

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
) C/A No. 2016-CP-26-7405

Ronald L. Legg,
Petitioner/Plaintiff,

vs.

Lisa H. Bourcier, Director-Supervising
Authority, Horry County Public
Information Office, and or (AKA
"Yours Truly" Horry County Public
Information Office FOIA requests
Respondent, et al,
Respondent/Defendants.

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SC Court of Appeals

**ORDER GRANTING
DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

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This matter is before the Court upon cross-motions of the parties requesting summary judgment. A hearing on Plaintiff's Motion for Summary Judgment was held on April 12, 2017; present at the hearing were the Plaintiff, acting *pro se*, and Douglas Charles Baxter, Attorney for the Defendants. The Court took the matter under advisement and now denies the Motion as set out below. A hearing on the Defendants' Motion for Summary Judgment was held on May 17, 2017; present at the hearing were the Plaintiff, acting *pro se*, and Douglas Charles Baxter, Attorney for the Defendants.

FACTUAL BACKGROUND

The Plaintiff had submitted several requests pursuant to the South Carolina Freedom of Information Act (§ 30-4-10, *et. seq.* of the Code of Laws of South Carolina, as amended) to the Horry County Police Department and the J. Reuben Long Detention Center. Dissatisfied with the responses, on May 13, 2016 the Plaintiff sent a FOIA request to the Horry County Public

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Information Office requesting "the full names of all persons, their titles and who employs them under their entitlement to operate in any capacity for addressing (FOIA) requests."

On May 17, 2016, the Defendant, Horry County Public Information Office, responded to Plaintiff, stating his request did not comply with the South Carolina Freedom of Information Act, and that the Act was not a "vehicle for questions to be answered". On May 30, 2016, the Plaintiff sent correspondence to the Horry County Public Information Office, wherein he disagreed and again requested the same information he requested in his May 13, 2016 letter. On June 2, 2016, the Horry County Public Information Office mailed the Plaintiff a letter, stating "no records pursuant to your request exist". Thereafter, Plaintiff brought forth a Petition for Declaration, naming the above-named Defendants.

STANDARD OF REVIEW

To grant a motion for summary judgment, the court must find that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. SC RCP56(c); Baird v. Charleston County, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999). In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Manning v. Quinn, 294 S.C. 383, 365 S.E.2d 24 (1988).

FINDINGS

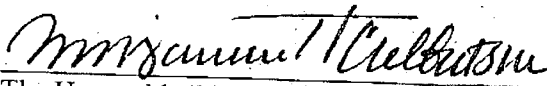
The South Carolina Freedom of Information Act provides: "any person has a right to inspect or copy any public record of a public body, except as otherwise provided in Section 30-4-40, in accordance with reasonable rules concerning time and place of access. S.C. Code Ann. § 30-4-30(a). The Act defines public record in part as: "includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical

form or characteristics prepared, owned, used, in the possession of, or retained by a public body". S.C. Code Ann. § 30-4-20(c).

The issue in the case is whether the Defendants are obligated to provide Plaintiff the information requested when no such "public record" exists. The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Hodges v. Rainey, 533 S.E.2d 578 (2000). Where the statute's language is plain and unambiguous and conveys a clear and definite meaning, the rules of statutory interpretation is not needed and the Court has no right to impose another meaning. Id. The definition of "public record" as contained in § 30-4-20(c) is plain and unambiguous, and it is clear that the County is not obligated to create a "public record" in response to the Plaintiff's FOIA request when one does not exist. Accordingly, I find that the Defendants have complied with the requirements of the South Carolina Freedom of Information Act, and the Defendants are, therefore, entitled to summary judgment. It is therefore

ORDERED that Plaintiff's motion for summary judgment is denied. It is further

ORDERED that Defendants' motion for summary judgment is granted and this matter is hereby dismissed with prejudice.


The Honorable Benjamin H. Culbertson
Judge, 15th Judicial Circuit

May 31, 2017