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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY

Court of Common Pleas, Third Judicial Circuit

The Honorable R. Kirk Griffin, Acting Circuit Court Judge

Civil Action No. 2022-CP-43-01389

Appellate Case No. 2025-001006

Sumter County, Respondent,

v.

Willie S. Spann, III, Defendant,

of which Willie S. Spann, III is the Appellant.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court erred in granting summary judgment where the evidence and reasonable inferences concerning the nature and classification of the use of Appellant's property were disputed.

2. Whether the circuit court erred in concluding, as a matter of law, that the activities on the property necessarily constituted a prohibited trucking use under SIC 4213 / NAICS 484 rather than a use requiring further factual and legal inquiry under the County's zoning classifications.

3. Whether the permanent injunctive relief should be reversed or vacated because it rests upon the summary-judgment determination challenged in Issues I and II.

4. Whether the circuit court could properly rely on repeated government drone surveillance evidence directed at Appellant's private residential property. Appellant acknowledges this constitutional objection was not raised and ruled upon below and therefore may be unpreserved; Appellant includes the issue only to the extent this Court determines it is reviewable.

TABLE OF AUTHORITIES

Baughman v. AT&T, 306 S.C. 101, 410 S.E.2d 537 (1991)

Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation, 337 S.C. 476, 523 S.E.2d 795 (1999)

Hardy v. Aiken, 369 S.C. 160, 631 S.E.2d 539 (2006)

I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000)

Osborne v. Adams, 346 S.C. 4, 550 S.E.2d 319 (2001)

Wilder Corp. v. Wilke, 330 S.C. 71, 497 S.E.2d 731 (1998)

Rule 56(c), SCRCP

Rules 208 and 209, SCACR

U.S. Const. amend. IV

STATEMENT OF THE CASE

This is a zoning-enforcement action brought by Sumter County concerning real property at 5160 Highway 15 North, Sumter, South Carolina. The County alleged that LA Express Logistics, LLC and Willie S. Spann, III were using property in an Agricultural Conservation ("AC") District for a prohibited trucking operation. Appellant disputed the County's characterization of the property's use and argued that the ordinance and use classifications did not establish a prohibited trucking operation as a matter of law.

On November 7, 2022, the circuit court heard the County's motion for temporary injunction. At that hearing, defense counsel argued that the evidence showed trucks parked on the property but did not show loading, freight handling, or other ordinary business operations occurring there, and requested a trial on the merits. (Nov. 7, 2022 Tr. pp. 12-15.) The court later entered an order dated November 15, 2022 addressing temporary injunctive relief.

On March 24, 2025, the circuit court heard a Rule to Show Cause and the County's Motion for Summary Judgment. The summary-judgment argument begins at transcript page 11; Appellant's opposition begins at page 20; the County's reply begins at page 23; and the court took the motion under advisement at page 24. (Mar. 24, 2025 Tr. pp. 11-24.)

On April 21, 2025, the circuit court entered a written Order granting Sumter County's Motion for Summary Judgment and granting declaratory and permanent injunctive relief. The Order treated SIC Code 4213 ("Trucking, Except Local") and NAICS Code 484 ("Truck Transportation") as prohibited uses in the AC District and concluded the evidence established a trucking operation at the property. (Order pp. 5-9.) The Order further rejected Appellant's

arguments concerning ambiguity and alternative classifications and entered permanent injunctive relief. (Order pp. 8-10.)

A Notice of Appeal was filed on May 21, 2025. The Court of Appeals later partially dismissed the appeal as to LA Express Logistics, LLC because the LLC did not obtain appellate counsel. Willie S. Spann, III remains the Appellant in this appeal.

STANDARD OF REVIEW

The Court of Appeals applies the same standard governing the circuit court under Rule 56(c), SCRCP. Summary judgment is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001). The evidence and all reasonable inferences must be viewed in the light most favorable to the nonmoving party. *Id.*; *Baughman v. AT&T*, 306 S.C. 101, 410 S.E.2d 537 (1991). Summary judgment is inappropriate where further inquiry into the facts is desirable to clarify the application of the law. *Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation*, 337 S.C. 476, 484, 523 S.E.2d 795, 799 (1999). Questions of law, including interpretation of an ordinance, are reviewed de novo.

