

THE STATE OF SOUTH CAROLINA
SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

MARVIN H. DUKES, III, MASTER-IN-EQUITY,
BEAUFORT COUNTY
TRIAL COURT CASE NO.: 2013CP0700918

APPELLATE CASE NO.: 2014-000636

RECEIVED

JUL 22 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

MARE BARACCO,

Appellant.

APPELLANT'S MEMORANDUM IN OPPOSITION TO RESPONDENT'S JOINT
MOTION TO AMEND THE CAPTION SO AS TO DESIGNATE THE PROPER
PARTIES



Marc Baracco, *Pro Se*
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062

Date: July 21, 2014

Appellant files this Memorandum in Opposition to Respondent's Joint Motion to Amend the Caption So As to Designate the Proper Parties that was received on July 18, 2014 by mail, as follows:

Attorney Mary Bass Lohr filed a Notice of Appearance in this case on behalf of Beaufort County. Ms. Lohr is the also the contracted Attorney, and/or her Law Firm, are the contracted Attorneys for the Town of Port Royal, a municipality incorporated in 1874 and acting as a municipality pursuant to the provisions and laws of the State of South Carolina. Appellant believes Ms. Lohr has conflicts of interest in the dual representation of Beaufort County and the Town of Port Royal, as provided for in the South Carolina Rules of Civil Procedure, specifically, but not limited to, Rule 8.4(e)(conduct that is prejudicial to the administration of justice); Rule 1.1 (lawyer shall provide competent representation to a client); Rule 1.7(b)(lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person); *Rule 413*, SCACR: Rule 7(a)(5)(conduct tending to pollute the administration of justice). Appellant believes Ms. Lohr, as Attorney for the Town of Port Royal, was involved in either the preparation and/or review of the Mutual Aid Agreements between the Town of Port Royal and Beaufort County, and thus, could be considered a substantial prejudicial witness in this matter. Further, as the attorney for the Town of Port Royal, she and/or other members of her firm had to have had involvement, and knew or should have known, about this matter from the onset and throughout its entirety. Upon information and belief, Ms. Lohr's law firm was, for many years, until it went in-house, the

contracted attorney for Beaufort County. Therefore, Ms. Lohr and/or her law firm has had and should have, at the very minimum, noticed,, **if needed and required**, the caption in this matter as soon as possible so that Appellant was correctly identified and was able to present her case in a manner that was economically and judicially correct for all parties concerned and involved. This is, and was, especially important for governmental entities whose existence is supposed to protect the interests of its citizens, their property, real or personal, and not use its purse holdings and influence to gain an advantage over them. The existence of citizens within an area, municipality or county in this state affords a government the ability to exist.

The power of taxing people and their property is essential to the very existence of government. Power must be in the hands of the wealth of the nation, those who have sympathy for property owners and their rights, and who understand that the fundamental task of the government is to protect the minority opulent from the majority. James Madison

Appellant has served numerous FOIA requests upon both Beaufort County and the Town of Port Royal, regarding issues concerning this case. It is the Appellant's contention the Town of Port Royal contacted Ms. Lohr, and/or other members of her firm, about this case, and thus had every opportunity to insure it was being properly and correctly handled through the judicial system, especially in regard to the correct captioning of this case, if required and necessary..

Appellant also contacted the South Carolina Attorney General's Office, initially in December 2013 to question the validity of proceedings of this case, and did not receive a response. Appellant then contacted their office directly, in early January 2014 and was referred to Attorney T. Parkin Hunter. Mr. Hunter spoke with Appellant by telephone and during that telephone conversation Appellant apprised him of her concerns and asked him if he wanted to

see the letter; Mr. Hunter gave her his email address. Appellant sent him a copy of the letter and he confirmed receipt (Copy of email from T. Parkin Hunter, attached hereto and incorporated herein as "Exhibit A"). Thereafter, Appellant received a telephone call from another attorney in the Attorney General's Office, who was in receipt of the original letter, and inquired if this was a criminal case. When Appellant responded it was a criminal case, as she has always been the Defendant in this matter, he told her he was referring the case to the South Carolina Law Enforcement Division (SLED). Subsequently, Appellant received a letter dated January 13, 2014 from T. Parkin Hunter, indicating this letter had been forwarded the SLED (Copy of letter from T. Parkin Hunter, attached hereto and incorporated herein as "Exhibit B"). Appellant never received any communication from SLED, relative to the letter, after this matter was turned over by the South Carolina Attorney General's Office.

