

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

MARE BARACCO

vs.

STATE OF SOUTH CAROLINA.

) IN THE COURT OF COMMON PLEAS  
2013 OCT 16 AM 11:16  
) FOURTEENTH JUDICIAL CIRCUIT  
)  
) CLERK OF COURT  
) CASE NO. 2013-CP-07-00918

) ORDER

**RECEIVED**

NOV 27 2013

**SC Court of Appeals**

This matter came before this Court for a hearing on October 4, 2013 upon the Appeal from the Beaufort County Magistrate Court filed by the Petitioners on April 10, 2013. The Appellant was represented by Kimberly Smith of Moss, Kuhn and Fleming, and the State was represented by Allison C. Coppage, Assistant Beaufort County Attorney.

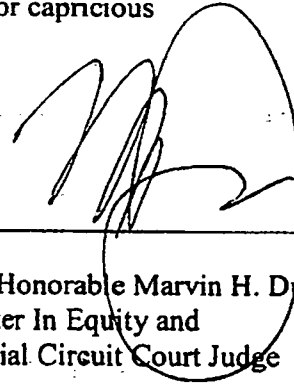
The Appellant appealed the Order of the Magistrate Court dated March 13, 2013 finding the dog, "Bodi" owned by Mare Baracco to be a "Dangerous Animal" pursuant to the Beaufort County Code of Ordinance Sec 14 -35. The issues raised by the pleadings concern whether the Magistrate Court erred as a matter of law in determining that the Respondent met the burden of proof in affirming the administrative decision and whether there was a question of fact as to where the incident occurred.

In an Administrative Appeal, "the Court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The Court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative finding, inferences, conclusions, or decisions are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or arbitrary or capricious or

characterized by abuse of discretion or clearly unwarranted exercise of discretion." S.C.Code Ann. §1-23-380(5).

Based upon the facts and testimony contained in the record, I hereby find that the decision to designate the Appellant's dog as a "dangerous animal" was supported by the evidence on the whole record and was neither arbitrary nor capricious

THEREFORE, the Appeal is denied.



The signature is a cursive, handwritten name, likely 'Marvin H. Dakes, III', written in black ink. It is positioned above a horizontal line that serves as a separator between the signature and the printed name below.

The Honorable Marvin H. Dakes, III  
Master In Equity and  
Special Circuit Court Judge

This 4 day of October 2013  
at Beaufort, South Carolina.

November 25, 2013

Ms. Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
PO Box 11629  
Columbia SC 29201

RE: The State v. Mare Baracco  
Appellate Case No. 2013-002410

Dear Ms. Kitchings:

Regarding your letter (copy attached) of November 19, 2013 please find for filing three (3) copies of the order/judgement challenged on appeal, along with a certificate of service, serving the same on Mr. Gruber.

Also, please see attached copy of your letter of November 19, 2013 regarding the return of the \$100.00 check for the filing of the appeal, as the court considers this a criminal appeal (as do I). I want to be certain I do not lose any of my rights to appeal because the judgement is noted as an "Administrative Finding". As such, if I am required to pay the fee, please advise immediately and I will send it again.

Otherwise, thank you for your assistance.

Sincerely,



Mare Baracco  
1006 Madrid Avenue  
Port Royal SC 29935

cc: Joshua Gruber, Esquire

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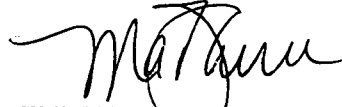
NOV 27 2013

**SC Court of Appeals**

**Certificate of Filing and Service**

I certify that on this date, I filed the original of the foregoing Notice of Intent to Appeal with the Clerk of Court, South Carolina Supreme Court; that I filed a copy of the same with the Clerk of Court for Beaufort County; and that I served a copy of the same upon counsel of record by hand-delivery.

November 12, 2013.

A handwritten signature in black ink, appearing to read 'Mare Baracco', written over a horizontal line.

Mare Baracco, *Pro Se Defendant*.