ARGUMENT I

THE CIRCUIT COURT ERRED IN GRANTING SUMMARY JUDGMENT BECAUSE THE RECORD PRESENTED DISPUTED INFERENCES CONCERNING THE NATURE AND CLASSIFICATION OF THE PROPERTY'S USE.

The County's evidence established that LA Express Logistics was a trucking company, that the property was associated with the company, that trucks and trailers were present there,

and that certain maintenance and dispatch-related activities were attributed to the property. The County relied on Secretary of State records, USDOT information, Appellant's deposition, photographs, affidavits, and zoning classification tables. (Mar. 24, 2025 Tr. pp. 15-19; Order pp. 6-8.)

But the question at summary judgment was not merely whether Appellant owned a trucking company or whether trucks were present. The question was whether the particular use of this property fell within the prohibited classification as a matter of law, with no material factual dispute and no reasonable competing inference.

That question was disputed. At the November 7, 2022 hearing, defense counsel argued there was no evidence of trucks being loaded at the property and no evidence of ordinary trucking-business operations beyond photographs of trucks parked there. (Nov. 7, 2022 Tr. pp. 12, 14-15.) Counsel expressly requested a trial on the merits. (Id. p. 15.) At the March 24, 2025 summary-judgment hearing, defense counsel again argued that the County relied on limited inspections and third-party complaints and that activities on the property included automotive mechanical, electrical repair and maintenance, body/paint/glass repair, oil change/lubrication, and related activity appearing in other zoning classifications. (Mar. 24, 2025 Tr. pp. 20-23.)

Defense counsel specifically told the circuit court that the dispute was factual and should not be decided on summary judgment. (Mar. 24, 2025 Tr. p. 23.) Rule 56 required the court to draw reasonable inferences in Appellant's favor, not select the County's characterization merely because the County's evidence supported that characterization.

The April 21 Order concluded that the property functioned as a central location where trucks were kept, dispatched, returned, and maintained. (Order pp. 6-9.) To the extent those conclusions depended upon choosing among competing inferences about the character and

degree of the property's use, the issue was not suitable for summary judgment. A factfinder could accept the County's characterization after trial, but Rule 56 does not permit a court to resolve a genuinely disputed inference against the nonmoving party merely because the moving party's inference is plausible.

Accordingly, the grant of summary judgment should be reversed and the matter remanded for further proceedings.

ARGUMENT II

THE CIRCUIT COURT ERRED IN TREATING THE COUNTY'S SIC/NAICS CLASSIFICATION AS DISPOSITIVE WITHOUT GIVING EFFECT TO THE COMPETING ORDINANCE CLASSIFICATIONS RAISED BY APPELLANT.

The County argued that SIC Major Group 42, specifically SIC 4213, and NAICS 484 classified the use as prohibited truck transportation in the AC District. (Mar. 24, 2025 Tr. pp. 15-17.) Appellant did not merely deny that LA Express was a trucking company. Appellant argued that the zoning table also identified automotive mechanical and electrical repair and maintenance and other related activities as conditional uses and that those descriptions corresponded to activity occurring on the property. (Id. pp. 21-23.)

Appellant's counsel relied on *Hardy v. Aiken*, 369 S.C. 160, 631 S.E.2d 539 (2006), in arguing that restrictions affecting the use of property should not be expanded through ambiguity and that the competing classifications prevented judgment as a matter of law. (Mar. 24, 2025 Tr. pp. 20-23.) The County responded that a conditional use required County approval and that Appellant did not have such approval. (Id. pp. 23-24.)

The circuit court accepted the County's classification and rejected the alternative classifications. (Order pp. 8-9.) But the threshold question was what use the evidence established and which classification applied to that use. The existence of a trucking company does not automatically answer every zoning question concerning every activity at the owner's residence. Where the parties identified different ordinance classifications and disputed the actual use to which the land was being put, further factual inquiry was appropriate before permanently classifying the property as a prohibited trucking operation.

