

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

ALJ Case No. 15-ALJ-17-0050-CC

Appellate Case No. 2015-002637

Brett Gries, Appellant,

v.

Aiken County Assessor, Respondent.

RESPONSE BY APPELLANT,

TO MOTION TO DISMISS APPEAL, TO STRIKE OR FOR OTHER RELIEF BY RESPONDENT, DATED

2016.10.20

The Appellant, Brett Gries, hereby Requests, that Respondents MOTION TO DISMISS APPEAL, TO STRIKE OR FOR OTHER RELIEF BY RESPONDENT, be DENIED.

ALLEGATION #1: Respondent, Aiken County Tax Assessor, through its counsel of record, hereby moves before this Court for an order dismissing this appeal on the grounds that the Third Amended Initial Brief violates the Orders of this Court filed May 20, 20, 2016, and August 25, 2016, and violates Rules 2009(b) and 210(c), SCARC.

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RESPONSE #1: While Respondents Motion contains a lot of words, we need only go to Page 3 of the Memorandum In Support, to understand what Mr. Holly is trying to have disallowed. Per the Memorandum In Support, the only document referenced by Mr. Holly, is the Columbia, South Carolina Police Report. A Police Report, whereby Investigator Pugh of the Columbia Police Department, reviewed Mr. Sapp's testimony in front of Judge Lenski on May 26, 2015. Based on his review, Investigator Pugh concluded that Mr. Sapp did in fact lie in front of Judge Lenski on May 26, 2015. Further, that while Mr. Sapp's actions met the requirements of Felony Perjury, Investigator Pugh declined to pursue charges, as Mr. Sapp could simply state that he did not do his job, and the charges would not stick.

The Court Order dated 05.20.2016 reads as follows;

"Appellant shall serve and file an amended initial brief that excludes all references to "new exhibits". Appellant shall also serve a designation of matter within thirty days of this order, which lists the documents Appellant intends to include in the record of appeal. See Rule 209, SCARC. Appellant is reminded that his designation of matter shall not include any documents that were not presented to the Administrative Law Court."

In Appellants Third Amended Initial Brief, the document in question, the Columbia, South Carolina Police Report, is NEITHER included as a New Exhibit NOR as a Exhibit, and is NOT included in the designation of matter. The Columbia, South Carolina Police Report is included as an Other Authority, which deals specifically with Mr. Sapp's testimony in front of Judge Lenski on May 26, 2015. This is similar to the Uniform Standards Of Professional Appraisal, included as an Other Authority, which addresses other Testimony in front of Judge Lenski on May 26, 2015.

The Court Order dated 10.25.2016 reads as follows;

“Appellant shall file an amended initial brief that omits any references to matters that were not presented to the lower court.”

In Appellants Third Amended Initial Brief, the document in question, the Columbia, South Carolina Police Report, deals specifically with Mr. Sapp’s testimony in front of Judge Lenski on May 26, 2015. This is similar to the Uniform Standards Of Professional Appraisal, which also addresses Testimony in front of Judge Lenski on May 26, 2015.

Further, it should be noted that the key evidence which proves Mr. Sapp did lie in front of Judge Lenski on May 26, 2015, was not available to Appellant until approximately December 2015.

As for Rule 209(b) and 210(c), SCARC, the document in question, the Columbia, South Carolina Police Report, deals specifically with Mr. Sapp’s testimony in front of Judge Lenski on May 26, 2015 and as it is included as an Other Authority, Rule 209(b) and 201(c), SCARC are not applicable. This is similar to the Uniform Standards Of Professional Appraisal, which also addresses Testimony in front of Judge Lenski on May 26, 2015, which is also included as an Other Authority, and for which Rule 209(b) and 201(c), SCARC are also not applicable.

ALLEGATION #2: Appellant’s Third Amended Initial Brief, as further explained in the Memorandum filed in support of this Motion, included alleged facts, information and arguments that were not before the Administrative Law Court. Despite the clear language of the aforementioned Orders, the Third Amended Initial Brief constitutes at least a third attempt by Appellant to retry the matter de novo on appeal before this Court and to add events that occurred, and information that was obtained, after the

hearing before the Administrative Law Court. Such actions by Appellant are also in violation of S. C. Code Ann. Section 1-23-610(B) (Supp.2015)

RESPONSE #2: Again, while Respondents Motion contains a lot of words, we need only go to Page 3 of the Memorandum In Support, to understand what Mr. Holly is trying to have disallowed. Per the Memorandum In Support, the only document referenced by Mr. Holly, is the Columbia, South Carolina Police Report. A Police Report, whereby Investigator Pugh of the Columbia Police Department, reviewed Mr. Sapp's testimony in front of Judge Lenski on May 26, 2015. Based on his review, Investigator Pugh concluded that Mr. Sapp did in fact lie in front of Judge Lenski on May 26, 2015. Further, that while Mr. Sapp's actions met the requirements of Felony Perjury, Investigator Pugh declined to pursue charges, as Mr. Sapp could simply state that he did not do his job, and the charges would not stick.

