

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

FAMILY COURT  
NINTH JUDICIAL CIRCUIT  
CASE NO. 95-DR-10-4755

CONSTANCE MILLS  
(Now Known as Constance Mills Haeseley)  
Plaintiff

v

DALE WAYNE MILLS,  
Defendant

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**DEFENDANT’S MOTION TO DISMISS RULE TO SHOW CAUSE**

Comes now the Defendant, *pro se*, to advise this court it lacks jurisdiction to entertain the Motion to Show Cause and to hold the Hearing to Show Cause. Further Plaintiff’s filing and this court order setting hearing to show cause are ultra vires. In support he offers,

1. This Court lacks subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1446.
2. South Carolina Ninth Judicial Circuit Court Case Number 95-DR-10-4755 was removed to the United States District Court for South Carolina, Charleston Division on December 16, 2005 and is in the federal Court now as Case Number 2:04-23286-DCN-GCK.
3. Pursuant to 28 U.S.C. § 1446 a state court has no jurisdiction over this case until the federal court remands it.
4. This South Carolina court lacks jurisdiction to entertain any activity in this case until remand.

5. The South Carolina alimony statutes, 20-3-120 and 20-3-130, impermissibly infringe the South Carolina state constitution right of privacy in the privacy protected zone of a personal decision relating to marriage, i.e. to divorce.
- LittleJohn v. Rose, 768 F. 2d 765, 768 (6<sup>th</sup> Cir. 1985) citing (*Zablocki*, 434 U.S. at 385 (divorce entitled to protections of federal constitution Right of Privacy.)

Respectfully submitted,

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DATED this 31st day of August, 2005

### **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing motion has been served via U.S. mail this 31<sup>st</sup> day of August, 2005 to

The Honorable Henry McMaster,  
Attorney General South Carolina  
P.O. Box 11549,  
Columbia, S.C. 29211,

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The Honorable Steve Carter  
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