious prosecution claim, and yet, he left the state law malicious prosecution *claim* to be decided on remand because he declined to exercise federal supplemental jurisdiction. The *issue* of probable cause is nonetheless entitled to preclusive effect. In short, Ferrara is not entitled by either the law of the case or

collateral estoppel or both from relitigating that issue, and Judge Early was correct in so ruling.[1]

In addition, Ferrara attempts to re-litigate each of the probable cause arguments that he raised, argued and lost in federal court. By way of example, Ferrara argues on appeal that his arrest was without probable cause "because Deputy Cain did not investigate his informant's reliability or veracity." *See*, Appellant's Brief, p. 17. As he did in federal court, Ferrara erroneously refers to Driggers, who is the alleged victim, as an "informant." On that issue, Judge Gergel rejected Ferrara's reliance on *Illinois v. Gates*, 462 U.S. 213 (1983), and wrote as follows: "In this matter, the alleged victim was not an anonymous tipster but a person with reportedly first hand knowledge regarding the accused's actions and who had purportedly undergone a physical assault and other actions at the hands of Plaintiff." (R. 28).

Similarly, Ferrara argues on appeal that his arrest was without probable cause "because Deputy Cain failed to corroborate his informant's allegations." *See*, Appellant's Brief, p. 18. He insists that probable cause may not be based on the

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[1] Following the same rationale, Ferrara also equates Judge Gergel's order to an ambiguous contract. He then suggests that it is unclear how an ambiguous order should be construed. As discussed above, Judge Gergel's order is not ambiguous, but if it were, it would have been incumbent on Ferrara to have appealed that order or otherwise obtained clarification from Judge Gergel. Ferrara did neither. However, neither was necessary because that order is not ambiguous in any material respect. Judge Gergel clearly determined that probable cause existed for Ferrara's arrest, and that finding is entitled to preclusive effect.

uncorroborated statement of the victim. However, that was a central focus of his argument in federal court, and Judge Gergel ruled that "[c]ontrary to the arguments of Plaintiff, it is well settled that probable cause can often be established by the statement of a crime victim." (R. 27). Judge Gergel further explained: "Although Plaintiff raises various issues challenging the veracity of the purported victim, there is no evidence that Defendant Cain was then aware of such information or that he harbored any suspicions regarding the purported victim's credibility." (R. 28).

To fully recognize that the issues challenging probable cause made on appeal are the same as the issues already adjudicated by Judge Gergel, this Court is encouraged to compare pages 15 through 20 of Ferrara's opening brief to this Court with pages 6 through 13 of his summary judgment opposition memorandum filed in federal court. (R. 1083-1090). In most respects, the arguments are verbatim and the legal authorities cited are the same. In short, the arguments made on appeal were already made before Judge Gergel. The rulings in federal court on those very arguments, and the ultimate ruling that probable cause existed for Ferrara's arrest may not be relitigated in this case. The dismissal of Ferrara's state law malicious prosecution claim should be affirmed because, as already judicially determined, probable cause existed for his arrest.

II. The Circuit Court was correct in granting summary judgment on the defamation claim.

The Appellant Ferrara also contends on appeal that Judge Early erred in granting summary judgment on his defamation claim. The dismissal of the defamation claim should be affirmed on several bases, both substantive and procedural.

"The tort of defamation permits a plaintiff to recover for injury to his reputation caused by the defendant's communication to others of a false message about plaintiff." *McBride v. School District. of Greenville County*, 389 S.C. 546, 698 S.E.2d 845, 852 (Ct. App. 2010). "To prove defamation, the plaintiff must show: (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." *Id.* "Under the law of defamation, however, certain communications give rise to qualified privileges, including the privilege to publish fair and substantially accurate reports of judicial and other governmental proceedings without incurring liability." *West v. Morehead*, 396 S.C. 1, 720 S.E.2d 495, 498 (Ct. App. 2011). *See*, *White v. Wilkerson*, 328 S.C. 179, 493 S.E.2d 345, 348 (1997) ("[t]he fair report privilege protects fair and accurate reports of judicial records and proceedings and other official acts, reports,

and records"); *Padgett v. Sun News,* 278 S.C. 26, 31, 292 S.E.2d 30, 33 (1982) (fair and accurate reports based on public records were privileged). *See also, Yohe v. Nugent,* 321 F.3d 35, 43 (1st Cir. 2003) ("[t]he fair report privilege protects published reports of arrests by police").

This Court has further explained that "[w]hether the occasion is one which gives rise to a qualified privilege is a question of law." *West,* 720 S.E.2d at 499. In granting summary judgment, Judge Early found that the press release issued by the Sheriff's Office and posted on its website was entitled to a qualified privilege. He concluded that "Plaintiff's arrest for alleged sexual misconduct directed towards a vulnerable adult is a matter of public concern, especially in light of Plaintiff's then-recent arrest for criminal sexual conduct with a minor." (R. 6).[2] Judge Early further ruled that "Defendant Sheriff had an interest in the subject matter of the press release, Plaintiff's arrest, and that the public – to whom the communication was made – had a corresponding interest in that subject matter." (R. 6).

