

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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JUN 08 2015

APPEAL FROM YORK COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Stonewall Jackson Kimball, Special Circuit Court Judge

Case No. 2014-CP-46-1425
Appellate Case No. 2014-002578

Ryan Powell, Appellant,

v.

Amy Boheler d/b/a York County Auditor,
Beth Latham d/b/a York County Treasurer, and
Robert Kiser d/b/a York County Delinquent Tax Collector,
each in their individual and official capacities, Respondents.

MOTIONS TO CERTIFY CASE
AND TO EXPEDITE APPEAL

Comes now, Appellant Ryan Powell ("Ryan" hereinafter), who brings this motion to have his case certified to be heard by the Supreme Court of South Carolina pursuant to Rule 204 (b) SCACR, and a motion to expedite the hearing of Ryan's appeal pursuant to Rule 266 SCACR and this Court's inherent equitable powers. AFFIDAVIT OF RYAN POWELL is attached and incorporated herein by Reference. Ryan shows the following in support of these motions:

I. MOTION TO CERTIFY CASE TO BE HEARD BY THIS COURT

1. This appeal is ready for hearing. The Record on Appeal and the Final Briefs of the parties have been filed into the case. The last brief was filed and served on April 27, 2015.
2. Ryan filed his Notice of Appeal into this Court because Ryan believes this is the only appellate court with the jurisdiction necessary to decide an issue raised in his appeal (see #4 m below) and for other reasons as stated in #4 below. See copy of Ryan's Notice of Appeal attached as exhibit A.
3. Without this Court entering an order to transfer Ryan's case to the Court of Appeals, as required by Rule 204 (a) SCACR, it appears that Ryan's case was transferred. Since no notice of the transfer was ever given to Ryan, he was unaware that it had been transferred and has been directing, titling, and filing all his papers into this Court.
4. Ryan's appeal raises many issues of **significant public interest and legal principles of major importance** which are also issues of **first impression** and involve **important Constitutional considerations**. The following is a list of the questions that will need to be answered in Ryan's appeal:
 - a) Do the people have a right to own land within the boundaries of South Carolina or does this State own all land within those boundaries?
 - b) Does this State have the authority to non-judicially take property in the name of, and for the alleged debt of, a person who is not the owner of the property being taken?
 - c) Do the people have a right to *due process of law* as declared in the State and federal Constitutions before their property is non-judicially taken from them?

- d) Does this State have the authority to force a man into commerce without his consent to pay someone else's contractual obligation?
- e) Does this State have the authority to deny a person his right to seek damages for wrongs done to him in a judicial court and instead force him into an administrative, executive branch "court" that does not even have the authority to award damages?
- f) In this State are taxes and assessments on *real property* involuntary contributions or contractual obligations? If the former, does this State have the authority to violate Article 1, section 10 of the Constitution of the United States by demanding payment of such involuntary contributions in a currency other than gold and silver Coin? If the latter, can a person's property be taken if they have not entered into a contract with this State agreeing to pay such taxes?
- g) Can agents of a governmental entity of this State be sued?
- h) Do agents of a governmental entity of this State, when sued in their individual capacity for actions alleged to have been taken outside the scope of their official duties, enjoy absolute, unqualified sovereign immunity?
- i) Do the people have a right to not have their private property taken for private use without first having to *give their consent* or taken for public use without first being given *just compensation* as declared in the State and federal Constitutions?
- j) Is a valid and binding contract created when a private person accepts a public officer's oath of office (i.e., their offer to contract)?

- k) Does this State have the authority to interfere in the obligation of contracts between private persons as prohibited by the State and federal Constitutions?
- l) Do the people have a right to utilize assistance of counsel to prosecute their common law claims?
- m) Does the Supreme Court of South Carolina have the authority to issue a rule that requires the people to ask a judge for permission to exercise one of their natural rights?

II. MOTION TO EXPEDITE APPEAL

Each of the above paragraphs is incorporated into this motion by reference.

- 5. On May 6, 2015 Ryan served and filed a Petition for Writ of Mandamus requesting **this Court** grant the Petition in order to prevent Respondents from continuing their criminal actions against Ryan or, in the alternative, expedite Ryan's appeal so that it can be decided before Respondents make another attempt to steal Ryan's property pretending that it belongs to someone else sometime during September or October.
- 6. On May 14, 2015, just eight days later, without giving Respondents an opportunity to make a return, the Court of Appeals entered an order denying all relief requested in Ryan's Petition. See copy of that order attached as exhibit B and incorporated herein by reference.
- 7. Ryan believes the denial of his Petition was based entirely on want of jurisdiction of the Court of Appeals to issue a writ of mandamus because Ryan brought his Petition to **this Court** under Art. V, § 5 of the Constitution which gives **this Court** and only this Court jurisdiction to issue extraordinary writs. For the Appeals Court to have considered the merits of Ryan's Petition, it would have had to give Respondents time to make a return (see footnote in exhibit B).