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Further, it should be noted that the key evidence which proves Mr. Sapp did lie in front of Judge Lenski on May 26, 2015, was not available to Appellant until approximately December 2015.

As for S.C. Code Ann. Section 1-23-610(B) (Supp. 2015), when Mr. Sapp did lie in front of Judge Lenski on May 26, 2015, his actions raised a question on all 29 of Mr. Sapp’s Appraisal Adjustments and the conclusion of Mr. Sapp’s Appraisal. An Appeal based on these facts, is in accordance with S.C. Code Ann. Section 1-23-610(B) (Supp. 2015).

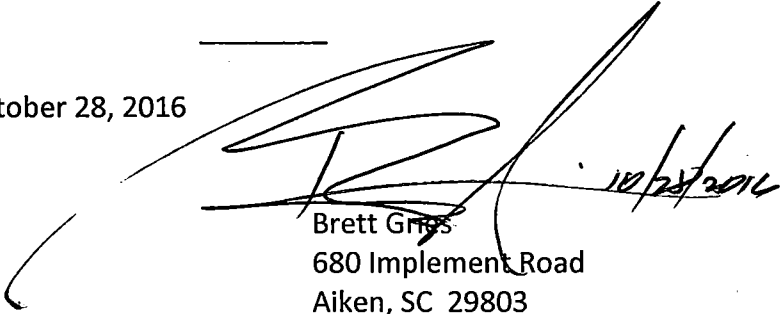
CONCLUSION: Mr. Sapp’s actions during the ALC Hearing, which hard evidence resulted in the conclusion reached by Investigator Pugh at the Columbia Police Department, that Mr. Sapp did lie in front of Judge Lenski on May 26, 2015, and thus EITHER committed Felony Perjury OR did NOT do his job (3rd Amended Initial Brief “Other Authorities”), and Mr. Sapp’s overstatement of the Market Value of Land of his 5 Comparable Parcel’s, by an amount greater than \$120,000 PER PARCEL, are the direct causes of this Appeal.

Mr. Sapp's actions during the ALC Hearing, have caused Appellant to expend a tremendous amount of time and dollars to correct the wrong, caused by Mr. Sapp. Further, the cases of Don Allyn Ray vs. Melinda Hodges Ray, and Chewing vs. Ford, have confirmed that Fraud/Perjury are grounds for an Appeal.

Finally, it appears that **S.C. Bar Ethics Adv. Op. #97-14** may be applicable in this Case. In accordance with **S.C Bar Ethics Adv. OP. #97-14**, the committee advised that a lawyer has a duty to inform the court of perjury by the lawyer's client and a witness in an automobile accident case when the lawyer learns of the perjury after trial because the duty to disclose perjury continues until the "conclusion of the proceeding" and the time for appeal had not expired. Thus, in this Case, as Mr. Holly has been fully informed of Columbia, South Carolina Police Report Number 160070189, **S.C. Bar Ethics Adv. OP #97-14** appears to be applicable in this Case.

Thus, Appellant respectfully requests that Respondents Motion To Dismiss Appeal, To Strike Or For Other Relief By Respondent, be Denied.

Respectively Submitted, October 28, 2016



Brett Grigs
680 Implement Road
Aiken, SC 29803
(815) 342-2628
Appellant (pro se)

Mr. James Holly
Aiken County Attorney
1930 University Parkway, Suite 3600
Aiken, SC 29801
(803) 642-3628

Attorney for Respondent (Aiken County
Assessor)

**RESPONDENTS MOTION (DATED 2016.10.20), RESPONSE BY
APPELLANT**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLUMBIA COUNTY
Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

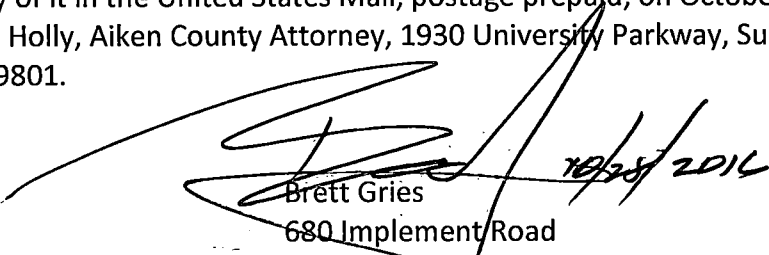
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v.
Brett Gries, Appellant.

PROOF OF SERVICE

I certify that I have served the Motion Response by Appellant on the Aiken County Attorney, by depositing a copy of it in the United States Mail, postage prepaid, on October 28, 2016, addressed to Mr. James Holly, Aiken County Attorney, 1930 University Parkway, Suite 3600, Aiken, South Carolina 29801.

October 28, 2016


Brett Gries
680 Implement Road
Aiken, SC 29803
(815) 342-2628
Appellant (pro se)

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AIKEN, SC 29803

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THE HONORABLE JENNY ABBOTT KITCHENS
CLERK

SOUTH CAROLINA COURT OF APPEALS

P.O. BOX 11629

COLUMBIA, S.C. 29211

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