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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

Appellate Case No.: 2025-002588
Case No.: 25-ALJ-17-0008-CC

Eric DeWeerd.....Appellant,

v.

Beaufort County Assessor.....Respondent

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

- I. Did the Administrative Law Court properly conclude that that Appellant failed to satisfy the legislatively imposed criteria for eligibility for the 4% residential assessment ratio for tax years 2017 and 2018, as his request was untimely and therefore its October 27, 2025, and December 1, 2025, orders should be affirmed?

STATEMENT OF THE CASE

This appeal arises from an order of the South Carolina Administrative Law Court, hereinafter “ALC,” granting summary judgment to Respondent Beaufort County Assessor, hereinafter “Respondent,” on the request by Appellant Eric DeWeerd, hereinafter “Appellant,” for property tax refunds for tax years 2017 and 2018. (R. pp. 6-13). The Beaufort County Board of Assessment Appeals, hereinafter “the Board,” concurred with the 2017 and 2018 tax refund denial determinations of the Respondent, in a decision dated December 19, 2024. (R. p. 6).

On January 11, 2025, Appellant filed a Request for Contested Case Hearing in the ALC challenging the Board’s decision. (R. p. 6). The ALC issued an order directing the parties to file prehearing statements on February 18, 2025. The Respondent filed its prehearing statement on March 11, 2025. (R. p. 6). Appellant did not file a prehearing statement in response to the ALC’s order. (R. p. 6). The ALC again requested that Appellant file a prehearing statement by email correspondence on July 3, 2025. (R. p. 19-26). Appellant never filed a prehearing statement. (R. pp. 6-7).

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. pp. 19-26). Appellant did not file a response to the motion. (R. p. 7).

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. 13).

Appellant filed a motion to reconsider pursuant to Rule 59(e), SCRCPP, asserting that written submissions he made in 2018 to Respondent regarding the 2017 and 2018 assessments were legally relevant to the statutory timeliness analysis for the 2022 application. (R. p. 3).

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. 4).

On December 1, 2025, the Appellant served a Notice of Appeal, appealing the ALC's October 27, 2025 order granting Respondent's motion for summary judgment as well as the December 1, 2025 order denying the Appellant's motion for reconsideration.

STANDARD OF REVIEW

The standard of review applicable to decisions of the ALC is set forth in the S.C. Code Ann. § 1-23-610, et seq. 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. S.C. Code Ann. § 1-23-610(B)(Supp. 2025).

The South Carolina Rules of Civil Procedure may be applied in the ALC at the discretion of the Administrative Law Judge. SCALC Rule 68. The South Carolina Rules of Civil Procedure authorize the entry of summary judgment pursuant to Rule 56. Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCPP. The evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Knight v. Austin, 396 S.C. 518, 722 S.E.2d 802 (2012).

When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. USAA Prop. & Cas. Ins. Co. v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2008). The existence of a mere scintilla of evidence in support of the nonmoving

party's position is not sufficient to overcome a motion for summary judgment. The Kitchen Planners, LLC v. Samuel E. Friedman, 440 S.C. 456, 892 S.E.2d 297 (2023). "Where the plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the lower court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he was entitled to judgment as a matter of law." Hospital-Bayside v. Lightle, 305 S.C. 214, 407 S.E.2d 637 (1991), citing Garrett v. Reese, 262 S.C. 327, 204 S.E.2d 432 (1974).

The party contesting the ALC's determination generally has the burden of proof on appeal. Leventis v. S.C. Dep't of Health and Envtl. Control, 340 S.C. 118, 530 S.E.2d 643 (Ct. App. 2000).

FACTS

Respondent notified Appellant by letter dated March 23, 2018, that he had benefitted from the local residence tax rate in two jurisdictions, and as a result, Respondent back-taxed Appellant for prior years 2013-2017. (R. pp. 7-8). Appellant applied for the 4% residential reassessment rate on August 1, 2018. (R. p. 8). Appellant was informed by letter on August 6, 2018, that his application was missing filed South Carolina tax returns as required to process the application. (R. p. 8).

The record does not reflect further communication or filings between the parties until June 2, 2022, when Appellant filed a written request for a property tax refund for tax years 2020 and 2021, indicating that he had sold the property and relocated to Florida. (R. p. 8). Appellant's request was denied by letter dated October 27, 2022, which stated "Please submit a letter from your electric company verifying service for tax years 2020 and 2021 and both owners 2019 & 2020 SC state taxes." (R. p. 8).

