

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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JUN 29 2015

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

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Appellate Case No.: 2014-002221

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City of Columbia,.....Appellant,

v.

George S. Glassmeyer,.....Respondent.

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RESPONDENT'S MOTION TO CERTIFY TO THE SOUTH CAROLINA  
SUPREME COURT FOR REVIEW PURSUANT TO RULE 204(b), S.C.A.C.R.

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TO: THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF  
THE SOUTH CAROLINA SUPREME COURT:

Respondent George S. Glassmeyer ("Glassmeyer") respectfully requests the South Carolina Supreme Court to certify the above-captioned appeal pursuant to Rule 204(b) of the *South Carolina Appellate Court Rules*. This appeal is from an action for declaratory judgment arising out of Glassmeyer's request for production of public records from Appellant City of Columbia ("City") pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10, *et seq.* (Rev. ed. 2007, as amended) ("FOIA"). For the following reasons, this case involves both issues of significant public interest and legal principles of major importance.

Glassmeyer seeks to obtain records from City concerning former Police Chief

Randy Scott (“Scott”). (R. p. 70 at ¶ 3; p. 73.) Glassmeyer’s FOIA request sought information related to Scott’s request for a personal leave of absence that was submitted to the City on or about April 22, 2013, and Scott’s subsequent resignation, effective May 1, 2013. (*Id.*; R. p. 104 at Nos. 1 and 2.) Initially, City furnished some, but not all, responsive documents and stated that it was redacting alleged personal information from Scott’s personnel file. (R. p. 71 at ¶ 4; pp. 74-75.) City also reported that there were no contracts of employment; internal affairs investigation(s); and or disciplinary action(s) in its files. (R. p. 71 at ¶ 5; pp. 74-75.)

On April 19, 2013, City supplemented its response to Glassmeyer’s FOIA request. (R. p. 71 at ¶ 6; pp. 76-77.) At that time, although producing a significant number of additional documents, City refused to produce certain requested documents, including:

- (1) anonymous emails referring to Chief Scott’s alleged personal conduct;
- (2) unsolicited, unverified complaints referring to Chief Scott’s alleged personal conduct; and
- (3) third party, unverified allegations of misconduct by Chief Scott.

(R. p. 71 at ¶ 7; pp. 76-77.) City asserted these documents did “not qualify as public documents relating to the performance of public officials” and/or they contained “information of a personal nature where public disclosure would constitute an unreasonable invasion of personal privacy.” (R. pp. 76-77.)

Historically, this Court has treated FOIA cases as involving legal principles of major importance, as they concern citizens’ trust in their government: “The essential purpose of the FOIA is to protect the public from secret government activity.” *Bellamy v. Brown*, 305 S.C. 291, 408 S.E.2d 219, 221 (1991); *Quality Towing, Inc. v. City of Myrtle*

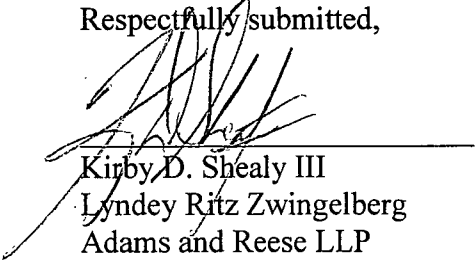
*Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001). Indeed, FOIA was enacted by the legislature to protect significant public interests. See S.C. Code Ann. § 30-4-15 (Rev. ed. 2007) (“[I]t is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formation of public policy.”). The protection of those interests is essential to a healthy republic.

The legal issues involved in this appeal are inherently related to the public interest: (1) whether the requested documents constitute “public records” subject to disclosure under FOIA; (2) whether the personal privacy exception under S.C. Code Ann. § 30-4-40(a)(2) (Rev. ed. 2007) permits City to withhold the requested information from public view; and (3) if the requested documents contain information of a “private nature,” whether the balancing test of *Burton v. York County Sheriff’s Dep’t*, 358 S.C. 339, 594 S.E.2d 888 (Ct. App. 2004), compels production. Issues of significant public interest are necessarily intertwined with the legal analysis involved in this case.

Furthermore, the public interest in “learn[ing] the activities of their public officials” and “seeking access to public documents” at a “minimum cost or delay,” which has been recognized and codified by the General Assembly, is well-served by the acceleration of the appellate review process. See S.C. Code Ann. § 30-4-15 (Rev. ed. 2007).

For the foregoing reasons, Respondent respectfully requests that this appeal be certified by this Honorable Court in accordance with Rule 204(b), S.C.A.C.R.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kirby D. Shealy III", is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Kirby D. Shealy III  
Lyndey Ritz Zwingelberg  
Adams and Reese LLP  
1501 Main Street, Fifth Floor  
Post Office Box 2285 (29202)  
Columbia, South Carolina 29201  
(803) 254-4190  
Attorneys for Respondent

June 26, 2015.

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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George S. Glassmeyer,.....Respondent,

v.

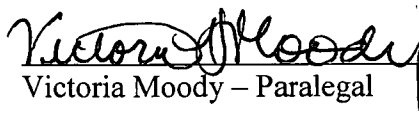
City of Columbia,.....Appellant.

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PROOF OF SERVICE

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I certify that I have served the Respondent's Motion to Certify to the South Carolina Supreme Court Pursuant to Rule 204(b), S.C.A.C.R. by depositing a copy in the United States Mail, postage prepaid, on June 26, 2015, addressed to its attorney of record, W. Allen Nickles, III, Esquire, at 1122 Lady Street, Suite 610, Columbia, South Carolina 29201.

  
Victoria Moody – Paralegal

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June 26, 2015

JUN 29 2015

SC Court of Appeals

Kirby D. Shealy III

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VIA Hand Delivery:

The Honorable Daniel E. Shearouse  
Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, South Carolina 29201

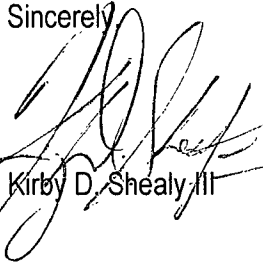
RE: *George S. Glassmeyer v. City of Columbia*  
Appellate Case No. 2014-002221  
A&R File No. 053004-000002

Dear Mr. Shearouse:

Enclosed for filing in the above-referenced matter are the original and seven (7) copies of Respondent's Motion to Certify to the South Carolina Supreme Court Pursuant to Rule 204(b), S.C.A.C.R., together with our firm's check in the amount of \$25.00 to cover the filing fee. Please file the original and six (6) copies pursuant to Rule 240, SCACR, and return the extra copy to me via our courier.

By copy of this letter, I am serving all counsel of record and Clerk of Court for the South Carolina Court of Appeals with the motion as set forth in the enclosed Proof of Service. Thank you for your attention to this matter.

Sincerely,



Kirby D. Shealy III

KDSIII/LRZ/vhm

Enclosures

cc: W. Allen Nickles, III, Esquire  
The Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals ✓

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ADAMS AND REESE LLP



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SC Court of Appeals

Jenny Abbott Kitchings  
Clerk of the South Carolina Court of Appeals  
P.O. Box 11629  
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