THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Special Circuit Court Judge

Circuit Court Case No. 2010-CP-40-1249
S.C. Court of Appeals Case No. 2013-001581
Unpublished Opinion No. 2015-UP-201, Filed April 15, 2015

James W. Trexler,

Petitioner,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

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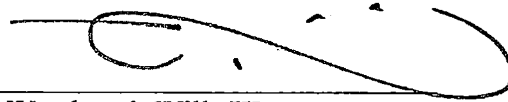
CERTIFICATE OF COUNSEL

Counsel for Petitioner hereby certifies that Petitioner/Appellant filed his Petition for Rehearing with the Court of Appeals, which petition the Court of Appeals denied by its Order filed on May 21, 2015.



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Dated: June 22, 2015

QUESTIONS PRESENTED

1. Whether the Court of Appeals erred to the extent it affirmed the circuit court's finding that Petitioner's defamation claims against Respondents are time barred by the statute of limitations.

2. Whether the Court of Appeals erred in affirming the circuit court's grant of summary judgment in favor of Respondents based on the "fair report" privilege where the Record contains sufficient evidence to create a genuine question of fact as to whether Respondents abused the privilege.

3. Whether the Court of Appeals erred in affirming the circuit court's grant of summary judgment in favor of Respondents where the Record contains sufficient evidence to create a genuine question of fact regarding the falsity of Respondents' publications.

4. Whether the circuit court erred in finding Petitioner was a "public official" for purposes of defamation requiring him to show Respondents acted with "constitutional malice" in publishing defamatory material concerning him where the Record contains sufficient evidence to create a genuine question of fact.

STATEMENT OF THE CASE

Petitioner James W. Trexler (referred to herein as "Petitioner") was formerly employed as an Executive Assistant III with the South Carolina Department of Agriculture. Respondents the Associated Press; Barrington Broadcasting, Inc.; Pacific & Southern Company, Inc.; and Raycom TV Broadcasting, Inc. (collectively referred to herein as "Respondents") are media entities that deliver news and information through

media channels including print, television, and the Internet.

This is a defamation case in which Petitioner alleges that on February 28, 2008, and thereafter, Respondents published, through their respective media channels, information concerning Petitioner's alleged mistreatment of horses, including information Respondents obtained from a February 27, 2008 e-mail press release issued by the Sheriff of Richland County ("SRC") (the "Press Release"). The Press Release purportedly provided the media with official information concerning the arrest of Petitioner, his mother and his brother, as well as a report Petitioner had been charged with kidnapping.

Petitioner alleges that as a direct result of Respondents' initial and repeated publication and broadcast of false or misleading statements associating him with extreme animal cruelty both in South Carolina and Georgia and accusing him of felony kidnapping, Petitioner lost his job, salary, pension, retirement benefits, his ability to obtain like employment, and suffered irreparable harm to his personal and professional reputation.

Petitioner filed his original Complaint on February 23, 2010. (R. pp. 27-31). Prior to serving the original Complaint, Petitioner filed his Amended Complaint on June 23, 2010. (R. pp. 33-40). Also on June 23, 2010, Petitioner served Respondents with his Amended Complaint. Respondents moved for summary judgment on August 11, 2011. (R. 451-470; R. pp. 479-487; R. pp. 488-502; R. pp. 503-663). Petitioner opposed the motion for summary judgment. (R. pp. 664-845; R. pp. 846-1028).

A hearing was held on January 19, 2012 before Honorable Joseph M. Strickland on Respondents' Motion for Summary Judgment. (R. pp. 69-134). At the conclusion of

the hearing, Judge Strickland requested counsel for both sides each submit a proposed order (granting or denying summary judgment). (See R. p. 131). On October 30, 2012, Judge Strickland granted summary judgment in favor of Respondents. Judge Strickland held the applicable two-year statute of limitations barred Petitioner's claims with respect to all publications prior to June 22, 2008 finding Petitioner failed to identify Respondents in a timely manner pursuant to Rule 10(a), SCRCP.

As a basis for granting summary judgment on issues beyond that of the statute of limitations, the order Judge Strickland entered found Petitioner failed to submit any evidence at all to demonstrate Respondents' publications were false (R. pp. 8, 9), that the publications were not fair reports of a public record (R. p. 12), or that Respondents published statements regarding Petitioner with knowledge of their probable falsity (R. pp. 14-15). Furthermore, Judge Strickland specifically found Petitioner was a "public official" for the purposes of defamation, and therefore, under the law as set out in New York Times v. Sullivan, 376 U.S. 254 (1964), was required to demonstrate Respondents acted with "constitutional malice" in publishing allegedly defamatory content regarding Petitioner, but failed to do so. (See R. pp. 13-14).