8. If Ryan's appeal is not determined until after Respondent Kiser sells Ryan's property, the debt that Respondents have assessed against the previous owner of Ryan's property (which will increase tremendously on and after the date of its sale) will become too onerous for Ryan to pay and Ryan will be irreparably harmed by losing his property for a debt he had no notice that he owed. The only way for Ryan to get notice that he owes a debt is by a final decision on Ryan's appeal.
9. The chief Justice of this Court has stated that an appeal (i.e., an 'adequate' remedy at law) must be *inter alia* "**prompt**". See her dissenting opinion in KEY CORPORATE v. County of Beaufort, 644 SE 2d 675 (SC Sup Ct 2007) in which she stated:

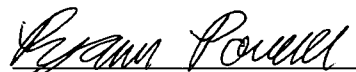
"An 'adequate' remedy at law is one which provides the plaintiff with the full end and justice of the case. It is not enough that there is some remedy at law, but that remedy must be as practical, efficient, and prompt as the remedy in equity."
10. The following common law maxim applies to this case - **Justice delayed is justice denied.**

III. CONCLUSION

For the reasons stated herein, this Court must certify this appeal to be heard by this Court and expedite the hearing of this appeal so that it can be decided before Respondents sell Ryan's property sometime during September or October of this year.

Respectfully Submitted,

JUNE ~~1~~ 1, 2015


Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina

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AFFIDAVIT OF RYAN POWELL

Personally appeared before me the undersigned who, being first duly sworn,
deposes and says:

1. I am over eighteen (18) years of age and of sound mind.
2. I have alleged the grounds set forth in the Motions to Certify Case and to Expedite Appeal and to the best of my knowledge, the allegations are true and grounds exist for this Court to grant both those motions.

FURTHER AFFIANT SAYETH NOT.

This the 1st day of June, 2015

Ryan Powell
Ryan Powell

Sworn to and subscribed before me,

this 1 day of June, 2015

Sherina Best
Notary Public for State of North Carolina

My Commission Expires: 9-10-2019

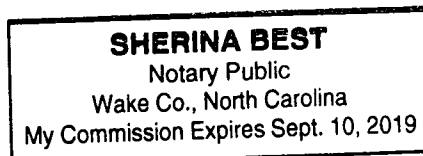


Exhibit A

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Stonewall Jackson Kimball, Special Circuit Court Judge

Case No. 2014-CP-46-1425

Ryan Powell, a private person Appellant,

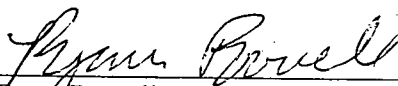
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each in their individual and official capacities Respondents.

Notice of Appeal

Ryan Powell appeals the order of the Stonewall Jackson Kimball entered on June 25, 2014 and the order denying a motion to alter or amend the June 25, 2014 order entered on October 23, 2014. Appellant received written notice of entry of the October 23rd order on October 25, 2014.

November 21, 2014


Ryan Powell
c/o 25056 Timberlake Drive
Fort Mill, South Carolina
(919) 400-6339
Appellant

Attorney for Respondents
W, Keith Martens
HAMILTON, MARTENS, BALLOU & CARROLL, LLC
P.O. Box 10940
Rock Hill, SC 29731
(803) 329-7672

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DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

Exhibit B

The South Carolina Court of Appeals

Ryan Powell, Appellant,

v.

Amy Boheler d/b/a York County Auditor, Beth Latham d/b/a York County Treasurer, and Robert Kiser d/b/a York County Delinquent Tax Collector, each in their individual and official capacities, Respondents.

Appellate Case No. 2014-002578

ORDER

After careful consideration, the petition for writ of mandamus and request to expedite this appeal are denied.¹

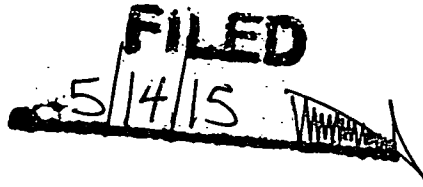

FOR THE COURT

Columbia, South Carolina

cc:

Ryan Powell

Walter Keith Martens, Esquire



¹ Although the petition contains the language "To the Justices of the Supreme Court of South Carolina," we are construing this petition as one directed to the South Carolina Court of Appeals because Appellant's appeal is currently pending before the Court of Appeals, the petition references the Court of Appeals Appellate Case Number, and the petition requests the Court of Appeals to expedite this appeal.

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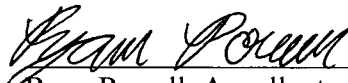
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Certificate of Service

I certify that I have served on all Respondents the Motions to certify case and to expedite appeal by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown addressed to W, Keith Martens of HAMILTON, MARTENS, BALLOU & CARROLL, LLC, P.O. Box 10940, Rock Hill, SC 29731

June ~~2~~ 3, 2015


Ryan Powell, Appellant
c/o 25056 Timberlake Drive
Fort Mill, South Carolina
(919) 400-6339