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Jan 21 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Docket No. 18-ALJ-07-0047-CC
Appellate Case No. 2020-001090

Ex Parte: South Carolina Conservation LeagueAppellant,

In Re:

KDP, II, LLC, Respondent,Respondent,

v.

South Carolina Department of Health and Environmental ControlRespondent.

and also in

APPEAL FROM ADMINISTRATIVE LAW COURT
Shirley G. Robinson, Administrative Law Court Judge

Appellate Case No. 2022-001179

KDP II, LLCAppellant,

v.

South Carolina Department of Health and Environmental Control,Respondent.

**JOINT MOTION FOR CONTINUANCE OF ORAL ARGUMENTS
SCHEDULED FOR FEBRUARY 4, 2024**

TO: THE HONORABLE COURT OF APPEALS:

PLEASE TAKE NOTICE that the parties to the above-captioned cases hereby jointly move this Honorable Court for an order continuing the oral arguments in the above-captioned cases. This request for continuance involves the death of Mrs. Lenhardt's husband on Sunday, January 5, 2025. Mrs. Lenhardt is lead counsel for the South Carolina Law Project, which represents an appellant, Coastal Conservation League.

Pursuant to correspondence delivered by the Office of the Clerk, these cases are scheduled for oral argument on February 4, 2025, beginning at 11:20 a.m. and 12:00 p.m., respectively. This motion involves a unique set of circumstances due to the separate appeals being factually linked; hence they have been scheduled together for oral argument.

Appellate Case No. 2020-001090, Ex Parte: Coastal Conservation League, involves the denial of Appellant Coastal Conservation League's motion to intervene in an Administrative Law Court contested case. The final order in that contested case was appealed by Appellant KDP II, LLC and that appeal is the subject of Appellate Case No. 2022-001179, KDP II, LLC v. DHEC. Because both appellate cases are scheduled for oral argument (one followed by the other) on February 4, 2024, counsel for the parties presume the Court wishes to hear and consider these arguments concurrently. All counsel agree hearing these arguments concurrently is advisable and would serve the efficient administration of justice.

The parties jointly seek a continuance of the February 4, 2025, oral argument based on the nature of Ms. Lenhardt's personal family situation that has taken her away from preparation for oral argument in this case.

Further, with regard to the Department, since the Department responded to this Court's October 7, 2024 request for scheduling conflicts, several hearings have been scheduled in Circuit

Court and the Administrative Law Court in close proximity to the February 4th oral argument date. One of the Department's cases has become particularly time consuming, generating multiple contentious motions, tens of thousands of pages of discovery and spawning additional litigation in Circuit Court and likely in Federal District Court as well. There are multiple depositions scheduled for the weeks leading up to and after the February 4, 2025 date in order to comply with the scheduling order in that case. Counsel for the South Carolina Coastal Conservation League is also involved in that case.

Based on the circumstances, respectfully asks that the oral arguments scheduled for February 4, 2005 be continued beyond the next 4 to 6 weeks.

Other counsel of record consent and join the request for continuance so that both appeals will be rescheduled for oral argument together, based on their factual and legal connection. The request is not for improper delay and it is based upon sufficient cause to justify the requested relief.

WHEREFORE, the parties jointly request that based on the above circumstances, the arguments scheduled for February 4, 2025, in the above-captioned appeals be rescheduled to a date in or after the April 2025 Term of Court. The parties do not anticipate seeking any further continuance, and thank the Court in advance for its consideration.

WE SO MOVE:

/s. Leslie S. Lenhardt

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January 21, 2025
Charleston, SC

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January 21, 2025
Charleston, SC

WE CONSENT:

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PROOF OF SERVICE

I hereby certify that on this date I served the Joint Motion for Continuance by emailing a copy of same, on January 21, 2025, to the Attorney Information System provided email addresses below, via the attached E-mail:

Thomas Gressette
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Sallie P. Phelan
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s/ Leslie S. Lenhardt
Leslie S. Lenhardt

Mt. Pleasant, SC
January 21, 2025