REPLY TO PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Circuit Court Judge

Opinion No. 2011-UP-565 (S.C. Ct. App. filed Dec. 20, 2011)

Charles Griggs — Appellant

v.

Ashleytowne Village Horizontal Property Regime, Inc. — Respondent.

REPLY TO PETITION FOR A WRIT OF CERTIORARI

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Petitioner

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RESPONSE TO RESPONDENT'S STATEMENT OF CASE

David J. Parrish, Esquire of Nexsen-Pruit law firm along with his unlicensed co-counsel/capper Jorgia Hazelwood conspired to commit foreclosure fraud. The falsification of bills and fees sent through the US mail from an HPR with the capper filing a lien so the Mortgage companies will have a legal justification not to comply with federal laws requiring loan modification for owners in default. The Respondent has not had their books audited for over a decade. David J. Parrish. Esquire with the support of his capper encouraged his client not to audit the Respondent's financial records even though Mr. Parrish has acknowledged that massive misappropriate has occurred dealing with his client as an organization without referring the matter to law enforcement.

Fines and fees were issued by the Respondent against the Appellant without due process of law and certain owners were expected to pay more without legal justification so the friends of an immediate family member of a sitting member of the Charleston County judiciary could pay less. . The Appellant was deprived all use of his property along with all rights appurtenant to his title of property (to including voting rights in the Respondent) without due process of law. David J. Parrish, Esquire with the assistance of his capper advised his client that it was legal to deprive the Appellant of his Civil Rights and Property Rights. The idea being that out of state co-owners in the Respondent should pay more to support the freeloading Board of Directors and their friends that are also full time resident co-owners. A freeloading member of the Board of Directors (i.e. a person getting illegal kickbacks from the Respondent) for the Respondent is an immediate family member of a sitting member of the Charleston judiciary.

David J. Parrish, Esquire of the Nexsen-Pruit law firm is involved either directly or indirectly in foreclosure fraud in Charleston County that illegally benefits an immediate family member of a sitting member of the Charleston judiciary. The Appellant has/had the ability to prove it in Small Claims Court using evidence. The Counsel of the Respondent, Derek F. Dean and Magistrate Henry W. Guerard, Esquire were well aware of that fact and the Respondent came to Magistrate court hearings with reams of corporation documents to prove his case. As Officer's of the Court, the Counsel of the Respondent and the Magistrate conspired to deprive the Appellant of the ability to

submit evidence and to his right to lawful judicial review (i.e. 18 USC 214 & 242 violations). Derek F. Dean, Esquire and Magistrate Henry W. Guerard, Esquire refused to look at a single document of evidence from the Appellant.

David J. Parrish, Esquire no longer represents the Respondent in these matters, but he has passed the baton of fraud involving his client and his capper to another licensed attorney in Derek F. Dean, Esquire. Mr. Dean knew that the Appellant had the knowledge and ability even as a self represented party to expose the fraud scam so he participated in a scheme to garnish the profits from the sale of the Appellant's property without due process of law so that he could defend his client if they were to fraudulently steal money from the Appellant (i.e. a type of barratry by inciting illegal conduct in order to obtain employment for himself as a lawyer). The Counsel of the Respondent could have easily served a lawsuit for years under the SCRMC through the US Mail against the Appellant, but the Respondent knew the Appellant would contest it. As a matter of fact, Derek F. Dean, Esquire on behalf of his client never even sent a simple debt collection letter to the Appellant under federal debt collection act because presumably he did not want to have actual knowledge in writing that the Appellant contested the alleged fees.

Verbally, the Appellant did tell the Counsel of the Respondent he wanted and demanded a day in court from the Respondent. Derek F. Dean, Esquire made it clear that he would just take whatever amount he wanted from the Appellant through foreclosure and the Appellant was going to continue to be deprived of his property rights (including the use of his property) until the Appellant gave him the full amount he was demanding from him (i.e. extortion). Mr. Dean, his unlicensed co-counsel Jorgia Hazelwood, and the Respondent never had any intent to allow the Appellant to use his property or exercise his property rights no matter how much protection money the Appellant gave them as part of the extortion scam involving foreclosure fraud. The criminal scheme was to take away the Appellant's property along with his property rights to turn the property along with the property rights over to the corporation (i.e. Asportation).