Appellant notes as a State of South Carolina Municipality, the Town of Port Royal is required to provide services to its residents such as law enforcement; fire protection; solid waste collection and disposal; water supply, water distribution or both; wastewater collection and disposal; storm water collection and treatment; enforcement of building, housing, plumbing and electrical codes; planning and zoning; recreational facilities and programs; and street lighting, etc. either directly or indirectly. The Town of Port Royal is made up of a government that includes elected councilpersons and a Town Manager, the Administrative body that creates and upholds the ordinances that residents of Port Royal must abide by. Additionally, local ordinances have the same authority as statewide statutes within the area to which they apply. Each magistrate and municipal judge should have a current copy of all ordinances of the area in which he/she presides. South Carolina Summary Court Judges Bench Book, C. Sources of Law, 4. Local Law.

Beaufort County was the publisher, controller, and, during most times for this case, the prosecutor in the proceedings that took place during this entire matter. The Beaufort County Sheriff's Office issued to Appellant a *Notice of Dangerous Animal*, pursuant to Beaufort County Ordinance 14-35. When Appellant questioned the validity of this notice to Beaufort County Sheriff Department's Lt. Spencer, the Supervisor of Cpl. Brittany Chapman, Appellant was instructed by him to write a letter to the Chief Magistrate of Beaufort County Magistrate Court protesting the issuance of the Notice. Simultaneously, Lt. Spencer instructed Cpl. Brittany Chapman to walk over to the Magistrate's Court and set this matter for trial. Based on these instructions, the Appellant received a Summons and was listed as a Defendant in the caption case of *The State of South Carolina vs. Mare Baracco*. During the initial trial, Beaufort County, as The State of South Carolina, prosecuted this matter and was, therefore, required to prove its case against the Appellant. It was not until the second trial, March 12, 2013 that suddenly, without any prior notice, the Appellant was notified the roles were incorrect and she had to prove her case against The State of South Carolina.

The true test of the sufficiency is not whether it could be made more definite and certain, but whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet.

Browning v. State, 320 S.C. 366, 368, 465 S.E.2d 358, 359 (1995) (citations omitted).

The Magistrate does not have the power to waive jurisdiction, even with the consent of the parties. The Magistrate must abide by the Rules of the Court as promulgated by the South Carolina Supreme Court. A Magistrate, as every other single Judge in South Carolina, are to be impartial triers of facts based on the law, or in this case an "ordinance". A Magistrate must also abide by the United States and South Carolina Constitutions to ensure an individual's rights are

not being violated during the trial of a case. Further, an attorney takes an oath to uphold these same Constitutions as well, to protect an individual's right to, among other things, due process and protection of their civil rights, regardless of their client's affiliation(s).

At no time, during the course of these two-plus years, did The State of South Carolina ever formally change the caption to indicate Beaufort County was the correct party and not the State of South Carolina. That is, not until this case was appealed to the South Carolina Court of Appeals.

