

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Supplemental RETURN TO MOTION OF APPELLANTS/RESPONDENTS

Blue Ridge Electrical Cooperative, Inc.

Versus

Kathleen and Steve Gresham

2008-CP-23-5245

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SEP 02 2013

SC Court of Appeals

Respondents/Appellants hereby make supplemental return to the Motion of Blue Ridge Coop. received 8-27-13 via service by U. S. Postal Service, as follows:

1. Respondents/Appellants oppose any continuance as this case was tried by jury on August 26, 27, and 28, 2009 and should be upheld in accordance with the unanimous jury verdict. The Briefing Schedule set by this Court should proceed without delay as no delays are warranted. The majority of the trial transcript does exist, contrary to assertions by Appellants, and what testimony was in need of reconstruction, has been reconstructed and that Transcript duly certified by the court reporter and submitted to this Court. Additionally, Respondents maintained solid records and produced for the reconstructed record, ALL of the trial judge's jury instructions including the trial judge's HAND-WRITTEN additional jury instruction as to Trespass, objected to by Respondents, but nevertheless, charged. Respondent maintained her notes from testimony and was well familiar with her testimony as it is the only case in which she is involved and has lived this case intensely since 2007 when Appellants began to threaten to sue her.

This case differs dramatically from that of *The State v. Travis Anthony Ladson*, opinion number 4232, filed April 9, 2007, as in *Ladson*, there was **NO** trial transcript. There was no record of the trial court proceedings at all. In the case at hand, most of the original trial transcript from August 26, 27, and 28, 2009 **DOES** exist and was provided to Appellants long before it was finally provided to Respondents. Respondents did not receive the transcript, despite requests, until following the late September 2012 in the first reconstruction hearing meeting when it was finally mailed to Respondents. The vast majority of the trial proceedings are preserved and certified by the court reporter.

A reconstruction hearing, delayed by medical and other problems of Appellants' counsel and by surgeries and cancer treatment for Respondents as well as scheduling difficulties of counsel apparently hired by Appellants, was held in April of 2013 in Anderson County for the convenience of Appellants and the trial judge, both located primarily in this county. The Respondents had to travel from Greenville County, the county of their residence and the site of the jury trial for the

reconstruction hearing on two occasions. All inconvenience was borne by Respondents.

Testimony was taken from the two witnesses whose testimony apparently was destroyed by the failure of all equipment and backup, Respondent was advised. Stipulated testimony of Fred Smith of Freeman Gas was agreed to by Appellants' legal counsel as submitted by Respondents in order to provide a full and complete record. The reconstruction record reflects the agreement of all parties as to this stipulated testimony.

Additionally, Respondent produced copies of **ALL** the jury charges made by the trial judge including his hand-written jury charge on the issue of Trespass. The trial judge had also provided a copy to Appellants. Thus, all of the jury charge instructions are made a part of the reconstructed record and available for appellate review.

All witnesses from this three-day trial are accounted for in testimony, being a greatly different matter from the Ladson appeal. Respondent maintained detailed notes from the trial and brought to the reconstruction hearing in April of 2013, co-Respondent Steve Gresham and Steve Austin. Austin confirmed on the witness stand that his testimony was complete in the original transcript after his review of it in writing as presented to him by Respondent in Court.

Appellants only put up Ronnie Alexander, their employee, whose reconstructed testimony was taken and another copy of an exhibit he testified he had used was entered even if over the former and continuing objection of Respondent. The purpose of the reconstruction hearing was to place on the record **EXACTLY** what had occurred in Court as best could be done and the testimony and evidence considered by the jury in reaching their verdict.

Respondents took great strides to accomplish this mission and even placed on the record the comments made in open Court by the trial judge to Respondent during her testimony by which she stands under oath. Respondents believe in good faith that the testimony has been reconstructed as humanly possible though regrets portions were destroyed and that such was apparently not revealed for approximately a year by the court reporter. (and asked for investigation)

Respondents submit that the *Ladson* case was devoid of documentation and transcription while this case is filled with the vast majority of the original trial transcript, supplemented by the trial notes of Respondent wherein she could re-establish her own testimony as being very familiar with it after intensive involvement for over 6 years and great familiarity of her own property lines for over 30 years as to the Trespass issue. Additionally, the trial judge's own jury charges were produced in their entirety and identified by the trial judge from the bench at the reconstruction hearing in April, 2013, when presented to him by Respondent.

