THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

Appellate Case No. 2019-002076
CASE NO: 2018-CP-400-5641

RONALD I. PAUL.....Petitioner,

V.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Firm of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Firm, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation..... Respondents.

PETITIONER'S REPLY TO RESPONDENT'S RETURN TO PETITION FOR A WRIT OF CERTIORARI

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TABLE OF CONTENTS

RESPONDENTS' STATEMENT OF THE CASE

Petitioner objects to Respondents' Statement of the Case to the extent it includes factual inaccuracies, contested factual matter and arguments. (R 440 lines 7-10, 55-57, 437 lines 5-25 then go to 330-391) Incomplete and cherry- picked.

ARGUMENTS

ISSUE ONE

The Court of Appeals erred in failing to consider or address that— count one— is a state law claim for equitable relief, in part under the doctrine of Ex parte Young, 209 U.S. 123 (1908), seeking prospective declaratory relief to address an ongoing or continuing violation of federal law in the future only "therefore" respondent's statute of limitations argument is without merit, as "statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946)

In their return, the Respondent's insist Petitioner **Prospective Declaratory Relief claim** — for the first time on appeal is an "action at law".[1] "As such, the three-year statute of limitations is a proper time bar on that claim":

"an action at law" and "the prayer for that first cause of action, the Petitioner specifically seeks the recovery of monetary relief, namely "the resultant financial damages approximating $310,000.00," which is further proof that the declaratory judgment action is one at law. (R. 56). In fact, in paragraph 106, which contains the prayer for that first cause of action, the Petitioner specifically seeks the recovery of monetary relief, namely "the resultant financial damages approximating $310,000.00," which is further proof that the declaratory judgment action is one at law. (R. 56). As such, the three-year statute of limitations is a proper time bar on that claim.

However, the record on appeal disputes these arguments, the record shows the prayer for that first cause of action is in paragraph 2 on pages 26-27 of the Complaint, in the prayer for relief section of the Complaint (R49-50) which contains the prayer for that first cause of action, the Petitioner specifically seeks:

"Declaratory judgment ordering that the Defendants are prohibited from enforcing the settlement agreement between SCDOT and the Buckles against Paul as payment of just compensation against or/ to Paul and, are barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul". (R 49-50)

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[1] This argument is improperly raised for the first time on appeal. Because this argument was never made in the trial court, it cannot be made for the first time on appeal. See, Wilder Corp. v. Wilkie, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("it is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review").

Ex parte Young doctrine, which provides that an individual may sue a state official for "injunctive or declaratory relief to remedy an ongoing violation of law." *S.C. State Ports Auth.*, 243 F.3d at 170; *Ex parte Young*, 209 U.S. 123 (1908). To determine whether the *Ex parte Young* doctrine applies to a specific case, the court must simply "conduct a 'straightforward inquiry into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.'" *Va. Office for Protection and Advocacy v. Stewart*, 563 U.S. 247, 255 (2011) (quoting *Verizon Md. Inc. v. Public Serv. Comm'n of Md.*, 535 U.S. 635, 645 (2002). The rationalization behind this exception is that a state officer violating federal law is "stripped of his official character" and "thereby loses the cloak of state immunity." *W.Va. Highlands Conservancy, Inc. v. Huffman*, 651 F.Supp.2d 512, 523 (S.D. W.Va. 2009) (citing *Ex parte Young*, 209 U.S. at 157)

Petitioner, however, made its position very clear – the Court of Appeals erred in failing to consider or address that— count one — is a state law claim for equitable relief, in part under the doctrine of Ex parte Young, 209 U.S. 123 (1908), seeking prospective declaratory relief to address an ongoing or continuing violation of federal law in the future only "therefore" respondent's statute of limitations argument is without merit, as "statutes of limitations are not controlling measures of equitable relief." Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 584, 90 L.Ed. 743 (1946)

a. The Courts erred in dismissing the Complaint with prejudice and without an opportunity to replead or amend.

