

During the course of the hearing on June 8, 2015, the Defendant addressed the Motion to Dismiss stating that the Plaintiff's parole eligibility and the eighty-five percent (85%) of the actual term of imprisonment imposed is directly related to his conviction and sentencing, which should have been challenged through direct appeal or the Plaintiff's three (3) previous post-conviction relief applications. The Defendant noted that the South Carolina Supreme Court issued an Order in 2010 prohibiting the Plaintiff from filing any further collateral actions in circuit court challenging his 1998 convictions without first obtaining permission. With regard to the conviction of homicide by child abuse, the Defendant stated that the Plaintiff was never charged or sentenced for homicide by child abuse. He was only convicted of voluntary manslaughter and assault and battery of a high and aggravated nature ("ABHAN").

The Plaintiff clarified his Complaint during oral arguments. Plaintiff alleges that the 1995 South Carolina Laws Act 83 (H.B. 3096) is unconstitutional because there are other amendments that do not include or pertain to "homicide by child abuse." Since the Plaintiff could not produce a copy of H.B. 3096, in full context, the Defendant was to provide such a copy after the hearing along with any explanation or analysis. On June 15, 2015, the Defendant filed a Memorandum in Support of the Motion to Dismiss, including a copy of H.B. 3096.

ANALYSIS

In challenging the constitutionality of Bill 3096, the Plaintiff bears a heavy burden, as "every presumption will be made in favor of its validity and no statute will be declared unconstitutional unless its invalidity appears so clearly as to leave no doubt that it conflicts with the constitution." *State v. Jones*, 344 S.C. 48, 543 S.E.2d 541 (2001); see *State v. White*, 348 S.C. 532, 536-37, 560 S.E.2d 420, 422 (2002) ("This presumption places the initial burden on the party challenging the constitutionality of the legislation to show it violates a provision of the Constitution."). All statutes are presumed constitutional and will, if possible, be construed so as

to render them valid. *Davis v. County of Greenville*, 322 S.C. 73, 77, 470 S.E.2d 94, 96 (1996). Furthermore, “[a] legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear beyond a reasonable doubt.” *Westvaco Corp. v. S.C. Dep’t of Revenue*, 321 S.C. 59, 62, 467 S.E.2d 739, 741 (1995).

S.C. Const., art. III, § 17 provides that: [e]very Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.” Our Supreme Court has expounded on the purpose of this so called one-subject rule, as being “(1) to apprise the members of the General Assembly of the contents of the act by reading the title, (2) prevent legislative log-rolling and (3) inform the people of the state of the matter with which the General Assembly concerns itself.” *Sloan v. Wilkins*, 362 S.C. 430, 438, 608 S.E.2d 579, 583 (2005), *abrogated by American Petroleum Inst. v. S.C. Dep’t of Revenue*, 382 S.C. 572, 677 S.E.2d 16 (2009) (citations omitted). Article III, § 17 is to be liberally construed so as to uphold the Act if practicable. *McCollum v. Snipes*, 213 S.C. 254, 261, 49 S.E.2d 12, 14 (1948). Furthermore, doubtful or close cases are to be resolved in favor of upholding an Act’s validity. *Alley v. Daniel*, 153 S.C. 217, 150 S.E. 691, 692 (1929).

It has been clarified that Article III, § 17 does not preclude the legislature from dealing with several branches of one general subject in a single act. *Sloan*, 362 S.C. at 438, 608 S.E.2d at 584. The one-subject rule is complied with if the title of an Act expresses a general subject and the body provides the means to facilitate accomplishment of the general purpose. *Id.* (citing *Keyserling v. Beasley*, 322 S.C. 83, 470 S.E.2d 100 (1996)). However, Article III, § 17 requires that “the topics in the body of the act [be] kindred in nature and hav[e] a legitimate and natural association with the subject of the title.” *Hercules. Inc. v. S.C. Tax Comm’n*, 274 S.C. 137, 141, 262 S.E.2d 45, 47 (1980). Furthermore, the title must convey “reasonable notice of the subject matter to the legislature and the public.” *Id.* at 143, 262 S.E.2d at 48.

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The purpose of H.B. 3096 was to amend S.C. Code Ann. § 16-1-60 to include homicide by child abuse as a violent crime; however, the title of Bill 3096 was changed to "Crimes—Sentencing, Probation and Parole—General Amendments" because all of the amendments contained within H.B. 3096 are criminal in nature and deal with either felonies or misdemeanors or the penalties of such crimes. The other statutes that were amended in H.B. 3096 include, but are not limited, to the following:

- No parole offenses
- Work release
- Early release, discharge, and community supervision
- Calculation of sentence imposed and time served
- Community supervision
- Violent crimes
- Death sentence proceeding revised
- Convictions that result in a life sentence
- Salvage of certain sunken warships unlawful


The title of H.B. 3096 clearly states "Crimes—Sentencing, Probation and Parole—General Amendments," and the amendments made to the statutes therein are all criminal in nature and germane; therefore, Bill 3096 is constitutional.

Accordingly, it is hereby,

ORDERED for the reasons set forth above, the Defendant State of South Carolina's Motion to Dismiss is **GRANTED**, thereby precluding the Plaintiff's Motion for Summary Judgment.

AND IT IS SO ORDERED.

June 20, 2015
Yare, South Carolina


Judge Lee S. Alford
South Judicial Circuit
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PRESIDING JUDGE