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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT
Carolyn C. Matthews, Administrative Law Judge

Case No.: 2013-000762

Richard Stogsdill,.....Appellant,

v.

South Carolina Department of Health and Human Services.....Respondent,

**RESPONDENT’S RETURN TO PETITION FOR ATTORNEY’S FEES,
COSTS AND EXPENSES**

This action involved the appellate review of an Order from the South Carolina Administrative Law Court (“ALC”) affirming Respondent South Carolina Department of Health and Human Services’ (“SCDHHS”) decision approving the reduction of Richard Stogsdill’s (“Stogsdill”) in-home personal care services provided through the Medicaid Community and Home-Based Waiver Program. On appeal, the South Carolina Court of Appeals affirmed the Order in part, reversed in part and remanded with further instructions. *Stogsdill v. S. Carolina Dep’t of Health & Human Servs.*, 410 S.C. 273, 763 S.E.2d 638 (Ct. App. 2014), *reh’g denied* (Oct. 23, 2014).

Stogsdill petitioned the South Carolina Supreme Court for a writ of certiorari. The writ was initially granted solely to address whether the Court of Appeals erred in finding that SCDHHS did not violate the South Carolina Administrative Procedures Act by establishing binding norms through the ID/RD Medicaid Waiver rather than

promulgating regulations. After briefing was complete and oral arguments held, the petition was dismissed as improvidently granted. *Stogsdill v. S. Carolina Dep't of Health & Human Servs.*, 415 S.C. 242, 781 S.E.2d 719, *reh'g dismissed*, 784 S.E.2d 669 (S.C. 2016). The remittitur was issued on January 20, 2016, and filed in the ALC on that same date. [Exhibit 1].

On April 19, 2016, Stogsdill filed in the United States Supreme Court a Petition for Writ of Certiorari and Motion for Leave to Proceed *In Forma Pauperus*. [Exhibit 2]. The petition was denied on October 3, 2016, and Stogsdill's Petition for Rehearing was denied on November 28, 2016. [Exhibit 2].

On December 28, 2016, Stogsdill filed a Petition for Attorney's Fees, Costs and Expenses, a copy of which was delivered to the undersigned who represents SCDHHS in a companion case currently pending in federal court. It appears the petition was filed with the S.C. Supreme Court, which initially showed the petition docketed but has since been removed in the S.C. Appellate Case Management System, the S.C. Court of Appeals, the S.C. Administrative Law Court, the Richland County Court of Common Pleas (case # 2016-CP-40-07618) and possibly SCDHHS's Office of Appeals and Hearings.

Stogsdill seeks an award of fees and costs as a prevailing party on the basis that the Court of Appeals found that the substantial evidence in the record did not support the ALC's finding *Stogsdill*, 410 S.C. at 285-86, 763 S.E.2d at 644 (stating that Stogsdill's risk of institutionalization was merely speculative and remanding the case to SCDHHS for consideration of the appropriate services to be provided without the restrictions of the 2010 waiver); Petition, p. 28.

For the reasons set forth herein, the petition should be denied.

STANDARD

(A) In any civil action brought by the State, any political subdivision of the State or any party who is contesting state action, unless the prevailing party is the State or any political subdivision of the State, the court may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

(1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The agency is presumed to be substantially justified in pressing its claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent jurisdiction.

(B) Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:

- (1) the nature, extent, and difficulty of the case;
- (2) the time devoted;
- (3) the professional standing of counsel;
- (4) the beneficial results obtained; and
- (5) the customary legal fees for similar services.

The judge must make specific written findings regarding each factor listed above in making the award of attorney's fees. However, in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed the fees the party has contracted to pay counsel personally for work on the litigation.

S.C. Code § 15-77-300.

ANALYSIS

- I. **Stogsdill's petition should be denied because it is untimely.**

S.C. Code § 15-77-310 provides in part, “[t]he party shall petition for the attorney’s fees within thirty days following final disposition of the case.” Stogsdill erroneously contends that the above case became “final” when the United States Supreme Court denied his petition for rehearing on November 28, 2016. [Petition, p. 14]. In fact, the final disposition of this case occurred when the remittitur was delivered and filed with the ALC on January 20, 2016. [Exhibit 1].

