



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

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December 12, 2024

The Honorable Jerri Ann Roseneau  
PO Box 1128  
Beaufort SC 29901-1128

## **REMITTITUR**

Re: Beaufort County v. Adams Outdoor  
Lower Court Case No. 2021CP0701507  
Appellate Case No. 2022-000681

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings".

CLERK

Enclosure

cc: Brittany L. Ward, Esquire  
Scott D. Bergthold, Esquire  
Jeffrey Scott Tibbals, Sr., Esquire  
Evan Patrick Williams, Esquire

# The Supreme Court of South Carolina

Beaufort County, Appellant,

v.

Adams Outdoor Advertising Limited Partnership and Bo  
Hodges, Respondents.

Appellate Case No. 2024-001606

**RECEIVED**

**Dec 10 2024**

**SC Court of Appeals**

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## ORDER

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Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY *Patricia Howard*  
CLERK

Justice Letitia Hamilton Verdin, not  
participating

Columbia, South Carolina  
December 10, 2024

cc:

Jeffrey Scott Tibbals, Sr.  
Evan Patrick Williams  
Scott D. Bergthold  
Brian Earl Hulbert  
The Honorable Jenny Abbott Kitchings

# The South Carolina Court of Appeals

Beaufort County, Appellant,

v.

Adams Outdoor Advertising Limited Partnership and Bo  
Hodges, Respondents.

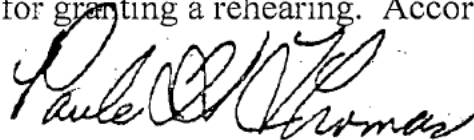
Appellate Case No. 2022-000681

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## ORDER

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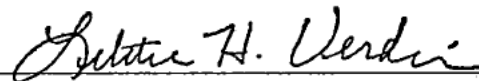
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

  
Paul W. Thomas

J.

  
Stephanie P. McDonald

J.

  
Letitia H. Verdin

A.J.

Columbia, South Carolina

cc:

Brittany L. Ward, Esquire

Scott D. Bergthold, Esquire

Jeffrey Scott Tibbals, Sr., Esquire

**FILED**  
**Aug 22 2024**

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Evan Patrick Williams, Esquire  
The Honorable Marvin H. Dukes, III

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Beaufort County, Appellant,

v.

Adams Outdoor Advertising Limited Partnership and Bo  
Hodges, Respondents.

Appellate Case No. 2022-000681

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Appeal From Beaufort County  
Marvin H. Dukes III, Master-In-Equity

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Unpublished Opinion No. 2024-UP-232  
Heard April 10, 2024 – Filed July 3, 2024

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**AFFIRMED**

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Brittany L. Ward, of Beaufort; and Scott D. Bergthold,  
admitted pro hac vice, of Law Office of Scott D.  
Bergthold, P.L.L.C, of Chattanooga, Tennessee; both for  
Appellant.

Jeffrey Scott Tibbals, Sr., and Evan Patrick Williams,  
both of Bybee & Tibbals, LLC, of Mount Pleasant, for  
Respondents.

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**PER CURIAM:** Beaufort County appeals the circuit court's order reversing and vacating the magistrate court's conviction of Adams Outdoor Advertising Limited Partnership (Adams Outdoor) and Bo Hodges (collectively, Respondents) for violating Beaufort County's Community Development Code (CDC). Beaufort County argues the circuit court erred by finding it must strictly comply with its CDC notice requirements. We affirm.

1. Beaufort County argues the circuit court erred by finding it must strictly comply with its notice requirements because (1) Respondents had actual notice of the violation and, therefore, there was no due process violation; (2) the lower court erroneously invoked the rule of lenity stating that "when a penal statute is ambiguous, it must be strictly construed in defendant's favor;" and (3) the error was harmless. We disagree. Beaufort County must comply with the CDC's notice requirements. *See State v. Boston*, 433 S.C. 177, 182, 857 S.E.2d 27, 30 (Ct. App. 2021) ("Our supreme court has also established that South Carolina may provide more protection than that afforded by the United States Constitution: '[S]tate courts can develop state law to provide their citizens with a second layer of constitutional rights . . . .'" (citing *State v. Forrester*, 343 S.C. 637, 643, 541 S.E.2d 837, 840 (2001))); *see also O'Connor v. Johnson*, 287 N.W.2d 400, 405 (Minn. 1979) ("The states may, as the United States Supreme Court has often recognized, afford their citizens greater protection than the safeguards guaranteed in the Federal Constitution."). This court must construe the CDC literally. *State v. Leopard*, 349 S.C. 467, 470-71, 563 S.E.2d 342, 344 (Ct. App. 2002) ("It is well established that in interpreting a statute, the court's primary function is to ascertain the intention of the legislature. When the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning. Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Finally, when a statute is penal in nature, it must be construed strictly against the State and in favor of the defendant."); *S.C. Dep't of Soc. Servs. v. Smith*, 343 S.C. 129, 136, 538 S.E.2d 285, 289 (Ct. App. 2000) ("Where legislative design is unmistakable, there is no room for construction and the courts are required to apply the statute literally."). The CDC requires the Code Enforcement Department to "notify, in writing, the person violating the Code." CDC Section 9.4.40 ("The notice shall state the following: A. The address and legal description of the land, structure, or sign that is in violation of this Development Code; B. The nature of the violation, the provisions of this Development Code being violated, and the necessary action to remove or abate the violation; C. The date by which the violation should be

removed or abated; and D. The penalty for failing to remove or abate the violation, stating that if the nuisance recurs, a notice to appear in the appropriate court in Beaufort County will be issued without further notice."). The Code Enforcement Department can then serve a Uniform Summons ticket if the warned persons fail "to remove or abate the violation." CDC Section 9.4.50 ("Under all other circumstances, if the person(s) to whom a warning notice has been given in accordance with Section 9.4.40 (Notice of Violation), fails to remove or abate the violation in the time specified in the notice, the Code Enforcement Department shall fill out and sign, as the complainant, a Uniform Summons Ticket in the appropriate court of Beaufort County."). The Code makes serving a notice of a violation a condition precedent to the Code Enforcement Department issuing a Uniform Summons Ticket. *See Criterion Ins. Co. v. Hoffmann*, 258 S.C. 282, 293-94, 188 S.E.2d 459, 464 (1972) (finding statute stating, "No action shall be brought . . . unless copies of the pleadings . . . are served in the manner provided by law upon the insurance carrier' . . . made service of a copy of the complaint . . . a condition precedent to . . . recovery."). In this case, the magistrate court found that "[t]he summonses did not comply with the provisions of Section 9.4.50 B of the Community Development Code in that they failed to give the address and legal description on which the violation was occurring." Therefore, the circuit court did not err in vacating and reversing Respondents' convictions and fines.

2. To the extent Appellant and Respondent make additional arguments, we believe the resolution of the previous issues is dispositive of these claims. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding an appellate court need not address remaining issues on appeal when its determination of a prior issue is dispositive).

**AFFIRMED.**

**THOMAS, MCDONALD, and VERDIN, JJ., concur.**