Petitioner received written notice of the filing of the Order granting summary judgment on November 12, 2012. On November 20, 2012 Petitioner filed his Motion for Reconsideration. (R. pp. 1029-1031; R. pp. 1032-1045). A hearing was held on March 11, 2013 before Honorable Joseph M. Strickland on Petitioner's Motion for Reconsideration. (R. pp. 135-159). The trial court denied Petitioner's Motion for Reconsideration on April 30, 2013. (R. pp. 17-26). Petitioner received written notice of the entry of the order denying his motion for reconsideration on June 19, 2013.

Petitioner served his Notice of Appeal on July 18, 2013.

After full briefing and oral argument, on April 15, 2015, the Court of Appeals filed its unpublished opinion No. 2015-UP-201 affirming the circuit court's grant of summary judgment in favor of Respondents ("Order Affirming"). On April 27, 2015, Petitioner filed his Petition for Rehearing, which the Court of Appeals denied on May 21, 2015.

ARGUMENT

1. The Court of Appeals erred to the extent it affirmed the circuit court's finding that Petitioner's defamation claims against Respondents are barred by the statute of limitations.

When Petitioner filed his original Complaint on February 23, 2010, he was unaware of the precise legal identity of the media entities that published the allegedly defamatory statements at issue in this action. Therefore, Petitioner named as defendants in his Complaint "all media companies that produced or reported on any event relating to Plaintiff in 2008, 2009, and 2010." (R. pp. 27-31). On June 23, 2010, prior to serving the Complaint, Petitioner filed his Amended Complaint in which he more specifically named as defendants those parties to which he broadly referred in his original Complaint, to wit, the above-named Respondents. (R. pp. 33-40). Petitioner served Respondents the same day with the Amended Complaint. (See R. pp. 880-884).

A. Rule 15(c), SCRCP, Relation back of Petitioner's Amended Complaint

On appeal, Petitioner argued the circuit court erred in granting summary judgment in favor of Respondents based on the statute of limitations because his Amended Complaint, naming Respondents specifically, related back to the original timely filing of his original Complaint under Rule 15 (c), SCRCP.

Rule 15 (c), SCRCP provides:

> Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading.
>
> An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, that action would have been brought against him.

"A civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing." S.C. Code Ann. § 15-3-20 (b) (2005); see also Rule 3(a)(2), SCRCP. Thus, the period of commencement of an action includes the 120 day service period.

This Court in Hughes v. Water World Water Slide, Inc., 314 S.C. 211, 442 S.E.2d 584 (1994) adopted a four-part test to aid in interpreting the requirements of Rule 15(c): 1) the basic claim must have arisen out of the conduct set forth in the original pleading; 2) the party to be brought in must have received such notice that it will not be prejudiced in maintaining its defenses; 3) that party must or should have known that, but for a mistake concerning identity, the action would have been brought against it; and 4) the second and third requirements must have been fulfilled within the prescribed limitations period. Id. at 214, 586.

In this case, Petitioner timely filed his original Complaint on February 23, 2010 naming as defendants all media companies that produced or reported on any event relating to Plaintiff in 2008, 2009, and 2010. On June 23, 2010, pursuant to Rule 4,

SCRCP, Petitioner filed his Amended Complaint more specifically identifying those media defendants he anticipated in his original Complaint. Each party defendant specifically named in his Amended Complaint was a media company that produced or reported on events relating to Plaintiff in 2008, 2009, and 2010. Petitioner then served his Amended Summons and Amended Complaint on each of the Respondents within the original 120 days provided under Rule 3(a)(2), SCRCP for the service of his original Complaint. Petitioner's Amended Complaint satisfies the four-part test announced in Hughes: 1) Petitioner's basic claims against Respondents arose out of the conduct set forth in his original pleading; 2) each Respondent received notice of Petitioner's claims answered them, engaged in discovery, and were not prejudiced in maintaining their defenses; 3) by virtue of the Petitioner serving each Respondent with the action, each naturally knew the action would have been brought against it but for the misnomer, 4) each Respondent received notice of Petitioner's action against them within the 120 days provided by Rule 3(a)(2), SCRCP for the service of Appellant's original Complaint.