It is well-established that “final disposition” of a case on appeal is when the remittitur is filed with the court in which the order on appeal originated. *McDowell v. S.C. Dep’t of Soc. Servs.*, 300 S.C. 24, 26, 386 S.E.2d 280, 281 (Ct. App. 1989); *Christy v. Christy*, 317 S.C. 145, 151, 452 S.E.2d 1, 4 (Ct. App. 1994) (stating the “final disposition of a case occurs when the remittitur is returned by the clerk of the appellate court and filed in the lower court”); *Harleysville Mut. Ins. Co. v. State*, 401 S.C. 15, 23, n. 2, 736 S.E.2d 651, 655, n. 2 (2012) (stating an “opinion of an appellate court is not final until the remittitur is filed in the lower court”); *Beatty v. Rawski*, 97 F. Supp. 3d 768, 774 (D.S.C. 2015), *appeal dismissed*, 633 F. App’x 832 (4th Cir. 2016) (stating “there can be no question that South Carolina law states that the final disposition of an appeal does not occur until after the remittitur is filed in the circuit court”).

While Stogsdill may argue the filing of the petition for writ of certiorari in the United States Supreme Court stayed this case, the argument is without legal support.

28 U.S.C. § 2101(f) provides:

In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree *may be stayed* for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court.

(emphasis added). To obtain a stay pending the consideration of a petition for writ of certiorari, a party must apply to stay the enforcement of that judgment. Supreme Court Rule 23.

In the present case, Stogsdill did not apply to the U.S. Supreme Court for a stay pending consideration of the petition for writ of certiorari. [Exhibit 2]. Therefore, the disposition of the state appeal was final once the remittitur was filed with the ALC. Since the remittitur was filed in the lower court on January 20, 2016, Stogsdill had thirty days from that date to file his petition for fees. S.C. Code § 15-77-310. The petition is time-barred and should be denied as it was not filed until December 28, 2016,. Id.

II. The appellate courts lack jurisdiction to hear this matter.

Stogsdill has filed this petition in both the Supreme Court of South Carolina and the Court of Appeals. As stated above, the remittitur was sent and filed by the lower court on January 20, 2016. [Exhibit 2].

When the remittitur has been properly sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter. *Mickle v. Blackmon*, 255 S.C. 136, 177 S.E.2d 548 (1970); *Thomas v. Lynch*, 87 S.C. 44, 68 S.E. 817 (1910); *Carpenter v. Lewis*, 65 S.C. 400, 43 S.E. 881 (1903); *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893). The only exception to this rule is when the remittitur is sent down by mistake, error or inadvertence of the Court.

Wise v. S.C. Dep't of Corr., 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007).

In the present case, there is no allegation or evidence that the remitter was sent to the lower court by mistake, error, or inadvertence. No motion to stay the remittitur was made by Stogsdill and no motion to stay the effect of the remittitur was made to the U.S. Supreme Court pending consideration of the petition for a writ of certiorari.

Therefore, neither the Supreme Court nor the Court of Appeals have jurisdiction to entertain Stogsdill's petition as of January 20, 2016. As such, the petition should be dismissed. *Id.*

Stogsdill argues the Supreme Court may have jurisdiction over the petition in its original jurisdiction. [Petition, p. 4]. "The Supreme Court shall have power to issue writs or orders of injunction, mandamus, quo warranto, prohibition, certiorari, habeas corpus, and other remedial and original writs." S.C. Const. art. V, § 5; S.C. Code § 14-3-310.

The present petition does not fall into any of the above categories. Moreover, it is established that a petition for attorney's fees under § 15-77-300 is not a separate action, which would be necessary to trigger the Supreme Court's original jurisdiction-but is incidental to the original action which is entertained by the Supreme Court in its appellate jurisdiction. *See McDowell*, 300 S.C. at 28, 386 S.E.2d at 282 *citing* 20 C.J.S. *Costs* Sec. 271 at 505 (1940) (a taxation proceeding involves a matter which grows out of and is collateral or ancillary to the judgment in the main action or proceeding and is incidental thereto); *Maria P. v. Riles*, 43 Cal.3d 1281, 240 Cal.Rptr. 872, 743 P.2d 932 (1987) (*en banc*) (a motion for attorney fees under an attorney fees statute held ancillary to the main cause). Therefore, the Supreme Court does not have original jurisdiction to review the petition and it should be dismissed.

III. The Richland County Court of Common Pleas lacks jurisdiction to hear this matter.

In addition to filing the petition in the appellate courts, Stogsdill has filed the petition in the Richland County Court of Common Pleas, case number 2016-CP-40-

07618. As previously stated, a petition for attorney's fees under § 15-77-300 is not a separate action, but is incidental to the original action. *See McDowell*, 300 S.C. at 28, 386 S.E.2d at 282 (internal citations omitted).