On appeal, Ferrara does not dispute Judge Early's ruling that the press release at issue was subject to a qualified privilege. Instead, Ferrara now argues that "whether the privilege has been abused is one for the jury." *See,* Appellant's Brief, p. 23. However, that is an issue that is raised for the first time on appeal. In

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[2] Ferrara objects to the characterization of Kari Driggers as a "vulnerable adult"; however, there is evidence in the record that Driggers was deaf. (R. 711, 758).

his order, Judge Early pointed out that "Plaintiff has not offered argument rebutting Defendant's positions" with regard to the qualified privilege. (R. 6). To the extent that Ferrara's counsel now argues that the qualified privilege was abused, no such argument was addressed by Judge Early in his order. Furthermore, no Rule 59(e) motion was filed by Ferrara, and as a result, this issue is not preserved for appeal.[3]

Further, it is important to recognize that South Carolina law provides a statement subject to a qualified privilege "must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed." *Bell v. Bank of Abbeville*, 208 S.C. 490, 38 S.E.2d 641, 643 (1946). The Supreme Court explained that "whether or not the privilege was exceeded" requires a showing of "express or actual malice." *Id. See also, Conwell v. Spur Oil Co. of Western South Carolina*, 240 S.C. 170, 125 S.E.2d 270, 276 (1962) ("in order to overcome the defense of qualified privilege, the burden was upon the respondent to show express malice or malice in fact on the part of the appellant toward the respondent"). Of course, "express malice" is synonymous with "actual malice." *Bell*, 38 S.E.2d at 643. "Common law actual malice ... has been defined by situations where

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[3] In *Elam v. South Carolina Dept. of Transportation*, 361 S.C. 9, 602 S.E.2d 772 (2004), the Supreme Court explained that "[i]ssues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court." 602 S.E.2d at 779-780. "Error preservation requirements are intended 'to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments.'" *Ellie, Inc. v. Miccichi*, 358 S.C. 78, 594 S.E.2d 485, 498 (Ct. App. 2004), *citing I'On v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716, 724 (2000). "It is well settled that an appellate court cannot address an issue unless it was raised to, *and ruled upon by,* the trial court." *Id.* (Emphasis in original).

defendant was actuated by ill will in what he did, with the design to causelessly and wantonly injure the plaintiff." *Swicegood v. Lott*, 379 S.C. 346, 665 S.E.2d 211, 214 (Ct. App. 2008).

In the present case, there has been no showing of "actual malice." In his brief, Ferrara baldly declares that "there is certainly proof of actual malice in this case." *See*, Appellant's Brief, p. 26. He suggests that the fact that the press release remained on the Sheriff's Office website after the issuance of the expungement order is evidence of "actual malice." That is denied. Yet, such an argument frankly does not help Ferrara. As Sheriff Hunt argued at the motion hearing, even if Ferrara can make a showing of "actual malice" as necessary to overcome the qualified privilege, then Sheriff Hunt would be entitled to absolute sovereign immunity under the South Carolina Tort Claims Act. *See*, S.C. Code Ann. § 15-78-60(17) (providing that governmental entities are "not liable for a loss resulting from ... employee conduct outside the scope of his official duties or which constitutes actual fraud, *actual malice*, intent to harm, or a crime involving moral turpitude"). (Emphasis added). *See also*, *Gause v. Doe,* 317 S.C. 39, 451 S.E.2d 408 (Ct. App. 1994) (defamation case was barred under Section 15-78-60(17) of Tort Claims Act where plaintiff was required to prove "actual malice" to recover).[4]

[4] The Sheriff reasserts sovereign immunity based on Section 15-78-60(17) as an additional sustaining ground. *See*, *I'On v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000), wherein the Supreme Court explained that a respondent "may raise on appeal any

In sum, in order to avoid the qualified privilege, Ferrara must show "actual malice," but even if he can show "actual malice," the Sheriff is then entitled to sovereign immunity under the Tort Claims Act. Either way, the defamation claim is barred – either by a qualified privilege as found by Judge Early or by sovereign immunity, which was argued below and is re-asserted as an additional sustaining ground.

Likewise, the South Carolina Supreme Court has explained that, in a case involving an issue of public controversy or concern, certain common law presumptions do not apply, even in the case of a private-figure plaintiff. *Erickson v. Jones Street Publishers, LLC*, 368 S.C. 444, 629 S.E.2d 653, 665 (2006). This results from "the need to balance First Amendment rights with the right of individuals to be compensated for damage by defamatory statements." *Id.* One such common law presumption that does not apply is the presumption that the defendant acted with common law actual malice. *Id.* In such cases, a private-figure plaintiff must prove the falsity of the alleged defamatory statement as well as common law actual malice and actual injury. *Id.*

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additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court." 526 S.E.2d at 723. "The appellate court may review respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment." *Id.* *See also*, Rule 220(c), SCACR ("[t]he appellate court may affirm any ruling, order, or judgment upon any ground(s) appearing in the record"); Rule 207(b)(2), SCACR ("[r]espondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c)").

