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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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

Appellate Case No. 2024-001706

James Kevin Holmes and C. Collie Holmes, Petitioners,
of whom C. Collie Holmes is the Appellant, Appellant,

vs.

Charleston County Assessor, Respondent.

RESPONDENT’S RETURN TO PETITION FOR WRIT OF CERTIORARI

CHARLESTON COUNTY ATTORNEY’S OFFICE

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STATEMENT OF ISSUE ON APPEAL

- I. **DID THE COURT OF APPEALS ERR IN DISMISSING JAMES KEVIN HOLMES FROM THIS APPEAL FOR NONCOMPLIANCE WITH RULE 267(b)?**

STATEMENT OF THE CASE

This matter involves an appeal by C. Collie Holmes challenging Respondent Charleston County Assessor's valuation of her Sullivan's Island property for the 2020 tax year. On April 25, 2023, a hearing was held in the Administrative Law Court ("ALC") before the Honorable Judge Durden. Appellant C. Collie Holmes appeared *pro se*; James Kevin Holmes did not appear at the hearing and has not participated in this matter at any juncture. On August 17, 2023, Judge Durden issued an order affirming Respondent's valuation of Appellant's property. Appellant filed a notice of appeal to the South Carolina Court of Appeals on October 2, 2023.

The procedural history of this matter before the Court of Appeals is tortured, yet relevant, to Appellant's Petition. On January 30, 2024, the Court of Appeals issued an order directing Appellant, within five days, to "clarify . . . whether [she] [was] a retired member of the bar who may not engage in the practice of law in South Carolina as set forth by Rule 410, SCACR." (App. January 30, 2024 Order) Appellant responded by letter dated February 4, 2024 stating: "Our records indicate there is no counsel of record for unrepresented *pro se* parties." Appellant further indicated that "five days may not allow for sufficient time" and that going forward "[w]e are requesting, for future reference, an interval of greater than or equal to ten (10) days." The Court of Appeals responded to Appellant's February 4, 2024 letter providing an extension until February 12, 2024 for Appellant to respond to the Court's January 30, 2024 order. (App. February 7, 2024 Order) On February 12, 2024, Appellant filed a "Motion for Disposition by the Court" in which she again stated that the "record reflects there is no notice of appearance and no counsel of record for unrepresented *pro se* parties." However, Appellant again failed to answer the Clerk's question of whether she was a retired member of the bar. Therefore, having offered Appellant two prior

opportunities to respond to its question, the Court again issued an order on April 16, 2024 requiring Appellant respond to the following questions within 10 days:

- 1) Is Ms. Collie a retired member of the bar who may not engage in the practice of law in South Carolina?
- 2) Who represents Ms. Collie for this appeal?
- 3) Who represents James K. Holmes, Esquire for this Appeal?

On April 26, 2024, Appellant responded by letter to the Court's order stating that: 1) She was retired from taking clients, 2) She was self-represented, and 3) "on information and belief, the tax payer [James Kevin Holmes] is self-represented." On May 30, 2024, the Court issued a third order finding that because Mr. Holmes did not sign the notice of appeal and had not signed any other pleadings concerning the appeal, he was therefore dismissed pursuant to Rule 267(b), SCACR. Importantly, this dismissal was to James Kevin Holmes only, not Appellant.¹ (App. May 30, 2024 Order)

Since that time, Appellant filed additional motions with the Court of Appeals that are vague and provide little clarity as to what Appellant challenges or hopes to accomplish. On June 10, 2024, Appellant filed a motion titled:

MOTION FOR RECONSIDERATION AND MOTION FOR ABEYANCE OF
TIME LIMITS PENDING RESOLUTION AND, IF DENIED, RULES 221 AND
240, SCACR, PETITION FOR REHEARING EN BANC AND MOTION FOR
ABEYANCE OF TIME LIMITS PENDING RESOLUTION

(App. June 10, 2024 Motion of Appellant)

The Court denied that motion on September 20, 2024, and issued a separate order directing Appellant to file her initial brief within 30 days. (App. September 20, 2024 Order) On September 30, 2024, Appellant filed another motion titled:

MOTION FOR ABEYANCE OF ALL TIME LIMITS PENDING
RECONSIDERATION AND/OR RESOLUTION OF TIMELY PETITION FOR

¹ Because Appellant does not represent Mr. Holmes, and because his dismissal has no effect on her appeal, it is not clear that Appellant has any basis upon which to challenge the dismissal.