The original action was an administrative appeal of SCDHHS's decision to reduce Stogsdill's ID/RD Medicaid waiver services beginning in 2010. Judicial review of the agency decision is governed by the South Carolina Administrative Procedures Act which provides first for a review by the ALC and then review by the Court of Appeals. *See Stogsdill*, 410 S.C. at 273, 763 S.E.2d at 638 *citing* S.C. Code § 1-23-610. At no time would the matters in the original action fall under the general or appellate jurisdiction of the circuit court. Therefore, the circuit court lacks jurisdiction to entertain the petition and it should be dismissed.

IV. The petition fails to contain an itemized statement of fees incurred and retainer agreement and, therefore, it should be denied.

One of the factors to be considered by the court in determining the amount of reasonable attorney's fees to award is the time devoted to the case. S.C. Code § 15-77-300(b)(2); *see Layman v. State*, 376 S.C. 434, 458, 658 S.E.2d 320, 333 (2008) (stating in "... calculating attorneys' fees, South Carolina courts have historically relied on six common law factors of reasonableness: ... (2) the time necessarily devoted to the case; ..."). Moreover, S.C. Code § 15-77-310 provides that payment of fees assessed to an agency may only be made "upon presentation of an itemized accounting of the attorney's fees." *Layman*, 376 S.C. at 458, 658 S.E.2d at 333. Finally, "in no event shall a prevailing party be allowed to shift attorney's fees that exceed the fees the party

has contracted to pay counsel personally for work on the litigation.” S.C. Code § 15-77-300(B).

In the present case, the petition does not contain an itemized statement of fees incurred or the retainer agreement between Stodgsdill and his counsel. Therefore, the court cannot perform the statutory required analysis to determine: 1) an award of reasonable attorney’s fees, and 2) whether the award would exceed the fees Stodgsdill contracted to pay his counsel personally for the work. Therefore, the petition should be denied because no itemized statement was included.

V. S.C. Code § 15-77-300 does not provide for an award of attorney’s fees in administrative actions.

It is undisputed that Stodgsdill is not entitled to fees for the initial proceedings before SCDHHS’s Office of Appeals and Hearings. *McDowell v. S.C. Dep’t of Soc. Servs.*, 304 S.C. 539, 543, 405 S.E.2d 830, 833 (1991) (affirming denial of attorney’s fees for the hearing before the agency); Petition, p. 3. Additionally, the S.C. Administrative Law Court was created after the decision in *McDowell*, holding that a petition for judicial review of an agency decision in the court of common pleas was a “civil action” within the meaning of § 15-77-300, *See* S.C. Code § 1-23-500.

In 1999, the ALC issued an Order denying a petition for attorney’s fees holding in part that § 15-77-300 “is not applicable to proceedings before the [ALC]. . .” *S.C. Dep’t of Revenue v. Edwin S. Alewine*, 98-ALJ-17-0441-CC, 1999 WL 459725, at *2 (June 11, 1999) *citing* *Northwest Pipeline Corp. v. State Dep’t of Employment*, 129 Idaho 548, 928 P.2d 898 (1996) (stating appeal from administrative ruling by Industrial Commission was not “civil action” for purposes of statute providing for attorney fees

for prevailing party in civil action; appeal was not commenced by filing a complaint with the court pursuant to applicable civil rule).

Unlike the facts presented in *McDowell*, which required the filing of a petition in circuit court to seek judicial review, and with the advent of the ALC, judicial review of a final agency decision is instituted by the filing and serving of a notice of appeal as provided by the South Carolina Appellate Court Rules. S.C. Code §§ 1-23-380(1) & 1-23-600(E). The issue of whether the filing of a notice of appeal with the ALC falls within the meaning of a “civil action” under § 15-77-300 appears to be a novel issue. The petition should be denied based upon the persuasive rationale set forth in *Alwine*.

VI. SCDHHS was substantially justified in pressing its claim.

S.C. Code § 15-77-300(A)(1) provides a prevailing party may recover reasonable attorney’s fees if “the court finds that the agency acted *without* substantial justification in pressing its claim against the party; . . .” (emphasis added). “To find that a party acted without substantial justification in pressing its claim, the party must have been ‘justified to a degree that could satisfy a reasonable person’. . . . Action supported by substantial justification ‘has a reasonable basis in law and fact.’” *McNaughton v. Charleston Charter Sch. for Math & Sci., Inc.*, 411 S.C. 249, 267, 768 S.E.2d 389, 399 (2015) (internal citations omitted). “Although an agency’s loss on the merits does not create a presumption that its position was not substantially justified, . . . the substance and outcome of the matter litigated is nevertheless relevant to the determination of whether there was substantial justification in pressing a claim.” *Layman*, 376 S.C. at 445, 658 S.E.2d at 326 (internal citations omitted).