Ever decision and action by the trial court Magistrate Henry W. Guerard, Esquire with the assistance of Derek F. Dean, Esquire was to make sure the Appellant had the appearance of due

process while making sure the Appellant's Civil Rights were completely violated by the two Officers of the Court. Magistrate Henry W. Guerard, Esquire had actual knowledge the Appellant had in court documents to prove his case, but refused to look at any evidence whatsoever from the Appellant and refused to let the Appellant subpoena witnesses. The Counsel of the Respondent was able to get a dismissal based on absolutely no evidence and he did not even have to prove the money stolen from the Appellant was legally justified by him and his client. Magistrate Henry W. Guerard wanted to make sure he did not have actual knowledge of any unethical or illegal conduct by David J. Parrish, Esquire or allow the Appellant to subpoena anyone that would give him actual knowledge of unethical conduct on the part of another lawyer.

Derek F. Dean as a witness in the trial court falsely testified that he had no knowledge that Magistrate Guerard got a copy of the appeal when he in fact he took part in an illegal hearing with the Magistrate to intimidate the Appellant into not appealing the case. Judge Nicholson testified he had actual knowledge of the hearing were the Magistrate and Derek F. Dean conspired to infringe upon the Appellant's Civil Rights relating to judicial review (R. p. 32 L.10-14). Appellant tried to explain the "perversions of law" to Judge Nicholson occurring in the inferior court within his jurisdiction (i.e. the 9th Circuit), but the Judge refused to allow the Appellant to present his cause. Judge Nicholson allowed the Counsel of the Respondent to testify about alleged facts instead of using actual evidence from the trial court. Judge Nicholson dismissed the appeal based on Derek F. Dean, Esquire intentional false testimony as a witness in the appeal hearing.

FACTS

Sometimes it is just as important to state what is not being refuted repeatedly by the Respondent. "Unrefuted arguments are deemed admitted." State v. Peterson, 222 Wis.2d 449, 459, 588 N.W.2d 84 (Ct.App.1998). The Counsel of the Respondent has focused his attention on conspiring to violate the Appellant's Civil Rights because he knows he cannot refute the issues at hand in the case.

1. This case involved in part the garnishment of the profit from the sale of personal property without due process of law or court order. The Magistrate never made the Respondent prove in court the amount taken from the Appellant by the Respondent was even justified at all.

2. Mr. Dean has never refuted the Appellant was deprived the physical use of his property and all rights appurtenant to the Appellant's chattel were transferred to the Respondent.
3. Counsel of the Respondent has never refuted that his client along with his capper/unlicensed attorney Jorgia Hazelwood deprived the Appellant of all his property rights and civil rights.
4. Counsel of the Respondent has never refuted the Magistrate deprived the Appellant's of the ability to submit evidence and subpoena anyone in the trial court.
5. Counsel of the Respondent never refuted that he concurred and participated in depriving the Appellant of his right to use subpoenas and submit evidence in the civil magistrate trial court.
6. Counsel of the Respondent has never refuted that attorney David J. Parrish, Esquire with his capper/unlicensed attorney Jorgia Hazelwood was involved in intentionally filing fraudulent documents with the Charleston RMC that were used to steal money from the Appellant.
7. Counsel of the Respondent has not denied nor refuted that he is an accessory in a conspiracy to deprive the Appellant of his Civil Rights to include his right to judicial review in violation of the state and federal laws.
8. Counsel of the Respondent has not denied that he intentionally misfiled a S.C. Frivolous Civil Proceeding Sanctions Act as a motion and a counterclaim to deprive the Appellant of his Civil Rights (i.e. judicial review).
9. Counsel of the Respondent has never refuted that a Board member that is an immediate family member of a sitting member of the Charleston judiciary was in receipt of kickbacks that financial harmed the Appellant. The Appellant was expected to pay more to the HPR in order to support freeloading Board members that wanted to pay less than what was legal.
10. Counsel of the Respondent has never refuted that he lied to Judge Nicholson when testifying as a witness rather than acting as an advocate. Derek F. Dean testified he had no knowledge of Magistrate Guerard getting the Circuit Appellate Court Appeal from the Appellant when in fact he was present in a hearing before Judge Nicholson's hearing where Magistrate Guerard discussed the appeal he got from the Appellant in the mail in great detail.