If the Complaint was unclear, Respondents should have requested clarification and Petitioner would have clarified and Amended his Complaint if necessary.[2] Here, the courts erred in effectively preventing Petitioner from litigating a post-ruling motion to amend by immediately dismissing the claims "with prejudice." Skydive Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) • 826 S.E.2d 585 (Decided Mar 13, 2019).

ISSUE TWO

The Court of Appeals erred in failing to determine whether "clearly established" precedent in Est. of Mims v. S.C. Dep't of Disabilities & Special Needs, 422 S.C. 388, 399, 811 S.E.2d 807, 813 (Ct. App. 2018) *certiorari denied August 3, 2018,* read in conjunction with the statute containing a provision allowing for an extension of the limitations period in S.C. Code Ann. §15-3-530(5) to be 'extended' by a maximum of twenty years S.C. Code Ann. § 15-3-520(b).

In their return, the Respondent's contends S.C. Code Ann. § 15-3-40, is an actual tolling statute and S.C. Code Ann. § 15-3-520(b) is an actual alternative statute of limitations provision.[3] Nonetheless, it makes no difference whether it was a tolling statute or alternative statute. Given that "clearly established" precedent in Est. of Mims v. S.C. Dep't of Disabilities & Special Needs, shows Petitioner's current Complaint is not barred by the three-year statute of limitations applicable to actions

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[2] Greer v. McFadden , 295 S.C. 14, 17, 366 S.E.2d 263, 265 (Ct. App. 1988) (holding even if a pro se claim is not framed with expert precision, where the point is clear, the issue should be addressed); Additionally, "[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007)

[3] This argument is improperly raised for the first time on appeal. Because this argument was never made in the trial court, it cannot be made for the first time on appeal. See, Wilder Corp. v. Wilkie, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("it is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review").

brought pursuant to 42 U.S.C. § 1983, in other words section 1983 cases are not sit-in-stone (a three-year statute of limitations) as argued by the Respondents in Circuit Court and the Court of Appeals. The language of section 15-3-530 (5) incorporated S.C. Code section 15-3-520(b) and therefore is an arm of S.C. Code section 15-3-530 (5). [4]

ISSUE THREE

The Court of Appeals erred in failing to determine whether a new limitations period is created with each overt act in furtherance of a civil conspiracy claim brought under federal section 42 USC 1983 "overt acts" that injures Paul, and the statute of limitations begins to run on the date of the last overt act.

In their return, the Respondent's cannot, in presenting its 12(b)(6) challenge, attempt to refute the complaint or to present a different set of allegations. [5] The attack is on the sufficiency of the complaint, and the defendant cannot set or alter the terms of the dispute, but must demonstrate that the plaintiff's claim, as set forth by the complaint, is without legal consequence Gomez v. Illinois State Bd. of Education, 811 F.2d 1030, 1039 (7th Cir. 1987) (citation omitted). Additionally, "[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully

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[4] Under South Carolina law, the statute of limitations for a personal injury claim is three years. *See*, S.C. Code Ann. § 15-3-530(5) "an action for assault, battery, or any injury to the person or rights of another, **not arising on contract** and not enumerated by law, and those provided for in Section 15-3-545))". In this matter, the particular facts of the case would lead to a twenty-year statute of limitation period. Because Paul commercial lease, a sealed instrument **arising on contract** was a required part of the eminent domain transaction in case 4800-transferring property. The Court overlooked the language of section 15-3-530 (5) that expanded the statute, in other words S.C. Code section 15-3-520(b) applies within, and therefore is an arm of S.C. Code section 15-3-530 (5).

[5] "That is a reference to filings made in the last of the federal lawsuits, specifically Civil Action Number 3:16-1727-CMC-PGJ".

pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007)

Next, in their return, respondents contended the foregoing authorities [6] recognize that arguments made in defense of litigation, including the filing of pleadings that deny the occurrence of a conspiracy, are privileged and thus cannot constitute the "overt act" giving rise to the conspiracy. South Carolina law also recognizes that the filing of court pleadings is absolutely privileged. See, Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 567 S.E.2d 881 (Ct. App. 2002); McKesson & Robbins, 206 S.C. 269, 33 S.E.2d 585 (1945).[7]

a. The Courts erred in dismissing the Complaint with prejudice and without an opportunity to replead or amend.