After Ms. Lohr appeared in this matter as Attorney for Beaufort County, she sent a letter to the South Carolina Court of Appeals December 9, 2013 indicating the matter was incorrectly captioned (Appellant had received a letter from the South Carolina Court of Appeals, dated November 19, 2013 stating this was a criminal appeal and no filing fee was required (Copy of letter dated November 19, 2013, attached hereto and incorporated herein as "Exhibit C"). Appellant wrote a letter on December 10, 2013 in response to Ms. Lohr's letter (Copy of Ms. Lohr's letter dated December 9, 2013, attached hereto and incorporated herein as "Exhibit D"). Thereafter the South Carolina Court of Appeals responded January 16, 2014 "this case was to be captioned "*Mare Baracco, Appellant v State of South Carolina, Respondent*". The Appellant then withdrew her appeal, in order to pursue a Rule 60 Motion. Upon re-filing the Notice of Appeal, Appellant again received a letter indicating this was to be considered a criminal matter by the South Carolina Court of Appeals (Copy of letter dated June 18, 2014 attached hereto and incorporated herein as "Exhibit E"). Appellant would state and emphasize that, upon issuance of this "*Notice of Dangerous Animal*", the law requires, within 72 hours, for Appellant to purchase expensive liability insurance, make structural improvements to her property, secure a special tag,

have a micro-chip implanted in her dog by a veterinarian, purchase a muzzle, and register her dog with the Beaufort County Shelter. According to this notice, if Appellant failed to meet all these requirements, within this specific time frame, she would be fined up to \$1,092.50 and, the County would seize her dog (Copy of Notice dated July 9, 2012 attached hereto and incorporated herein as "Exhibit F"). These penalties for non-compliance are in addition to the penalties which are contained within the ordinance itself.

It's only now, more than eight (8) months since the original filing of this appeal, that a joint motion by the Respondent has been filed by Ms. Lohr and Mr. Hunter. Appellant believes she should have been apprised of her true status from the onset of this matter, not in mid-stream, and immediately before this case was initially tried and then again re-tried. She believes the Beaufort County Sheriff's Office, as the State of South Carolina, knew or should have known the correct policies and procedures and relevant ordinances for the area prior to any investigation and issuance of any notices or violations against her. And, more important, the proper initialization of the case to ensure the parties were duly identified and the case was tried, initially and throughout, correctly, so as to provide proper notice to all parties of their proper, lawful roles. Instead, this has turned into a tragedy of errors, creating more drama and costs to Appellant than any citizen of this State should have to endure. Appellant believes that in the handling of this entire event, she has been ambushed in the investigation and the initial prosecution by Beaufort County and by counsel throughout this entire proceeding, resulting in an ongoing and relentless violation of her constitutional, civil and due process rights.

For the following reasons, Appellant prays that Respondent's Joint Motion to Amend the Caption so as to Designate the Proper Parties is denied. Appellant does consent to the Respondent's said joint motion to hold the deadlines in abeyance until there is a ruling on their motion.

Authorities ii

OTHER AUTHORITIES

South Carolina Rules of Civil Procedure

Rule 8.4(e)

Rule 1.1

Rule 1.7(b)

Rule 413, SCACR: Rule 7(a)(5)

Exhibits A-F

South Carolina Summary Court Judges Bench Book, C. Sources of Law, 4. Local Law

Browning v. State, 320 S.C. 366, 368, 465 S.E.2d 358, 359 (1995) (citations omitted)

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) commit a criminal act involving moral turpitude;
- (d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (e) engage in conduct that is prejudicial to the administration of justice;
- (f) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (g) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Comment

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. The South Carolina version of this Rule also specifically includes criminal acts involving moral turpitude as professional misconduct. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (e) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (e). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Comment

Legal Knowledge and Skill

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c).

Maintaining Competence

[6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

11

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

Comment**General Principles**

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person or from the lawyer's own interests. For specific Rules regarding certain concurrent conflicts of interest, see Rule 1.8. For former client conflicts of interest, see Rule 1.9. For conflicts of interest involving prospective clients, see Rule 1.18. For definitions of "informed consent" and "confirmed in writing," see Rule 1.0(g) and (b).

[2] Resolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in paragraph (a)(1) and the one or more clients whose representation might be materially limited under paragraph (a)(2).

[3] A conflict of interest may exist before representation is undertaken, in which event the representation must be declined, unless the lawyer obtains the informed consent of each client under the conditions of paragraph (b). To determine whether a conflict of interest exists, a lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the persons and issues involved. See also Comment to Rule 5.1. Ignorance caused by a failure to institute such procedures will not excuse a lawyer's violation of this Rule. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see Comment to Rule 1.3 and Scope.