The present case involved the appeal of the reduction of services under the South Carolina Intellectually Disabled and Related Disabilities (“ID/RD”)¹ waiver. On January 1, 2010, the five (5) year renewal of the ID/RD waiver, as approved by the Centers for Medicare and Medicaid Services (“CMS”), went into effect. The renewed waivers included a cap or limit on some services and excluded others. *Stogsdill*, 410 S.C. 273, 763 S.E.2d 638.

Stogsdill sought reconsideration by SCDDSN concerning the reduction in services and, after SCDDSN denied the reconsideration, Stogsdill appealed to the SCDHHS Appeals Division which affirmed the reductions. Subsequently, Stogsdill appealed the reduction of services to the ALC, which has been statutorily appointed to perform the appellate review of final decisions from the South Carolina Department of Health and Human Services. S.C. Code § 1-23-600(D). By Order dated March 13, 2013, the Administrative Law Court affirmed the reduction of services. *Stogsdill*, 410 S.C. 273, 763 S.E.2d 638. Stogsdill appealed the decision to the South Carolina Court of Appeals. *Id.*

On September 10, 2014, the Court of Appeals issued an opinion finding the 2010 waiver reductions implemented by SCDHHS were lawful. *Stogsdill*, 410 S.C. at 278, 763 S.E.2d at 642. However, the court reversed the ALC’s finding that Stogsdill’s risk of institutionalization was speculative and remanded for consideration of the appropriate services to be provided without consideration of the 2010 waiver restrictions. *Stogsdill*, 410 S.C. at 285-286, 763 S.E.2d at 644-645. Prior to the court’s opinion, the issue of the legality of the 2010 waiver reductions had not been addressed

¹ The ID/RD waiver was formally known as the Mental Retardation and Related Disabilities Waiver (“MR/RD”).

by a South Carolina appellate court. Additionally, the case given the greatest weight in establishing the standard applied in *Stogsdill* was *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013), which was issued eight (8) days prior to the ALC's March 13, 2013 decision affirming the reductions. *Stogsdill*, 410 S.C. at 283-84, 763 S.E.2d at 643-44.

Since the 2010 waiver reductions were found to be lawful, the reductions were upheld by the agency and the ALC and the ALC was reversed not based on the misinterpretation or application of law, but because its finding was not supported by *substantial* evidence in the record. As such, SCDHHS was substantially justified in pressing its claim. See *Layman*, 376 S.C. at 451, 658 S.E.2d at 329 (vacating circuit judge's finding on substantial justification as circuit judge's findings "misinterpret the existing law . . ."); *McNaughton*, 411 S.C. at 267, 768 S.E.2d at 399 (affirming circuit court's finding that party was not substantially justified in pursuing its defense in which "there was no reasonable basis in law or fact on which to defend [the] claim"). Therefore, the petition should be denied.

VII. Stogsdill's claim for attorney's fees pursuant to 42 U.S.C. § 12205 should be denied.

In addition to seeking fees under the state statute, Stogsdill is also seeking to recover fees under the Americans with Disabilities Act ("ADA"). [Petition, p. 25-26].

In any action or administrative proceeding *commenced pursuant to this chapter*, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

42 U.S.C. § 12205 (emphasis added).

A. Stogsdill's Petition is untimely.

While 42 U.S.C. § 12205 does not specifically provide a time in which to move the court or agency for fees, the present petition would be time barred when applying any of the possible rules of procedure. As stated, the remitter was issued and filed on January 20, 2016. The following rules govern requests for attorney's fees:

- 1) Fed. R. Civ. P. 54(d)(2)(1): A claim for attorney's fees must be made by motion filed no later than fourteen (14) days after the entry of judgment;
- 2) Fed. R. App. P. 39(d)(2): "A party who wants costs taxed must--within 14 days after entry of judgment--file with the circuit clerk, with proof of service, an itemized and verified bill of costs."²
- 3) Rule 54(d), SCRCF: A motion for taxable costs may be filed by the prevailing party within ten (10) days of the receipt of the written notice of the entry of final judgment. A party who prevails for the first time on appeal may file a motion for costs within ten (10) days of written notice of the entry of the final judgment on appeal.
- 4) Rule 222(d), SCACR: A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion for costs.³

In light of the above deadlines, Stogsdill failed to timely petition for attorney's fees under federal or state rules of civil or appellate procedure. To the extent Stogsdill

² Under the federal appellate rules of procedure, if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders. Fed. R. App. P. 39(a)(4). In the present case, nothing in the opinion addressed costs or fees.

