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SC Court of Appeals

**STATE OF SOUTH CAROLINA**
**ADMINISTRATIVE LAW COURT**

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| Eric DeWeerd,<br><br>Petitioner,<br><br>v.<br><br>Beaufort County Assessor,<br><br>Respondent. | Docket No. 25-ALJ-17-0008-CC<br><br>**ORDER DENYING MOTION TO RECONSIDER** |

## STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to a Request for a Contested Case Hearing filed by Eric DeWeerd ("Petitioner")[1] against the Beaufort County Assessor ("Respondent").[2] Petitioner challenges a decision issued by the Beaufort County Board of Assessment Appeals ("Board") on December 19, 2024, which it concurred with the 2017 and 2018 tax refund denial determinations of the Assessor ("Respondent" or "Assessor"). The subject property is 4 McIntosh Road, Hilton Head, South Carolina ("Property").

Petitioner filed his Request for a Contested Case Hearing on January 11, 2025. This matter was assigned to the undersigned on January 16, 2025. On February 18, 2025, the Court issued an Order for Prehearing Statements. Respondent filed a prehearing statement on March 11, 2025. Petitioner never filed a Prehearing Statement.

On July 23, 2025, the Court issued a notice for a hearing to be held on September 9, 2025.[3] Petitioner filed a motion for continuance on September 4, 2025.[4] That same day, Respondent informed the Court it was filing a response to Petitioner's motion and filing a Motion for Summary

[1] In the July 23, 2025 Notice of Hearing, the Court addressed an amendment to the caption to reflect Eric DeWeerd was the sole Petitioner on the basis that he was the only named party in the Request for Contested Case.
[2] The Court generally has jurisdiction of this matter pursuant to S.C. Code Ann. §§ 1-23-600 (Supp. 2025) and 12-60-2560 (2014).
[3] The Notice of Hearing noted "[a]n attorney representing a party must file a Notice of Appearance within ten (10) days of service of this Notice, unless previously filed with the Court. *See* SCALC Rule 8(B)."
[4] While Petitioner's Motion did not directly specify grounds for a continuance, Petitioner previously contacted the Court by email on August 19, 2025, with counsel for the Department copied, stating that (1) Petitioner had found an attorney who agreed to represent him in this matter, but (2) the attorney's representation was contingent on Petitioner being granted a continuance.

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Judgement and/or Dismissal and emailed courtesy copies to the Court and Petitioner. On September 9, 2025, the Court issued an Order of Continuance. While Petitioner had already missed the deadline to retain counsel contained in the Notice of Hearing, the Court elected to grant the requested continuance for two reasons. First, continuing the matter afforded Petitioner some grace in his efforts to retain counsel. Second, the motion filed by Respondent could, if decided in Respondent's favor, eliminate the need for a merits hearing. In a further effort to accommodate Petitioner's attempts to obtain counsel, the Court extended the deadline for Petitioner's response to the Respondent's motion from ten days to thirty days, or October 9, 2025. The Court's Order specifically noted that until or unless an attorney filed a Notice of Appearance, Petitioner was proceeding *pro se* and was therefore responsible for compliance with the Court orders and rules.

On September 11, 2025, Respondent filed an Addendum to Respondent Beaufort County Assessor's Motion. On September 16, 2025, the Respondent's original motion was received and filed. The Court issued an order granting the Respondent's motion for summary judgment on October 27, 2025. At no time before the Court issued this order did the Court receive a response from Petitioner to the Department's motion.

On November 5, 2025, Petitioner, now represented by counsel, filed a motion to reconsider. Petitioner argues that summary judgment is a drastic remedy, and one which was improperly granted because reasonable inferences could have been drawn from the evidence submitted which placed material facts in dispute. Respondent submitted an opposition to the motion by email on November 13, 2025.[5]

## **DISCUSSION**[6]

SCALC Rule 29(D) permits a party to move for reconsideration of a final decision of an administrative law judge in a contested case for any of the grounds for relief set forth in Rule 59, SCRCP. Rule 59(e), SCRCP, in turn authorizes a motion to alter or amend. A Rule 59(e) motion not only serves as a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. *Elam v. S.C. Dep't of Transp*., 361 S.C.