11. Counsel of the Respondent has never refuted that he conspired with the Magistrate to try to intimidate the Appellant into dropping his appeals in numerous hearings throughout the appeal process as part of a Civil Rights violation (i.e. 18 USC 241 & 242)
12. The Counsel of the Respondent has never addressed any issue concerning a jurisdictional timeline. In other words, the Counsel of the Respondent has never stated when he thinks the Magistrate Guerard lost jurisdiction as the trial court or even ruled on his counterclaim.

APPELLANT'S REPLY TO RESPONDENT'S ARGUMENTS ON APPEAL

I. The Respondent contends the S.C. Court of Appeals erred in affirming the inferior courts actions without addressing the S.C. Court of Appeals order.

The purpose of the petition for Writ of Certiorari is to look at the actions of the S.C. Court of Appeals and not to repeat the fraudulent actions of the Charleston judiciary. All the Respondent has to do is to specifically state how the actions of the S.C. Court of Appeals were correct.

The original order of the S.C. Court of Appeals states that the appeal was not timely from the Judgment. *However, Judge Nicholson had no evidence of an actual judgment.* The Counsel of the Respondent has not specifically stated the Appellant was present for the announcement of the final judgment in court. All the Counsel of the Respondent has to do was state as a fact rather than quoting the law that: The Appellant was present in court for the announcement of the Final Judgment. *Derek F. Dean, Esquire cannot ethically make that statement.* The Appellant was in court for the announcement of an interlocutory dismissal order where it was made clear that the final judgment would be rendered when the Magistrate heard the counterclaim from the Respondent. A S.C. Frivolous Civil Proceeding Sanctions Act action was filed by Counsel of the Respondent as a Motion and a counterclaim to prevent judicial review. The issue really is did the Appellant have appropriate notice or notification that the dismissal on May 6th, 2009 was the final judgment or did two officer's of the court conspire to deprive the Appellant of his Civil Rights relating to judicial review by communicating that the final judgment would be made when the Magistrate ruled on the counterclaim at a later date only to back date the judgment when the Appellant lost the ability to appeal the case because 30 days had expired from an interlocutory order.

Why was the Respondent's counterclaim in small claims case with no evidence or witnesses for either party delayed for over 30 days after the alleged final judgment? Magistrate Henry W. Guerard, Esquire and Derek F. Dean, Esquire decided to conspire to violate the Appellant Civil Rights under Color of Law (18 USC 241 & 242) relating to judicial review. The counterclaim magically became a motion and the interlocutory dismissal order magically became a final judgment after the fact when the Appellant lost the ability to have judicial review.

The problem with timeline as put forth by the Respondent is it is an admission by Derek F. Dean, Esquire that he has actual knowledge Magistrate Guerard, Esquire has exceeded his jurisdiction throughout the appeal process. The Counsel of the Respondent factually states "There was never a judgment" (R. p. 41 L.18) in this case. The Record on Appeal and the facts of the case show no SCRCP Form 4 or SCCA Form 704 for Judgments that was recorded in the case management system by the trial court magistrate. Judge Nicholson repeatedly fraudulently stated the Appellant missed a deadline concerning the 30 days after the judgment without evidence from trial court Magistrate Guerard, Esquire that the case has a final judgment to include an award on the counterclaim.

If necessary, the Appellant is more the willing to pay for the May 6th, 2009 hearing to be transcribed so that the S.C. Supreme Court will be able to read for themselves that they are hearing a appeal because Derek F. Dean intentionally lied to Judges in order to help his unlicensed co-counsel/capper incite litigation within his own client for their mutual financial gain.

II. The Respondent alleges without supporting facts that the Appellant issues do not warrant the granting of a Writ of Certiorari.

1. The Respondent alleges that it has been conclusively decided the Appeal was untimely, but provides no proof that the case had a "final judgment".

