

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

Ernie Washington, in his capacity as  
Coroner of Hampton County,

Plaintiff,

v.

Hampton County, Hampton County  
Council, and Rose Dobson-Elliot, as  
Hampton County Administrator,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO.: 2016-CP-25-0371

**ORDER**

**RECEIVED**

**MAR 02 2017**

**SC Court of Appeals**

This matter came before the Court on Plaintiff Coroner Washington's Motion for Permanent Restraining Order<sup>1</sup> and Action for Declaratory Judgment and Injunctive Relief. Present at the January 5, 2017, hearing were Sandra J. Senn, counsel for Plaintiff, and A. G. Solomons, Jr., counsel for Defendants. The Court heard arguments and received memoranda of law from the parties in this matter.

Coroner Washington seeks a declaration pursuant to the Declaratory Judgments Act, S.C. Code Ann. § 15-53-10, *et seq.*, that the action taken by Defendants to take away the Coroner's vehicle if he does not allow the County to place decals on the car is an improper attempt to usurp the powers of the duly-elected Coroner of Hampton County. The Coroner requested that this Court issue an Order upholding the right of the Coroner to keep his vehicle and to choose his own means of complying with S.C. Code Ann. § 56-3-1710. The Coroner further prayed that the Court enjoin Defendants from interfering with the smooth operation of the Coroner's Office by threatening to relieve him of transportation.

<sup>1</sup> The Plaintiff's Motion for Temporary Restraining Order was partially resolved by the parties' consenting to maintain the status quo pending a final hearing on the merits.

## **FACTUAL HISTORY**

Coroner Washington has been the duly-elected Coroner of Hampton County since 2011. (Coroner Aff. ¶ 2). In June of 2016, a Ford Explorer gifted to the Hampton Coroner by Richland County broke down. (Coroner Aff. ¶ 11). The Administrator purchased a 2008 Dodge Durango with approximately 182,000 miles for \$2,950, put it into the county fleet, and she then assigned the vehicle to the Coroner. (Coroner Aff. ¶ 12). Before the County made the Durango available for Coroner Washington, the County Administrator instructed the fleet division to mark it with reflective stickers stating “CORONER” on each side of the vehicle as well as the County seal on both the front driver and passenger doors. Coroner Washington was not consulted and did not approve the placement of stickers on his vehicle. (Coroner Aff. ¶ 12). The Coroner placed his own Coroner’s Office seal on the rear window of the vehicle. (Coroner Aff. ¶ 12). Coroner Washington thereafter removed the “CORONER” decals as well as the County seals from the front driver and passenger doors. Defendants have demanded that Coroner Washington replace the decals he removed or surrender the car within 48 hours. (Pl.’s Mem., Ex. 4 – Email, Aug. 16, 2016; Pl.’s Mem., Ex. 5 – Email, Aug. 23, 2016; Coroner Aff. ¶ 16). This suit followed.

## **LEGAL STANDARDS**

### **Standard for Declaratory Judgment**

The Declaratory Judgments Act provides that “[c]ourts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.” S.C. Code Ann. § 15-53-20 (1976). “Any person ... whose rights, status, or other legal relations are affected by a statute [or] municipal ordinance ... may have determined any question of construction or validity arising under the ... statute [or] ordinance ...

and obtain a declaration of rights, status or other legal relations thereunder.” S.C. Code Ann. § 15-53-30 (1976); see also Rule 57, SCRCF.

**MERITS OF CORONER’S ENTITLEMENT TO  
DECLARATORY RELIEF**

Plaintiff Coroner Washington is the duly-elected Coroner of Hampton County. He is a constitutional officer pursuant to the South Carolina Constitution, S.C. Const. art. V, § 24.

Hampton County operates under the Council-Administrator form of government which is governed by S.C. Code Ann. § 4-9-610, *et seq.* Rose Dobson-Elliott is the Hampton County Administrator. The Administrator of Hampton County is appointed by Hampton County Council and serves as “the administrative head of the county government” and is “responsible for the administration of all the departments of the county government *which the council has the authority to control.*” S.C. Code Ann. § 4-9-620 (emphasis added).

Regarding a county administrator’s authority over elected officials, the Home Rule Act provides, “[w]ith the exception of organizational policies established by the governing body, *the county administrator shall exercise no authority over any elected officials* of the county whose offices were created by the Constitution or by the general law of the State.” S.C. Code Ann. § 4-9-650; *see also McCormick Cnty. Council v. Butler*, 361 S.C. 92, 603 S.E.2d 586 (2004).

The South Carolina Attorney General’s Office has consistently advised that a county governing body and its officials are “generally considered as having only limited authority in dealing with the authority or duties of an elected official.” Ops. S.C. Att’y Gen., No. 888, April 8, 2013; No. 12-770, May 7, 2012; No. 06-114, June 19, 2006. “[A] county council has no authority to interpret the coroner’s responsibilities or to direct him to perform in a particular

manner.” Op. S.C. Att’y Gen., No. 888, April 8, 2013 (relying, in part, on *McCormick Cnty. Council v. Butler*, 361 S.C. 92, 603 S.E.2d 586 (2004)).

Because the vehicle is owned by the public in Hampton County, the Coroner’s vehicle must carry an official emblem or marker in addition to its government plates, but is not required to have all three of these items. *See* S.C. Code Ann. § 56-3-1710. The Coroner argues that his public vehicle for death notification should have governmental license plates as mandated by S.C. Code Ann. § 56-3-1710, as well as his office’s seal on the vehicle. This agreement satisfies the requirements of S.C. Code Ann. § 56-3-1710.

Council has a duty to fund the coroner’s office. *See* S.C. Code Ann. § 4-9-30(5)(a) (requiring that county governments “make appropriations for functions and operations of the county”). The County’s attempt to take the Coroner’s vehicle away could result in an inability of the Coroner to perform the duties of the office, although no showing has been made to this Court that such a situation exists in Hampton County.

### CONCLUSION

After reviewing the applicable law and the arguments presented by both sides, the Court hereby **DECLARES** pursuant to Rule 57, SCRCP, and the Uniform Declaratory Judgments Act, S.C. Code Ann. § 15-53-10, *et seq.*, that:

(1) Defendants may not force the Coroner to place both stickers and decals on his official vehicle. To comply with S.C. Code Ann. § 56-3-1710, the Coroner must apply either a sticker or a decal in addition to the government plates. As Hampton County purchased and owns this vehicle as a public vehicle, Hampton County may decide which of these two is most appropriate to comply with the state statute. The Coroner agreed to apply a rear window seal and a license

plate during the January 5<sup>th</sup> hearing. These marks are sufficient for compliance with the state statute;

(2) Defendants must continue to make insurance payments on the Coroner's vehicle so that he can efficiently run his office;

(3) The Coroner shall not use a Hampton County public vehicle for private business; and

(4) Attorney's fees will not be awarded in connection with this matter as each side shall be responsible for their reasonable attorney's fees.

At this time, the Court believes that it is unnecessary to grant or deny the requested permanent injunction. This Order does not preclude later equitable relief if circumstances warrant such action.

**AND IT IS SO ORDERED!**

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The Honorable Perry M. Buckner, III

\_\_\_\_\_, 2017

\_\_\_\_\_, South Carolina



Hampton Common Pleas

**Case Caption:** Ernie Washington VS Hampton County  
**Case Number:** 2016CP2500371  
**Type:** Order/Permanent Injunction

It is so Ordered

s/ Perry M Buckner III 2122