³ While the South Carolina Administrative Law Court does not have a specific rule governing costs, ALC Rule 68 provides the South Carolina Rules of Civil and Appellate Procedure may be applied to resolve questions not addressed by the ALC rules.

would contend the thirty (30) day deadline set forth in § 15-77-310 should be adopted for requesting fees under the ADA, the petition would still be untimely based on the state law argument set forth previously.

Therefore, the petition for costs as allowed by the ADA should be denied.

B. The ADA fee-shifting statute does not apply to the present case.

In order to seek fees under 42 U.S.C. § 12205, the action must be “*commenced pursuant to this chapter.*” The chapter referenced in 42 U.S.C. § 12205 is Chapter 126 of Title 42. The present case originated with a 2010 reduction of Stogsdill’s Medicaid waiver services; this entitled him to challenge the reduction through the state’s fair hearing system. 42 C.F.R. § 431.205 provides that the state Medicaid agency, in this case SCDHHS, must provide a fair hearing system that meets the requirements set forth in the regulation and the due process standards provided in *Goldberg v. Kelly*, 397 U.S. 254 (1970). The regulation was promulgated by the authority granted in the Social Security Act, 42 U.S.C. *Chapter 7*; specifically, 42 U.S.C. § 1302. (emphasis added). The failure to provide a Medicaid participant with a proper fair hearing is enforceable through a private cause of action under 42 U.S.C. § 1983. *See Doe v. Kidd*, 501 F.3d, 348, 368, n. 6 (4th Cir. 2007).

As the present case originated as a fair hearing under 42 C.F.R. § 431.205 with an appeal being taken as provided by S.C. Code § 1-23-360, no civil or agency action was “commenced” under Title 42, Chapter 126 and, therefore, there is no right to seek attorney’s fees under 42 U.S.C. § 12205.

C. No action was “commenced” under 42 U.S.C. § 12205.

42. U.S.C. § 12205 provides in part that a party may be awarded attorney's fees "[i]n any action or administrative proceeding *commenced* pursuant to this chapter." In federal court, an action is "commenced" by filing a complaint with the court. Fed. R. Civ. P. 3. In state court, an action is commenced by filing and timely serving a summons and complaint with the clerk of court. Rule 3, SCRCF. While fees may be awarded for administrative proceedings that are a prerequisite to filing a civil action in state or federal court, that is not the case here. *See K.M. ex rel. Bright v. Tustin Unified Sch. Dist.*, 78 F. Supp. 3d 1289, 1299 (C.D. Cal. 2015).

As no action or administrative proceeding has been commenced under § 12205, the petition should be denied. *See K.M. ex rel. Bright*, 78 F. Supp. 3d at 1295 (awarding attorney's fees for state administrative proceedings required to be brought prior to ADA claim where plaintiff "filed an administrative *complaint*" challenging agency decision"); *McDowell v. S.C. Dep't of Soc. Servs.*, 304 S.C. at 543, 405 S.E.2d at 833 (holding that a *petition filed in circuit court* for judicial review was a "civil action" within the meaning of § 15-77-300).

CONCLUSION

For the reasons set forth herein, Stogsdill's petition for fees, costs and expenses should be denied.

Signature Block Appears on Following Page

RILEY POPE & LANEY, LLC



Damon C. Wlodarczyk, SC Bar 70460

Post Office Box 11412

Columbia, South Carolina 29211

Telephone: (803) 799-9993

Facsimile: (803) 239-1414

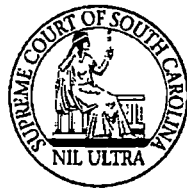
Counsel for the South Carolina

Department of Health and Human

Services

Columbia, South Carolina

January 25, 2017



CMS

The Supreme Court of South Carolina

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CLERK OF COURT

BRENDA F. SHEALY
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1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

January 20, 2016

The Honorable Jana E. Shealy
Edgar A. Brown Building
1205 Pendleton Street
Suite 224
Columbia SC 29201

REMITTITUR

Re: Richard Stogsdill v. SCDHHS
Lower Court Case No. 2010ALJ080774AP
Appellate Case No. 2014-002513

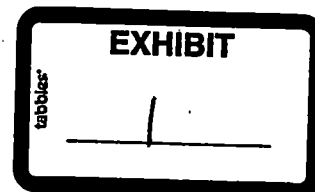
Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc: Anna Maria Darwin, Esquire
Sarah Garland St. Onge, Esquire
Stephen R. Suggs, Esquire
Richard G. Hepfer, Esquire
Patricia Logan Harrison, Esquire
Andrew Jefferson Atkins, Esquire



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SC ADMIN. LAW COURT



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No. 15-9040

Title: Richard Stogsdill, Petitioner

v.