If the Complaint was unclear, Respondents should have requested clarification and Petitioner would have clarified and Amended his Complaint if necessary.[8] Here, the courts erred in effectively preventing Petitioner from litigating a post-ruling motion to amend by immediately dismissing the claims "with prejudice." Skydive

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[6] Thompson v. California Fair Plan Assn., 221 Cal.App.3d 760, 270 Cal.Rptr. 590 (1990); Nalle v. Oyster, 230 U.S. 165, 183 (1913); United States v. Craft, 105 F.3d 1123 (6th Cir. 1997); McLean v. International Harvester Co., 817 F.2d 1214, 1220, n.8 12 (5th Cir. 1987); Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 567 S.E.2d 881 (Ct. App. 2002); and McKesson & Robbins, 206 S.C. 269, 33 S.E.2d 585 (1945).

[7] This argument is improperly raised for the first time on appeal. Moreover, could not be raise on Respondents motion to dismiss. As of today, Respondents have not filed answers to the Appellant's Complaint to this action. Because this argument was never made in the trial court, it cannot be made for the first time on appeal. See, Wilder Corp. v. Wilkie, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("it is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review").

[8] Greer v. McFadden , 295 S.C. 14, 17, 366 S.E.2d 263, 265 (Ct. App. 1988) (holding even if a pro se claim is not framed with expert precision, where the point is clear, the issue should be addressed); Additionally, "[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007)

Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) • 826 S.E.2d 585 (Decided Mar 13, 2019). (Br. of Appellant p.29)

ISSUES TWO, THREE AND SIX

The Court of Appeals erred in failing to consider or address whether Knick v. Township of Scott, 588 U.S., 139 S. Ct. 2162 (2119) applied retroactively in this case under South Carolina common law tolling and rules, extending (equitable tolling) the start of the limitations period until the day the United States Supreme Court issued the opinion, on June 21, 2019.

In their return, the Respondent's did not even address "in an action under § 1983, state law applies to questions of equitable tolling unless state law is "inconsistent with the federal policy underlying § 1983." Bd. of Regents of Univ. of State of N.Y. v. Tomanio, 446 U.S. 478, 484-85 (1980)". Respondent's rather focus on Thomas v. Tennessee, 451 F.Supp.3d (W.D. Tenn. 2020) that's inconsistent with Paul's case, instead on focusing on federal equitable tolling that's not inconsistent with South Carolina common law tolling and rules, extending (equitable tolling).[9] Further, on pages 11-12 of respondent's return to petition for a writ of certiorari, they attempt to set forward Statement of facts, that's incomplete and cherry- picked, that Petitioner has clearly disputed. (R 440 lines 7-10, 55-57, 437 lines 5-25, 330-391) [10]

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[9] When the Supreme Court announces a new rule of civil law, the rule applies retroactively to similarly situated litigants. James B. Beam Distilling Co. v. Georgia, 501 U.S. 529, 534 (1991). Several courts have found that the holding in Knick qualifies as a new rule of civil law and should be applied retroactively. See, e.g., Honchariw v. Cty. of Stanislaus, 530 F.Supp.3d 939, n. 9 (E.D. Cal. 2021), af'd No.21-15801, 2022 WL 522287 (9th Cir. Feb. 22, 2022); 4th Leaf LLC v. City of Grayson, 425 F.Supp.3d 810, n. 9 (E.D. Ky. 2019).

[10] See Cowart v. Poore 337 S.C. 359 (S.C. Ct. App. 1999) The ruling on a Rule 12(b)(6), SCRCP motion to dismiss must be based solely upon the allegations set forth in the complaint. State Bd. of Med. Exam'rs v. Fenwick Hall, Inc., 300 S.C. 274, 387 S.E.2d 458 (1990). On review, the motion will not be sustained if the facts alleged, and the inferences reasonably deducible therefrom, would entitle the plaintiff to relief on any theory of the case. Stiles v. Onorato, 318 S.C. 297, 457 S.E.2d 601 (1995); Brown v. Leverette, 291 S.C. 364, 353 S.E.2d 697 (1987). The question to be considered is whether in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987); Baird v. Charleston

Under South Carolina common law tolling and rules, Knick applied retroactively, therefore, the statute of limitations contained in S.C. Code section 15-3-530 (5) begins from the day the United States Supreme Court issued the opinion, June 21, 2019.

