

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Opinion No. 2016-UP-137 (S.C. Ct. App. filed March 23, 2016)
Appellate Case No. 2016-001474

Glenda R. Couram,

Petitioner,

v.

RECEIVED

AUG -9 2016

SC SUPREME COURT

Mr. & Mrs. Christopher Hooker, Mr. and Mrs. Carl Reibold; All persons claiming any Legal or Equitable Right, Title, Estate, Lien or interest in the Property Described in the Complaint Adverse to the Plaintiff's; Cox & Dinkins, Inc., Fair Builders/Developers, Inc., Donald "Don" Rawls & Steve Fair in their official and individual capacities, Carolina Water Svc., (CWS), Carolina Trace Utilities, Inc., & Utilities, Inc., Corporate Offices, (CWS),

Defendants,

Of whom Mr. & Mrs. Hooker, Mr. & Mrs. Reibold, Cox & Dinkins, Inc., Fair Builders/Developers, Inc., Donald "Don" Rawls, and Steven A. Fair are

Respondents.

**MOTION TO DISMISS PETITION FOR A WRIT OF CERTIORARI
ON BEHALF OF RESPONDENTS
COX & DINKINS, INC. AND J. DONALD "DON" RAWLS**

Respondents Cox & Dinkins, Inc. and Donald “Don” Rawls hereby move this Court for an Order dismissing the Petition for a Writ of Certiorari or, in the alternative, compelling Petitioner to amend the Petition for a Writ of Certiorari. This Motion is made for the following reasons:

1. “A petition for writ of certiorari shall be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals.” RULE 242(C), *SCACR*.

2. The South Carolina Court of Appeals denied the Petition for Rehearing and for a Hearing En Banc by Order dated June 13, 2016. (*See* “Exhibit A” attached hereto.)

3. Although the Proof of Service filed with the South Carolina Supreme Court states that Petitioner served the Petition for a Writ of Certiorari on Wednesday, July 13, 2016, the envelope in which counsel for Respondent Cox & Dinkins and Respondent Rawls received the documents shows that the postage was paid in Lexington, South Carolina, on Thursday, July 14, 2016. (*See* “Exhibit B” attached hereto.)

4. Accordingly, Petitioner failed to serve the Petition for a Writ of Certiorari on opposing counsel within thirty (30) days after the petition for rehearing or reinstatement was finally decided by the Court of Appeals. RULE 242(C), *SCACR*.

5. Petitioner also failed to file the Petition for a Writ of Certiorari and Proof of Service with the Clerk of the Court of Appeals. RULE 242(C), *SCACR*.

6. The Petition for a Writ of Certiorari does not contain a certification that the petition for rehearing or reinstatement was made and finally ruled upon by the Court of Appeals. RULE 242(D)(1), *SCACR*.

7. The Petition for a Writ of Certiorari does not contain only those questions raised in the Court of Appeals. RULE 242(D)(2), *SCACR*.

8. The Petition for a Writ of Certiorari does not contain a direct and concise argument in support of the petition. RULE 242(D)(4), *SCACR*.

9. Respondents Cox & Dinkins, Inc. and Donald “Don” Rawls hereby request an Order dismissing the Petition for a Writ of Certiorari for failure to comply with the South Carolina Appellate Court Rules.

10. In the alternative, Respondents Cox & Dinkins, Inc. and Donald “Don” Rawls request an Order compelling Petitioner to serve and file a Petition for a Writ of Certiorari that complies with the South Carolina Appellate Court Rules and that the time for filing a Return to the Petition for a Writ of Certiorari be stayed until any Amended Petition for a Writ of Certiorari has been filed and served.

[Separate Signature Page Follows]

Respectfully submitted,



R. Davis Howser

Justin P. Novak

Howser, Newman & Besley, LLC

Post Office Box 12009

Columbia, South Carolina 29211

Phone: (803) 758-6000

Fax: (803) 758-4445

rdhowser@hnblaw.com

jnovak@hnblaw.com

Attorneys for Respondents

Cox & Dinkins, Inc. and

J. Donald "Don" Rawls

August 9, 2016

EXHIBIT A



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 13, 2016

Glenda Renee Couram
104 Macaw Lane
Lexington SC 29073

Re: Glenda R. Couram v. Christopher Hooker
Appellate Case No. 2013-002056

Dear Ms. Couram:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. *See* Rule 219, SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: L.A. 'Smokey' Brown, Jr., Esquire
R. Davis Howser, Esquire
Steve Fair

The South Carolina Court of Appeals

Glenda R. Couram, Appellant,

v.

Mr. & Mrs. Christopher Hooker; Mr. & Mrs. Carl Reibold; All persons claiming any Legal or Equitable Right, Title, Estate, Lien or Interest in the Property Described in the Complaint Adverse to the Plaintiffs; Cox & Dinkins, Inc.; Fair Builders/Developers, Inc.; Donald "Don" Rawls and Steve Fair in their official and individual capacities; Carolina Water Svc. (CWS); Carolina Trace Utilities, Inc.; and Utilities, Inc., Corporate Offices, Defendants,

Of whom Mr. & Mrs. Christopher Hooker, Mr. & Mrs. Carl Reibold, Cox & Dinkins, Inc., Fair Builders/Developers, Inc., and Donald "Don" Rawls and Steve Fair, in their official and individual capacities, are the Respondents.

