

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Allison Renee Lee, Circuit Court Judge

Case No. 2012-CP-40-4652
S.C. Appellate Tracking 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.

RESPONDENT'S RETURN TO APPELLANT'S PETITION FOR REHEARING

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SC Court of Appeals

“In order to prevail on a petition for rehearing, appellants must demonstrate the Court overlooked or misapprehended their argument.” *Kennedy v. S.C. Ret. Sys.*, 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001) (citing Rule 221(a), SCACR). “The purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is it the purpose of the petition for rehearing to have the case tried in the appellate court a second time.” *Kennedy* at 532, 564 S.E.2d at 322.

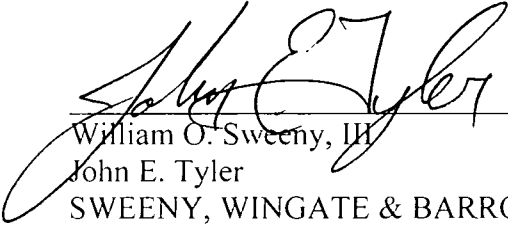
Appellant contends this Court “did not address, discuss, or give any reasoning whatsoever regarding” the Court’s affirmation of the Circuit Court’s grant of summary judgment as to Appellant’s claims for malicious prosecution and defamation. However, this Court appropriately exercised its authority to affirm without publishing an exhaustive analysis of the record. That is the nature of an affirmation, where no new analysis is required. The appellate courts may affirm a judgment for any reason appearing in the record. *Upchurch v. N.Y. Times Co.*, 314 S.C. 531, 538, 431 S.E.2d 558, 562 (1993) (citing Rule 220(c), SCACR).

Thorough briefs were presented to the Court, as well as a 194-page Record on Appeal and a 20-page Supplemental Record on Appeal. Contained within the Record on Appeal and its Supplement are multiple Orders, multiple pleadings, a hearing transcript, Motions and briefs before the Circuit Court with multiple exhibits, and additional documents related to the case.

The record before this Court contains all facts sufficient to affirm the lower court. Appellant’s alleged grounds for reconsideration amount merely to a reiteration of the arguments made in his prior briefing, both before the circuit court and this Court.

Appellant contends this Court erred by failing to address all grounds on which the Circuit Court based its grant of summary judgment for the malicious prosecution and defamation claims. However, the two grounds cited by the Court are dispositive of the entire case. An “appellate court need not address remaining issues when disposition of [a] prior issue is dispositive.” Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999).

For these reasons Appellant’s motion for reconsideration should be denied.



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January 16, 2017

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PROOF OF SERVICE

I certify that I have served Respondents 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' Return to Appellant's Motion for Rehearing, by depositing a copy of it in the United States Mail, postage prepaid, on January 16, 2017, addressed to all counsel of record, listed as follows:

W. Westbrook Wills, III, Esquire
38 Broad Street, Suite 200
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Attorney for Plaintiff James W. Trexler

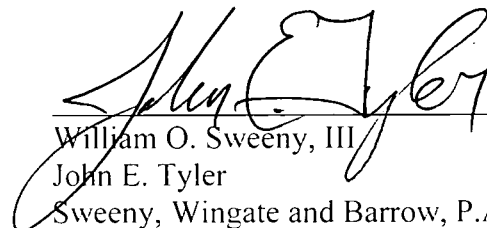
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V. Claire Allen
Deputy Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, SC 29202

RE: James W. Trexler v. The Humane Society
Civil Action No.: 2012-CP-40-4652
Our File: 1395-8358

Dear Ms. Allen:

Enclosed please find the original and seven copies of Respondent's Return to Appellant's Petition for Rehearing and the original and one copy of the Proof of Service in the above-referenced case. Please file the original and six copies of the main document and return a filed stamped copy to me of the same, and a filed stamped copy of the Proof of Service in the envelope provided.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Respectfully,

SWEENEY, WINGATE & BARROW, P.A.

John E. Tyler

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SC Court of Appeals

JET/smt

Enclosures

CC: William H. Johnson, Esquire
W. Westbrook Wills, III, Esquire
Matthew D. Hamrick, Esquire
Roopal Ruparelia, Esquire