Lastly, the circuit court erred in effectively preventing Petitioner from litigating a post-ruling motion to amend by immediately dismissing the claims "with prejudice." Skydive Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) • 826 S.E.2d 585 (Decided Mar 13, 2019). (R 25)

Questions not presented for review in the petition for a writ of certiorari, but improperly raised, in respondents Return, see Rule 242 (f), SCACR.... The return shall include an argument on each question and may include a counter-statement of the case and of the questions presented for review.....

1. The Circuit court erred in granting Respondent's motion to dismiss citing res judicata (claim preclusion) and collateral estoppel (issue preclusion) where the United States District Court of South Carolina dismissed the previous cases without prejudice, is inconsistent with years of United States Supreme Court and other appellate Court precedents, and therefore erroneously found that Appellant's federal claims were dismissed on the merits in federal court and not because of any correctable pleading deficiency.

County, 333 S.C. 519, 511 S.E.2d 69 (1999); Gentry v. Yonce, 337 S.C. 1, 522 S.E.2d 137 (1999). Rule 12(b)(6) permits the trial court to address the sufficiency of a pleading stating a claim; it is not a vehicle for addressing the underlying merits of the claim. See, e.g., Charleston Cty. Sch. Dist. v. Harrell, 393 S.C. 552, 557, 713 S.E.2d 604, 607 (2011) ("In considering a motion to dismiss pursuant to Rule 12(b)(6), SCRCP, the circuit court must base its ruling solely upon the allegations set forth on the face of the complaint."); Brown v. Leverette, 291 S.C. 364, 366, 353 S.E.2d 697, 698 (1987) ("... solely upon the allegations set forth on the face of the complaint"); see also Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556, 127 S.Ct. 1955, 1965, 167 L.Ed.2d 929, 940-41 (2007) ("[A] well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely.") (internal quotations omitted); Republican Party of N. Carolina v. Martin, 980 F.2d 943, 952 (4th Cir. 1992) ("A motion to dismiss under Rule 12(b)(6) tests the sufficiency of a complaint; importantly, it does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses."). At the Rule 12 stage, therefore, the first decision for the trial court is to decide only whether the pleading states a claim. Paul is entitled to litigate the validity of its complaint without having to convince the trial court of the merits of its underlying claim, see Skydive Myrtle Beach, Inc. v. Horry Cnty. 426 S.C. 175 (S.C. 2019) 826 S.E.2d 585 Decided Mar 13, 2019) in the Supreme Court of South Carolina.

After, pursuing and exhausting all available State court remedies, that included the 2008 state court case. (R 152) On April 17, 2012, Appellant Filed a 42 U.S.C. 1983 civil rights lawsuit in the U.S. District Court of Columbia South Carolina against the same Respondents. (R 218 ECF #1) Williamson County required a federal court plaintiff to pursue any available state court remedies that might lead to just compensation before bringing suit in federal court under section 1983 for claims arising under the Fourteenth and Fifth Amendments for the taking of property without just compensation.

The Summons were issued on May 15, 2012, by the district court and served on all Respondents on or about May 25, 2012. (R 218-219)

On or about June 10, 2012, all Respondents filed motions to dismiss (R 219-221) that included the 2008 state court action for civil conspiracy under state law (R 219 ECF 18 #9) and the state officials also filed an answer. (R 220 ECF 25)