The GOAL of this Appellate Court is to determine if there is sufficient record to properly allow for Appellate Review. There is AMPLE and FULL record in this case for appellate review without reservation. There is no glaring prejudice to either side that would force a retrial and in fact, due process and prejudice would result to Respondents IF Blue Ridge was allowed to retry their case for which they had over two years to prepare before the jury trial AND have a full staff to aid in their preservation of trial notes, jury charges, and exhibits. Respondents have no staff as pro se but still managed to maintain and preserve the jury charge and trial notes from which a full reconstruction was accomplished.

The trial record is reconstructed and allows for meaningful appellate review. The *Ladson* case was criminal in nature with a higher degree of proof as well. This case is civil in nature and the jury verdict reached by preponderance of the evidence. Most of the reconstruction record is about procedure in its transcription rather than actual testimony as so little testimony was missing from the original record, thankfully. The trial record is, then, complete and reliable. All trial exhibits are in tact and were maintained by the Greenville County Clerk of Court's Office. Respondent has contacted the Clerk's Office and even had submitted under separate cover to this Honorable Court through her Initial Brief, several copies of the trial exhibits, including Blue Ridge's By-Laws portions directly quoted in trial, which verify the completeness of the record and exhibits. The *Ladson* case is clearly and greatly distinguishable from this case at hand.

The Briefing Schedule of this Appellate Court should proceed without further delay.

2. Chief Justice John Few of the SC Court of Appeals specifically Ordered that this matter be pursued expeditiously. Any future delay is prejudicial to the parties. Appellants/Respondents have failed to properly substitute counsel apparently and continue increasing numbers of attorneys to this matter who apparently have to have more time to come up to speed and serve to compound delays. No substitution or addition of counsel motions have been made and/or served on Respondents or allowed by the court, unless *ex parte*, which is doubted and objected to. Add-ons of counsel are confusing and delaying especially against pro se Respondents without the legal research capabilities of Appellants and without ready access to law libraries.

Respondents have been consumed with this lawsuit for over 6 years AND in September of 2012, THREE years AFTER the jury verdict for Respondents, Appellants announced in open court on the record that they were no longer pursuing the debt collection action, which was the initiating cause of their lawsuit against Respondents, one of whom had NEVER been a Blue Ridge Coop. member, as elicited in their key witness' testimony at trial. The abandonment of this debt collection action was a long and difficult time in coming both for the Respondents and for the court system that was forced to proceed with Appellants' pledge that their action was in good faith and with proper factual basis. It was not. The jury established by their unanimous verdict from three-day trial that the debt was not

owed and never was owed. There was no debt. This action, then, by Appellants amounted to abuse of the system, abuse of Respondents, and violation of the SC Civil Proceedings Act, immediately raised and pled by Respondents and contended to this day. Appellants' actions were not those of a reasonable attorney or person nor do they continue to be. This Court should take immediate sanctions against Appellants/Respondents and access costs against them for their complaint, dogged refusal to omit their errors until their key witnesses were on cross-examination and up to and including, this continued frivolous motion they have made by a bevy of attorneys, only apparently copying their counsel of record.

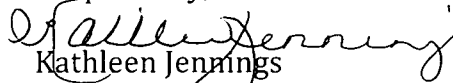
3. Appellants persist in attempting to target Respondents as delaying when, in fact, all surgical and medical appointments of Respondents were communicated in advance to Appellants and to the trial court. Appellants apparently failed to notify this Court of their own medical and other delays along with the delays for family medical care for other counsel's mother and his own care, delaying this matter. Respondent put off her, at her detriment, painful knee replacement surgeries as a result of this matter, not wanting to delay the trial further than it apparently was being delayed. The prejudice done in this case is entirely upon the Respondents as they have been forced to live in daily fear of their power termination due to the unreasonable actions of Blue Ridge and their apparent desire to terminate their power and disconnect them from the Blue Ridge cooperative despite being an excellent customer as borne out in trial testimony from Blue Ridge's own primary witness, Denise McCormick.


