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Dec 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court
Milton G. Kimpson, Judge
Docket No. 21-ALJ-07-0144-CC

Appellate Case No. 2023-000441

South Carolina DHEC, Carla Varn DuPre, and Jasper Varn III Respondents

v.

Stephen Mueller, Pro Se

Appellant

Bradley Curdar, SCDHEC

Mary Shahid, Maynard Nexon PC

ARGUMENT

The Respondents continue to ask for dismissal of my case citing filing errors. They are doing this because they have no basis in fact or law to defend their position. They do not want to go to trial for the same reason.

They have not defended the fact that DHEC itself testified in the ALC, Docket 18-ALJ-07-0023-CC, Nov. 18, 2019 that:

“The Department did a preliminary dune analysis and concluded that the baseline (primary dune) would actually be LANDWARD of the existing line.”

“The Department did NOT locate a primary dune seaward of of the baseline”.

“The Depatment collected dune measurements before and after Hurricane Matthew and a re-nourishment project and THERE WAS NO PRIMARY DUNE SEAWARD OF THE BASELINE.”

Less than a year later, after further erosion of the beach, Mr. Matt Slagel, DHEC's permitting officer in collusion with Mr. Bill Eiser, a former associate of Mr. Slagel and advocating for the applicant, identified a primary dune **40' seaward** of the dune that DHEC itself studied, identified, and testified to. No one at DHEC checked his work. Mr. Slagel was copied with the results of ALJ-07-0023-CC and KNEW there was no dune where he flagged one. This was an obvious case of malfeasance in his capacity and collusion by Mr. Slagel.

Furthermore, DHEC, Mr. Slagel and Mr. Churdar in particular, refuse to provide me with the names of the DHEC employees who conducted the analysis. This I presume should be public knowledge but they are clearly hiding the evidence.

I have attached current photo of the "dune" Mr. Slagel identified as primary. It exhibits NO characteristics of a dune documented in SC Statutes and Regulations. The post with the orange flag was landward of the "dune" Mr. Slagel identified and is now on active beach. The fence seen destroyed was erected atop a "temporary berm" constructed by Edisto Beach after Hurricane Erma. Mr. Slagel and Mr. Eiser in the ALC testified that this berm had "become a primary dune" which Judge Kimpson believed with no evidence. Erosion since 2020 has resulted in Mr. Slagel's dune to now be on active beach. Mr. Slagel refuses to return to the site and repair his error. DHEC has permitted a septic system on the land depicted. Construction and especially septic, is strictly prohibited where permitted and I again beg the Court to revoke the permits or bring this matter to trial.

Regards,
Stephen Mueller

CC: Bradley Churdar, Mary Shahid, Matt Slagel
This correspondence will be provided to those copied by USPS mail

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I HEREBY CERTIFY, that I have this date, December 14, 2023, served this response to Respondents third Joint Motion to Request Dismissal for Failure to File a Record on Appeal upon all parties to this appeal, and/or their attorneys, by depositing a copy hereof in the United States by electronic mail and USPS mail to the following:

Bradley D. Churdar, Esquire

SCDHEC

1362 McMillan Avenue, Suite 400 Columbia, SC 29201 Office: 843.953.0213 Mobile:843.718.5685

Fax: 843.953.0201 Email: churdabd@dhec.sc.gov

Attorneys for the Respondent, SCDHEC

Mary Shhid, 205 King St. Charleston, SC 29402