

## Case Summary

Edward D. Sloan, Jr., Individually, and as a Citizen, Resident, Taxpayer and Registered Elector of the State of South Carolina, and on Behalf of All Others Similarly Situated, Appellant, v. Friends of the Hunley, Inc., and Warren F. Lasch, its Chairman, Respondents.

Mr. Sloan, as a citizen, resident and taxpayer of South Carolina, initiated this action in circuit court in Richland County against Friends of the Hunley,<sup>1</sup> seeking injunctive relief and a declaratory judgment that Friends of the Hunley had violated the Freedom of Information Act (FOIA), S.C. Code Ann. §§ 30-4-10 through -165 (1991 & Supp. 2004), by refusing to provide copies of documents requested by Mr. Sloan. FOIA mandates disclosure of records held by a public body unless the documents fall within enumerated exceptions. Mr. Sloan's complaint alleged two causes of action: 1) that Friends has received more than \$13,000,000 in public funds, is a public body as defined by S.C. Code Ann. § 30-4-20(a), and violated FOIA by refusing to provide certain documents to Mr. Sloan after he made a FOIA request, and 2) that Mr. Sloan is entitled to declaratory judgment that Friends is the alter ego of the Hunley Commission (Commission) and is therefore subject to all laws applicable to the Commission including FOIA.

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<sup>1</sup> Friends is a nonprofit corporation dedicated to the recovery and conservation of the Confederate submarine *H.L. Hunley*.

The circuit court judge granted summary judgment to Friends on Mr. Sloan's first allegation that it had violated FOIA, finding Friends had turned over all of the requested documents. He also granted summary judgment to Friends on the second allegation, finding that Mr. Sloan lacked standing and that the issue was moot.

Mr. Sloan filed an appeal in the South Carolina Court of Appeals. On appeal, he argues the circuit court judge erred in (1) finding his request for a declaratory judgment finding Friends a "public body" under FOIA moot,<sup>2</sup> (2) finding Mr. Sloan lacked standing,<sup>3</sup> and (3) granting Friends' motion for summary judgment as to his claim that Friends is an alter ego of the Hunley Commission and therefore equally subject to all laws of the State of South Carolina that apply to the Commission. The appeal was

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<sup>2</sup> A matter becomes **moot** when judgment, if rendered, will have no practical legal effect upon the existing controversy. Curtis v. State, 345 S.C. 557, 549 S.E.2d 591 (2001).

<sup>3</sup> To have **standing** to institute an action, one must have a personal stake in the subject matter of the lawsuit. Sloan v. Greenville County, 361 S.C. 568, 606 S.E.2d 464 (2004). A private individual may not invoke the judicial power to determine the validity of an executive or legislative act unless the private individual can show that, as a result of that action, a direct injury has been sustained, or that there is immediate danger a direct injury will be sustained. Id. Moreover, the injury must be of a personal nature to the party bringing the action, not merely of a general nature that is common to all members of the public. Id. The general rule is that a taxpayer may not maintain a suit to enjoin the action of State officers when he has no special interest and his only standing is the exceedingly small interest of a general taxpayer. Id. The mere fact that the issue is one of public importance does not confer upon any citizen or taxpayer the right to invoke a judicial determination of the issue. Id. For a plaintiff to have taxpayer standing, the party must demonstrate some overriding public purpose or concern to confer standing to sue on behalf of his fellow taxpayers. Id.

transferred to the South Carolina Supreme Court. The Court will be hearing oral argument on these issues on Wednesday, November 2, 2005.