WRIT OF CERTIORARI AND CONSTITUTIONAL CHALLENGE TO A SINGLE INDIVIDUAL'S OVERREACHING EX PARTE SUMMARY DISMISSAL OF TAXPAYERS' APPEAL BY RIGHT, TO FAILURE TO COMPLY WITH STATUTORY AND CONSTITUTIONAL MANDATES FOR TAXPAYERS' APPEALS, AND/OR TO APPLICATION OF THE IMPROPER LEGAL STANDARD ON APPEAL OF A SINGLE INDIVIDUAL'S OVERREACHING EX PARTE SUMMARY DISMISSAL

As of the filing of this Return, the Court has not ruled on Appellant's September 30, 2024 motion. Nevertheless, Appellant now files this Petition with the Supreme Court asking for a Writ of Certiorari.

ARGUMENT

I. DID THE COURT OF APPEALS ERR IN DISMISSING JAMES KEVIN HOLMES FROM THIS APPEAL PURSUANT TO RULE 267(b)?

As an initial matter, most of this appeal has not been finally decided by the Court of Appeals and, therefore, is not properly before the Court at this juncture.² Rule 242(a), SCACR. ("The Supreme Court, or any two (2) justices thereof, may in its discretion, on motion of any party to the case or on its own motion, issue a writ of certiorari to review **a final** decision of the Court of Appeals.") Broadly interpreting Appellant's Petition, the dismissal of James Holmes is the only decision which could arguably be described as a "final decision" of the Court of Appeals. *See* Rule 242(c), SCACR ("A decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the petition for rehearing or reinstatement has been acted on by the Court of Appeals.")

As for the dismissal of James Holmes, the Court of Appeals did not err in its decision, and the Supreme Court should not grant Appellant's Petition for Writ of Certiorari. A writ of certiorari

² Due to Appellant's continued obfuscation, the parties have not submitted any briefing to the Court of Appeals on any substantive issues in this case. The Court of Appeals ordered Appellant to file her initial brief by October 21, 2024. Therefore, any issues other than the dismissal of James Holmes from the appeal have not reached a final decision by the Court of Appeals and are not properly before the Supreme Court at this time.

is not a matter of right, but rather will “be granted only where there are special and important reasons.” Rule 242, SCACR. The character of reasons potentially considered by the Court when reviewing a petition for writ of certiorari are as follows:

- 1) Where there are novel questions of law.
- 2) Where there is a dissent in the decision of the Court of Appeals.
- 3) Where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court.
- 4) Where substantial constitutional issues are directly involved.
- 5) Where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court.

Id. at (b). Here, the Court of Appeals’ dismissal of James Holmes fails to present any novel issues of law. Furthermore, it was not the product of a split decision of the Court of Appeals, nor was the decision in conflict with a prior decision of this Court or the United States Supreme Court. The dismissal of James Holmes does not involve substantial constitutional issues.

Instead, the Court of Appeal dismissed James Holmes from this Appeal for failure to comply with Rule 267(b), SCACR. That rule provides:

(b) Signatures. A document filed with the appellate court shall be signed by the lawyer or the self-represented litigant filing the document. In addition to a traditional hand-written signature, a lawyer or self-represented litigant may sign a document using “s/ [typed name of person],” a signature stamp, or a scanned or other electronic version of the person's signature. Regardless of form, the signature shall act as a certificate that the person has read the document; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that the document is not interposed for delay.

Here, Mr. Holmes did not personally sign any documents filed with the Court of Appeals. Moreover, Mr. Holmes is not represented by counsel, and therefore, the documents filed with the Court of Appeals did not contain the signature of counsel on his behalf. The only litigant involved in this matter is Ms. C. Collie Holmes, who appears *pro se*. Because she is retired from the practice of law, Ms. Holmes does not, and cannot, represent Mr. Holmes.

In support of her Petition, Appellant appears to argue that the Clerk of the Court of Appeals

lacked the authority to dismiss Mr. Holmes. This is not correct. Pursuant to Rule 260(a), the Clerk is required to issue an order of dismissal “whenever it appears that an appellant or petitioner has failed to comply with the requirements of [the appellate court rules].” Rule 260(a), SCACR. Because Mr. Holmes did not comply with Rule 267(b), the clerk was required to order dismissal. Therefore, the Court of Appeals did not err in dismissing Mr. James Kevin Holmes from this appeal, and the Court should deny Appellant’s Petition for Writ of Certiorari.

CONCLUSION

Therefore, for the above stated reasons, Respondent respectfully asks the Court to deny Appellant’s Petition for Writ of Certiorari.

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