

STATE OF SOUTH CAROLINA

HORRY COUNTY

JIMMY A. RICHARDSON, II, SOLICITOR
FIFTEENTH JUDICIAL CIRCUIT, ON
BEHALF OF THE 15TH CIRCUIT DRUG
ENFORCEMENT UNIT,

PLAINTIFF,

v.

EIGHTY-FIVE THOUSAND SIX HUNDRED
EIGHTY SEVEN AND 45/100 DOLLARS
(\$85,687.45); 2010 CHEVROLET IMPALA
VIN# 2G1WB5EKOA1166142; 2008
MERCEDES VIN# WDDDJ72X78A117250;
2009 HONDA CBR600RR9
VIN#JH2PC400X9K201006; VARIOUS
WEAPONS, MISCELLANEOUS GOLD
MEN'S JEWELRY, ELECTRONICS AND
REAL PROPERTY LOCATED AT 732
DRAGONFLY DRIVE, MYRTLE BEACH,
SC, TMS #: 1642201065,

DEFENDANT PROPERTY,

MICHAEL A. HATTEN, STEPHANIE N.
HATTEN A/K/A STEPHANIE N. MACKIE,
JOSEPH L. WHITE, ELEANOR J. CARTER,
BYRON A. GIDNEY, KRISTIN J. MILBY,
IVAN K. CHATMAN AND STEVEN
MACKIE,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
THE FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-26-2330

RECEIVED

MAR 15 2017

SC Court of Appeals

**ORDER DISMISSING DEFENDANT
STEPHANIE N. MACKIE'S
COUNTERCLAIMS WITH PREJUDICE**

2017 FEB 17 AM 11:10
CLERK OF COURT
HORRY COUNTY, SC

STATEMENT OF THE CASE

Plaintiff brought this action for the forfeiture of the above named Defendant Property pursuant to S.C. Code Section 44-53-520. Defendant Stephanie N. Hatten a/k/a Stephanie N. Mackie ("Defendant Mackie") filed an Answer and Counterclaims to the Complaint on August

1
Mack

17, 2016. On August 19, 2016, the Plaintiff filed a Motion to Dismiss Defendant's Counterclaims pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

A hearing on Plaintiff's motion was held on January 5, 2017 at 9:30am before the Honorable Benjamin H. Culbertson. Present at the hearing were Plaintiff's Special Prosecutor, James R. Battle, and Defendant Mackie's attorney, Erin Bailey. The Court heard arguments from both attorneys.

PRESENTATION

Plaintiff's attorney argued that Defendant Mackie's counterclaims for conversion, claim and delivery, and punitive damages should be dismissed because: (1) the Plaintiff was not the seizing agency, and therefore, Defendant Mackie brought her counterclaims against the wrong party; (2) it is an official function of the Plaintiff to bring civil forfeiture actions, and therefore, the Plaintiff is entitled to prosecutorial immunity; and (3) the Plaintiff is immune from civil liability pursuant to the South Carolina Tort Claims Act. Defendant Mackie's attorney argued the arresting agency acted at the direction of the Plaintiff, and therefore her counterclaims applied to the Plaintiff.

DISCUSSION

Pursuant to Rule 12(b)(6), SCRPC, the Court may dismiss a pleading or cause of action if it fails to state facts sufficient to constitute a cause of action. As stated above, the Plaintiff brought the instant forfeiture case pursuant to S.C. Code § 44-53-520. South Carolina Code § 44-53-530 sets forth the procedures for bringing a forfeiture action. Section (a) of that statute states, "Forfeiture of property defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized." The Plaintiff is the circuit solicitor for the

15th Judicial Circuit. Because it is part of his official duties to bring forfeiture actions, the Plaintiff has prosecutorial immunity from civil liability in this case.

Based on the facts presented and law of this State, the Court finds that Defendant Stephanie Mackie's counterclaims should be dismissed.

NOW THEREFORE, IT IS HEREBY ORDERED:

Defendant Stephanie Mackie's counterclaims for conversion, claim and delivery, and punitive damages are dismissed with prejudice.

Feb. 11, 2017
Conway, South Carolina

Georgetown,

Benjamin H. Culbertson

The Honorable Benjamin H. Culbertson
Judge of the 15th Judicial Circuit