Indisputably, the present case involves an issue of public concern, specifically the arrest of a citizen who also had been recently arrested for criminal sexual conduct with a minor and who is a former Aiken County Councilman. In order to recover, Ferrara must therefore prove common law actual malice, but the Sheriff is nonetheless entitled to sovereign immunity under Section 15-78-60(17) of the Tort Claims Act.

In sum, on several separate and independent bases, the Appellant Ferrara is barred from recovering against Sheriff Hunt on his defamation cause of action.

III. The Circuit Court was correct in denying relief for any alleged violation of an expungement order under Section 17-1-40(A).

Ferrara also alleged that the press release violated the court's expungement order when the press release remained on the Sheriff's Office website after the order was issued. He argues that Sheriff Hunt should be held in contempt and/or that he should be allowed to pursue a claim for monetary relief.

In granting summary judgment, Judge Early found that Ferrara did not prove any actual violation of the expungement order. (R. 6). He also found that "Plaintiff has not shown that the press release remaining on the ACSO's website was anything other than an oversight" and that intentional conduct was required to establish a violation of Section 17-1-40. (R. 7). Finally, Judge Early concluded that Section 17-

1-40(A) provides only for a remedy of criminal contempt and that proper procedure was not followed in order to obtain that remedy. (R. 7).

Section 17-1-40(A) provides that "the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency." S.C. Code Ann. § 17-1-40(A). As Judge Early concluded, Ferrara made no showing that "the press release on the website was an arrest [record], a booking record, file, mug shot, or fingerprint, which would require its expungement." (R. 6). Ferrara makes no argument on appeal to refute this point. Interestingly, an Attorney General's Opinion examined the scope of Section 17-1-40(A) and discussed an almost identical factual scenario as follows:

> Consistent with such, in the opinion of this office, a newspaper article that appeared on the website of a police department would not be included in materials subject to being expunged. Even if it were to be expunged from the police department website, arguably, it may be accessible through some other search of newspaper files generally such as can be accomplished by a "google" search.

See, 2007 Op. Att'y Gen., 2007 WL 4284646. Moreover, the South Carolina Supreme Court has explained that Section 17-1-40(A) "does not apply to any recordation of historical events beyond the charge itself. For example, the facts precipitating the charge are not covered by this statute because they are mere events that exist irrespective of any criminal proceedings." *Compton v. South*

Carolina Department of Corrections, 392 S.C. 361, 709 S.E.2d 639, 643 (2011). As Judge Early correctly recognized, "[t]he facts precipitating the criminal charges against Plaintiff are the primary focus of his claim for defamation" and "[s]uch facts are not covered by the expungement statute." (R. 7). Ferrara does not appear to discuss, let alone take issue, with this analysis by the lower court.

Judge Early also concluded that "the remedial portion of the expungement statute only applies to intentional conduct." (R. 7). S.C. Code Ann. § 17-1-40(A) provides: "A person who otherwise *intentionally* retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court." S.C. Code Ann. § 17-1-40(A). (Emphasis added). Again, it does not appear that Ferrara takes issue with that ruling.

Moreover, there is no indication that the General Assembly intended to create a private right of action. *See*, *Dorman v. Aiken Communications, Inc.*, 303 S.C. 63, 398 S.E.2d 687, 688-89 (1990) (refusing to find a private right of action for "a criminal statute which provides only for criminal sanctions" because "[t]he primary consideration in deciding whether a private cause of action should be implied under a criminal statute is legislative intent"). *See also*, *Trask v. Beaufort County*, 392 S.C. 560, 709 S.E.2d 536 (Ct. App. 2011).

Finally, Judge Early found that "Plaintiff has failed to follow the proper procedure to address the alleged violation." (R. 7). Again, it does not appear that Ferrara challenges this ruling. In *Grosshuesch v. Cramer*, 377 S.C. 12, 659 S.E.2d 112 (2008), the Supreme Court explained that "our jurisprudence clearly establishes that the proper procedure to determine whether a party should be held in contempt is to bring a summons and a rule to show cause." 659 S.E.2d at 121. That has not been done here. S*ee also*, *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994) ("[c]harges of constructive contempt are brought by a rule to show cause which must be based upon an affidavit or verified petition").

For each of these reasons, Judge Early was correct in denying relief for any alleged violation of Section 17-1-40(A).

CONCLUSION

Based on the foregoing discussion and analysis, the Respondent Michael E. Hunt as Sheriff of Aiken County respectfully requests that this Court affirm the order of Circuit Court Judge Doyet A. Early, III granting summary judgment to the Respondent Hunt on the malicious prosecution and defamation claims.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

The undersigned counsel for the Respondent Michael E. Hunt as Sheriff of Aiken County certifies that the Final Brief of Respondent Michael E. Hunt complies with Rule 211(b), SCACR.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Respondent Michael E. Hunt as Sheriff of Aiken County certifies that the Final Brief of Respondent Michael E. Hunt complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., counsel for Respondent Michael E. Hunt, does hereby certify that service of the **Brief of Respondent Michael E. Hunt** was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 20th day of January 2015:

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