The 42 U.S.C. 1983 civil rights lawsuits were dismissed without prejudice, that clearly included the 2008 state court case. (R 79 #5) then go to (R 152) **RESPONDENTS FILE NO APPEAL.** (R 427-428) Now, in this case Respondents attempt to rely upon the defenses of res judicata, collateral estoppels, issue preclusion, claim preclusion. Notwithstanding, that when the district Court issued its Order dismissing Appellant Complaint without prejudice, **Respondents failed to file an appeal.**[11] (R 427-428) *See* Semtek International Inc. v. Lockheed Martin Corp., 531 U.S. at 505 ("The primary meaning of 'dismissal without prejudice' . . . is

[11] Buckner v. Preferred Mut. Ins. Co., 255 S.C. 159, 160–61, 177 S.E.2d 544, 544 (1970) (holding an unappealed ruling, right or wrong, is the law of the case).

dismissal without barring the plaintiff from returning later, to the same court, with the same underlying claim."); see also Lansdowne on the Potomac Homeowners Ass'n v. OpenBand at Lansdowne, LLC 713 F.3d 187 slip op. at 9-14 (4th Cir. Apr, 5 2013); A dismissal without prejudice for failure to state a claim is not an adjudication on the merits, Mann v. Haigh, 120 F.3d 34, 36 (4th Cir. 1997); citing Cooter Gell v. Hartmarx Corp., 496 U.S. 384, 396 (1990) ("`[D]ismissal . . . without prejudice' is a dismissal that does not `operat[e] as an adjudication upon the merits,' and thus does not have a res judicata effect.") Therefore, a dismissal without prejudice makes it unnecessary for the court in which the subsequent action is brought to determine whether that action is based on the same cause as the prior action.

Black's Law Dictionary (7th ed. 1999) defines "dismissed without prejudice" as "removed from the court's docket in such a way that the plaintiff may refile the same suit on the same claim," . . . and defines "dismissal without prejudice" as "[a] dismissal that does not bar the plaintiff from refiling the lawsuit,"..... . . .

Lastly, it is "well settled law" that when a case is dismissed but the Appellant is allowed to bring a new lawsuit on the same claim it is dismissed without prejudice. It is a dismissal that does not bar the Appellant from bringing a new lawsuit on the same claim. Dismissal without prejudice is based upon procedural errors.

All Respondents are arguing against years of United States Supreme Court, South Carolina Supreme Court, and other Appellate Court precedents.

In Respondents brief, on pages 13 and 14 it looks as if respondents are arguing the Circuit Court based its res judicata (claim preclusion) and collateral estoppel

(issue preclusion) ruling on the 2008 *state court* action which was dismissed by Judge Strickland with prejudice, *not the federal court actions that were dismissed by Judge Currie without prejudice.*(R 427 lines 14-25) Then Respondents argues unreasonably that Appellant fails to challenge the 2008 *state court* action which was dismissed by Judge Strickland with prejudice. Despite, Appellant appealed the Judge's primary ruling, res judicata, claim preclusion, collateral estoppel and issue preclusion, (R 22) in other words, the 2008 state court action only explained the Circuit Court ruling on res judicata, claim preclusion, collateral estoppel and issue preclusion, (R 22-24) that was clearly appealed.

The 2008 state court action was a civil conspiracy under state law, the federal court actions was under federal law 42 U.S.C. 1983 civil conspiracy for violation of the Just Compensation Clause. The 2008 state court case was clearly **not the same** and **outside of the four corners of the Complaint** in this case. (R 291, 151-153) Under Federal Law, pursuant to Williamson County the 2008 state court case raised by the Respondents were required under federal law, Williamson County demonstrate that the Plaintiff did not have a cause of action for violation of the Just Compensation Clause until he first litigated in state court. **In other words, how can res judicata, collateral estoppels, issue preclusion and claim preclusion bar a cause of action that did not exist in 2008.** (R 425 lines 24-25, 426 lines1-20, 441 lines 6-13) Because at the time, under federal law in effect at that time, his "Takings" claim was not ripe because Williamson County (recognizing that "a property owner has not suffered a violation of the Just Compensation Clause until

the owner has unsuccessfully attempted to obtain just compensation . . ."). Williamson County required a federal takings litigant first to litigate in state court. (R 288-289)

2. The Circuit Court erred in granting Respondent's Quinn and Ormond motion to dismiss when the complaint had stated facts to support the sections 1983 civil conspiracy claim and that they were state actors and compounded the error by relying upon an unpublished opinion with no precedential value.