An interlocutory dismissal order was made in the presence of the Appellant where the Appellant was told he would have to come back at a later date for the counterclaim where a judgment would be announced in the case. According to the Respondents interpretation of the law, the dismissal is a final judgment and the counterclaim is yet another final judgment in the case. *Jurisdictional timeline is finite in order to have appropriate judicial review.* Derek F. Dean, Esquire and Magistrate Henry

W. Guerard, Esquire conspired to violate the Appellant's Civil Rights relating to judicial review. In order for the court to rule the appeal was untimely, it needs evidence from the trial court Magistrate of a "Final Judgment".

The Counsel of the Respondent, Derek F. Dean has lied about this fact and every court has repeated the lie as fact which the Record of Appeal does not support. No copy of a SCRP Form 4 from the trial court Magistrate or SCCA Form 704 to record the Judgment in Magistrate court so how can any court determine the appeal was untimely unless they are just using the intentional false testimony being made by Derek F. Dean, Esquire. A very basic citation is that "Procedural due process requires notice, the opportunity to be heard in a meaningful way, and judicial review." Grannis v. Ordean, 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914); Cameron & Barkley Co. v. South Carolina Procurement Review Panel, 317 S.C. 437, 454 S.E.2d 892 (1995); Universal Benefits, Inc. v. McKinney, 349 S.C. 179, 561 S.E.2d 659 (Ct. App. 2002). The Appellant was never given proper notice for judicial review by the unethical and criminal design of two lawyers.

Derek F. Dean, Equire and Magistrate Henry W. Guerard in violation of 18 USC 241 & 242 deprived the Appellant of his Civil Rights under the Color of Law in the trial court and his Civil Rights relating to judicial review by making an interlocutory dismissal order a final judgment after the 30 day limit had expired for appeal. "The adjudicative power of the Court carries with it the inherent power to control the order of its business to safeguard the rights of litigants." *Williams v. Bordon's Inc.*, 274 S.C. 275, 262 S.E.2d 881 (1980). The case deals with misconduct on the part of resulting in a claim filed outside the statutory time limits, but implies (if not states) that this is also applicable to judicial misconduct. This is a novel question of law necessary to bring uniformity in the state on when a Magistrate judicial action is considered a "Final Judgment".

2. The Respondent alleges that subject matter jurisdiction cases are not properly before the court which is factually inaccurate.

"The action of a court, regarding a matter as to which it has no jurisdiction, is void." State v. Funderburk, 259 S.C. 256, 261, 191 S.E.2d 520, 522 (1972). "[i]ssues relating to subject matter jurisdiction may be raised at any time ... and should be taken notice of by this court on our own

motion." Bunkum v. Manor Props., 321 S.C. 95, 99-100, 467 S.E.2d 758, 761 (Ct.App.1996). Heins v. Heins, 344 S.C.. 146, 543 S.E.2d 224 (Ct.App.2001) "As such, the trial judge lacked subject matter jurisdiction to enter judgment against COCC. Lack of subject matter jurisdiction may not be waived and should be taken notice of by this Court." Anderson v. Anderson, 299 S.C. 110, 382 S.E.2d 897 (1989). It is simple in that an overworked S.C. Court of Appeals did not want to look at the subject matter jurisdiction issues of a self represented party. The S.C. Court of Appeals erred in assuming they had the discretionary authority to just ignore these issues. If the subject matter jurisdiction positions as put forth by the Appellant lacked merit, the S.C. Court of Appeal would have stated that fact. Apparently in S.C., a self represented party does not get the dignity of fair due process by having the court even address the subject matter jurisdiction issues in his case.

This issue speaks to the historical intent of the Writ of Certiorari dealing with inferior courts exceeding their jurisdiction and satisfies the requirements of Rule 242(b), SCACR. An issue of subject matter jurisdiction cannot be ignored by the court performing the role as the highest court in S.C. Unified Judicial System. If Judges and Magistrate in S.C. are conducting their courts in an ethical and legal manner, all issues of subject matter jurisdiction before the S.C. Supreme Court should inherently be novel issues. The Appellant's subject matter jurisdiction issues are rather unique and novel issues for the court.

3. The Respondent acknowledges a Writ of Mandamus in Original Jurisdiction against the judiciary including Chief Judge Few involving this case which he was not a party.

