

RECEIVED

Dec 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG
COUNTY
Court of Common Pleas

J. Mark Hayes II, Circuit Court Judge

Consolidated Case Nos. 2023-CP-42-01221,
2023-CP-42-01226, 2023-CP-42-01367,
2023-CP-42-01545
Appellate Case No. 2024-001828

South Carolina Native Plant Society, Appellant,

v.

The Spartanburg County Planning Commission and Blue Sky Associates, LLC, d/b/a T. Tree Farms RV Park, Respondents,

and

The Enclave at Fairview Farm Homeowners' Association, Inc., Golden Hills of Fairview Homeowners Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a Caroland Farms, Appellants,

v.

Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents.

RESPONDENT'S REPLY TO
APPELLANTS' RETURN TO MOTION
TO DISMISS APPEALS

Respondent Blue Sky Associates, LLC, d/b/a T. Tree Farms RV Park, by and through its undersigned counsel, files its reply to the Appellants' December 2nd, 2024, return to

Respondent's Motion to Dismiss.

On November 20th, 2024, Respondent Blue Sky Associates ("Respondent") filed its motion to dismiss these appeals on two separate grounds. The first ground Respondent raised was that the order in question is not appealable. It does not fall within S.C. Code Ann. §14-3-330 or Rule 201, SCACR. The second ground Respondent raised was that even if the order was appealable, (and it is not) appeal would be premature. Respondent's motion argued that as a result this Court lacks jurisdiction to consider Judge Hayes' form 4 order.

On December 2nd, 2024, Appellants filed their Joint Response (a return) to the motion to dismiss. In that return, the Appellants only responded to the second ground Respondent raised in its November 20th, 2024, motion. Appellants failed to address the first ground entirely. Nowhere in their return do Appellants address the fact that the order does not fall within any of the situations listed under S.C. Code Ann. §14-3-330 or Rule 201, SCACR. Where a party fails to address an issue (or only addresses the issue in a conclusory fashion in a brief) that issue is deemed abandoned. *R & G Constr., Inc. v. Lowcountry Reg'l Transp. Auth.*, 343 S.C. 424, 540 S.E.2d 113 (Ct. App. 2000); *Solomon v. City Realty Co.*, 262 S.C. 198, 203 S.E.2d 435 (1974). For this reason alone, Respondent's Motion to Dismiss must be granted.

Appellants do address the premature appeal issue, though they get it entirely wrong. They note that Rule 203(b)(1), SCACR says "[w]hen a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, **a party need not appeal** until receipt of written notice of entry of the more complete order or judgment." (emphasis added). Appellants argue that because the Rule only says that they "need not appeal" at this point, they "may" appeal. First, this argument assumes that the order is appealable in the first place, it is not, and Appellants waived that argument. Second, even if one were to assume,

arguendo, that this order is appealable, and that the appeal is merely “early,” Rule 203(b)(1) cannot save Appellants. If this Court were to construe Rule 203(b)(1) in such a fashion, it would allow litigants to deprive trial courts of the ability to issue a full and complete final order, even in cases where the trial court has specifically stated that a final order is forthcoming. An appellant could thereby limit the order under appeal to a facially incomplete form 4 order. Rule 203(b)(1) cannot be read in such a fashion. In fact, where a form 4 order indicates that a more full and complete order is to follow, “...the trial judge did not lose jurisdiction of the case.” *Doe v. Berkeley Publishers*, 322 S.C. 307, 471 S.E.2d 731, 733 (Ct. App. 1996), rev’d on other grounds, 329 S.C. 412, 496 S.E.2d 636 (1998). This Court lacks jurisdiction to review this order; Judge Hayes retains it. The appeals must be dismissed.

Respectfully Submitted,

THE SHISSIAS LAW FIRM, LLC

s/Alexander G. Shissias

Alexander G. Shissias (SC Bar No. 11610)

1727 Hampton St.

Columbia, SC 29201

803-540-3090

alex@shissiaslawfirm.com

RECEIVED

Dec 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG
COUNTY
Court of Common Pleas

J. Mark Hayes II, Circuit Court Judge

Consolidated Case Nos. 2023-CP-42-01221,
2023-CP-42-01226, 2023-CP-42-01367,
2023-CP-42-01545
Appellate Case No. 2024-001828

South Carolina Native Plant Society, Appellant,

v.

The Spartanburg County Planning Commission and Blue Sky Associates, LLC, d/b/a T. Tree Farms RV Park, Respondents,

and

The Enclave at Fairview Farm Homeowners' Association, Inc., Golden Hills of Fairview Homeowners Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a Caroland Farms, Appellants,

v.

Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents.

CERTIFICATE OF SERVICE

The undersigned certifies that on December 5th, 2024, he caused to be served the foregoing Reply to Appellants' Return to the Motion to Dismiss upon all counsel of record, via electronic

means, to counsel's email address on file with the South Carolina Attorney Information System.

THE SHISSIAS LAW FIRM, LLC

s/Alexander G. Shissias

Alexander G. Shissias (SC Bar No. 11610)

1727 Hampton St.

Columbia, SC 29201

803-540-3090

alex@shissiaslawfirm.com