Appellate Case No. 2013-002056

ORDER

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. Accordingly, the petition for rehearing is denied.

Thomas E. Huff
Paul D. Howser
John Couram, Jr.

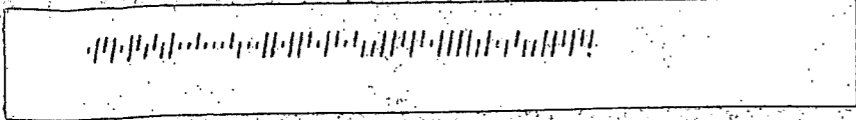
Columbia, South Carolina

cc:
Glenda Renee Couram
L.A. 'Smokey' Brown, Jr., Esquire
R. Davis Howser, Esquire
Steve Fair

FILED

June 13, 2016

EXHIBIT B



1000



29211

U.S. POSTAGE
PAID
LEXINGTON, SC
29071
JUL 14, 16
AMOUNT

\$2.83

R2304M110904-09

Glenda "Glen" Couram
104 Macaw Lane
Lexington, SC 29073

R. Davis Howser, Esq.
Howser, Newman and Besley, LLC
P.O. Box 12009
Columbia, SC 29211

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Respondents.

AFFIDAVIT OF R. DAVIS HOWSER

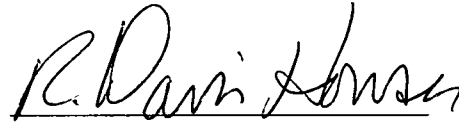
Personally appeared before me, R. Davis Howser, Esquire, who first being duly sworn deposes and says:

1. I am counsel of record for Respondents Cox & Dinkins, Inc. and Donald "Don" Rawls in the above-captioned matter.

2. On July 15, 2016, my office received via United States mail the Petition for a Writ of Certiorari in the above-captioned matter.

3. Although the enclosed Proof of Service states that Petitioner served the Petition for a Writ of Certiorari on Wednesday, July 13, 2016, the envelope in which my office received the Petition for a Writ of Certiorari shows that the postage was paid in Lexington, South Carolina, on Thursday, July 14, 2016. (See "Exhibit A" attached hereto.)

FURTHER SAYETH THE AFFIANT NAUGHT.


R. Davis Howser

SWORN BEFORE ME this

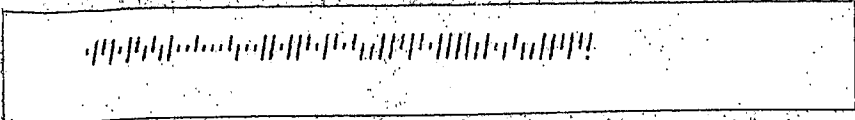
9 day of August 2016

Mr. C. [Signature] (L.S.)

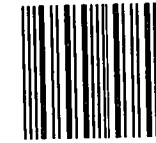
Notary Public for Lexington Co, SC

My Commission Expires: 8/19/20

EXHIBIT A



1000



29211

U.S. POSTAGE
PAID
LEXINGTON, SC
29071
JUL 14, 16
AMOUNT

\$2.83

R2304M110904-09

Glenda "Glen" Couram
104 Macaw Lane
Lexington, SC 29073

R. Davis Howser, Esq.
Howser, Newman and Besley, LLC
P.O. Box 12009
Columbia, SC 29211

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Defendants,

Of whom Mr. & Mrs. Hooker, Mr. & Mrs. Reibold, Cox & Dinkins, Inc., Fair Builders/Developers, Inc., Donald "Don" Rawls, and Steven A. Fair are

Respondents.

PROOF OF SERVICE

I, the undersigned employee of Howser Newman & Besley, LLC, hereby certify that pursuant to Rule 242(f), SCACR, I have served the *Motion to Dismiss Petition for a Writ of Certiorari on Behalf of Respondents Cox & Dinkins, Inc. and J. Donald "Don" Rawls* in this

matter on Petitioner Glenda R. Couram, *pro se*, and all counsel of record and *pro se* respondents by depositing copies of it in the United States Mail, postage prepaid, on August 12, 2016, addressed to:

Glenda R. Couram
104 Macaw Lane
Lexington, South Carolina 29073

L.A. Smokey Brown, Jr., Esquire
Law Office of Smokey Brown, PC
P.O. Box 1545
Irmo, SC 29063

Pro Se Appellant

*Attorney for Respondents
Mr. & Mrs. Christopher Hooker
& Mr. and Mrs. Carl Riebold*

Steven A. Fair
Fair Builders/Developers, Inc.
100 S. Wrenwood Drive
Lexington, South Carolina 29073

Pro Se Respondent

A handwritten signature in cursive script, appearing to read "Mr. Cutchner", is written over a horizontal line.

August 9, 2016