The order denying the Motion for Rehearing is fraudulent with the judiciary having been properly served with the Writ relating to the handling of cases by the S.C. Court of Appeals. The comment by the court "Appellant has not filed a writ of mandamus with the supreme court; …" (Pg. 2 Motion for Rehearing Order) is disparaging in nature stating the Appellant is a liar in court documents having the effect of vilifying the Appellant in the eyes of court as being dishonest. "Procedural due process contemplates notice, a reasonable opportunity to be heard, and a fair hearing before a legally constituted impartial tribunal." S.C. D.E.H.C. v. Armstrong, 293 S.C. 209, 359 S.E.2d 302 (Ct. App. 1987). One fraudulent statement by the S.C. Court of Appeals attributed to the actions of the

Appellant that directly speaks to the character of the Appellant is sufficient to question the impartiality of the judges hearing the Motion for Rehearing.

A logical inference based on evidence is that the S.C. Court Appeals would falsely conclude that if the Appellant as a self represented party is lying about filing a Writ of Mandamus In Original Jurisdiction in this case then he is probably lying about everything else in the case. The Appellant could not find a case where the Judges of the S.C. Court of Appeals made an irrefutable fraudulent statement of fact in an order made through at the very least the failure of the Judges to exercise due diligences and/or reasonable inquiry in their capacity as Judges. If the Judges cannot get their facts right (i.e. make fraudulent statements of fact) concerning the Appellant in an order that traduces the very character of the case, the S.C. Supreme Court must reach the conclusion that other alleged facts in the S.C. Court of Appeals order and other inferior courts in this case are also fraudulent or at the very least could be fraudulent. The Appellant contends that every order or action to dismiss this case by every Judge and Magistrate is fraudulent and most are probably intentionally fraudulent.

The S.C. Supreme Court has actual knowledge that 3 out of the 5 lawyers adjudicating this case (including the trial court Magistrate) have made fraudulent statements about facts in this case. This is inherently a significant amount of fraudulent action by Judges against the Appellant. This is a novel issue because the S.C. Supreme Court has not had to deal with a case where S.C. Court of Appeals is making fraudulent statements about facts dealing with judicial action.

4. The Counsel of the Respondent inherently denies that any Judge had a conflict of interest. Magistrate Henry W. Guerard, Esquire and Derek F. Dean, Esquire made it clear in court that subpoenas have never been appropriate in Small Claims Court. Magistrate Guerard as a lawyer even stated that this has always been true as long as he has been a Judge. Magistrate Guerard tenure overlaps with Judge Pieper's tenure as a Circuit Court Judge in the 9th Circuit hearing Magistrate appeals to include his time serving as Chief Judge of that Circuit. Magistrate Guerard and Derek F. Dean also made it clear that "Returns" in Charleston were nothing more than ex parte opinions written by the Magistrate to refute the Appeal and this is the way 9th Circuit court has been doing it for years. A review of the Appellant's Final Brief when looking at Transfer of Civil Cases from

Circuit Court to the Magistrate's Court (L. Edmund Atwater, III, Esquire, Memo, Sept. 8, 1980) along with Judicial Advisory Opinion 08-2010 should have given Judge Pieper actual knowledge that he has participated in Civil Rights violations that constitute unethical conduct while working as a Judge in the 9th Circuit. Unethical conduct by lawyers has no statute of limitations

Furthermore, the Appellant has repeatedly stated that Charleston Area Property Management, Inc. with the CEO being Jorgia Hazelwood as the property manager for the Respondent has been allowed by lawyers to profit off the unlicensed practice of law. A corporation needs a lawyer to represent them in all legal matters in S.C. except small claims court. A person can represent a corporation in Small Claims Court only after complying with Rule 21, SCRMC. Corporation A cannot represent Corporation B in small claims court.

Judge Pieper is also a co-owner in Otranto Club Villas HPR that has been a party in numerous court cases in Charleston Circuit Court without an attorney on the record. A complete review by a competent Judge in Judge Pieper's position would have made him aware that the positions being put forth by the Appellant if affirmed by the court would mean that as a co-owner of a HPR he has involved himself as co-owner in the unauthorized practice of law. It gets much worse if the HPR Judge Pieper co-owns deprives any co-owner of their property rights without due process of law to include Judicial Review.