At oral argument, the Court questioned counsel for counsel for Petitioner about the application of Rule 15(c) where Petitioner had purportedly served his Amended Complaint upon Respondents within the time prescribed by law, but did not serve them with a copy of the original Complaint. In response, counsel for Petitioner directed the Court's attention to the case Mims ex re. Mims v. Babcock Center, Inc., 399 S.C. 341, 732 S.E.2d 395 (2012), which states: "Rule 15(a), SCRCP does allow the filing and service of an amended complaint without leave of court, even if the original complaint has not been served [. . .]." Id. at 347, 398.[1]

[1] Counsel for Petitioner filed a motion to supplement the record in which he included the citation and case, which motion to supplement the Court of Appeals never responded before issuing its ruling.

Despite Appellant's briefing, oral argument, and motion to supplement the record with relevant authority on the issue of relation back under Rule 15 (c), the Court does not directly address the issue in its Order affirming summary judgment, though it appears to have affirmed the circuit court's ruling on the statute of limitations. (See Order Affirming, filed April 15, 2015, fn.4). To the extent the Court of Appeals in fact did affirm the circuit court's finding that Petitioner's Amended Complaint did not relate back to his original Complaint under Rule 15 (c), SCRCP, that ruling stands in contrast to the law as set out by this Court in Mims ex re. Mims, supra.

B. South Carolina's adherence to the "continuing publication" rule.

On appeal, and in the circuit court, Petitioner argued, and presented evidence to demonstrate, that his claims are not barred by the statute of limitations because the allegedly defamatory publications by Respondents continued to be published by them for months and years after their original publication. Petitioner cited to Taub v. McClatchy Newspapers, Inc., 504 F. Supp. 2d 74 (D.S.C. 2007) for the proposition that subsequent republication by Respondents of allegedly defamatory statements concerning Petitioner reset the statute of limitations clock for his defamation claim against Respondents. In affirming the circuit court's grant of summary judgment on the statute of limitations issue, the Court appears to have overlooked the "continuing publication" rule as recognized in Taub and Petitioner's argument and evidence that Respondents continued to publish, or allow to be published, defamatory material concerning Petitioner, long after their initial publication. To the extent the Court of Appeals affirming the circuit court's ruling Petitioner's claims were barred by the statute of limitations without regard for the continuing publication rule, it was in error.

2. **The Court of Appeals erred in affirming the circuit court's grant of summary judgment in favor of Respondents based on the "fair report" privilege where the Record contains sufficient evidence to create a genuine question of fact as to whether Respondents abused the privilege.**

The Court of Appeals affirmed the trial court's grant of summary judgment finding Respondents' publications were fair reports of a public record and therefore qualifiedly privileged, shielding Respondents from liability for the subject publications. (See Order Affirming at pp. 3-4).

First, the Court appears to have overlooked evidence Petitioner submitted of Respondents' allegedly defamatory publications which either did not report on the content of a public record or which added defamatory content to the report of the public record. Second, Petitioner submits the court should have considered evidence he submitted to demonstrate that Respondents abused any privilege they may have enjoyed by publishing articles which were not fair and accurate reports of the subject public record, and that Respondents also added to their publications substantial defamatory statements concerning Appellant which were not derived from public record.

The Court of Appeals itself, in its Order Affirming, cites to Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469,484,514 S.E.2d126, 134 (1999). Under a defense of "fair report" privilege, "one who publishes defamatory matter concerning another is not liable for the publication if 1) the matter is published upon an occasion that makes it [qualifiedly or] conditionally privileged, **and** the privilege is not abused." Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469,484,514 S.E.2d 126, 134 (1999) (citing Restatement (Second) of Torts §593 (1977)(emphasis added)). The fair report privilege "extends only to reports of the content of the public record, and any matter added to the report by the publisher, which is defamatory of the person named in

the public record, is not privileged." West v. Morehead, 2001 S.C. App. Lexis 263 (2001) (citing Jones v. Garner, 250 S.C. 479, 487, 158 S.E.2d 909, 913 (1968)). "Where there is conflicting evidence, the question whether [a qualified] privilege has been abused is one for the jury." Swinton Creek Nursery, 334 S.C. at 485,514 S.E2d at 134. Petitioner contends the evidence he submitted demonstrating Respondents abused the qualified "fair report" privilege, if one even existed, should have created a genuine question for the jury.