South Carolina Department of Health and Human Services

Docketed: April 22, 2016

Lower Ct: Court of Appeals of South Carolina

Case Nos.: (2013-000762)

Decision Date: September 10, 2014

Rehearing Denied: October 23, 2014

Discretionary Court

Decision Date: January 20, 2016

~~~~~Date~~~~~ Proceedings and Orders~~~~~

Apr 19 2016 Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed.  
(Response due May 23, 2016)

May 23 2016 Order extending time to file response to petition to and including June 22, 2016.

Jun 22 2016 Brief of respondent South Carolina Department of Health and Human Services in opposition filed.

Jul 7 2016 DISTRIBUTED for Conference of September 26, 2016.

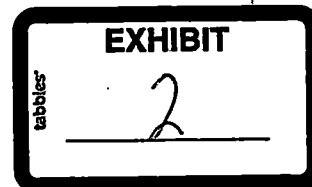
Sep 20 2016 Reply of petitioner Richard Stogsdill filed. (Distributed)

Oct 3 2016 Petition DENIED.

Oct 28 2016 Petition for Rehearing filed.

Nov 2 2016 DISTRIBUTED for Conference of November 22, 2016.

Nov 28 2016 Rehearing DENIED.



| ~Name~                                                             | ~Address~                                                                                     | ~Phone~        |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------|
| <b>Attorneys for Petitioner:</b>                                   |                                                                                               |                |
| Patricia L. Harrison<br>Counsel of Record                          | 611 Holly Street<br>Columbia, SC 29205                                                        | (803) 256-2017 |
| Party name: Richard Stogsdill                                      |                                                                                               |                |
| <b>Attorneys for Respondent:</b>                                   |                                                                                               |                |
| Damon Christian Wlodarczyk<br>Counsel of Record                    | Riley, Pope & Laney, LLC<br>Post Office Box 11412<br>Columbia, SC 29211<br>damonw@rplfirm.com | (803) 799-9993 |
| Party name: South Carolina Department of Health and Human Services |                                                                                               |                |

January 14, 2017 | Version 2014.2

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**Supreme Court of the United States**

**RECEIVED**

JAN 25 2017

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THE STATE OF SOUTH CAROLINA  
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APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT  
Carolyn C. Matthews, Administrative Law Judge

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Richard Stogsdill,.....Appellant,

v.


South Carolina Department of Health and Human Services.....Respondent,

**CERTIFICATE OF SERVICE BY MAIL**

I, the undersigned, hereby certify that on the date shown below, I served the **Notice of Appearance of Counsel and Return** on the parties listed below by depositing copies of same into the United States Mail, first class postage prepaid, addressed as shown.

Patricia L. Harrison  
611 Holly Street  
Columbia, SC 29205

**RILEY, POPE & LANEX, LLC**

  
Damon C. Wlodarczyk

Columbia, South Carolina  
January 25, 2017

**RILEY POPE & LANEY, LLC**  
ATTORNEYS AND COUNSELORS AT LAW

TELEPHONE  
(803) 799-9993

2838 DEVINE STREET  
POST OFFICE BOX 11412 (29211)  
COLUMBIA, SOUTH CAROLINA 29205

FACSIMILE  
(803) 239-1414

January 25, 2017

(Via Hand Delivery)  
The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

**RECEIVED**

JAN 25 2017

**SC Court of Appeals**

Re: Stogsdill v. SCDHHS  
Court of Appeals Docket No.: 2013-000762

Dear Ms. Kitchings:

Please find enclosed for filing the following documents:

- 1) Original and one (1) copy of Notice of Appearance of Counsel;
- 2) Original and seven (7) copies of Respondent's Return;
- 3) Original and one (1) copy of Certificate of Service.

Please return a filed copy of each with my courier. Thank you for your kind assistance in this matter.

Sincerely,



Damon C. Wlodarczyk

DCW/  
Enclosures

cc: Patricia L. Harrison  
611 Holly Street  
Columbia, SC 29205