[4] If a conflict arises after representation has been undertaken, the lawyer ordinarily must withdraw from the representation, unless the lawyer has obtained the informed consent of the client under the conditions of paragraph (b). See Rule 1.16. Where more than one client is involved, whether the lawyer may

RULE 7
GROUND FOR DISCIPLINE; SANCTIONS IMPOSED; DEFERRED DISCIPLINE AGREEMENT

(a) Grounds for Discipline. It shall be a ground for discipline for a lawyer to:

- (1)** violate or attempt to violate the Rules of Professional Conduct, Rule 407, SCACR, or any other rules of this jurisdiction regarding professional conduct of lawyers;
- (2)** engage in conduct violating applicable rules of professional conduct of another jurisdiction;
- (3)** willfully violate a valid order of the Supreme Court, Commission or panels of the Commission in a proceeding under these rules, willfully fail to appear personally as directed, willfully fail to comply with a subpoena issued under these rules, or knowingly fail to respond to a lawful demand from a disciplinary authority to include a request for a response or appearance under Rule 19(b)(1), (c)(3) or (c)(4);
- (4)** be convicted of a crime of moral turpitude or a serious crime;
- (5)** engage in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law;
- (6)** violate the oath of office taken to practice law in this state and contained in Rule 402(k), SCACR;
- (7)** willfully violate a valid court order issued by a court of this state or of another jurisdiction;
- (8)** employ a person in violation of Rule 34;
- (9)** willfully fail to comply with the terms of a finally accepted deferred disciplinary agreement or any terms of a finally accepted agreement for discipline by consent; and,
- (10)** willfully fail to comply with a final decision of the Resolution of Fee Disputes Board.

(b) Sanctions. Misconduct shall be grounds for one or more of the following sanctions:

- (1)** disbarment;
- (2)** suspension for a definite period from the office of attorney at law. The period of the suspension shall not exceed 3 years and shall be set by the Supreme Court;
- (3)** public reprimand;
- (4)** admonition, provided that an admonition may be used in subsequent proceedings as evidence of prior misconduct solely upon the issue of sanction to be imposed;
- (5)** restitution to persons financially injured, repayment of unearned or inequitable attorney's fees or costs advanced by the client, and reimbursement to the Lawyers' Fund for Client Protection;
- (6)** assessment of the costs of the proceedings, including the cost of hearings, investigations, prosecution, service of process and court reporter services;
- (7)** assessment of a fine;

(8) limitations on the nature and extent of the lawyer's future practice, 13

(9) any other sanction or requirement as the Supreme Court may determine is appropriate.

Amended by Order dated October 16, 2009, effective January 10, 2010.

Return to General Table of Contents

C. Sources of the Law

1. The Constitution

The Constitution of the United States and South Carolina are the fundamental law of our judicial system. All other laws, regardless of their source, must not conflict with the U.S. Constitution; and all state laws, regulations, and ordinances must not conflict with the S.C. Constitution.

All magistrates and municipal judges must strictly heed the provisions of the Constitutions. The two Constitutions may be found in Volume 21 of the Code of Laws.

2. The South Carolina Code of Laws

The S.C. Code of Laws is the basic authority for all state courts and is of particular importance to the magistrates' and municipal courts. The Code is the collection of the Acts (laws) passed by the S.C. General Assembly. It also includes the United States and South Carolina Constitutions, Rules of Court, and Administrative Rules and Regulations.

Each statute (law) has a particular title, chapter, and section number and is usually written by using numbers and letters separated by hyphens. For example, Title 1, Chapter 1, Section 10 is written "S.C. Code Ann. § 1-1-10." To find a particular statute, this series of numbers (a citation) is used.

Our Code is annotated. This means that below each statutory provision are brief summaries of certain court opinions which interpret and apply the statute to particular cases. These opinions are binding upon a magistrate or a municipal judge in a similar case. Since these case notes may report a case that has been overruled or distinguished by a more recent case or by an amendment to the statute it interprets, the magistrate or municipal judge must exercise caution in applying these cases. In addition, it should be recognized that a case note is intended to be used as a research tool and not as final authority. The case note should not be relied upon as a complete and accurate restatement of the case. Therefore, the case itself should be read in its entirety prior to application.

