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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal From Charleston County Court of Common Pleas
Honorable Jennifer B. McCoy
Trial Court Case No. 2021-CP-10-02888

Appellate Case No. 2023-000296

J. DoeAppellant,

v.

Design Review Board (DRB) of the Town of Sullivan’s Island (S.I.),
and Town of Sullivan’s Island..... Respondents.

**RESPONDENTS DESIGN REVIEW BOARD OF THE TOWN OF SULLIVAN’S ISLAND
(S.I.) AND TOWN OF SULLIVAN’S ISLAND’S REPLY TO APPELLANT’S AMENDED
RETURN TO RESPONDENTS’ DECEMBER 13, 2024 MOTION TO DISMISS**

REPLY ARGUMENT

Appellant's Amended Motion to Strike, which was filed without any leave of the Court and is still not characterized properly as a Return Brief, is improper. **See (Letter from Deputy Clerk of Ct. at p. 1, filed Jan. 3, 2025)** (accepting Appellant's last filing as a Return: "The Court received your December 30, 2024 motion to strike, which we construe as a return to Respondent's December 13, 2024 motion to dismiss."). A party cannot freely file amended filings without, at the very least, requesting leave to amend. Here, the improper filing is even more egregious because Respondents had already timely filed a Reply. Therefore, the Court should disregard the Appellant's "amended" filing and return it. Out of an abundance of caution, Respondents respectfully submit this Reply to address Appellant's new arguments, to the extent the Court considers them. In the interest of judicial economy, Respondents hereby incorporate by reference the arguments made in Respondents' Reply, filed with this Court on January 08, 2025. **(Resp'ts' Reply to Appellant's Return to Resp'ts' Dec. 13, 2024 Mot. to Dismiss at pp. 1-6, filed Jan. 08, 2025).**

I. Respondents' Initial Brief was timely filed on December 16, 2024, pursuant to this Court's Order Granting Respondents' Motion for Extension, issued on November 07, 2024.

Appellant claims that Respondents did not timely file their Initial Brief. This argument, along with the remainder of the Appellant's Amended Motion to Strike, is baseless.

After repeatedly violating/ignoring this Court's Rules, Appellant submitted Appellant's Initial Brief on July 22, 2024, after this Court already dismissed Appellant's case. **(Appellant's Initial Br., filed July 22, 2024)**. The Court then reinstated the appeal via an Order dated October 15, 2024. **(Order Granting Appellant's Mot. to Reinstate, filed Oct. 15, 2024)**. That same day, the Court sent a letter directing Respondents to serve Respondents' Initial Brief within thirty days.

(Letter from Deputy Clerk of Ct. at p. 1, filed Oct. 15, 2024). On November 5, 2024, Respondents filed a Motion for Extension to extend the deadline for the service and filing of Respondents' Initial Brief and Designation of Matter from November 14, 2024, to December 16, 2024. (Resp'ts' Mot. for Extension, filed Nov. 05, 2024). By Order dated November 07, 2024, the Motion for Extension was granted. (Order Granting Resp'ts' Mot. for Extension, filed Nov. 07, 2024). Respondents timely filed their Initial Brief and Designation of Matter on December 16, 2024. (Resp'ts' Initial Br., filed on Dec. 16, 2024); (Proof of Service for Resp'ts' Initial Br., filed Dec. 16, 2024); (Designation of Matter to Be Included in the R. on Appeal by Resp'ts at pp. 1-2, filed on Dec. 16, 2024).

Therefore, there are no grounds for Appellant's false contentions regarding the filing of Respondents' Initial Brief.

II. Respondents' Motion to Dismiss was timely filed because a party can challenge a Court's subject matter jurisdiction at any time.

Appellant also appears to assert Respondents' Motion to Dismiss was untimely. Respondents properly filed their Motion to Dismiss for lack of subject matter jurisdiction because the matter has become moot.

“The lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised *sua sponte* by the court.” McCain v. Brightharp, 399 S.C. 240, 247, 730 S.E.2d 916, 919 (Ct. App. 2012) (emphasis in original) (internal quotation omitted). Respondents filed Respondents' Motion to Dismiss and Memorandum of Law in Support of Motion to Dismiss Appeal as Moot on December 13, 2024. **See (Resp'ts' Mot. to Dismiss and Mem. of L. in Supp. of Mot. to Dismiss Appeal as Moot, filed on Dec. 13, 2024).**

Therefore, if Appellant claims that the Motion to Dismiss was untimely filed, that contention is also false.

CONCLUSION

For all these reasons, and those previously stated in Respondents’ Motion to Dismiss, Appellant’s arguments should be rejected and the appeal dismissed. Further, the Court should reject the assertion that Respondents’ filings have not been timely.

Respectfully submitted,

January 22, 2025
Charleston, South Carolina

s/ John P. Linton, Jr.
G. Trenholm Walker (SC Bar# 5777)
Direct: (843) 727-2208
Email: Walker@WGLFIRM.com
John P. Linton, Jr. (SC Bar# 79130)
Direct: (843) 727-2252
Email: Linton@WGLFIRM.com
WALKER GRESSETTE & LINTON, LLC
Mail: P.O. Box 22167, Charleston, SC 29413
Office: 66 Hasell Street, Charleston, SC 29401
Phone: (843) 727-2200

**ATTORNEYS FOR DESIGN REVIEW
BOARD OF THE TOWN OF
SULLIVAN’S ISLAND AND TOWN OF
SULLIVAN’S ISLAND**

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PROOF OF SERVICE

I certify that I have served the **RESPONDENTS DESIGN REVIEW BOARD OF THE TOWN OF SULLIVAN’S ISLAND (S.I.) AND TOWN OF SULLIVAN’S ISLAND’S REPLY TO APPELLANT’S AMENDED RETURN TO RESPONDENTS’ DECEMBER 13, 2024 MOTION TO DISMISS** by depositing a copy in the United States Mail, postage prepaid, on January 22, 2025, addressed to:

C. Holmes
P.O. Box 187
Sullivans Island, SC 29482-0187

and by electronic mail addressed to:
Cynthia Holmes
Rule.410_retired@yahoo.com



Nancy Jane Dennis, Paralegal