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Aug 21 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Circuit Court Judge of the 9th Judicial Circuit

App. Case No. 2023-000296

J. Doe,

Appellant,

v.

Design Review Board (DRB)
and the
Town of Sullivans Island (SI),

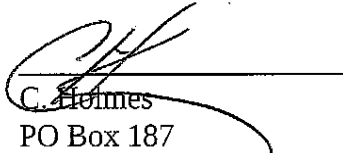
Respondents.

REPLY

The appellant respectfully submits Reply to respondents' Return. Without being disagreeable, there is disagreement with the response which is disputed. The record reflects the appellants' initial brief is timely served in compliance with the South Carolina Appellate Court Rules. Rules 207, 208 and

209, SCACR. The orders on appeal state the matter came to hearing before the court. To the extent there is ambiguity, the rule of lenity supports appellant's position. See *State v. Jeroid J. Price*, S.C. Sup Ct. App. Case No. 2023-000629 filed Sept. 6, 2023 ("Section 14-5-10 of the South Carolina Code (2017) provides, 'The circuit courts herein established shall be courts of record' The circuit court's hearing ... must be recorded."); *Orpiano v. Johnson*, 687 F.2d 44 (4th Cir. 1982) ("(F)ailure even to have a transcript filed ... was reversible error."). The record reflects timely request for transcript. The record reflects response to the transcript request is postmarked June 17, 2024, wherein the court reporter apologizes for the delay. The appellants' initial brief is timely served on July 20, 2024. The record reflects counsel for the other side is not in compliance with the South Carolina Appellate Court Rules. Specifically, counsel for the other side is in violation of Rule 208(a)(2), SCRCR, and fails to timely serve and file his initial brief within 30 days of service of the appellant's brief. Rule 208(a)(2), SCACR. The respondent's counsel violates the South Carolina Appellate Court Rules, causes unnecessary delays, requests extensions, and unjustly seeks to gain more than 30 days to file his response brief, if not, improper default. Rule 208(a)(2), SCACR. The respondent has unclean hands. Accordingly, for substantial justice affecting substantial individual, personal, and real property rights, the undersigned requests the motion be granted. "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).

Respectfully submitted,



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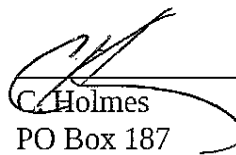
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PROOF OF SERVICE

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: GT Walker, 66 Hasell St., Chas., SC 29401.

Dated 8.21.24


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