The Appellant should have been able to address his concerns before assigning the case to a panel, but no procedural methodology is in place for the Appellant to inform Judge Pieper of his concerns dealing with impartiality. The Appellant should also not have to file another case to try to address these concerns. "The Due Process Clause demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections". Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950); Murdock, 338 S.C. at 334, 526 S.E.2d at 248.

This is a novel issue for the court that represents a clear situation where the S.C. Court of Appeals use and/or interpretation of the SCACR conflicts with state and federal laws and/or case law. The Appellant had no way to object to Judge Pieper hearing the Appeal or present objections to

other S.C. Court of Appeals judges that might have assisted in unethical conduct of a Magistrate in a judicial circuit or a S.C. Court of Appeals Judge has an economic conflict relating to the possible illegal conduct of an HOA or HPR that they or an immediate family member has an interest.

5. The Respondent side steps the Appellant's issue of Rule 219, SCACR dealing with En Banc motions by simply stating they are discretionary.

Discretionary authority for a Judge inherently requires impartiality otherwise we might as well call the Judge in court proceedings the Honorable Despot. The Respondent ignores this issue with Judge Few as Chief Judge for the South Carolina Court of Appeals being served with a Writ of Mandamus in Original Jurisdiction relating to this case. This inherently means that he had a conflict of interest relating to his functions as Administrative Head of the S.C. Court of Appeals.

S.C. Court of Appeals Judge H. Bruce Willis, Judge Jasper W. Cureton, and Judge C. Tolbert Goolsby will have a conflict relating to #2009-CP-10-03578 that was heard concurrently with case #2009-CP-10-03577 in the Circuit Appellate Court. Judge Short and two other Judges has a Conflict with hearing a Motion En Banc #2009-CP-10-03577 because he has denied a Motion to Stay the Case for #2010-CP-10-01420 which was heard concurrently in trial court as #2009-CP-10-03577. Judge Huff, Judge Pieper, and Judge Lockemy have conflicts with this case to even hear a Motion for Rehearing much less an En Banc motion in this case because the Appellant is contending that this original 3 Judge panel exceeded their subject matter jurisdiction.

Assuming the nine current Judges at the time of the En Banc motion were the ones reviewing the En Banc Motion, the Appellant can irrefutably prove Judge Willis, Judge Short, and Judge Few had a conflict of interest with current and past cases or writs. However, the big issue is that Judge Few was a Respondent in a Writ of Mandamus pending in this case relating to the En Banc Motion. Rule 219, SCACR requires nine impartial judges and the Appellant has concerns with the impartiality of 8 out of the 9 S.C. Court of Appeals Judges that reviewed the petition for the case being heard En Banc. When all appeals are done involving Mr. Dean and the Appellant, only one Judge of the current S.C. Court of Appeals should have had nothing to do with a case involving the Counsel of the Respondent and the Appellant.

The Counsel of the Respondent is well aware of these facts and it is a novel question of law. In answering a certified question raising a novel question of law, this Court is free to decide the question based on its assessment of which answer and reasoning would best comport with the law and public policies of this state and the Court's sense of law, justice, and right. I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 411, 526 S.E.2d 716, 719 (2000) (citing S.C. Const. art. V, §§ 5 and 9, S.C. Code Ann. § 14-3-320 and -330 (1976 & Supp. 2004), and S.C. Code Ann § 14-8-200 (Supp. 2004)); Osprey, Inc. v. Cabana Ltd. Partnership, 340 S.C. 367, 372, 532 S.E.2d 269, 272 (2000) (same); Clark v. Cantrell, 339 S.C. 369, 378, 529 S.E.2d 528, 533 (2000) (same); Antley v. New York Life Ins. Co., 139 S.C. 23, 30, 137 S.E. 199, 201 (1927) ("In [a] state of conflict between the decisions, it is up to the court to 'choose ye this day whom ye will serve'; and, in the duty of this decision, the court has the right to determine which doctrine best appeals to its sense of law, justice, and right."). The court has to realize that Rule 219, SCACR as being interpreted by the S.C. Court of Appeals does not allow for nine impartial judges any time even one Judge has a conflict of interest. The court should not overlook the power and ability of even one Judge to influence the outcome of a case and this is a federal question that is conflict with the state when the Due Process Clause of the United States Constitution demands impartiality in all aspects of the judiciary.

