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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Robert L. Reibold

Case No. 25-ALJ-17-0008-CC

Eric DeWeerd…………………………………………..

Appellant,

v.

Beaufort County Assessor ....

Respondent.

Appellant's Final Brief

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Issue on Appeal

I. Whether the Administrative Law Court erred in concluding Appellant's prior submissions relating to the legal residence assessment for tax years 2017 and 2018 could not, as a matter of law, affect the timeliness analysis applied to the refund claim under sections12-43-220 and 12-60-2560 of the South Carolina Code of Laws.

Statement of the Case

This appeal arises from an order of the South Carolina Administrative Law Court ("ALC") granting summary judgment to Respondent Beaufort County Assessor on Appellant's request for property tax refunds for tax years 2017 and 2018 (R. p. 6). The Beaufort County Board of Assessment Appeals affirmed Respondent's determination that Appellant's refund request for tax years 2017 and 2018 was untimely under the applicable statutory limitations period, while approving refunds for later tax years. (*Id.*). On January 11, 2025, Appellant filed a Request for Contested Case Hearing in the ALC challenging the Board's decision (R. p. 15).

The ALC issued an order directing the parties to file prehearing statements. (*Id. At 1-2*). Respondent was the only party to file a statement. (*Id.*). Respondent thereafter filed a motion for summary judgment asserting that Appellant's refund claim for tax years 2017 and 2018 was barred as a matter of law (R. p. 18). Appellant did not file a response to the motion.

The ALC granted summary judgment to Respondent, concluding that the only refund request properly before the court was Appellant's 2022 filing and that, as a matter of law, any claim for refunds for tax years 2017 and 2018 was untimely (R. p. 6). The Court did not consider the Appellant's 2018 Application in making this determination. (Id. at 3, fn. 10).

After retaining counsel, Appellant filed a motion to reconsider pursuant to Rule 59(e), SCRCP, asserting that written submissions he made in 2018 to the Assessor regarding the 2017 and 2018 assessments were legally relevant to the statutory timeliness analysis for the 2022 application (R. p. 288). The ALC denied the motion, concluding that the argument was not timely raised and that, in any event, it did not alter the statutory basis for the summary judgment ruling (R. p. 1).

Statement of Facts

Appellant owned residential real property located at 4 McIntosh Road on Hilton Head Island in Beaufort County, South Carolina (the "Property") (R. p. 6). For certain tax years, the Property was assessed at the four percent legal residence ratio. (*Id.* At 2-3).

In March 2018, Respondent notified Appellant that it had been determined he was receiving an owner occupancy credit on property located in Ohio while also receiving the four percent assessment ratio on the Property in South Carolina. (*Id.*). Based on that determination, Respondent removed the four percent assessment ratio retroactively and issued revised tax bills for tax years 2013 through 2016 and assessed the Property at the six-percent ratio for tax year 2017. (*Id.*).

On August 1, 2018, Appellant submitted materials to Respondent relating to his eligibility for the four percent legal residence assessment ratio. (*Id.*). Respondent advised Appellant that additional documentation was required to complete review of the submission and notified him in writing that failure to provide the requested materials within thirty days would result in disapproval. (*Id.*). The record reflects no further communication regarding that submission until several years later including any denial issued by the Respondent. (*Id.*).

On June 2, 2022, Appellant submitted a written request to Respondent seeking refunds of property taxes for tax years 2017 to 2021. (*Id.*). Respondent denied the refund request by letter dated October 27, 2022, citing insufficient documentation. (*Id.*).

Following additional communications and meetings, Respondent approved refunds for tax years 2019, 2020, and 2021. (*Id.* at 3-4). Respondent denied any refund for tax years 2017 and

2018 on the grounds that the request was untimely under the applicable statutory limitations period. (*Id.* at 4).

Appellant appealed that determination to the Beaufort County Board of Assessment Appeals ("the Board"). The Board affirmed the denial of refunds for tax years 2017 and 2018, concluding that the refund request for those years was untimely. (*Id.*). The Board noted that refunds for later tax years had been approved. (*Id.*)

Appellant filed a Request for Contested Case Hearing with the South Carolina Administrative Law Court ("ALC") challenging the Board's decision. (*Id.*). Respondent moved for summary judgment, asserting that Appellant's refund claim for tax years 2017 and 2018 was barred by the statutory limitations period set forth in section 12-54-85(F) (R. p.18); S.C. Code Ann. § 12-54-85(F). Appellant did not file a response to the motion.

The ALC granted summary judgment Respondent, concluding that the only refund request properly before the court was the 2022 request and that, as a matter of law, any claim for refunds for tax years 2017 and 2018 was untimely. (*Id.* at 8).

After retaining counsel, Appellant filed a motion to reconsider pursuant to Rule 59(e), SCRCP, arguing that his prior submissions to Respondent in 2017 and 2018 should be considered in assessing the timeliness of his refund claim (R. p. 288). The ALC denied the motion, concluding that the argument was not timely raised and that, in any event, it did not alter the statutory timeliness analysis underlying the summary judgment ruling (R. p. 1). This appeal followed.

