

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

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Appeal from the Court of Appeals

Appellate Case No.: 2020-001531  
\_\_\_\_\_

Alvetta L. Massenburg

Petitioner,

vs.

Clarendon County Treasurer, Clarendon  
County Delinquent Tax Collector,  
Blacktop Ventures, LLC,

Respondents,

\_\_\_\_\_  
RETURN OF RESPONDENT BLACKTOP VENTURES, LLC TO THE  
PETITION FOR WRIT OF CERTIORARI  
\_\_\_\_\_

s/ Scott F. Talley

Scott F. Talley, Esquire SC Bar No.: 70364  
TALLEY LAW FIRM, P.A.

291 S. Pine St.

Spartanburg, South Carolina 29302

Attorney for Respondent Blacktop Ventures,  
LLC

February 22, 2023

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## STATEMENT OF THE CASE

Alvetta L. Massenburg is a delinquent tax payer who filed her Complaint on May 30, 2019 seeking to set aside a tax sale in Clarendon County. In denying the relief sought by the Petitioner in her initial Complaint, Respondent Blacktop Ventures, LLC filed a counterclaim seeking to quiet title in the subject property, which it acquired by Tax Deed from Clarendon County on December 19, 2017.

Since 2012, Petitioner Massenburg has resided in an apartment in Charlotte, NC. As indicated by the Petitioner, the County sent all required statutory notices to her by U.S. certified mail to her apartment address in Charlotte, NC. Petitioner Massenburg did sign for one of the letters at the address used by the County for all required notices. According to Petitioner, she first learned that there were issues with the property on or about January 2, 2020 when she received a call from her uncle that trees were being cut from the subject property. Some five plus months later, the Petitioner filed her initial Complaint in Clarendon County.

In carrying out its statutory duties regarding the sale of real property in South Carolina for delinquent taxes, the County posted a Notice of Levy on the property by and through its agent Palmetto Posting Inc., as required by law. The issue in this case is whether or not the posting of the property by Palmetto Posting, Inc., on behalf of Clarendon County was conspicuous. At the trial held October 1, 2020, the Master in Equity, by and through its Order dated November 3, 2020 found that the County fully complied with the requirements in S.C. Code § 12-51-40 in conducting the tax sale for the subject property. The Master found that the statutory requirements for posting the Notice of Levy which was completed by Palmetto Posting, Inc., on July 26, 2017 met the requirements of South Carolina law. In addition, the Master quieted title to the property in Respondent Blacktop Ventures, LLC by virtue of it being the successful bidder at the tax sale and

it having complied with all requirements of a tax sale bidder in South Carolina. Petitioner filed her Notice of Appeal on November 19, 2020. On November 16, 2022, the Court of Appeals affirmed the Order of the Master in Equity filed November 3, 2020.

### STATEMENT OF FACTS

Taxes for the subject property were due and owing for the year 2016. (R. p.10, L. 12). The first notice about taxes was sent to the Plaintiff in April, 2017 to her address 5724 Sloping Oaks Rd., Apt 204, Charlotte, NC, 28212 (R.11 L.4, R. p. 64-65). Another notice was sent by certified mail to the same address (R.12 L.23, R. p. 66-69) Certified mail was returned. On July 26, 2017, a Notice of Levy was issued and placed on the subject property (R.14 L.7, R. p. 94-95). The posting was done by Palmetto Posting, Inc., which is contracted by Clarendon County for such purposes (R.14 L.16). All notices required to be sent by the County were sent to the address on file, which is the address that was on the Deed, whereby the Appellant took title to the subject property (R.15 L.21). After the tax sale, the County sent other required correspondence to the Appellant. The Appellant actually signed for an overage letter at the same address all other notices have been sent (R.16 L.10). The letter signed for by the Appellant is dated April 24, 2019. (R. p. 72-73). The information provided to the Appellant during the tax sale as required by law was based on research of public records done by Clarendon County (R. p. 90-93). The County further testified that the Appellant while receiving notice of the overage at her apartment address in Charlotte did not make a claim to the overage despite notice (R.18 L.15). The County was not aware of any other claims to the property other than that of Respondent Blacktop Ventures, LLC (R.19 L.1-7). Pursuant to South Carolina law, Blacktop Ventures, LLC met the requirements as successful bidder and paid all taxes due on the property since acquiring its ownership (R.19 L.15).