6. The Respondent states that the S.C. Court of Appeals never ever has an obligation to supplement the Record on Appeal.

The Respondent would have the court take the position that the discretionary authority of the S.C. Court of Appeals to Supplement the Record of Appeal is absolute. "Due process is flexible and calls for such procedural protections as the particular situation demands." Stono River Envtl. Protection Ass'n v. South Carolina Dep't of Health and Envtl. Control, 305 S.C. 90, 406 S.E.2d 340 (1991); Brown v. Malloy, 345 S.C. 113, 546 S.E.2d 195 (Ct. App. 2001). An exception to the rule and many rules deals with a Judges professional ethics as lawyers and subject matter jurisdiction for the court.

The Appellant would contend that it becomes an obligation for a Judge to Supplement the Record on Appeal to avoid assisting in a fraud and/or to establish subject matter jurisdiction. The concept of "absolute discretionary authority" has in fact fallen into disuse as a misnomer in so much

as "absolute immunity" for the judiciary is a misnomer. It is now just "discretionary authority" and "immunity". The same general exception that applies to "immunity" under 18 USC 242 and other federal laws also applies to "discretionary authority". The courts have already established that discretionary authority is not absolute when dealing with a Judge recusal from a case.

A criminal judge assigned to a case is not obligated to hand a case off to another criminal Judge even if his beloved father is the defendant rather the Judge knows that he is ethically and legally "mandated" to hand the case off because of a conflict of interest. Failure to exercise his discretionary authority to hand off a case where the Judge has actual knowledge he has a conflict of interest comes with consequences. This is a concept of where a discretionary authority in fact becomes an obligation (or a mandate) in a specific situation.

The same concept applies to subject matter jurisdiction and the application of Rule 212, SCACR. The S.C. Court of Appeals has absolutely no evidence in the Record on Appeal from the trial court Magistrate that this case has a "Final Judgment". The Appellant contends the Final Judgment is being held in abeyance until the Magistrate can rule on the improperly filed S.C. Frivolous Civil Proceeding Sanction Act counterclaim. The S.C. Court of Appeals erred in not determining it had jurisdiction over this case. The case has no "Return" because the case has no final judgment. Why would a Magistrate send a Return on a case that has no final judgment? He did not send one. Did the Respondent file a counterclaim? Yes and the Magistrate held the decision on the counterclaim in abeyance. Did the Magistrate rule on the counterclaim and record a monetary final judgment? No because he lacks jurisdiction to decide the counterclaim because of the appeal.

To state again and trying not to sound like a school teacher talking to a student, the S.C. Court of Appeals erred in not clearly establishing they had jurisdiction of the case. The establishing of jurisdiction of case for a court or Judge is an *obligation*. The Record on Appeal does not have information from the trial court magistrate of a judgment using SCRCP Form 4 or SCCA Form 704. These are the only two possible forms that a Civil Court Magistrate could use to record a judgment into the electronic case management system which use is mandated by the S.C. Supreme Court. This

inherently means that the S.C. Court of Appeals has nothing from the trial court Magistrate to establish they had jurisdiction in this case.

The S.C. Court of Appeals has only one means to legally establish they have jurisdiction to hear a case and that is through the use of Rule 212, SCACR. Rule 212, SCACR is a discretionary authority for the S.C. Court of Appeals not an absolute discretionary authority. The S.C. Court of Appeals is obligated to establish jurisdiction of case through legal means with the only legal means being their discretionary authority under Rule 212, SCACR.

To cut through the legal rhetoric: Rule 212, SCACR becomes an obligation for the S.C. Court of Appeals when it is essential for the court to perform their obligation of establishing subject matter jurisdiction for a case. "[i]ssues relating to subject matter jurisdiction may be raised at any time ... and should be taken notice of by this court on our own motion." Bunkum v. Manor Props., 321 S.C. 95, 99-100, 467 S.E.2d 758, 761 (Ct.App.1996). Heins v. Heins, 344 S.C. 146, 543 S.E.2d 224 (Ct.App.2001). "A free man is not to be deprived of his property but by the judgment of his peers or the law of the land; that is to say, by the judgment of some competent judicial tribunal known to the law." (Coleman vs. Maxy, 1 McM., 501).

