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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

Court of Appeals

The Honorable Judges: Geathers, Hill, and Lockemy (acting)

Appellate Case No. 2022-000881
Court of Appeals Case No. 2021-000511
Circuit Court Appellate Case No. 2020-CP-23-05996
Case No. 2020-CV-23-10201384

**APPELLANT'S REPLY TO
RESPONDENT MCCABE TROTTER & BEVERLY, PC'S
RETURN TO
PETITION FOR WRIT OF CERTIORARI**

Raymond A. Wedlake, as a Member of Woodington
Homeowners' Association, Inc. and on behalf of all other
similarly situated members of Woodington Homeowners' Association, Inc., Appellant,

v.

Board of Directors of Woodington Homeowners' Association, Inc.,
comprised of Mona Craigo, Edward Decker, and Sandra LaCroix;
McCabe, Trotter, & Beverly, P.C.; and State Farm Fire and Casualty Company, Respondents.

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August 18, 2022

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PREFACE

Pursuant to Rule 242(g), Appellant Raymond A. Wedlake (*Pro Se*) submits this “Appellant’s Reply to Respondent McCabe Trotter & Beverly, PC's Return to Petition for Writ of Certiorari”.

ADMINISTRATIVE HISTORY

As received by the Clerk on 07/21/22, Appellant filed his “Petition for Writ of Certiorari” (Writ, Exhibit RMR.1). As received 08/09/22, Respondent: McCabe, Trotter & Beverly (MTB), PC, filed their “Respondent McCabe Trotter & Beverly, PC's Return to Petitioner’s Petition for Writ of Certiorari” (Return).

I. FACTS

A) MTB is one of three Respondents

1. Appellant’s **entire** case against **three** Respondents was dismissed.

B) Return cannot raise new issues for the first time

2. MTB failed to make arguments before the trial court for any of Return Issues: I, II, or III.

C) Return cites nothing from, and has no references to, the Record On Appeal

3. Return does **not** cite anything found in the Record On Appeal.

D) Rule 240(c)(2) gives a requirement for a Return, per Rule 242(e)

4. Rules 240(c)(2) and 242(e) state (excerpted, emphasis added):

RULE 240 MOTIONS AND PETITIONS GENERALLY

(c) Form and **Content** of Motions and Petitions. ... **shall include** the following:

(2) A **memorandum with citation of authorities** in support of the motion.

(e) **Return to Motion.** Any **party opposing** a motion or **petition** ... The provisions of **Rule 240(c) shall apply to a return**. ...

II. ARGUMENT IN OPPOSITION TO RETURN

E) Dismissal of Respondent MTB can NOT be used to justify dismissal of two other Respondents

5. If it is assumed arguendo that claims found in Return have merit, and dismissal of MTB is warranted, such can **NOT** justify dismissal of two other Respondents.

**F) Return can NOT raise new issues for the first time;
New issues in Return are barred from being presented**

6. MTB did not argue before the trial court any of three-Return issues:

- I. Petitioner's Does Not Have a Constitutional Right to Discovery Before the Court's Consideration of Dismissal Pursuant to Rule 12(b)(6), SCRCF.
- II. Petitioner's Does Not Have a Constitutional Right to a Jury Trial Before the Court's Consideration of Dismissal Pursuant to Rule 12(b)(6), SCRCF.
- III. Petitioner Failed To Preserve Any Argument That He Was Discriminated Against Based Upon His Status As A Self-Represented Litigant.

Return issues cannot be brought for the first time on appeal. Indeed, three-Return issues are not found in MTB's Brief (Exhibit RMR.2, as excerpted), nor are they found in "Statement of Issues" related to Appellant's Brief (BOA, Exhibit PWC.1). Return itself admits:

An issue may not be raised for the first time on appeal. In order to preserve an issue for appeal, it must be raised to and ruled upon by the trial court.
{*Wilder Corp. v. Wilke*, 330 S.C. 71, 497 S.E.2d 731 (1998)}

G) Return cites nothing from, and has no references to, the Record On Appeal

7. Return cannot be substantiated by anything found in the Record On Appeal (ROA).

Without facts and evidence before the Court in the ROA, then Return must be ignored.

