

The South Carolina Court of Appeals

Amisub of South Carolina, Inc. d/b/a Piedmont Medical
Center d/b/a Fort Mill Medical Center, Respondent,

v.

South Carolina Department of Health and Environmental
Control and The Charlotte-Mecklenburg Hospital
Authority d/b/a Carolinas Medical Center-Fort Mill,
Respondents,

Of whom The Charlotte-Mecklenburg Hospital
Authority, d/b/a Carolinas Medical Center-Fort Mill is
the Appellant.

Appellate Case No. 2015-000056

ORDER

Appellant, The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Center-Fort Mill (Carolinas), has simultaneously filed a petition for rehearing and a motion to supplement the Record on Appeal.

Motion to Supplement

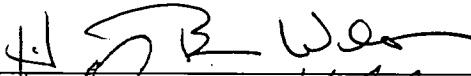
The motion to supplement the Record on Appeal is denied. During the docketing of this appeal, South Carolina case law placed Carolinas on fair notice of this court's authority and obligation to enforce error preservation rules *sua sponte*. See *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) ("[W]e are not precluded from finding an issue unpreserved *even when the parties themselves do not argue error preservation to us*. In fact, a rule [that] would permit such an 'appeal by consent' is contrary to the very core of our preservation requirement: 'Issue preservation rules are designed to give the trial court a *fair* opportunity to rule on the issues[] and[,] thus[,] provide us with a platform for

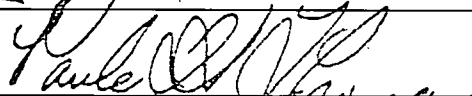
meaningful appellate review." (emphases added) (quoting *Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006))). Likewise, our case law placed Carolinas on fair notice of its own obligation to include in the record those materials adequately reflecting preservation of its chosen issues on appeal. See *State v. Smith*, 329 S.C. 550, 562, 495 S.E.2d 798, 804 (Ct. App. 1998) (noting "the record *must* show" that an issue on appeal "was *raised in the trial court*" (emphases added) (citing *Zaman v. S.C. State Bd. of Med. Exam'rs*, 305 S.C. 281, 285, 408 S.E.2d 213, 215 (1991))); see also *Johnson v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 372 S.C. 279, 283, 641 S.E.2d 895, 897 (2007) ("Because court rules require the appealing party to prepare the record on appeal, see Rule 210(a), SCACR, South Carolina courts have traditionally held the appealing party accountable for failing to present the court with an adequate record on appeal for review."); *State v. Mitchell*, 330 S.C. 189, 199, 498 S.E.2d 642, 647 (1998) (noting the burden is on the appellant "to provide a sufficient record for review" (citing *State v. Williams*, 321 S.C. 455, 464 n.4, 469 S.E.2d 49, 54 n.4 (1996))).


Petition for Rehearing

We have carefully considered the petition for rehearing. However, Carolinas has not established that the court overlooked or disregarded any material fact or principle of law. Hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied. However, we take this opportunity to address Carolinas' misapprehension of our January 11, 2017 opinion.

Carolinas contends the opinion does not address its assignment of legal errors in the third argument of its appellate brief, which is captioned, "The ALC erroneously, arbitrarily, and capriciously applied the CON Act, State Health Plan, and Project Review Criteria." In response to this argument, we held the ALC's decision was rationally based on the standards in all of the pertinent Project Review Criteria and was, therefore, not arbitrary and capricious. This holding implicitly rejected any assignment of legal error to the extent Carolinas' brief made a genuine distinction between errors of law and arbitrary and capricious decisionmaking.



J.


J.


J.

FILED

March 23, 2017

Columbia, South Carolina

cc:

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Vito Michael Wicevic, Esquire
The Honorable S. Phillip Lenski