

RECEIVED

AUG 20 2015

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2013-001273

South Carolina Public Interest Foundation and Waring S. Howe, Jr., individually, and on behalf of all others similarly situated, Petitioners,

v.

James H. "Jay" Lucas, in his official capacity as Speaker of the South Carolina House of Representatives, Hugh K. Leatherman, in his official capacity as President of the South Carolina Senate, Representative Peter M. McCoy, Jr., Senator George E. "Chip" Campsen, and the State of South Carolina, Respondents.

PETITION TO STAY

James G. Carpenter, S.C. Bar No. 1136
819 E. North Street
Greenville, South Carolina 29601
(864) 235-1269
Attorney for Petitioners

Other Counsel of Record:

C. Mitchell Brown, S.C. Bar No. 012872
Michael J. Anzelmo, S.C. Bar No. 72933
P.O. Box 11070
Columbia, SC 29211
(803) 255-9595; -9312
Attorneys for Respondent Lucas

Robert E. Tyson, Jr., S.C. Bar No. 10820
P.O. Box 11449
Columbia, SC 29211
(803) 231-7838
Attorney for Respondent McCoy

John P. Hazzard V, S.C. Bar No. 9579
Kenneth M. Moffett, and
Edward Houseal Bender
P.O. Box 142
Columbia, SC 29202
(803) 212-6300; -6610
Attorneys for Respondents Leatherman and Campsen

J. Emory Smith, Jr., S.C. Bar No. 5262
PO Box 11549
Columbia, SC 29211
(803) 734-3680
Attorney for Respondent State of S.C.

Petitioners filed suit to challenge the constitutionality of Act 130 of 2007, an act most of the Respondents admitted was unconstitutional. The Circuit Court ruled against Petitioners on standing. Petitioners appealed to the Court of Appeals, and after oral argument, Respondents in the General Assembly repealed Act 130 of 2007. Respondents moved to dismiss the appeal on the grounds of mootness. Petitioners consented to the dismissal, and moved for attorneys' fees under South Carolina Code Ann. § 15-77-300, contending they were prevailing parties. The Court of Appeals ruled that the Petitioners were not prevailing parties.

Petitioners petitioned the Court of Appeals for rehearing, citing *Sloan v. Friends of the Hunley*, 393 S.C. 152, 711, S.E.2d 895 (2011), and *Sloan v. South Carolina Department of Revenue*, 409 S.C. 551, 762 S.E.2d 687 (2014), as to the definition of prevailing parties. The Court of Appeals denied the Petition for Rehearing July 17, 2015. Petitioners received written notice of the denial on July 20, 2015.

Thirty days later, on August 19, 2015, Petitioners mailed a Petition for a Writ of Certiorari to the Supreme Court with a Certificate of Service by mail to the Court of Appeals and to counsel for all Respondents. Petitioners also served all counsel for the Respondents by email.

On August 20, 2015, the undersigned counsel received a copy of the Remittitur of this case to the Clerk of the Circuit Court for Charleston County.

The previous week, August 10-15, I, the undersigned counsel, was in Richland County Circuit Court attending at the criminal trial of the man who shot my niece, Martha Childress. The trial went all week and continued on into this past Monday evening, August 17, when the jury rendered a verdict. For nearly 2 years, I have been advising the family

concerning this matter, and acting as the spokesman for the family, and handling inquiries and requests from various members of the news media.

I now understand that the Petition for Writ of Certiorari needed to have been filed by close of business on August 17, while I was still attending the criminal trial.

Petitioners South Carolina Public Interest Foundation and Waring S. Howe, Jr., have filed a petition in the Court of Appeals, pursuant to SCACR 221 and 240 to recall the Remittitur in this action. *While that Petition is under consideration by the Court of Appeals, Petitioners request that action be stayed on the Petition for Writ of Certiorari.*

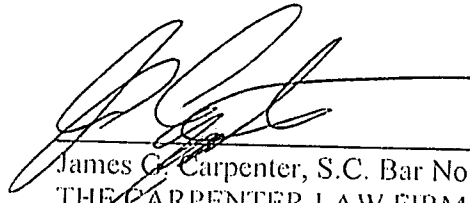
In the Petition for Writ of Certiorari, Petitioners raised the question of whether they were prevailing parties. Petitioners suggested in their Petition for Writ of Certiorari that the Court of Appeals' ruling conflicted with the two rulings from the South Carolina Supreme Court, cited above, concerning the definition of a "prevailing party," and that this alleged conflict provided a sound basis for granting the Petition for Writ of Certiorari under SCACR 242(b)(3). Finally, Petitioners suggested that at a minimum, the issue seems to meet the standard of SCACR 242(b)(1), a "novel question of law" and provides an additional basis for the granting of the Petition for Writ of Certiorari.

Petitioners respectfully request the opportunity to present this issue to the Supreme Court.