Standard of Review

The standard of review applicable to decisions of the Administrative Law Court is set forth in the South Carolina Administrative Procedures Act. S.C. Code Ann. § 1-23-610. Review is confined to the administrative record, and the Court of Appeals may affirm, reverse, modify, or remand the decision if it is affected by an error of law or made upon unlawful procedure. § 1-23-610(B)(c), (d).

While factual findings of the ALC are reviewed under the substantial evidence standard, questions of law, including issues of statutory interpretation, are reviewed de novo. *Sierra Club v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 424, 430–31, 693 S.E.2d 13, 16 (Ct. App. 2010). Accordingly, where the appeal turns on a legal determination regarding the interpretation and application of the governing statutes, no deference is owed to the ALC's legal conclusions.

Argument

The ALC granted summary judgment on the ground that Appellant's 2022 filing was the only refund request properly before it and that, as a matter of law, any request for refunds for tax years 2017 and 2018 was untimely under S.C. Code Ann. §§ 12-54-85(F) and 12-60-2560. (*Id.* at 3, fn. 10). In denying Appellant's motion to reconsider, the ALC further concluded that submissions made to Respondent in 2018 regarding the 2017 and 2018 assessments could not affect that timeliness determination. (R. p. 1).

Appellant does not dispute that he did not file a response to Respondent's motion for summary judgment. Appellant contended in his 59(e) Motion, and continues to contend, however, that the ALC's grant of summary judgment was improper given the record before the Court and rests on an erroneous legal conclusion regarding the statutory characterization of the evidence in the record and their relevance to the timeliness inquiry.

South Carolina law permits a taxpayer to seek a refund of property taxes overpaid because the property was eligible for the four percent legal residence assessment ratio. S.C. Code Ann. § 12-43-220(c)(3). Such refund claims are subject to the limitations period set forth in section 12-54-85(F) of the Code of Laws. S.C. Code Ann. §12-54-85(F). Neither statute, however, defines the form that a "claim for refund" must take, nor do the statutes require that a request be expressly captioned as a refund claim in order to have legal effect. Nor do the statutes categorically exclude written submissions seeking correction of an assessment based on legal residence eligibility from consideration in the timeliness analysis. Instead, the statutory scheme focuses on whether a taxpayer has made a written request for relief tied to legal residence eligibility and whether such a request was timely.

In his motion to reconsider, Appellant argued that his written submissions to Respondent in 2018—made in response to the removal of the four percent assessment ratio and accompanied by documentation addressing legal residence eligibility—were legally relevant to determining whether his 2022 refund request was barred as a matter of law (R. p. 288). Appellant contended that those submissions constituted requests for relief affecting the assessment for the same tax years and therefore could not be categorically excluded from the timeliness analysis as a matter of law. (*Id.*)

The ALC declined to consider that argument, concluding that it was not timely raised and that, even if considered, it would not alter the statutory analysis. In so doing, the ALC determined that Appellant's prior refund request and Respondent's failure to deny the same were legally incapable, under any interpretation of the governing statutes, of affecting the timeliness of a refund claim for tax years 2017 and 2018.

That determination presents a legal question. Whether a taxpayer's written submissions constitute a claim sufficient to invoke or affect statutory refund rights is a matter of statutory interpretation, not fact-finding. Although Appellant raised the issue in a post judgment posture in response to footnote 10 of the Court's October 27, 2025 Order, the question presented concerns the legal interpretation of the governing refund statutes and the legal effect of undisputed filings contained in the administrative record.

In denying reconsideration, the ALC acknowledged that the evidence concerning the 2017 and 2018 submissions was conflicting but declined to address the issue on procedural grounds. While the ALC possessed discretion to enforce its procedural rules, its categorical exclusion of those submissions from the statutory timeliness analysis resolved a legal question that was central to the disposition of the case when it was undisputed that this legal issue existed.

Because the ALC's legal interpretation was dispositive, summary judgment followed from that conclusion. If the prior submissions were legally incapable of affecting timeliness, then the 2022 filing necessarily controlled the outcome. Appellant submits that the statutes do not compel that conclusion as a matter of law and that the ALC therefore erred in granting summary judgment on that basis. Appellant contends that his 2018 submissions that was never denied prevented the statute from running on 2017 and 2018 and that his 2022 filing related to 2017 and 2018 was therefore timely.

Appellant respectfully requests that this Court clarify, as a matter of law, that Appellant's prior written submissions to Respondent were not categorically irrelevant to the statutory timeliness analysis governing his refund claim. Appellant further requests that this Court vacate the order granting summary judgment and remand the matter to the ALC for reconsideration of the summary judgment motion consistent with that legal determination.

Conclusion

For these reasons, Appellant respectfully requests that this Court vacate the ALC's order granting summary judgment and remand the matter with instructions that the statutory timeliness analysis be reconsidered in light of this Court's legal determination regarding the relevance of Appellant's prior written submissions.

Respectfully submitted,

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