

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL
CIRCUIT
CASE NO: 2025CP4204094

Gerald Proctor,

Appellant,

v.

Steven Siler,

Respondent.

ORDER ON APPEAL

THIS MATTER came before the Court on Appeal from the Magistrate Court of Spartanburg County, South Carolina. This Court, having been fully apprised of the judgment from the Honorable Kenneth Mark Sanders, Presiding Judge, and having considered all relevant legal issues raised by Appellant and Respondent, finds that the judgment of the Magistrate Court should be **AFFIRMED**.

FACTUAL AND PROCEDURAL BACKGROUND

This matter arises out of a construction project in Polk County, North Carolina. Respondent brought claims against Appellant arising from Appellant’s construction of exterior stair systems on a structure built on Respondent’s property. Respondent paid Appellant in advance for the work to be performed. The record reflects that the stair system Appellant constructed on the property did not meet applicable code requirements. The stair system apparently included retaining walls as well as the stairs themselves. Due to the code noncompliance, some or all of the stair system was required to be removed to effectuate compliance with applicable building codes. The trial court, on a theory of comparative negligence, awarded Respondent the sum of \$7,500.00, reduced to an award of \$5,250.00 based on the trial court’s finding that Respondent was thirty percent (30%) negligent based on his failure to perform the responsibilities the trial court found Respondent bore as the permit holder for the project. Appellant then filed a Notice of Appeal on August 11, 2025.

In his Notice of Appeal, Appellant claims that the Magistrate “didn’t read the law right.” In the hearing, he stated more specific grounds for appeal as follows:

1. Lack of Subject Matter Jurisdiction;
2. Improper splitting of claims to avoid the jurisdictional threshold of the Magistrate Court;
3. The trial court did not have personal jurisdiction over Appellant;
4. As a sub-contractor, he is not responsible for inspection of the project;
5. Improper ex parte communication with the code authority in North Carolina;
6. The trial court failed to consider his photographic evidence of rebar in the stair system;
and
7. The trial court failed to address his counter-claim.

STANDARD OF REVIEW

"When a judgment is rendered by a magistrate court ... the appeal shall be to the circuit court of the county wherein the judgment was rendered ..." S. C. Code Ann. Section 18-7-10.

"The appellant, within thirty days after written notice of judgment has been given him ... shall serve a notice of appeal stating the grounds upon which the appeal is founded." S. C. Code Ann. Section 18-7-20.

"The appeal shall be heard by the court upon all the papers in the case ... and the grounds of exception made, without examination of witnesses in court." S. C. Code Ann. Section 18-7-130.

"Upon hearing the appeal the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all parties and for errors of law or fact." S. C. Code Ann. Section 18-7-170.

ANALYSIS

As to the jurisdictional grounds for appeal, the Court finds no error. If there were any issues regarding personal jurisdiction over Appellant, they were waived by his participation in the

hearing below and the prosecution of his appeal. Furthermore, Appellant lists a Spartanburg County address on his Notice of Appeal. There are no other jurisdictional defects, either regarding amount in controversy or subject matter jurisdiction. Any argument Appellant may have presented regarding a counter-claim is not preserved for review.

The trial court did not find Appellant responsible for inspection, so this ground of appeal is without merit. The record reflects the parties consented to the trial judge's communication with the code inspector, so this ground of appeal is without merit. This Court cannot determine that the trial court failed to consider the photographic evidence Appellant raised on appeal.

Upon review of the record, this Court affirms the trial court's award of damages. Although South Carolina applies the economic loss rule, that doctrine does not preclude tort recovery where the defendant owes a duty of care independent of the parties' contract. *See Carroll v. Isle of Palms Pest Control, Inc.*, 446 S.C. 177, 918 S.E.2d 532 (2025). Moreover, South Carolina courts have held that residential builders owe a legal duty to construct in compliance with applicable building codes. Where construction defects rise to the level of building code violations or other breaches of safety standards, the resulting claims implicate duties that exist separate from contractual obligations and may therefore support a negligence action. *See Kennedy v. Columbia Lumber & Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989).

Here, Respondent alleged that the construction of the stairs and associated retaining walls failed to comply with mandatory building code requirements. Such allegations invoke an independent legal duty, not simply duties arising from the parties' contract. Because the asserted defects reflect violations of legally imposed building requirements, the absence of personal injury or damage to other property does not bar the award of damages on a negligence theory.

CONCLUSION

Based on the foregoing, the judgment of the trial court is **AFFIRMED**.

AND IT IS SO ORDERED.

[Signature Page to Follow]



Spartanburg Common Pleas

Case Caption: Gerald Procter VS Steven Silex

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Type: Appeal/Affirmed

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789