Respondent next met with Appellant more than a year later, on October 30, 2023. (R. p. 8). Another meeting occurred on March 20, 2024, at which time Appellant submitted a request for an extension of time to file for a refund for tax years 2018 through 2021. (R. p. 8). Respondent then submitted Appellant's refund request to a committee, comprised of the Beaufort County Assessor, Auditor, and Treasurer, hereinafter "Committee," on April 1, 2024. (R. p. 8). On April 17, 2024, the Committee notified Appellant in writing that the request for a special tax assessment ratio for tax years 2019, 2020, and 2021 had been approved. (R. pp. 8-9). The Committee denied Appellant's request as to tax years 2017 and 2018. (R. p. 9).

Appellant appealed the Committee's determination regarding tax years 2017 and 2018 to the Board, which was set for hearing on September 24, 2024. (R. p. 9). The parties exchanged certain information in advance of the hearing. (R. p. 9). The Board issued a decision on December 19, 2024. (R. p. 9). It noted that the refund request had been granted for tax years 2019, 2020, and 2021, but it ruled that a request for a refund for tax years 2017 and 2018 was untimely. (R. p. 9). The Board also noted that Appellant expanded his request before it to include 2022, but the Board did not make a determination with respect to tax year 2022 because that year "was not part of [the] original request for a refund for 2017 and 2018." (R. p. 9).

ARGUMENTS

The ALC properly concluded that Appellant failed to satisfy the legislatively imposed criteria for eligibility for the 4% residential assessment ratio for tax years 2017 and 2018, as his request was untimely.

S.C. Code §12-43-220, provides in part that:

(c)(2)(iv) In addition to the certification, the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant must provide proof the assessor requires including, but not limited to:

- (A) a copy of the owner-occupant's most recently filed South Carolina individual income tax return;
- (B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant and registered at the same address of the four percent domicile;
- (C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.

(c)(3) Notwithstanding any other provision of law, a taxpayer may apply for a refund of property taxes overpaid because the property was eligible for the legal residence assessment ratio. The application must be made in accordance with Section 12-60-2560. The taxpayer must establish that the property in question was in fact his legal residence and where he was domiciled. A county council, by ordinance, may allow refunds for the county government portion of property taxes for such additional past years as it determines advisable.

S.C. Code §12-43-220(c)(2010). S.C. Code §12-60-2560, provides in part that “[s]ubject to the limitations in Section 12-60-1750, and within the time limitation of Section 12-54-85(F), a property taxpayer may seek a refund of real property taxes assessed by the county assessor and paid other than taxes paid on property the taxpayer claims is exempt, by filing a claim for refund with the county assessor who made the property tax assessment for the property for which the tax refund is sought.” S.C. Code §12-60-2560(A)(2010). S.C. Code §12-60-1750 in turn provides in part that no refund of property taxes must be given “for a property tax exemption requiring an application unless the application was timely filed.” S.C. Code Ann. §12-60-1750(1)(2014). And, S.C. Code Ann. §12-54-85(F)(1) provides that:

....claims for credit or refund must be filed within three years from the time the return was filed, or two years from the date the tax was paid, whichever is later. If no return was filed, a claim for credit or refund may not be made after the expiration of the period of limitation prescribed in this item for the filing of a claim for credit or refund, unless the claim for credit or refund is filed by the taxpayer or determined to be due by the department within that period.

S.C. Code Ann. §12-54-85(F)(1)(2014).

Accordingly, as determined by the ALC, it is clear that the deadline for filing a request for a refund is three years from the date the return was filed or two years from the date the tax was

paid, whichever is later, and that a request for a refund must be denied if it is untimely. Accordingly, Appellant had to file a request for a refund for tax year 2017, no later than 2020, and a request for a refund for tax year 2018, no later than 2021. No request for a refund for tax years 2017 and 2018 was submitted within that time frame. The refund request which is the source of this appeal was submitted in 2022, and did not include tax years 2017 and 2018. It was not until March of 2024 that Appellant sought an extension of time to claim a refund for those tax years.

Moreover, Appellant failed to submit any evidence or grounds for relief during the pendency of the contested case. The only evidence in the record was submitted by Respondent. Accordingly, there is no genuine issue of material fact in the case.

Appellant 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, and characterizes the requests for a special assessment in those years as a request for a refund that were never denied. However, Appellant's argument that requests for a special assessment in 2017 and 2018 should be considered timely requests for a refund, was not made until he filed the Appellant filed his motion to reconsider the ALC's October 27, 2025, order pursuant to Rule 59(e), SCRCPP. Accordingly that argument is not proper for consideration, as 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).

CONCLUSION

For the forgoing reasons, the Respondent respectfully requests that the Court affirm the Administrative Law Court's October 27, 2025, order granting Respondent's motion for summary judgment as well as the December 1, 2025, order denying Appellant's motion for reconsideration.

Respectfully Submitted,

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