

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

Thomas W. Cooper, Jr., Circuit Court Judge

Case No. 2011-GS-21-00449, -450, -451 and -452

RECEIVED
JUL 12 2012
SC COURT OF APPEALS

State of South Carolina, Respondents,

v.

Kristopher R. Crawford,Appellant.

RETURN TO MOTION TO SEAL

Appellant hereby responds to the State’s motion to seal the Orders and the Record under review in this case.

Appellant’s first trial ended with a hung jury, and the State has notified the defendant of the State’s intention to retry the defendant on the four misdemeanor charges. State v. Woods, 382 S.C. 153, 676 S.E.2d 128 (2009)(mistrial from hung jury was a nullity; case therefore began anew when called again for trial). The appeal is from an Order Denying Motions to Dismiss, Disqualify, or Exclude Witnesses, filed by the Honorable Thomas W. Cooper, Jr., on May 10, 2012, in response to pre-trial motions filed by defendant, concerning the defense of selective prosecution and the other matters applicable to the retrial.

Previously, by order of December 1, 2011, the trial court ordered, over objection of the State, the South Carolina Department of Revenue (“DOR”), to disclose to the defense certain

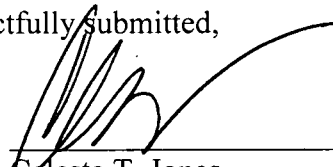
information regarding the tax returns filed by Governor Nikki Haley. The court granted the State's request that Governor Haley's tax information remain sealed, and Ex. A attached hereto was provided to the defendant's counsel. The order and the hearings in the matter refer specifically to the Governor's tax information.

The Motion to Seal should be denied. Here, Governor Haley may be called as a witness in this criminal action. Appellant contends he is being selectively prosecuted but Governor Haley was not. Moreover, Governor Haley used the Attorney General in her campaign and publicly discussed the situation related to her late tax filings and that of the defendant.

At a press conference during her campaign, Governor Haley appeared along with Attorney General Henry McMaster and Alan Wilson. A copy of the transcript of that press conference is attached hereto as Ex. B. Both Haley and the Attorney General discussed and commented on the charges against the defendant. Any privacy issues were effectively waived by this action. (See TR. pp. 11 to 17.)

WHEREFORE, the State's Motion to Seal should be denied, as the State has failed to meet the burden required to seal a public record in a criminal proceeding.

Respectfully submitted,



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CERTIFICATE OF SERVICE

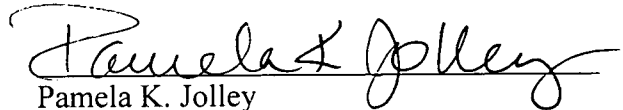
I, Pamela K. Jolley, an employee of the McNair Law Firm, certify that I have served the Return to Motion to Seal by depositing copies in the United States Mail, postage prepaid, on July 9th, 2012 addressed to the attorneys of record, as follows:

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