

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Aug 22 2022

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Bentley Price
The Honorable R. Markley Dennis, Jr.

App. Case No. 2019-001671

J. Doe,

Appellant,

v.

Design Review Board (DRB)
of the
Town of Sullivans Island (TOSI),
Alka Construction Co.,
Svjetlana Bilic Damjanovic,
Individually and d/b/a Alka
Construction Co., Branko
Damjanovic, Individually and
d/b/a Alka Construction Co.,
Kenneth Craft, III, Individually and
d/b/a Craft Design Co.,

Respondents.

Motion for Reconsideration

C. Holmes
P.O. Box 187
Sullivans Isd.,
SC 29482-0187
(843)883-3010
For Appellant

Without being disagreeable, there is disagreement. The appellant timely submits motion for reconsideration with abeyance request for the August 11, 2022, order. For the reasons stated and for substantial justice affecting substantial rights, appellant respectfully requests this Honorable Court grant reconsideration regarding matters of great public importance. The August 11, 2022, order misconstrues and/or misapplies the South Carolina Appellate Court Rules without adequate explanation for meaningful review thereby denying substantial rights including but not limited to, due process. Specifically, former Chief Justice Toal's *Appellate Practice in South Carolina* states unambiguously, "When a judge or the appellate court dismisses the case, the party should file a petition for rehearing pursuant to Rule 221, SCACR." Toal *et al.*, *Appellate Practice in South Carolina*, Third Edition (2016), p. 374 (emphasis supplied). The attached copy of the docket sheet shows there has been no ruling on appellant's Rule 221, SCACR, petition for rehearing.

The facts herein are chilling. A brand-new Chief Judge of the currently Murdaugh-besmirched South Carolina judicial system, as a single individual and without affidavit, factual support, or ROA (Record on Appeal) for meaningful review, arbitrarily and capriciously summarily dismissed meritorious appeal. The South Carolina Appellate Court Rules (SCACR), the Federal Rules on which the SCACR are based, the South Carolina Legislature's intent, and the letter and spirit of the statutory authority in S.C. Code § 14-8-220 mandate de novo review of a single individual's Court of Appeals order. The Legislative intent and the purposes of that statute include but are not limited to, protection of the integrity of the judicial system, protection of the Court of Appeals, protection of the individual judges, and compliance with State and Federal Constitutional mandates and substantial rights:

S.C. Code § 14-8-220

SECTION 14-8-220. Power of Court and judges to administer oaths and writs; appeal.

The Court and each of the judges thereof shall have the same power at chambers or in open court to administer oaths, and to issue such remedial writs as are necessary to give effect to its jurisdiction. **An appeal shall be allowed from decision of any one judge to a panel of the Court.** S.C. Code § 14-8-220 (emphasis supplied).

The record reflects that the conflicted single individual judge who is duty bound by sworn oath to uphold the SCACR violated the SCACR and that statute. The record reflects that the conflicted single individual judge at every turn evaded de novo review of his own unauthorized arbitrary and capricious order for summary dismissal of meritorious appeal without affidavit, factual support, or ROA (Record on Appeal) for meaningful judicial review. A reasonable person would have reasonable questions regarding impartiality.

The docket herein reflects that same conflicted single individual judge has evaded and/or unlawfully prevented disposition on appellant's pending Rule 221, SCACR, petition for rehearing. "When a judge or the appellate court dismisses the case, the party should file a petition for rehearing pursuant to Rule 221, SCACR." *Toal et al., Appellate Practice in South Carolina*, Third Edition (2016), p. 374 (emphasis supplied). Pursuant to Rule 242(c), SCACR, "A decision of the Court of Appeals is not final ... until the *Rule 221* petition for rehearing has been acted on by the Court of Appeals." Rule 242(c), SCACR (emphasis supplied). In fact, Rule 242(d)(1), SCACR, requires appellant herein to certify the Rule 221, SCACR, petition for rehearing has been finally ruled on. *Toal et al., Appellate Practice in South Carolina*, Third Edition (2016), p. 514. The pending Rule 221, SCACR, petition for rehearing in this matter has not been finally ruled on, therefore, the matter herein

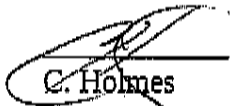
is not final and jurisdiction is currently pending in the Court of Appeals for disposition on the Rule 221, SCACR, petition for rehearing. Jurisdiction can be raised at any time. To the extent there is ambiguity, the rule of lenity supports disposition on the Rule 221, SCACR, petition for rehearing. The South Carolina Constitution does not authorize a single individual judge to make legislative decisions which essentially re-write the statutes and the SCACR rules for his conflicted convenience. Accordingly, the appellant respectfully requests disposition on the merits by the Court of Appeals without participation of the conflicted individual on appellant's pending Rule 221, SCACR, petition for rehearing.

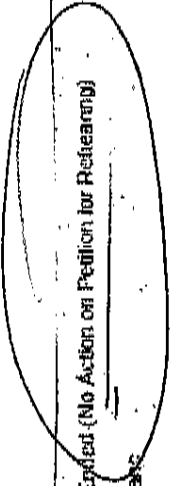
CONCLUSION

For the reasons stated and for substantial justice affecting substantial rights, appellant respectfully requests the motion for reconsideration with abeyance request be granted.

Respectfully submitted,

Dated 8/20/2022


C. Holmes
PO Box 187
Sull. Isd., SC 29482-0187
843.883.3010



03/11/2022 Non-Dispositional Decision - Withdrawn or Expired (No Action on Petition for Rehearing)

07/25/2022 Rehearing - Suggestion for Rehearing En Banc

07/25/2022 Rehearing - Petition for Rehearing

07/25/2022 Correspondence - Incoming (Motion filed in Supreme Court)

07/15/2022 Correspondence - Outgoing (No Action on Petition for Rehearing)

07/07/2022 Rehearing - Suggestion for Rehearing En Banc

07/07/2022 Rehearing - Petition for Rehearing

06/23/2022 Rehearing - Denied

05/06/2022 Motion - No Return - Hold in Abeyance

05/04/2022 Deficiency - Correction - Motion to Hold in Abeyance

04/21/2022 Deficiency - Deficiency Letter Sent - Motion to Hold in Abeyance

04/14/2022 Motion - Hold in Abeyance and Rehearing

03/31/2022 Dispositional Decision - Order

02/11/2022 Motion - No Reply - Dismiss

01/31/2022 Motion - Return - Dismiss

01/26/2022 Motion - No Return - Rule 240(j) De Novo Panel Appeal

01/24/2022 Motion - Dismiss

01/19/2022 Deficiency - Correction (Motion Rule 240(j))

01/10/2022 Non-Dispositional Decision - Order (Motion to Allow Late Filing - Granted)

01/07/2022 Deficiency - Deficiency Letter Sent (Motion Rule 240(j))

01/04/2022 Motion - Rule 240(j) De Novo Panel Appeal

12/23/2021 Non-Dispositional Decision - Order (Motion to Exceed Page Limit)

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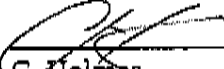
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PROOF OF SERVICE

I certify that a true copy of the above was served upon the respondents by regular first class mail postage pre-paid on this date at this address: Ben Traywick, 171 Church St., Ste. 340, Chas., SC 29401; GT Walker, 66 Hasell St., Chas., SC 29401; and Kenneth Craft III, 204 Spooner Ln., Mt. Pleasant, SC 29464.

Dated 8/21/2022


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Hand copy
available
on request -

Hank

Fax Cover:

C. Holmes, M.D.
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