

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS)
IN THE FIFTH JUDICIAL CIRCUIT)
CIVIL ACTION NO.: 2013-CF-28-0359)

RECEIVED

RICHARD HOUGH,)
)
Plaintiff/Appellant,)

JAN 10 2014

SC Court of Appeals

vs.)

ORDER AFFIRMING DISMISSAL

ANGELA HOUGH,)
)
Defendant/Respondent.)

FILED FOR RECORD
2013 DEC 10 AM 10:02
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

This matter comes before this Court on an appeal from a dismissal by the Honorable William D. Corbett, Magistrate for Kershaw County. On April 12, 2013, a jury was summoned to hear a trial based upon a courtesy summons brought by Plaintiff/Appellant (hereafter "Appellant") against the Defendant/Respondent (hereafter "Respondent"). Appellant is a non-lawyer. Appellant alleges that the Respondent took down Appellant's signs that were posted on property jointly owned by Appellant and Respondent. After the jury was empaneled and sworn, the Respondent moved to dismiss for lack of prosecution, which the court granted. Appellant made a timely appeal.

ISSUE

May a private individual prosecute a courtesy summons at trial in a summary court without the involvement of the local solicitor?

DISCUSSION

In South Carolina, a courtesy summons may be issued by a summary court or municipal judge. It requests a citizen appear for trial in place of the more traditional arrest warrant. A

courtesy summons may be issued based on a non-law enforcement affiant's

ATTEST True, Correct & Certified
sworn statement only
Copy of Original on File in this
Court.

Joyce McDonald
Clerk of Court Kershaw County

if the summary court judge finds it establishes probable cause that an alleged crime was committed. S.C. Code Ann. § 22-5-115.

In South Carolina the sole authority to prosecute criminal cases to trial lies with the Solicitor for the judicial circuit within which the alleged offense took place. The principle behind this law is that the Solicitor works for the community and is not fueled by private interests. (S)he is an officer of the court and represents the public. In re Richland County Magistrate's Court, 389 S.C. 408, 411, 699 S.E.2d 161, 163 (2010). See also 2013 WL 3762705 (S.C.A.G.)

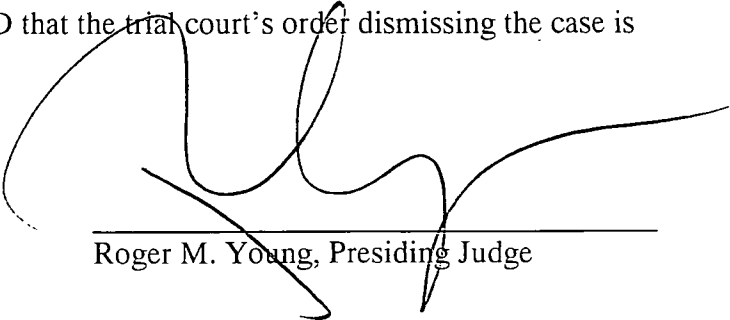
ANALYSIS

In the current case, the Appellant, as the Affiant, obtained a courtesy summons that was subsequently served on the Respondent. The Appellant now attempts to prosecute that courtesy summons without the involvement of the local solicitor. The record indicates that the Fifth Circuit Solicitor's Office denied the Appellant permission to hire his own private attorney to prosecute the courtesy summons against Respondent.

While the Appellant can "swear out" a courtesy summons by himself, the Solicitor controls the decision whether the case may be prosecuted in court. Ultimately, it is within to Solicitor's sole discretion whether the case should proceed to trial or be *not prossed*.

THEREFORE, IT IS ORDERED that the trial court's order dismissing the case is affirmed.

Date: 12/4/13
Charleston, South Carolina



Roger M. Young, Presiding Judge