CONCLUSION

Wherefore, Petitioners pray this Court to Stay its action on the Petition for Writ of Certiorari until the Court of Appeals rules on Petitioners' Petition to recall the Remittitur.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Carpenter', is written over a horizontal line. The signature is fluid and cursive.

James G. Carpenter, S.C. Bar No. 1136
THE CARPENTER LAW FIRM, PC
819 E. North Street
Greenville, South Carolina 29601
(864) 235-1269
Attorneys for Petitioners

August 20, 2015

Certificate of Service

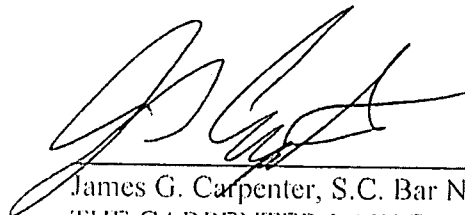
The undersigned attorney hereby certifies that he has served a copy of the foregoing Petition to Stay on counsel for Respondents by email and US Mail, postage prepaid, on Thursday, August 20, 2015 addressed as follows:

C. Mitchell Brown
Michael J. Anzelmo
P.O. Box 11070
Columbia, SC 29211

Robert E. Tyson, Jr.
PO Box 11449
Columbia, SC 29211

J. Emory Smith, Jr.
PO Box 11549
Columbia, SC 29211

Edward Bender
Ken Moffitt
P.O. Box 142
Columbia, SC 29202



James G. Carpenter, S.C. Bar No. 1136
THE CARPENTER LAW FIRM, P.C.
819 E. North Street
Greenville, South Carolina 29601
Tel. (864) 235-1269
Fax (864) 331-3083
Attorneys for Petitioners

Shearouse, Daniel

From: James Carpenter <james.carpenter@carpenterlawfirm.net>
Sent: Thursday, August 20, 2015 5:00 PM
To: Kitchings, Jenny; 'Mitch Brown'; michael.anzelmo@nelsonmullins.com; johnhazard@scsenate.gov; kenmoffitt@scsenate.gov; edwardbender@scsenate.gov; rtyson@sowellgray.com; esmith@scag.gov; Shearouse, Daniel
Cc: lisa.whitehurst@nelsonmullins.com; laurie.jennings@nelsonmullins.com; jphazardv@yahoo.com; kenneth.moffitt@yahoo.com; dcarmichael@sowellgray.com
Subject: RE: 2013-001273 SC Public Interest Foundation v. Lucas
Attachments: Petition to Stay.pdf

Mr. Shearouse and Counsel,

I attach a Petition to Stay the Court's action on the Petition for Writ of Certiorari that we sent by mail, pending the Court of Appeals' decision on our Petition to Recall the Remittitur.

We are also serving this by mail.

Respectfully submitted,

Jim
James G. Carpenter
The Carpenter Law Firm, PC
819 E. North St.
Greenville, SC 29601
(864) 235-1269 phone
(864) 331-3083 fax
www.carpenterlawfirm.net



WHEN IT'S WORTH FIGHTING FOR!

From: James Carpenter [<mailto:james.carpenter@carpenterlawfirm.net>]
Sent: Thursday, August 20, 2015 4:55 PM
To: 'Kitchings, Jenny' <jkitchings@sccourts.org>; 'Mitch Brown (mitch.brown@nelsonmullins.com)' <mitch.brown@nelsonmullins.com>; 'michael.anzelmo@nelsonmullins.com' <michael.anzelmo@nelsonmullins.com>; 'johnhazard@scsenate.gov' <johnhazard@scsenate.gov>; 'kenmoffitt@scsenate.gov' <kenmoffitt@scsenate.gov>; 'edwardbender@scsenate.gov' <edwardbender@scsenate.gov>; 'rtyson@sowellgray.com' <rtyson@sowellgray.com>; 'esmith@scag.gov' <esmith@scag.gov>
Cc: 'lisa.whitehurst@nelsonmullins.com' <lisa.whitehurst@nelsonmullins.com>; 'laurie.jennings@nelsonmullins.com' <laurie.jennings@nelsonmullins.com>; 'jphazardv@yahoo.com' <jphazardv@yahoo.com>; 'kenneth.moffitt@yahoo.com' <kenneth.moffitt@yahoo.com>; 'dcarmichael@sowellgray.com' <dcarmichael@sowellgray.com>
Subject: RE: 2013-001273 SC Public Interest Foundation v. Lucas

Ms. Kitchings and counsel,

I attach a Petition to Recall the Remittitur, which I am serving by mail today.

Respectfully submitted,

Jim

James G. Carpenter
The Carpenter Law Firm, PC
819 E. North St.
Greenville, SC 29601
(864) 235-1269 phone
(864) 331-3083 fax
www.carpenterlawfirm.net



WHEN IT'S WORTH FIGHTING FOR!