According to the Complaint, on page 3 paragraph 6 this action is brought pursuant to 42 U.S.C. Sections 1983 for the Respondents Quinn and Ormond violating Appellant's rights while acting under color of state law; and on page 5 paragraph 17 Respondent Quinn is sued as a State Actor and individually; and on page 5 paragraph 19 Respondent Ormond is sued as a State Actor and individually. (R 34-36) A private person, including an attorney, acts "under color of state law when engaged in a conspiracy with state officials to deprive another of his federal rights. See Tower v. Glover, 467 U.S. 914, 920 (1984), citing Dennis v. Sparks, 449 U.S. 24, 27-28 (1980)

In addition, according to the Complaint, on pages 25,26 in paragraphs 108-110 (R 56-57) Respondents have conspired to deprive Paul of his Fifth Amendment and Fourteenth Amendment rights of the United States Constitution, Respondents Quinn and Ormond jointly participates in constitutional wrongdoing with state official in "state action" which meets the requirement of § 1983, See Tower v. Glover, 467 U.S. 914, 104 S.Ct. 2820, 81 L.Ed.2d 758 (1984); citing Dennis v. Sparks, 449 U.S. 24, 27-28, 101 S.Ct. 183, 186-187, 66 L.Ed.2d 185 (1980).

Also, See the District Judge Order in Paul III 3:13-cv-01852-CMC (ECF 43 p. 11) *"..that some statements may have been made in the proceedings that mischaracterized or misrepresented Plaintiff's actions or positions.."*; (R 176)

Lastly, See the district judge Order in Paul III 3:13-cv-01852-CMC (ECF 43 p. 12) *"They also suggest that Landlord and the SCDOT acted cooperatively in opposing Plaintiff's claims, consistent with their settlement agreement...".* [12] (R 177, 428 lines 9-25, 429 lines 1-25, 430 lines 1-16)

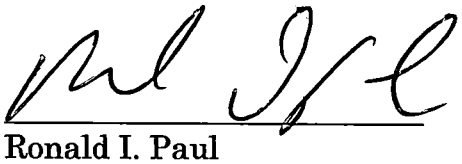
In Respondents brief, on pages 15-16, Quinn and Ormond relies on three unpublished opinion of Marcantoni v. Bealefeld, 734 Fed. Appx. 198, 199 (4th Cir. 2018); Loved Ones in Home Care, LLC v. Toor, 2019 WL 2708459, *3 (S.D. W.Va. 2019); and Mason v. Department of Justice, 39 Fed. Appx. 205, 207 (6th Cir. 2002) These three unpublished opinion are clearly distinguishable from Paul's case. Moreover, because these cases are an unpublished opinion, they have no precedential value, pursuant to Rule 220(a) SCACR. Even though this action is substantively brought under federal law, namely 42 U.S.C 1983 civil conspiracy, the procedural aspects of the case are governed by the South Carolina Appellate Court Rules See, Norton v. Norfolk Southern Railway Co., 350 S.C. 473, 567 S.E.2d 851, 853 (2002) (federal claim brought in state court "is controlled by federal substantive law and state procedural law") Therefore, SCACR 220(a), is applicable to this case.

[12] The agreement to reach a predetermined outcome to enter the settlement as just compensation, with the goal of ruin Paul's cause of action, under The Takings Clause, against SCDOT based on the Highest and Best Use of his property as "Commercial Retail Property" appraised between 310,000.00 - 400,000.00 itself violated Paul's constitutional rights, independently of the subsequent state court decisions. See Marshall v. Jerrico, Inc., 446 U.S. 238, 242 (1980) ("The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases."); Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d at 159, 166 (3d Cir. 2010).

CONCLUSION

Based on the foregoing discussion, the Petitioner Ronald I. Paul respectfully renews his request that this Court grant its petition for a writ of certiorari.

Respectfully submitted,



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