

The South Carolina Court of Appeals

Ex Parte: Ralph DeMarco, Appellant,

In re: Audrey S. Dixon, William H. Stokes, III and
Starling Odell Stokes, Sr., Respondents,

v.

Kershaw County, Respondent.

Appellate Case No. 2009-136146

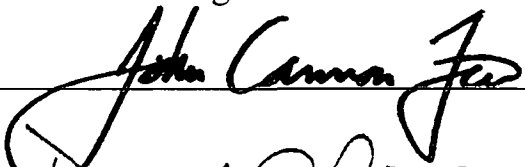
ORDER

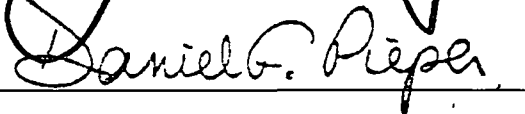
On May 11, 2012, we filed an order denying Appellant's petition for rehearing in this case based upon the assumption that the petition for rehearing was untimely. However, it subsequently came to our attention that the petition was faxed in a timely manner to the Clerk of Court's office on May 3, 2012. On May 31, 2012, our previous order denying the petition for rehearing was vacated because Appellant's petition for rehearing was timely filed.

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing.

Specifically, the Court did not overlook or misread the trial court's ruling on Appellant's motion to intervene. The Court correctly found the issue of Appellant's motion to intervene is unpreserved for review. At the hearing on the motion to intervene, the parties agreed that the hearing would be limited to whether Appellant was an abutting landowner. Any discussion or ruling by the trial court concerning Appellant's interest in the property was relevant to its decision to close Bill Stokes Road, not Appellant's motion to intervene. Further, Appellant did not object when the trial court explained that it would not rule on the motion to intervene, but would allow Appellant to participate in the trial.

Additionally, at the beginning of the hearing on the motion to intervene, Appellant explained to the trial court that "the reason I want to be in front of the court is because I want to be allowed to put my client up and question him as to why he thinks it's in his best interest for this road to be closed. If I need to be a party to do that, then I need to intervene. If I can just put him up as an interested party in the case . . . then there's really no argument here. So I guess the question before the court is could I call my client as an interested citizen in the case, in the defendant's case." The trial court complied with Appellant's request and allowed Appellant to testify as to why he thought it was in his best interest for the road to be closed. Based on the foregoing, the petition for rehearing is denied.


C.J. Few


J. Pieper


J. Geathers

Columbia, South Carolina

cc:

Jonathan M. Robinson
John K. DuBose, III
Patrick D. Partin
Vincent Austin Sheheen

FILED

24 September 2012