CONCLUSION

Derek F. Dean, Esquire was directly involved in stealing property (i.e. a unique form of grand larceny or some other felony) from the Appellant. The elements of grand larceny are clear in that Mr. Dean assisted his client in the taking away of all of the Appellant's property rights appurtenant to the title of ownership of land (i.e. a chattel) and he illegally transferred those property rights (i.e. Asportation) to his client as an organization for their financial gain. The Respondent uses the voting rights appurtenant to the title of land deprived from the Appellant to count towards the minimum percentage requirements needed to affirm the passing of the budgets along with amendments to the By-Laws and Master Deed for the Respondent.

Derek F. Dean along with his capper and his gang of co-owners illegally deprive the Appellant and other "lesser" co-owners of their property rights then illegally transfer (i.e. asportation) the rights appurtenant to or part of a chattel to the gang so they can use those property rights to maintain

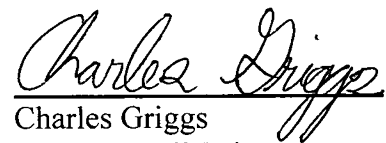
fraudulent control of the Respondent. The alleged Board of Directors for the Respondent along with their gang has control over the proxies of the co-owners they deprive of their right to vote without due process of law so those votes always go with whatever the gang wants in corporation matters.

"It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in court, or opportunity to be heard, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights". Murdock, 338 S.C. at 334, 526 S.E.2d at 248. The Appellant was deprived all ability to subpoena witnesses necessary to submit corporation documents in accordance with the law because those witnesses would implicate Mr. Dean, Esquire and Mr. Parrish, Esquire in being involved in criminal conduct against the Appellant.

Magistrate Henry W. Guerard, Esquire with conscience of legal mind used his knowledge of the law with the cooperation of Derek F. Dean, Esquire as the Counsel of the Respondent to make sure the Appellant was deprived of his Civil Rights in the Civil Magistrate Trial Court and the Appellant's Civil Rights relating to judicial review (i.e. 18 USC 241 & 242 violations) on appeal.

Petitioner seeks a writ of certiorari to review the case and to consider any other matter within its discretionary authority relating to this case. The issues raised by the Appellant satisfy the requirements of Rule 242, SCACR that are novel questions, in conflict with decisions of the S.C. Supreme Court relating to due process, raise substantial constitutional issues relating to due process and jurisdiction, and asks the S.C. Supreme Court to review 18 USC 241 & 242 (along with the U.S. Constitution) legal relationship with the jurisdictional timeline for appeals as understood under S.C. laws. For all the reasons stated, petitioner asks the Court to grant the petition for a writ of certiorari and/or take whatever action it feels is best in the interest of justice to include remanding the case.

Respectfully submitted,



Charles Griggs
5108 Cantrell Point
Acworth, Ga. 30101
(770) 853 – 8122
Petitioner

April 26th, 2012
Columbia, SC

PROOF OF SERVICE FOR REPLY TO PETITION FOR WRIT OF CERTIORARI

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Circuit Court Judge

RECEIVED
APR 3 0 2012
S.C. Supreme Court

Case No. 2009-CP-10-003577
Opinion No. 2011-UP-565

Charles Griggs, Appellant, Pro se

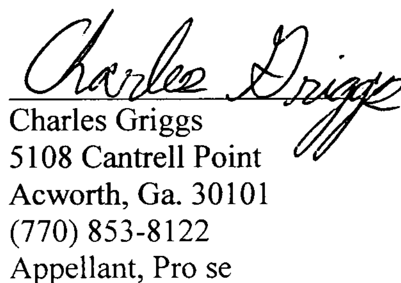
v.

Ashley Towne Village Horizontal Property Owners Assoc. Respondent.

PROOF OF SERVICE FOR REPLY TO PETITION FOR WRIT OF CERTIORARI

I certify that I have served the Reply to the Petition for Writ of Certiorari for Ashley Towne Village Horizontal Property Owners Assoc. by depositing a copy of it in the United States Mail, postage prepaid on April 26th, 2012 addressed to the Mutual Benefit Non-profit Corporation's attorney of record, Derek Dean, Esquire; 147 Wappoo Creek Drive, Suite 604; Charleston, South Carolina 29412.

26 April 2012



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