3. **The Court of Appeals erred in affirming the circuit court's grant of summary judgment in favor of Respondents where sufficient evidence exists in the Record to create a genuine issue of fact as to the falsity of Respondents' publications.**

The circuit court found, and the Court of Appeals affirmed, that the subject publications by Respondents were "substantially true" providing Respondents an absolute defense to Petitioner's defamation claims. First, the Court of Appeals cites to Ross v. Columbia Newspapers, Inc. 266 S.C. 75, 80, 221 S.E.2d 770, 772 (1976) for the proposition that "a sufficient defense is made out where the evidence establishes that a statement was substantially true." (Order Affirming at p. 4). The Court of Appeals next cites to Haulbrooks v. Overton, 295 S.C 380, 383, 368 S.E.2d 676, 678 (Ct. App. 1998) for the proposition that "[t]he truth of the matter is a complete defense to an action based on defamation and evidence establishing [a] statement is substantially true is a sufficient defense." However, the facts in both Ross and Haulbrooks are clearly distinguishable from the facts in the present appeal, and those cases actually support Petitioner's position.

In Ross, the court found that a newspaper report containing a mistake in the headline which was rendered meaningless by the true facts in the body of the article negating the headline mistake, was substantially true and therefore, not defamatory. In

Haulbrooks, the defendant submitted evidence to the court demonstrating the substantial truth of the allegedly defamatory statements at the time the statements were published.

Here, Petitioner has submitted evidence that the subject publications by Respondents are totally false as to Petitioner, and unlike in Ross the falsity is not a mistake that is negated or clarified by the content of the publication or the circumstances which were the subject of the publications. Nor have Respondents, here, presented any evidence to demonstrate the subject publications were true or "substantially true" at the time they published them.

The Court of Appeals, nevertheless, found Respondents publications "were substantially true at the time of publication," (see Order Affirming at p. 4), and that Respondents negated any falsity in the publications by presenting evidence in the form of indictments and arrest warrants, that Petitioner was eventually charged with felony level mistreatment of animals. Id. However, the arrest warrants Respondents submitted clearly show Petitioner was arrested and charged with 5 counts of misdemeanor neglect as opposed to dozens of counts of felony level animal abuse. (See R. pp. 426, 420, 430, 433, 436). The subject publications of Respondents implicating Petitioner in felony level horse abuse of dozens of horses both here and in Georgia were not true, or even substantially true, at the time they were made, nor were they rendered "substantially true" because Appellant was later indicted on multiple felony counts of ill treatment of animals.

The Court of Appeals relies on Padgett v. Sun News, 278 S.C. 26, 31, 292 S.E.2d 30, 33 (1982) for the proposition that "a newspaper's publication of contents of a summons charging respondents with a certain crime, despite subsequent filing of

complaint which omitted this crime, did not negate the accuracy of the newspaper's publication." (See Order Affirming at p. 5.). However, the circumstances in Padgett are distinguishable from those in the present appeal. Here, the opposite occurred. Respondents' publications attributed activity to and charges against Petitioner which had no basis in fact and were false at the time Respondents published them. That Respondents continued to publish the subject statements concerning Petitioner until such time as he was eventually indicted on felony charges does not negate the falsity of the publications prior to that time. Because the evidence of Record creates a genuine question of fact as to the falsity of Respondents' publications, that issue should have been left to the determination of a jury.

4. The circuit court erred determining Petitioner is a "public official" as a matter of law for purposes of defamation where the Record contains sufficient evidence to create a genuine question of fact, and the Court of Appeals declined to review the ruling.

Because the Court of Appeals found it was able to affirm the circuit court's grant of summary judgment in favor of Respondents on other dispositive issues, it declined to address the issue of whether Judge Strickland erred in finding Appellant was a "public official" for purposes of defamation. (See Order Affirming at p. 5). Petitioner submits that, notwithstanding the propriety of the Court's decision not to rule on that issue, the practical effect is that the circuit court's ruling (wrongly decided in Petitioner's view) becomes the law of the case in two other associated actions presently before this Court without the due process right of review.

The United States Supreme Court, in New York Times Co. v. Sullivan, 376 U.S. 254, 11 L. Ed. 2d 686 (1964) established the rule that a public official must provide clear and convincing proof of "actual malice" to recover damages for defamatory falsehood

relating to his or her official conduct. The Supreme Court further specified in Rosenblatt v. Baer, 383 U.S. 75, 87, 86 S.Ct. 669, 677, 15 L.E.d.2d 597, 606 (1966) that a "public official" for purposes of the New York Times rules is not to be determined by state law standards. That is not to say, however, that South Carolina courts are required to turn a blind eye to its own definitions of "public official" when determining whether an individual meets the definition of a "public official" for purposes of defamation.