Magistrates and municipal judges should take notice of the fact that the Code is supplemented by pocket parts which bring the statutes up-to-date by including any changes in the law. Each time a statute is researched, the magistrate or municipal judge should check the pocket part to insure that the law has not been amended or repealed.

An "A to Z" general index to the contents of the entire Code is contained in two soft cover volumes. Every magistrate and municipal judge should develop a good working knowledge of this these index.

3. Case Law

The opinions of the Supreme Court of South Carolina constitute the case law of this state. These opinions are contained in the volumes of the South Carolina Reports, the Southeastern Reporter, and the Southeastern 2nd Reporter.

These decisions are precedent, that is, they are binding authority on any issue which has been previously decided by the S.C. Supreme Court. The most recent opinion controls; however, a magistrate or municipal judge may follow an earlier decision if the issues can be distinguished from the more recent opinion and the issue in the earlier case is identical to the case before the magistrate or municipal judge.

One problem in the use of case law is finding the law. As an example, the first case annotated under S.C. Code Ann. § 16-3-620 (Supp. 1999) "Assault and Battery with Intent to Kill" is State v. Sutton, 333 S.C. 192, 508 S.E. 2nd 611 2d 41 (S.C. App.1998). A magistrate or municipal court judge who desires to read the whole case would find the decision on page 192 of Volume 333 of the South Carolina Reports, or on page 41 of Volume 508 of the Southeastern Reporter, Second Series. In each case citation, the first number refers to the volume number, the letters refer to the title of the Reporter, the second number indicates the page number in the volume, and the number in parentheses is the year in which the case was decided.

4. Local Law

Local ordinances have the same authority as statewide statutes within the area to which they apply. Each magistrate and municipal judge should have a current copy of all ordinances of the area in which he/she presides. Local law, while indexed in the 1976 code, cannot be found there. Reference should be made from the index to the South Carolina Acts and Joint Resolutions.

5. Rules of Court

The S.C. Supreme Court has created various rules governing practice in all courts of the state. A good working knowledge of the rules of practice should be gained by each judge. These rules are located in Volume 22A of the Code.

6. Attorney General's Opinions

The Attorney General is the chief legal officer of the State and often gives legal opinions on many subjects to various government officials. The magistrate and municipal judge will find the Attorney General's Opinions particularly helpful in areas of the law in which no court decisions can be found.

7. Administrative Procedures

Article V, Section 4 of the S.C. Const. provides that the Chief Justice of the Supreme Court shall be the administrative head of the unified judicial system. This section further provides that the Chief Justice shall appoint an administrator of the courts and such assistants as he shall deem necessary to aid in the administration of the courts of the State. The cooperation of each magistrate and municipal court judge with the administrative procedures promulgated by the Chief Justice and the Office of Court

Administration is necessary in order to achieve an efficient and uniform court system.

8. Website

The South Carolina Judicial Department website may be accessed at the following address: <http://www.sccourts.org/>. On this website you can access opinions of the Supreme Court and the Court of Appeals, the Court Rules, and Advisory Opinions. You can also access the Magistrates and Municipal Judges Bench Book. To access the Bench Book, follow these directions: under the seal on the left side of the screen, click on Trial Courts, then Magistrates Courts or Municipal Courts, and then Bench Book. The South Carolina Code of Laws and legislative information may be found at <http://www.scstatehouse.net/>.

On Tuesday, January 7, 2014 9:01 AM, Parkin Hunter <phunter@scag.gov> wrote:
I received the letter.

