

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Circuit Court Case No. 2012-CP-40-04652
S.C. Court of Appeals Case No. 2014-000663

James W. Trexler,

Appellant,

v.

The Humane Society for the
Prevention of Cruelty to Animals,
and Wayne Brennessel, individually
and as Executive Director of the
Humane Society for the Prevention
of Cruelty to Animals,

Respondents.

PETITION FOR REHEARING

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SC Court of Appeals

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ATTORNEYS FOR APPELLANT

Pursuant to Rule 221(a), SCACR, Appellant hereby petitions the Court for a rehearing in the above-captioned appeal stating particularly the following points

Appellant believes the Court overlooked or misapprehended:

1. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in finding facts which are inaccurate and for which there is no evidentiary support in the record, and error in granting summary judgment in favor of Respondents on Appellant's malicious prosecution claim where Appellant presented evidence sufficient to demonstrate a genuine issue of material fact as to whether probable cause existed for his arrest.

2. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in The finding probable cause for Appellant's arrest existed as a matter of law based on facts unknown to Respondents until after the commencement of the present litigation, and which facts are flatly contradicted by the evidence presented by Appellant.

3. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in finding as a matter of law that allegedly defamatory publications by Respondents were true or

substantially true, providing Respondents with an absolute defense to Appellant's defamation claims.

4. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in finding Appellant was a "public official" for purposes of defamation as a matter of law based solely on an appealed ruling in a separate case.

5. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in finding Appellant was required to show Respondents acted with "actual malice" in publishing allegedly defamatory statements about him, and that Appellant failed to make such a showing.

6. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in finding Appellant provided no evidence to support a finding Respondents' defamatory statement was made with knowledge of its falsity or reckless disregard for the truth.

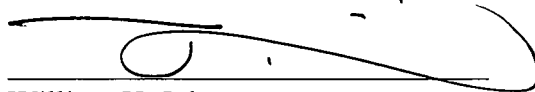
7. The Court overlooked or misapprehended, as the Court did not address, discuss, or give any reasoning whatsoever regarding the trial court's error in granting summary judgment in favor of Respondent Brennessell on Appellant's defamation claim based on its finding that Appellant alleged insufficient facts to support a claim that Respondent Brennessell's defamatory statement was made recklessly, willfully, or with gross negligence.

For the reasons above, Appellant respectfully requests this Court grant a rehearing of Appellant's appeal on the points indicated herein, and reconsider its affirmation of the circuit court's order granting summary judgment in light thereof.

CERTIFICATE OF SERVICE

Appellant's counsel hereby certifies that Appellant's counsel has this 5th day of January, 2017, served Appellant's Petition for Rehearing in the above-referenced case on The Humane Society For The Prevention of Cruelty To Animals; and Wayne Brennessel, individually and as Executive Director of the Humane Society For the Prevention of Cruelty To Animals, by depositing a copy of it in the United States Mail, postage prepaid, addressed to their attorneys of record, Roopal R. Samuels, Esquire; William O. Sweeny, III, Esquire; and John E. Tyler, Esquire at their respective addresses shown below.

Respectfully submitted,



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