The definition of a public officer appears more than once in the South Carolina Code. S.C. Code Ann. § 8-1-10 provides "public officers" are "all officers of the State that have heretofore been commissioned [. . .], members of various State boards, and other persons whose duties are defined by law." § 8-13-100 (27) defines a "public official" as being "an elected or appointed official of the State, a county, a municipality, or a political subdivision thereof, including candidates for office." § 16-3-1040 defines a "public official" as "any elected or appointed official of the Unites States or of this State or of a county, municipality, or other political subdivision of this State."

Neither the U.S Supreme Court nor the Supreme Court of South Carolina has provided an all-encompassing definition of public official, "although it is clear the category **does not** include all public employees." Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 469, 629 S.E.2d 653, 666 (2006), see also Hutchinson v. Proxmire, 443 U.S. 111, 133-34, 99 S.Ct. 2675, 2687 (1979)(emphasis added).

The U.S. Supreme Court and South Carolina case law instructs that a public official is a person who, among the hierarchy of government employees, has or appears to the public to have "substantial responsibility for or control over the conduct of governmental affairs." Erickson, 368 S.C. 444 at 469 (2006); Holtzscheiter v. Thompson

Newspapers, Inc., 332, S.C. 502, 520 n.4, 506 S.E.2d, 497, 507 n.4 (Toal, J. concurring) (quoting Rosenblatt, 383 U.S. at 85, 86 S.Ct. at 676). Importantly, for defamation purposes, a governmental employee's status as a public official must not be determined by that person's place on the totem pole but rather because of the public interest in a government employee's activity in a particular context." Id. Moreover, "[i]n considering the question of whether one is a public official, the employee's position must be one which would invite public scrutiny and discussion of the person holding it, entirely apart from the scrutiny and discussion occasioned by the particular charge in controversy." Id.

This Court has held that a public officer is "one who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing, and not occasional or intermittent." Sanders v. Belue, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907). Moreover, criteria this Court has considered when distinguishing between public officers and public employees include "whether the position was created by the Legislature; whether the qualifications for appointment are established; whether the duties, tenure, salary, bond and oath are prescribed or required [and] whether the one occupying the position is a representative of the sovereign." State v. Crenshaw, 274 S.C. 475, 478, 266 S.E.2d 61, 62 (1980). South Carolina Code Ann. § 8-3-10 provides it "shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution and been regularly commissioned by the Governor."

South Carolina courts have reviewed various types of public employees to determine whether they meet the definition of a "public official" for purposes of defamation. In South Carolina, police officers are deemed public officials in part because

they are charged with the discretionary exercise of the sovereign power to enforce the laws of the South Carolina, their positions were created by the Legislature, and their duties established by statute. See State v. Thrift, 312 S.C. 282, 440 S.E.2d 341 (1994). Furthermore, police officers are required to file a bond conditioned on the faithful performance of their duties and they must swear an oath before assuming their positions, and their duties are of great public concern. See S.C. Code Ann § 23-3-20; see also State v. Wannamaker, 213 S.C. 1, 48 S.E.2d 601 (1948). Because police officers are elected or appointed, they are public officials for the purpose of § 16-3-1040. State v. Carter, 324 S.C. 383, 478 S.E.2d 86 (Ct. App. 1996). "The greater the duty to the public at large, the more likely it is that the individual will be a public official." Thrift at 309, 356.

"Conversely, one who merely performs the duties required of him by persons employing him under an express contract or otherwise, though such persons be themselves public officers, and though the employment be in or about public work or business, is a mere employee." Sanders, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907).

Here, Petitioner's job at the Department of Agriculture met none of the criteria for qualifying as a public official set out by either statute or case law. Petitioner was neither elected nor appointed to his position, obtaining his first job as a state employee over 27 years ago by filling out an application for employment. (R. pp. 995-997). Petitioner's employment at the Department of Agriculture was consistent with that of a state employee. (R. pp. 995-997). Petitioner's performance at the Department was regularly evaluated under the Employee Performance Management System ("EPMS") created by the Office of Human Resources of the Budget and Control Board (R. pp. 995-997), while elected or appointed officials at the Department were not evaluated using that system. (R.

pp. 995-997). Petitioner's job at the Department was neither created by the Legislature, nor were his duties defined by statute. In fact, in April and again in July of 2007, Commissioner Weathers, at his own discretion, unilaterally modified Petitioner's job duties and responsibilities at the Department. (R. pp. 1058-1061; R. pp. 1005-1010; 1021-1022). Petitioner was not required to post any bond or swear an oath before taking his job at the Department. (R. pp. 1046-1057). Petitioner had no relation to or contact with the public in his job at the Department. (R. pp. 1046-1057).