T. Parkin Hunter
Assistant Attorney General
Office of the South Carolina Attorney General
(803)734-6151

From: Mare Baracco Deckard [mailto:maremailmmm@yahoo.com]
Sent: Monday, January 06, 2014 6:11 PM
To: Parkin Hunter
Subject: Letter

Hello - I meant to ask you to confirm you received the letter - thanks! Mare B D



ALAN WILSON
ATTORNEY GENERAL

January 13, 2014

Captain Tim and Mare Deckard
1006 Madrid Avenue
Port Royal SC 29935

Re: Beaufort County Matter

Dear Captain and Ms. Deckard:

The purpose of this letter is to follow-up your letter to The Honorable Alan Wilson dated December 26, 2013, and my telephone conversation with Ms. Deckard on January 8, 2014, with regard to the Beaufort County Sheriff's Office.

The Office of the Attorney General does not undertake investigations. Investigations are performed by local law enforcement or by the South Carolina Law Enforcement Division (SLED). The Attorney General has assigned this matter to me, and I wanted to let you know that the office has forwarded your letter to SLED for whatever action is appropriate.

I received your Withdrawal of Notice of Appeal in State of South Carolina vs. Mare Baracco by your email. The withdrawal of your appeal and the forwarding of your letter to SLED ends any role of this Office in this matter at this time.

Sincerely yours,

T. Parkin Hunter
Assistant Attorney General



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 19, 2013

Mare Baracco
1006 Madrid Ave
Port Royal SC 29935

Re: The State v. Mare Baracco
Appellate Case No. 2013-002410

Dear Mr. Baracco:

Since this a criminal appeal, no payment is required to file a notice of appeal. Therefore, we are returning your check of \$100 to you.

Very truly yours,


CLERK

cc: Joshua A. Gruber, Esquire
Salley W. Elliott, Esquire

HOWELL, GIBSON AND HUGHES, P.A.
ATTORNEYS AT LAW

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December 9, 2013

Ms. V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: The State of South Carolina vs. Mare Baracco
Civil Action No.: 2013-CP-07-00918
Our File No: 11369 MBL

Dear Ms. Allen:

Please find enclosed a copy of my Notice of Appearance on behalf of Beaufort County. I wanted to bring to your attention two related issues which I believe require the Court's attention. Initially, I believe that this case has been erroneously captioned "The State vs. Mare Baracco". This designation is, to my mind, inappropriate in as much as this is not a criminal case and The State is not a party. In fact, this case is an appeal to the magistrate's court of an administrative determination pursuant to Beaufort County Code of Ordinances 14-35, which I have attached for your review along with the order of the circuit court from which this appeal arises. I believe the proper party in this matter would either be Beaufort County or Beaufort County Animal Control as opposed to "the State." Moreover, as you can see the issue before the court is the classification of an animal owned by the Appellant as a "dangerous animal" pursuant to Beaufort Code of Ordinances Section 14-35, and does not involve any criminal penalty or sanction. Therefore, I would respectfully request that the Court reconsider its designation of this appeal as a Criminal Appeal and correct the caption in this matter to accurately reflect the proper nature of the case and appropriate parties in interest. If you have any questions, please do not hesitate to contact me at your convenience.

COPY

With kindest regards, I am

Yours truly,

HOWELL, GIBSON & HUGHES, P.A.

Mary Bass Lohr
MBL/ad
Enclosure

cc: Ms. Mare Baracco
Josh Gruber
Ms. Salley W. Elliott

C
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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
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V. CLAIRE ALLEN
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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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www.sccourts.org

June 18, 2014

Mare Baracco
1006 Madrid Ave
Port Royal SC 29935

Re: Mare Baracco v. State of SC
Appellate Case No. 2014-000636

Dear Ms. Baracco:

We are in receipt of your letter dated June 4, 2014. There has been some confusion as to whether a filing fee is due for this appeal. I am of the opinion no filing fee is due, as this matter arises from a criminal action in magistrate's court which dealt with the violation of a county ordinance as identified in Judge Dukes' order of October 2013. The State was the opposing party, which further indicates this matter was treated as criminal in nature. Therefore, even though you have been very willing to pay the \$100 filing fee, I do not believe it is due because of the nature of the underlying action.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Allison Collins Coppage, Esquire
Joshua A. Gruber, Esquire
Mary Bass Lohr, Esquire

This is an Official Notice

Section 14-35 of the Beaufort County Ordinance States:

"Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals.