At minimum, the record supplied a genuine dispute concerning whether all relevant activities were properly subsumed within SIC 4213/NAICS 484 or whether the ordinance required a more particularized classification of the property's actual use. The circuit court therefore should not have resolved that issue against Appellant on summary judgment.

ARGUMENT III

THE PERMANENT INJUNCTION SHOULD BE VACATED IF THE SUMMARY-JUDGMENT RULING IS REVERSED.

The April 21, 2025 Order did more than declare the County's interpretation correct; it granted permanent injunctive relief based upon the same determination that Appellant's use violated the zoning ordinance. (Order pp. 9-10.) The permanent injunction therefore depends upon the validity of the summary-judgment ruling.

If this Court determines that a genuine issue of material fact existed concerning the nature or classification of the use, or that the ordinance required further legal and factual inquiry, the permanent injunction cannot remain supported by the summary-judgment determination. The

appropriate disposition is to reverse or vacate the permanent injunctive relief and remand for proceedings consistent with this Court's decision.

ARGUMENT IV

THE COUNTY'S REPEATED DRONE SURVEILLANCE OF PRIVATE RESIDENTIAL PROPERTY RAISES A SERIOUS CONSTITUTIONAL CONCERN, BUT APPELLANT ACKNOWLEDGES THE PRESERVATION PROBLEM.

The record reflects that the County relied on photographs and affidavits documenting the presence of trucks and trailers on the property. The affidavit of Sergeant Timothy Adams states that a drone equipped with a digital camera was used to photograph the property on May 6, 2023, July 21, 2024, and July 28, 2024, and that Adams did not enter the property when taking the photographs. The circuit court relied on those photographs among the evidence supporting summary judgment. (Order p. 7.)

Appellant has consistently expressed that the surveillance was directed at the private backyard/curtilage of his residence. The materials presently available for this brief, however, do not establish that Appellant raised a Fourth Amendment objection to the drone evidence in the circuit court or obtained a ruling on such an objection. South Carolina preservation law generally requires an issue to be raised to and ruled upon by the trial court. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998); *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 421-22, 526 S.E.2d 716, 724 (2000).

For that reason, Appellant does not represent this constitutional issue as clearly preserved. Appellant nevertheless identifies the targeted drone surveillance because it formed part of the evidentiary basis for summary judgment and because government surveillance of the

home and its curtilage implicates substantial Fourth Amendment interests. To the extent this Court determines the constitutional issue is reviewable, Appellant requests appropriate relief. If the Court finds the issue unpreserved, Appellant asks that the drone photographs be considered only for what they actually depict - the presence of vehicles and equipment - and not as conclusive proof resolving disputed inferences concerning the legal character of the property's use.

Appellant further notes that he has described the backyard as enclosed by a six-foot privacy fence. The documents presently available for preparation of this Initial Brief do not identify where the six-foot fence height was placed into the circuit-court record. Appellant therefore does not rely on that fence height as an established record fact in this Initial Brief. If the fact appears in a pleading, exhibit, affidavit, deposition, or transcript already before the circuit court, the corresponding record citation should be inserted before filing the final brief.

CONCLUSION

For the foregoing reasons, Appellant Willie S. Spann, III respectfully requests that this Court reverse the April 21, 2025 Order granting summary judgment to Sumter County, vacate the permanent injunctive relief dependent upon that ruling, and remand the matter to the circuit court for trial or other proceedings consistent with this Court's decision.

Respectfully submitted,

Willie S. Spann, III

Appellant, Pro Se

5160 Highway 15 North

Sumter, South Carolina 29153

CERTIFICATE OF SERVICE

I certify that on September 3, 2026, I served a true and correct copy of the foregoing Initial Brief Of Appellant upon counsel for Respondent by depositing the same in the United States Mail, first-class postage prepaid, addressed to:

George Murrell Smith, Jr., Esquire

Smith Robinson

Post Office Box 580

Sumter, South Carolina 29151-0580

Austin Tyler Reed, Esquire

Smith Robinson

3200 Devine Street

Columbia, South Carolina 29205

Willie S. Spann, III

Appellant, Pro Se

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