[5] Petitioner consented to the Court's consideration of the Respondent's email submission while awaiting the physical filing received by mail.

[6] Petitioner requested a hearing on the motion to reconsider. Respondent opposed the request for a hearing. The Court elects to rule on the motion without a hearing. The motion may in the discretion of the court be determined on briefs filed by the parties without oral argument. *See* Rule 59(f), SCRCP. Motion hearings are the exception rather than the rule in the Administrative Law Court. Conducting a hearing would burden more Respondent more than Petitioner and, given the time constraints for the issuance of an order contained in Rule 29, SCALCR, a hearing would be difficult to arrange. Finally, the Court does not deem a hearing necessary given the disposition of the motion in this Order.

9, 21, 602 S.E.2d 772, 778 (2004). However, a party cannot use a motion to alter or amend a judgment to present to the lower court an issue the party could have raised prior to judgment but did not. *Gartside v. Gartside*, 383 S.C. 35, 677 S.E.2d 621 (Ct. App. 2009).

Petitioner argues that differing conclusions and inferences can be drawn regarding the 2017 and 2018 requests for a special assessment. Specifically, Petitioner contends that a dispute of fact exists as to whether all documents necessary to request a special assessment were submitted to Respondent in 2017 and 2018. Petitioner characterizes the requests for a special assessment in those years as a request for a refund, and, presumably, argues that a request for a refund was therefore timely made in 2017 and 2018, or, at a minimum, that there exists a factual dispute on this issue which precludes summary judgment. Petitioner appears to argue in the alternative that his 2017/2018 applications for a special assessment were never actually denied.

Respondent argues that there is no dispute of fact regarding the 2017 and 2018 requests for a special assessment. According to Respondent, it is undisputed that the Respondent was unable to open the email attachments sent by Petitioner in 2017/2018 and notified Petitioner in writing that additional materials were necessary. Respondent contends that it is also undisputed that Petitioner never responded to this letter. As a result, Respondent argues, the application was disapproved as a matter of law.

After careful consideration of the arguments and submissions of the parties, the Court denies Petitioner's motion for the reasons set forth below:

Petitioner's current argument that requests for a special assessment in 2017 and 2018 should be considered timely requests for a refund was not made until Petitioner filed the current motion to reconsider. It is therefore not proper for the Court to consider the argument. *See Gartside*, 383 S.C. at 43, 677 S.E.2d at 625 (a party cannot use a motion to alter or amend a judgment to present to the lower court an issue the party could have raised prior to judgment but did not).

Even if the Court were free to consider the argument, it would not carry the day. Two possible scenarios exist if the 2017 and 2018 requests are treated as requests for refunds: (1) the request would be considered to be denied because Petitioner failed to provide the requested information; or (2) Petitioner *did* submit the necessary information and Respondent never made a determination regarding the request.

Neither of these scenarios entitle Petitioner to the relief requested. In the first scenario, Petitioner was obligated to request a contested case hearing in 2017 and 2018, and did not. Petitioner would therefore have failed to exhaust his administrative remedies with respect to his requests for a refund. In the second scenario, Respondent would not have issued a final decision from which a contested case hearing could be requested.[7]

Finally, and perhaps most importantly, the argument does not affect the true basis of the Court's summary judgment ruling in any way. The Court ruled that the only request for a refund properly before it was Petitioner's 2022 request and that there was no dispute that this request came more than three years after the years, 2017 and 2018, for which Petitioner seeks a refund in this case. The 2022 request was therefore untimely. S.C. Code Ann. § 12-54-85.

**ORDER**

**IT IS THEREFORE ORDERED** that the Respondent's motion for reconsideration is **DENIED.**

**AND IT IS SO ORDERED.**

The Honorable Robert L. Reibold
Administrative Law Judge

December 1, 2025
Columbia, South Carolina

[7] The Court makes no ruling regarding which of these scenarios actually occurred. As Petitioner's counsel notes, the evidence on that issue is conflicting.

**CERTIFICATE OF SERVICE**

I, Jared Thompson, hereby certify that I have on this date served this order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

Jared Thompson
Judicial Law Clerk

December 1, 2025
Columbia, South Carolina