Petitioner was essentially a staff accountant and information technology coordinator at the Department of Agriculture. His job performance was neither the subject of public scrutiny, nor was he vested with the power to exercise any part of sovereign power. (R. pp. 1046-1057; R. pp. 1005-1010; 1021-1022). Also, in sharp contrast to public officials, Petitioner had no independent decision-making authority to act on behalf of the Department in any way concerning the Department's overall functioning and purpose in state affairs. (Id.; R. pp. 1005-1010; 1021-1022). In fact, Commissioner Weathers often referred to Petitioner's responsibilities as "back office functions of the Agency." (R. pp. 1046-1057). Petitioner merely performed duties assigned to him by Commissioner Weathers.

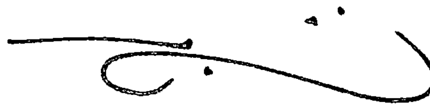
The term "Assistant Commissioner of Agriculture" was Appellant's internal, informal title created not by the Legislature, but by Commissioner Weathers. (R. pp. 1046-1057; R. pp. 1063-1071). Prior to 2007, no Assistant Commissioner of Agriculture existed in the history of the South Carolina Department of Agriculture (R. pp. 1046-1057). Likewise, nowhere does the South Carolina Code make any mention whatsoever of any Assistant Commissioner of Agriculture, much less define the duties of any such

position.

Petitioner argued both in the circuit court and in the Court of appeals that sufficient evidence in the Record exists to create a genuine issue of material fact as to whether Respondents acted with constitutional malice even were he properly determined to be a public official.

CONCLUSION

Both the circuit court and the Court of Appeals ignored the summary judgment standard of Rule 56, SCRCP, because Petitioner clearly made a showing through relevant evidence that genuine issues of material facts exist as to each issue on which the circuit court granted Respondents summary judgment, and the Court of Appeals affirmed other than the statute of limitations. For the reasons set out above and for those set out in Petitioner's briefs to the circuit court and to the Court of Appeals, which are incorporated here by reference, Petitioner respectfully requests this Court grant Petitioners Petition for Writ of Certiorari.



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I certify that I have served Appellant's Petition for Writ of Certiorari upon The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc., by depositing a copy of each of these documents in the United States Mail, postage prepaid, on June 22, 2015, addressed to their attorneys of record, Jay Bender, Baker, Ravenel & Bender LLP, Post Office Box 8057, Columbia, South Carolina 29202.

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South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: James W. Trexler vs. The Associated Press, et al. (Ct. App. Case No. 2013-001581)

Dear Ms. Kitchings:

Please find Appellant's Petition for Writ of Certiorari and Proof of Service for filing in the above-referenced case.

I have copied Jay Bender, Esquire, with copies this letter and its enclosures for service of the same upon him.

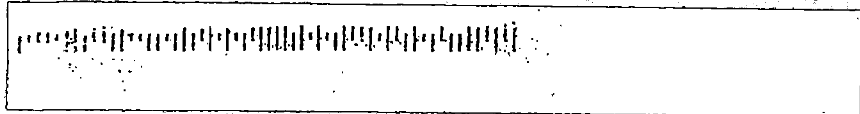
With kind personal regards, I remain

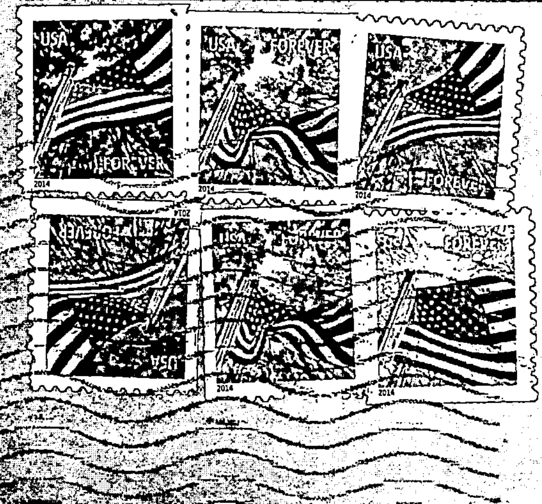
Very truly yours,

W. Westbrook Wills III

Enclosures

cc: Jay Bender, Esq. (via U.S. Mail, w/enclosures)
William H. Johnson, Esq. (via email, w/enclosures)
Matthew D. Hamrick (via email, w/enclosures)





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Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
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RECEIVED
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