H) Return does NOT comply with Rule 240(c)(2); it cannot be deemed acceptable

8. MTB's Return must be deemed **unacceptable**, as it does not comply with Rule 240(e) to meet requirements of Rule 240(c)(2); see **Facts** par. 4.

I) Dismissal pursuant to Rule 12(b)(6), SCRPC can NOT be cited to override a Constitutional Right

9. As to Return-Issue I, courts abrogating their duty by **IGNORING FACTS AND SUPPORTING EVIDENCE** due to **overlooking** and/or **misapprehending**:
"... facts sufficient to constitute a cause of action ...", led to perpetration of **injustice**.

9a) Appellant's Writ (Exhibit RMR.1) clearly cited Rule 242(b)(4) as justification for its content. Constitutional issues related to misconduct of lower courts, that will lead to a conclusion to **GRANT** Appellant's Writ, are **not properly swept away under the rug** by other Return-isleading-legal arguments.

9b) Dismissal denied from Appellant "due process" and "equal protection of the laws" (Amendment XIV). Full argument appeared in Brief of Appellant (BOA Exhibit PWC.1, "IV AB) The Judge erred by denying Constitutional rights of Appellant", p. 10 par. 2).

Appellant's original Complaint (R. pp. 137-186) stated **50 Facts** (R. pp. 155-177 par. 28 - 77) which were supported by **46** exhibits plus **2** figures. Without **overlooking** and **misapprehending**, no **learned person** could possibly conclude that Appellant failed to bring: "... facts sufficient to constitute a cause of action ...".

J) A Constitutional Right to a jury trial can NOT be superseded by premature dismissal from the bench

10. **Facts** par. 1 necessarily denies premature dismissal from the bench, because MTB was **BUT ONE** of **three** Respondents. Thus **assuming arguendo** that Return's claims are true, then the Magistrate **still erred** by dismissing Appellant's **entire** case for all **THREE** Respondents.

11. With **50 Facts** and **48** supporting documents (par. 9b above), Appellant's complaint documented more than sufficient **FACTS AND EVIDENCE** to prove the complaint was **not** deficient, and that it established existence of many bases for relief. Dismissal is appropriate **only** when **NO** basis for relief exists. "Conspiracy" was a basis for relief. The Order (R. p. 33, Section II) dismissed this basis for relief due to a **FALSE** statement of failure. Appellant stated "special damages" (BOA Exhibit PWC.1 p. 16 Section [IV]K; referring to R. pp. 245-246 Section B par. 16). Return itself admits (excerpted, emphasis added):

... In **evaluating** a motion to **dismiss** under Rule 12(b)(6) the court **must consider the facts alleged in the complaint as true.** Woodell by Allen v. Marion School Dist. One, 307 S.C. 297, 414 S.E.2d 794, 73 Ed. Law Rep. 552 (Ct. App. 1992). Dismissal is appropriate where the complaint is **so deficient** that, assuming all the factual allegations are true, there still exists **no basis** for relief. ...

K) Discrimination against a *Pro-Se* party

12. A conclusion to dismiss by itself shows that Appellant was discriminated against as a *Pro-Se* party. As to Return-Issue III, Appellant's Writ (Exhibit RMR.1) cited one such example (R. pp. 260-261 par. 7c).


L) Supreme Court authority can NOT be ignored nor overridden by lower courts

13. Return cited authority from the Supreme Court from **two** cases, only. Appellant's Writ (Exhibit RMR.1) cited **FIVE** cases giving Supreme-Court authority. All five cases show denial of authority by lower courts which led to perpetration of **injustice**. Appellant's Writ cited Supreme Court cases: *Dawkins v. Fields*; *Evening Post Publ'g Co. v. Berkeley County Sch. Dist.*; *Holtzscheiter v. Thomson Newspapers, Inc.*; *Sandel v. Cousins*; and, *W.R. Livingston v. Noland Corporation*.

III. CONCLUSION

The Supreme Court can **NOT** accept MTB's "Return" because it does not meet requirements of Rule 240(c)(2). MTB's attempt to misdirect and obfuscate, in direct **violation** of their "Lawyer's Oath" not to **mislead**, is improper as a rationale to deny Appellant's "Petition for Writ of Certiorari".

Dated this 18th day of August 2022.



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