The animal described below has hereby been declared dangerous. You are required by law to comply with the following requirements within seventy-two (72) hours of:

Date / Time July 9, 2012 / 2:30 PM
Species: Canine Breed: Rhodesian Ridge Back mix
Name: Bodi Age: 3yrs Gender: M
Description: Red w/ white chest
Owner / Address / Location of Animal: Mare Baracco
1006 Madrid Avenue, Port Royal SC 29935

Requirements:

(1) The dangerous animal shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel appropriate to the size of the animal. All pens or structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure floor (such as concrete) attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal.

(2) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) The dangerous animal must not go outside its kennel or pen unless the animal is securely leashed and muzzled with a leash no longer than six feet in length and under the actual physical control of a person 18 years of age or older. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(4) The person owning, keeping, sheltering or harboring the animal must register the animal with the Beaufort County Animal Shelter within the required seventy-two hour timeframe and provide proof of liability insurance of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. The Beaufort County Animal Shelter will issue Dangerous Animal tags which must be displayed on the animal's collar at all times. The dangerous animal must also display its current rabies tag on its collar at all times. The person owning, keeping, sheltering or harboring the dangerous animal shall have an identification microchip implant placed under the animal's skin by a licensed veterinarian within the required seventy-two hour timeframe.

Signing under duress; app

Receipt left with: [Signature] Date 7/9/12

Deputy: LCPB Chaplin Date 7-9-12

Penalties:

Failure to comply with these requirements within seventy-two (72) hours of the date and time listed on this notice will result in the responsible party being fined in the amount up to \$1092.50. The dangerous animal will be removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-35 of the Beaufort County Ordinance pending the decision of the Court.

Reasons for declaration of dangerousness: Reference case # 12-01444 (PRPD) and 20120709-508 (BSC) involving an animal attack which the victim's K9 died.

THE STATE OF SOUTH CAROLINA
SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

MARVIN H. DUKES, III, MASTER-IN-EQUITY,
BEAUFORT COUNTY
TRIAL COURT CASE NO.: 2013CP0700918

APPELLATE CASE NO.: 2014-000636

RECEIVED

JUL 22 2014

SC Court of Appeals

THE STATE,

Respondent,

v.

MARE BARACCO,

Appellant.

PROOF OF SERVICE

I certify that I have served copies of the Appellant's Memorandum in Opposition to Respondent's Joint Motion to Amend the Caption so as to Designate the Proper Parties on the Respondent by depositing a copy of it in the United States Mail, postage prepaid, on July 21, 2014, addressed to their attorneys of record, as follows. I have also e-mailed a copy to Parkin Hunter and hand delivered a copy to Mary Bass Lohr July 21, 2014.

Parkin Hunter
SC Attorney Generals Office, 1000 Assembly Street, Room 519
Columbia SC 29201
(803) 734-3970
Mary Bass Lohr
Post Office Box 40
Beaufort, South Carolina 29901-0040
(843) 522-2400
Attorneys for Respondent.



Mare Baracco, Pro Se
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062

Date July 21, 2014

Mare Baracco
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062
maremailmmm@yahoo.com

July 20, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia South Carolina 29211

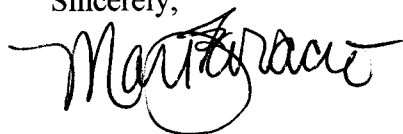
RE The State vs Mare Baracco
Appellate Case No.: 2014-000636

Dear Ms. Kitchings:

Please accept the enclosed Appellant's Memorandum in Opposition to Respondent's Joint Motion to Amend the Caption so as to Designate the Proper Parties.

I have attached the Proof Of Service to the attorneys for the Respondent.

Sincerely,

A handwritten signature in black ink that reads "Mare Baracco". The signature is written in a cursive style with a large, stylized initial "M".

Mare Baracco, *Pro Se*

RECEIVED

JUL 22 2014

SC Court of Appeals