

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAY 07 2014

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Allison Renee Lee, Circuit Court Judge

SC Court of Appeals

Case No. 2014-000556

John D. Hatcher, et al,

Respondent,

v.

Ronald J. Ferguson,

Appellant.

MOTION TO WITHDRAW APPEAL

COMES NOW, Ronald J. Ferguson, pro-se, and moves of the Court pursuant to Rule 260(c) for a dismissal of the appeal in this action. In support thereof the petitioner would show unto the Court the following:

JURISDICTION

1) South Carolina Rules of Appellate Procedure, Rule 260(c) provides "An appeal or other proceeding may be dismissed on motion of the appellant or petitioner upon such terms as may be fixed by the court."

BACKGROUND

2) This action originated in the Court of Common Pleas, County of Greenville, as John D. Hatcher, et al v. Ron Ferguson; Civil action No. 2013CP2301810.

3) The foundation of the claims brought by Plaintiff(s) are allegations of property violations against a property in Greenville County, South Carolina, wherein their claims are violations of deed restrictions and claims of being an architectural committee with grounds to enforce such.

4) A Motion to Dismiss was presented to the lower Court in May, 2013. That Court Ordered Discovery and Mediation to proceed.

5) A Motion for an Order of Protection was subsequently filed in June, 2013, and heard late July, 2013. The Court again Ordered the claims to proceed with Discovery and Mediation.

6) Upon Plaintiff(s) Motion to Compel Judge J. Mark Hayes, II, Ordered that Discovery proceed.

- 7) Appellant, Ronald J. Ferguson, a lawful property owner of the residence in question brought an appeal to address his rights which have never been heard by the lower Court.
- 8) The South Carolina Court of Appeals issued that appeal Case No. 2013-002360 and dismissed Sua Sponte in November, 2013, citing grounds of the lower Court not having filed the long order.
- 9) Following the lower Court submitting the final order to the Clerk, and subsequently to the Court of Appeals, the appeal was again reviewed sua sponte, and dismissed.
- 10) A motion for rehearing was presented to the Court of Appeals and likewise dismissed without briefing.
- 11) During the interim period the Plaintiffs again moved for a Motion to Compel which is the basis for the current appeal.
- 12) Judge Allison Lee, similar to Mark Hayes and Robin Stilwell, would attempt to allow Plaintiff John Hatcher, who has been criminally charged for his actions against the Appellant and his family members, to enter a residence owned by them.
- 13) The property in question is owned by three parties. None of which bear the legal name of "Ron Ferguson" nor does the name "Ron Ferguson" appear on the title or deed reflecting ownership of such property. Thus, by established law, any Order against "Ron Ferguson" is unenforceable.
- 14) Even though incorrect name of a Defendant(s) is an amenable defect correctable through leave of the Court to file an amended complaint, the additional property owners possess a legally recognized interest under both State and Federal Law to certain inalienable rights which the Court lacks jurisdiction to violate by circumventing due process.
- 15) There is no legally recognized Plaintiff "Architectural Committee of Mill Creek Estates".
- 16) There exists a substantial legal question of whether the alleged Deed Restrictions Plaintiff(s) seek to enforce are, in fact, enforceable.
- 17) Significant case precedent exists establishing a Judiciary's duty in determining whether they possess grounds to issue an Order. Essentially, three items must be met:

First, the plaintiff must have suffered an "injury in fact"—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'" Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision." Smiley v. South Carolina Dep't of Health & Env't'l Control, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992) (alteration in original)).

"The party seeking to establish standing carries the burden of demonstrating each of the three

elements.” Sea Pines Ass’n for the Protection of Wildlife, Inc. v. South Carolina Dep’t of Natural Res., 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001).

18) The Circuit Court judiciary failed to address the well established requirements that jurisdiction be determined prior to issuance of an Order compelling Discovery against any party, whereas there is no legally recognized party “Ron Ferguson”, correct property owners who may be subject to jurisdiction or that named plaintiff(s) are recognized as person(s) under the existing case precedents of State and Federal law, have not stated a claim for damages or whether there was any standing.

19) Attempt was made to present the facts to the South Carolina Court of Appeals on three occasions in Case No. 2013-002360 and all were dismissed without briefing, and approved the lower Court Order against “Ron Ferguson” granting access for Plaintiffs to enter a property owned by three other persons – who were not named or before the Court and possess a legal interest in the outcome of any judgment.

20) The record before the U.S. District Court will include the appellate process and outcome of the prior appeal related to the Order of Judge J. Mark Hayes, II.

21) South Carolina’s Code of Judicial Conduct states, “A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.” Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. The Code requires a judge to “disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned” Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. When disqualification is not required, however, the Code states, “A judge shall hear and decide matters assigned to the judge” Canon 3B(1) of the Code of Judicial Conduct, Rule 501, SCACR. “A judge’s impartiality might reasonably be questioned when his [or her] factual findings are not supported by the record.” Patel, 359 S.C. at 524, 599 S.E.2d at 118.

The party seeking disqualification must do more than merely allege bias on the judge’s behalf; the party must present some evidence of judicial prejudice or bias. Id. at 524, 599 S.E.2d at 118. “In applying Canon 3[(E)](1), the South Carolina Supreme Court has stated that the movant or petitioner must show some evidence of the bias or prejudice of the judge.” Lyvers v. Lyvers, 280 S.C. 361, 367, 312 S.E.2d 590, 594 (Ct. App. 1984) (internal quotations and citations omitted). When an appellant offers no evidence to support his claim of partiality, the trial judge is correct to deny a Motion for Recusal. See Christensen v. Mikell, 324 S.C. 70, 74, 476 S.E.2d 692, 694 (1996).

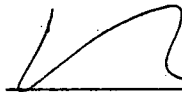
In the case at bar, four lower court judiciary have issued Orders requiring a non-existent party to allow a person facing criminal charges into the residence of the accuser(s) in effort to look for violations as a basis to claim civil liability and perform mediation. The South Carolina Court of Appeals affirmed such activity without brief or hearing.

22) The United States District Court for the District of South Carolina will be addressing the facts of the case pursuant to 42 U.S.C. § 1983. Additionally, we will be addressing the Administrative Order by the Supreme Court of South Carolina requiring mediation and whether questions of law should be addressed before requiring a party to submit to mediation where Discovery is sought to determine whether violations exist and where the mediator lacks any meaningful ability to resolve the matters.

CONCLUSION

Wherefore, premises considered, the Appellant would submit that in the interest of judicial efficiency and judicial conflicts of interest, the current appeal be dismissed since the United States District Court will be addressing the issues to include the facts and Order of Judge Allison Renee Lee, which is the basis for current appeal.

May 5, 2014



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PROOF OF SERVICE

I certify that I have served the Motion to Withdraw Appeal by depositing a copy of it in the United States Mail, postage prepaid, on May 5, 2014, addressed to his attorney of record, Rodney Brown, 210 South Main Street, Fountain Inn, South Carolina 29644.

May 5, 2014



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