

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

Roger E. Henderson, Circuit Court Judge

Case No. 2017-CP-34-00064

Appeal Case No. 2018-001510

Gary Locklear, Individually and as Personal Representative
Of the Estate of Roy Locklear, Respondents,

v.

Marlboro County, Marlboro County Sheriff's Office, Marlboro
County Detention Center, Dr. Charles Bush, Southern Health
Partners, and South Carolina Law Enforcement Division, Defendants,

Of whom, Southern Health Partners and Dr. Charles Bush are Appellants.

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**SUR-REPLY TO RESPONDENTS' RESPONSE TO APPELLANTS' RETURN TO
RESPONDENTS' MOTION TO DISMISS APPEAL**

Appellants respectfully submit this Sur-Reply to briefly respond to Respondents' Response to the Return to the Motion to Dismiss to clarify the law cited in Appellant's Notice of Appeal.

The Supreme Court of South Carolina in *City of Columbia v. A.C.L.U., Inc.*, 323 S.C. 384, 475 S.E.2d 747 (1996) determined two issues: (1) whether summary judgment was appropriate; and (2) whether an internal investigation report should be produced in discovery. The court *independently* answered the question of whether the report fell under an exception to

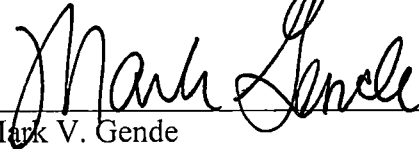
FOIA. While the case was before the court because of the FOIA issue, the South Carolina Supreme Court addressed whether the report contained proprietary and confidential information and should be produced pursuant to a discovery request separately from the issue that commenced the litigation. In other words, it is simply incorrect to suggest, as Respondents do, that discovery orders are appealable “only in the unique case where the production of confidential material was precisely why the litigation had been commenced and was the entirety of the matter in controversy.” *Respondents’ Reply* at p.2.

CONCLUSION

For the reasons set forth herein, Respondents respectfully request the Court issue an order denying Respondents’ Motion to Dismiss.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



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ATTORNEYS FOR DEFENDANT

Columbia, South Carolina

September 20, 2018

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PROOF OF SERVICE

I certify that I have served the Sur-Reply to Respondents' Response to Appellants' Return to Respondents' Motion to Dismiss Appeal on Gary Locklear, individually and as Personal Representative of the Estate of Roy Locklear, by depositing a copy of the same in the United States Mail, Postage Prepaid, on September 20, 2018, addressed to their attorney of record, Patrick J. McLaughlin, Esquire, Post Office Box 13057, Florence, South Carolina 29504; to William H. Davison, II, as attorney for South Carolina Law Enforcement Division, P.O. Box 8568, Columbia, South Carolina; and Samuel F. Arthur, III, as attorney for Marlboro County, P.O. Drawer 1931, Florence, South Carolina 29503.

September 20, 2018



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September 20, 2018

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VIA HAND DELIVERY

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

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RE: Gary Locklear v. Marlboro County, Dr. Bush, Southern Health Partners, et al.
Civil Action No.: 2017CP3400064
Appeal Case No.: 2018-001510
Our File: 5480-10735

Dear Ms. Allen:

Enclosed for filing are the original and six (6) copies of the Sur-Reply to Respondents' Response to Appellants' Return to Respondents' Motion to Dismiss Appeal in the above-referenced matter. Please stamp and return a copy of the Sur-Reply and one copy of the Proof of Service to our courier. By copy of this correspondence with enclosures, opposing counsel is served with same.

Pursuant to the South Carolina Supreme Court Order from September 17, 2018, which declared the days of Tuesday, September 11, 2018, through Friday, September 21, 2018, to be statewide "holidays" for the purposes of computing time under Rule 263 of the South Carolina Appellate Court Rules," this filing is timely.

Thank you for your assistance and should you have any questions or concerns, please do not hesitate to contact me directly.

Yours truly,

SWEENY, WINGATE & BARROW, P.A.

Mark V. Gende

MVG/smt

Enclosures

cc: Patrick J. McLaughlin, Esquire, Wukela Law Firm
Samuel F. Arthur III, Esquire, Aiken, Bridges, Nunn, Elliott and Tyler
William H. Davidson II, Esquire, Davidson & Lindemann, P.A.