The dogged persistence in pursuing Respondents for a debt never owed, the forced removal of multiple power meters from Respondent's rural home, the repeated forced clipping of Respondents' gate jeopardizing livestock, safety and well-being has prejudiced Respondents, the dozens of disconnect power notices, demanding letters from Blue Ridge and counsel, have upset Respondents' lives when pressing health and other matters should be their focus. These bills were and have always been paid in diligent fashion, without delay, and in full exactly as billed even when the bills were too high and later so admitted by Blue Ridge and based on a meter their own engineer's testimony said was "fast." This litigation is terrorism and it continues with the frivolous motions and refusal to remove a NEW support pole and guy wires that are merely speculative in nature for power to unknown, future customers NOT serving Respondent who paid a heavy price to Blue Ridge for her buried power approximately 25-plus years ago.

The taking of Respondent's land for the speculative support pole and guy wires was not for a common public good and was far-reaching. The equipment was established by Blue Ridge on private property of landowner without her written permission and despite objections. Blue Ridge and indeed, all power Cooperatives should have to obtain written permission from a landowner as to any equipment established on their property. They should not be entitled by hiding behind the mask of not-for-profit companies, to take private property on their whim and/or to deprive a landowner of their intended purpose and right to their property. Due

Process must be followed by such cooperatives, including Blue Ridge, even though Respondent is a member. This case has far-reaching consequences for the landowners of South Carolina and for electrical cooperative members of the state in their right to have their electrical cooperatives proceed wisely and fairly with equipment establishment, cease from trespass, honor due process and other rights of private citizens, and importantly, halt and refrain from excessive, unjust and outrageous spending of cooperatives' monies in pursuit of a matter such as this. This case is a whistle-blowing outrage and its dramatic impact should not be ignored by this Honorable Court, thus arises the necessity for sanctions and confirmation of the jury verdict as to Trespass and dismissal of the Appellants' frivolous motion.

Respectfully,


Kathleen Jennings

And Steve Gresham 

Pro se Respondents/Appellants

1524 Highway 11, Landrum, SC 29356

864-895-4222

none of Respondents' filings or actions are imposed for purpose of delay but rather to advance the interests of justice in expeditious fashion.

This 28th day of August, 2013

Jenny Abbott Kitchings
S.C. Court of Appeals
P.O.Box 11629
Columbia, SC 29211

RE: Blue Ridge v. Gresham
Case no. 2008-23-CP-5245

Enclosed please find supplemental return to Motion of Appellants/Respondent with 7 copies, one kindly to be returned to me in the envelope provided herein.

I hereby certify that the same document has been duly posted this date to Larry Brandt, attorney of record for Appellants/Respondents to his address as provided to me, with sufficient postage.

Thank you.

Kathleen Jennings
Kathleen Jennings
Steve Gresham
Steve Gresham
Pro se
Respondents/Appellants
1524 Highway 11
Landrum, SC 29356
864-8954222

enclosures

*cc: Larry Brandt
w/enclosures*

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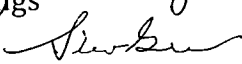
Larry Brandt
Attorney
P.O.Box 738
3691 Blue Ridge Blvd.
Walhalla, SC 29691

RE: Blue Ridge v. Gresham
2008-CP-23-5245

Dear Mr. Brandt,

Enclosed is supplemental return to your recent motion just received and our affidavit of mailing.

Sincerely,


Kathleen Jennings
Steve Gresham 

Pro se

Respondents/Appellants
1524 Highway 11
Landrum, SC 29356

Enclosures

August 28, 2013

✓ cc: Jenny Abbott Kitchings
SC Ct. of Appeals

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