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Mar 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
The Honorable ALJ Durden

ALC Case No. 22-ALJ-17-0398-CC

J.K. Holmes and C.C. Holmes,

Appellants,

v.

Chas. Cty. Assessor,

Respondent.

Reply

C. Holmes
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Sullivans Island, SC 29482
843.883.3010

As a threshold matter, the undersigned respectfully objects to the five or more tax-payer funded, tax-collector attorneys lining up against a couple of unrepresented taxpayers. In particular, the South Carolina Appellate Court Rules do not provide for a “Surreponse” by the five or more tax-payer funded, tax-collector attorneys who failed to request the Court’s permission and once again trample the substantial rights of law-abiding citizens by denying the other side meaningful notice and meaningful opportunity to respond at a meaningful time. The cheeky justification by the five or more tax-payer funded, tax-collector attorneys is there is no evidence the Court considered the “Surreponse.” To the contrary, there is no evidence the Court did not consider it and the tax-collector attorneys certainly filed that document with the intention that the Court rely on it. To the extent there is ambiguity, the rule of lenity supports appellants’ position.

“Self-represented litigants may request the appellate court serve the litigant by e-mail.” Rule 262, SCACR. Pursuant to the South Carolina Supreme Court’s May 6, 2022, amended Rule 262, SCACR, order, the South Carolina Supreme Court established three (3) methods as options for electronic filing:

(b) Electronic Methods of Filing. Filings with an appellate court may be made **electronically** using the methods listed below.

(1) Electronic Filing by Lawyers. Lawyers who are licensed to practice law in South Carolina may utilize OneDrive for Business to electronically submit documents for filing with the Supreme Court and the Court of Appeals, and *lawyers are strongly encouraged to use this method of filing*. More information about this method, including registration and filing instructions, is available in the Attorney Information System (<https://ais.sccourts.org/AIS>) under the tab “Appellate Filings.”

(2) Filing by E-mail. Filings may be made by e-mail. For the Supreme Court, the e-mail shall be sent to suptcfilings@sccourts.org; for the Court of Appeals, the e-mail shall be sent to ctappfilings@sccourts.org. This method may not be suitable for large documents, and if

it becomes necessary to split a document into multiple parts, the e-mail shall identify the part being sent (i.e., Record on Appeal, Part 1 of 4). A document filed by this method must be in Adobe Acrobat portable document format (.pdf). Filers shall not utilize any other file format or a file-sharing service when e-mailing documents for filing. The clerk of the appellate court may reject any document submitted by e-mail in a format other than .pdf or using a file-sharing service.

(3) Faxing Documents. A document may be filed by an electronically transmitted facsimile copy. The fax number for the Supreme Court is 803-734-1499. The fax number of the Court of Appeals is 803-734-1839. While this method is well suited for relatively small documents, depending primarily upon the limitations of the sending fax machine, it may not be possible to send large documents, such as a record on appeal, in a single transmission. If it becomes necessary to split a document into multiple parts to make the fax transmission, a separate cover sheet should be used on each part to identify the document (i.e., Brief of Appellant, Part 1 of 4). In the event the facsimile copy is not sufficiently legible, the clerk of the appellate court may require the party to provide a copy by mail. Rule 262, SCACR, South Carolina Supreme Court's May 6, 2022, amended order (emphasis supplied).

This chapter may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires. HISTORY: 1962 Code Section 56-102; 1952 Code Section 56-102; 1942 Code Section 326; 1932 Code Section 326; Civ.). Moreover, the South Carolina Constitution guarantees every person the right of access to the courts. S.C. Const. art. I, § 9 provides, "All courts shall be public." A litigant has a statutory right to proceed pro se in South Carolina. S.C. Code Ann. § 40-5-80 (2011) ("[The chapter regulating the practice of law] may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires."); *Washington v. Washington*, 308 S.C. 549, 550, 419 S.E.2d 779, 780 (1992). The statutory right of self-representation is also provided to litigants under federal law. 28 U.S.C. § 1654 (2016). *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 330 (S.C. Ct. App. 2017). Apparently, the five or more tax-payer funded, tax-collector attorneys think it is a good idea to deny taxpayers' State and Federal Constitutional rights including but not limited to, First Amendment rights and access to the courts. To the extent there is ambiguity, the rule of lenity, supports appellants' position. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of

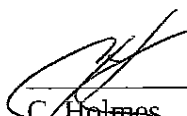
fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 9, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988).

Further, the five or more tax-payer funded, tax-collector attorneys lining up against a couple of unrepresented taxpayers have no meritorious defense and instead, violate the Rules of Professional Responsibility by introducing unrelated material to evade the merits and gain unfair collateral advantage. For the record, the undersigned has had no client complaints and no client has been harmed unlike some others and the five or more tax-payer funded, tax-collector attorneys seek to "foreclose meaningful review." See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990)(the lack of any legal requirement other than the talismanic recitation of "'frivolous' will foreclose meaningful review" (emphasis supplied)). Moreover, the record reflects the other side engaged in a well rehearsed and well-choreographed charade designed to misrepresent and to mislead unrepresented parties that the lower court had no authority to encourage, support, and/or order mediation, again in bad faith, denying taxpayers a meaningful opportunity at a meaningful time.

For substantial justice affecting substantial rights, appellants respectfully request the motions be granted with abeyance pending resolution.

Dated 3. 2.24

Respectfully submitted,



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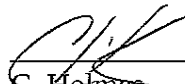
Respondent.

PROOF OF SERVICE

I certify that a true copy of the above document was served upon the respondents by regular first class mail postage pre-paid on this date at this address:

Chas. Cty. Atty.
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North Chas., SC 29405

Dated 3.2.24


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Hard copy
available
on request -

Thank
you!