

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

**Walter Brian Bilbro,**

**Plaintiffs,**

**Vs.**

**South Carolina Department of Social  
Services (Director Susan Alford, Director  
Dorothy Addison RRP)**

**Office of Governor, Nikki Randhawa Haley**

**Lutheran Services Carolinas**

**World Relief Spartanburg, (Director Jason  
Lee)**

**Defendants.**

**Civil Action # 3:16-cv-767-JFA**

**PLAINTIFF'S OPPOSITION TO  
DEFEDENT'S MOTIONS TO DISMISS  
AND OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT.**

**NOW COMES THE** Plaintiff, by and through his undersigned attorney, Lauren L. Martel, respectfully move before this Honorable Court in Opposition to Motion to Dismiss and Opposition to Defendant's Motion for Summary Judgment.

**FACTS**

In this case we have a state Governor who has signed a contract with the Federal Agency of Refugee Resettlement. Summary to implement the State Refugee Resettlement Plan, provided for under The Act. The Plaintiff is a private citizen has brought this action to enjoin the implementation of the refugee resettlement plan. That the Defendants have filed a Motion to dismiss on the Basis that: 1. That the Plaintiff has failed to state a cause of Action and 2. Plaintiff lacks standing. Motions for Summary Judgment were filed indicating that 1. There were no material facts disputed 2. There was no legal remedy for which redress could be made.

This is an error, as the facts set forth below are similar to 1. *Exodus Refugee Immigration, Inc. v. Pence*, 2016 U.S. Dist. LEXIS 24605

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**LAW ON OPPOSITION TO DISMISS OR FOR SUMMARY JUDGMENT**

In this case we have a state Governor who has signed a contract with the Federal Agency of Refugee Resettlement. Summary to implement the State Refugee Resettlement Plan, provided for under The Act. The Plaintiff is a private citizen has brought this action to enjoin the implementation of the refugee resettlement plan. That the Defendants have filed a Motion to dismiss on the Basis that 1. That the Plaintiff has failed to state a cause of Action and Plaintiff lacks standing.

This is an error, the facts are similar to Exodus Immigration Inc. v. Pence. That case, a suit was brought by a private party had standing to sue the governor and the social services. The District court held in that case that the Private party Plaintiff has set forth a cause of action and had standing to bring the lawsuit. The Plaintiff is informed he similarly had had set forth a cause of action standing. The difference in this case is that we are not seeking to stop only Syrians in this matter; we are seeking to stop the plan itself that lacks integrity. This private action is being brought to address the Plan that the Government brought with SCDSS and "contracting" with the non-profits. The Plaintiff seeks to enjoin this program and the abuses in the administration in this plan.

The Plaintiff has set forth judgment is proper only when it is clear 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. SCRPC, Rule 56(c). In determining whether any triable issues of fact exist, the evidence and all inferences, which can be reasonably drawn from the evidence, must be viewed in the light most favorable to the non-moving party. Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied Koester v. Carolina Rental Center, 313 S.C.490;443 S.E.2d392. Carolina Chloride, Inc. v. S.C. DOT, 391 S.C. 429, 706 S.E. 2d 501.

*In the case of Hancock Mid-South Management Co, 381 S.C. at 330-31, 673 S.E.2d at 803 (S.CT 2009).* It is important to recognize that the South Carolina Supreme Court used the language of precedent - "we hold" - to begin its description of the summary judgment standard in state court. The Supreme Court considers its articulation of the standard in Hancock to carry the force of law. The standard is that **in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in**

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order to withstand a motion for summary judgment.

### Irreparable Harm

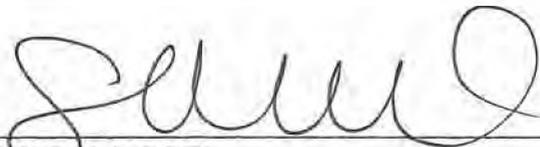
As explained earlier, "in the context of an alleged violation of *First Amendment* rights, a plaintiff claimed irreparable harm is 'inseparably linked' to the likelihood of success on the merits of plaintiff's *First Amendment* claim." *WV Ass'n of Club Owners*, 553 F.3d at 298. See also *Newsom v. Albemarle County School Bd.*, 354 F.3d 249, 254-55 (4th Cir. 2003); *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976) (explaining [\*\*44] that the loss of *First Amendment* freedoms, even for a short period of time, constitutes an irreparable injury); *Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978) ("Violations of [F]irst [A]mendment rights constitute per se irreparable injury."). Plaintiffs argue that they "are suffering an irreparable harm right now" as a result of the "enforcement of non-existent rules" and the threat of arbitrary and capricious action against them as a result of new rules that "may be created and enforced on the spot." Dkt. No. 1-5 at 11. The fear of inconsistent application of the policies creates a risk that Plaintiffs will be silenced in violation of the *First Amendment*. The court, therefore, finds that Plaintiffs have established an irreparable injury. This interest, protected by the *First Amendment*, can only be limited by reasonable time, place, and manner restrictions. Because there are none, the public interest in the rights of its citizens under the *First Amendment* prevails.

1. The Plaintiff responding to the Defendant's Motions to Dismiss and Defendant's Motions for Summary Judgment would show that the same should be denied for the reasons and grounds herein asserted:
2. The Gabelmon issues asserted by the Defendant (S) are: 1. Failure to state and Cause of Action under Rule 12b6 and 2. The lack of standing of the Plaintiff to bring this action. 3. The Plaintiff relies on the case of *Exodus Refugee Immigration, Inc. v. Pence*, 216 US Dist. Lexis 40733. As repository disposition on this issue.
3. Plaintiff refers to his Motion to Extend Time and Affidavits to extend Time for responses as being timely filed and that he timely responded with a denial that this case should be dismissed, but should be remanded or leave to Amend the Complaint a second time.
4. As of May 18, 2016 The Beaufort County Family Court case that took in an

“Unaccompanied minor child” set to be deported and relocated him to the Beaufort County Family Court is in an emergency situation that is imminent and has or will irreparably damage the Plaintiff. That case was last heard on April 2, 2015 in Case No. 15-Dr-07-220. It was an “order” described as “temporary” there has been no follow up to that order, more than 365 days have gone by and no guardian was ever appointed. At this point, this child and his sponsor are somewhere in Bluffton, South Carolina with no legal reason to be here as a temporary order is automatically dismissed from the family Court docket and it is as if there is NO Order. This Family Court case has no reason not to be stricken from the docket as no conclusion to the case has been made. This is an Urgent risk for South Carolina and creates an issue of law and fact that must be addressed to protect the public interest. Last Order attached and incorporated herein indicating more than 365 days had passed since action was filed.

5. That the Plaintiff is informed that material issues exist on the SC Constitutional issues, including but not limited to equal protection issues, First Amendment Issues, Vague Unconstitutional policies that effect him and the public in general, SC Tort Act, failure to enforce South Carolina Law, use of Family Court in placing unaccompanied minor children, failure to use projections and impact statements as per the state plan requires, cease that the inflow of “clients” unfairly overburdens the system and the taxpayer, and other relief requested in Amended Complaint and reserved should this case include all of the Federal issues that do exist in addition to the claims the Plaintiff set forth originally as State Claims under the Equal Protection Clause of the Constitutions.
6. For such other and further relief as may be just and proper.

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May 18, 2016