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Jan 29 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2023-001552

James Kevin Holmes and C. Collie Holmes, Appellants,

vs.

Charleston County Assessor, Respondent.

SURRESPONSE IN OPPOSITION TO APPELLANTS’ REPLY

Respondent Charleston County Assessor submits this Surrespose in Opposition to Appellants’ Reply pursuant to Rule 240, SCACR. Respondent objects to the contents of the Reply because like the Motion they too are vague and ambiguous, as well as argumentative, as to what Ms. Holmes is requesting—to access excerpts for the record on appeal—the contents of which have not yet been designated by the parties to be included in the record on appeal and filed with the Court.

In her Reply, it is unclear whether Ms. Holmes’ initial reference to the “decision on its face” refers to the decision of the Administrative Law Judge or the Charleston County Board of Assessment Appeals, as the following refence is to the “BAA decision.” She claims the Administrative Law Judge did not address certain violations of law and due process, which a review of the transcript and record on appeal will demonstrate whether the Judge addressed those issues.

Again, in her Reply, Ms. Holmes requests permission from the Court “to access excerpts” regarding denial of due process and violation of applicable law and statutes. In her Motion, she moves the Court for “excerpts from the Respondent’s transcript for record on appeal regarding matters of great public importance.” As stated earlier in Respondent’s Return in Opposition to Appellants’ Motion, and here in this response, it remains unclear what she is asking of the Court. Respondent cannot determine what excerpts she seeks access, and which excerpts from the transcript she is requesting nor what she would define as matters of great public importance. Furthermore, Rule 207(b), SCACR requires Ms. Holmes to order a copy of the transcript of the Administrative Law Court proceeding. From the transcript she can cite whatever she wants to support arguments in her brief.

Ms. Holmes continues to argue the Board’s decision violates statutory provisions. She cites to the *State v. Price* case claiming it renders the “BAA decision void/voidable requiring reversal or remand for statutory compliance.” However, there has been no finding or decision that the Board’s decision was not statutorily compliant. To the extent Ms. Holmes’ seeks to make that argument, she should do so in her brief with citations to the record on appeal. Further, the case she cites shows the power of the South Carolina Supreme Court to address an action of the circuit court in a criminal case that is outside its authority or otherwise contrary to law. *See State v. Price*, 893 S.C. 286 (2023). It does not apply here.

Ms. Holmes has failed to advise the Court of the status of the transcript and has failed to seek extension of time for delivery of the transcript. Instead, she filed a Motion and Reply that are senseless. Filing them is a delay tactic to avoid addressing the issue of the transcript and moving the appellate appeal process along.

Respondent seeks a status of the delivery of the transcript to Appellants. Accordingly, Respondent requests this Court order a status of the transcript from Ms. Holmes and deny her Motion on the grounds that it offers nothing to advance her receipt of the transcript and progressing forward to filing the initial briefs in the case.

Respectfully submitted,

/s/ Brittney M. Darnell

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PROOF OF SERVICE

The undersigned hereby certifies that on this 29th day of January, 2024, she served the Appellants with a copy of Respondent Charleston County Assessor’s Surreponse in Opposition to Appellants’ Reply via U.S. First Class Mail, postage prepaid, upon the following:

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