Appellant testified on the date of the trial that she still resided at 5724 Sloping Oaks Rd., Apt 204, Charlotte, North Carolina, and that she received her mail at that location in a kiosk (R.20 L.25). Appellant further acknowledges signing for the overage letter on April 24, 2019 (R.21 L.11). Appellant lived at that address since 2012 (R.25 L.12; R. p. 55-60). While living at that address, Appellant paid property taxes for the years, 2013, 2014, and 2015. Appellant was aware of the requirement to notify the County when she moved of her present address (R.26 L.17). Appellant acknowledges that the address that the County used was the correct address (R.27, L.21). Appellant did nothing in regards to the subject property in 2017 and 2018 (R. p. 30, L.4-10). Appellant previously had property sold for taxes in South Carolina for non-payment.

The Appellant relies upon the testimony of her uncle, Frank Frierson, in her attempt to establish that the posting of the subject property as required by law is not conspicuous. Yet, in reviewing County Exhibit "3", Frierson acknowledged that he did not see a posting, but that there could have been a posting (R.40 L.22-23 and R.41 L.1-2). Frierson also stated that if the coordinates shown on County Exhibit "3" led to a location on the subject property, he would agree that the property was posted (R.42 L.10-11). To Quiet Title, Clarendon County, by and through its Treasurer, Matt Evans indicated that Blacktop Ventures, LLC had done all things necessary as a successful bidder to acquire the property via Tax Sale (R.45 L. 2-5).

#### ARGUMENT

**1. The Court of Appeals did not err in issuing a Per Curiam opinion on November 16, 2022.**

The Court of Appeals, citing proper authority for its decision on the Petitioner's Appeal of the Master in Equity's Order filed November 3, 2020 states that "a preponderance of the evidence supports the Master's finding the notice was posted in a conspicuous place because it was posted

on a relatively well-traveled road.” Evidence in the record supports that finding as there was testimony from the County regarding use/maintenance of said road, and in addition, at the trial, witnesses of the Petitioner admitted to walking the road running along Petitioner’s property on a regular basis.

In her petition, Petitioner points to no error of law in how the Court of Appeals arrived at its opinion; she simply does not like the result.

**2. Based on the Court of Appeals decision in this matter, Petitioner’s request that this Court, by her petition, find that the tax sale of her property was not conducted in strict compliance with South Carolina law, specifically the posting of a notice of levy, is moot.**

As previously stated, the Petitioner has pointed to no error in law by the Master in Equity, or the Court of Appeals, that could give rise to her Petition being granted. Both the trial court and the Court of Appeals have found that the County did comply with the provisions of South Carolina law, including the posting of a notice of levy in a conspicuous place on the property of the Petitioner.

### CONCLUSION

Respondent Blacktop Ventures, LLC respectfully submits to the Court that the Petition in this matter should be denied based on the record that was before the Court of Appeals and its Order issued on the Petitioner’s appeal.

February 22, 2023

Respectfully submitted,

/s/ Scott F. Talley  
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291 South Pine Street  
Spartanburg, South Carolina 29302  
Atty. Respondent Blacktop Ventures, LLC

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CERTIFICATE OF SERVICE

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I hereby certify that a true and correct copy of the Return of Respondent Blacktop Ventures, LLC to the Petition for Writ of Certiorari has been served via U.S. Mail this 22<sup>nd</sup> day of February, 2023 upon: **John M. Blecker, Jr., Esquire**, PO Box 148, Charleston, SC 29402, **A. Peter Shahid, Jr., Esquire**, 145 King St. Suite 309, Charleston, SC 29401 and **William H. Johnson, Esquire**, P.O. Box 137, Manning, SC 29102.

/s/ Hannah L. Hinson  
Hannah L. Hinson, Paralegal