

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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Honorable H. W. Funderburk, Jr., Administrative Law Judge
Case No.: 2015-002255

JUL 12 2017

SC Court of Appeals

Tommy J. BellamyAppellant

vs.

Horry County AssessorRespondent

**RESPONDENT HORRY COUNTY ASSESSOR'S RETURN
TO APPELLANT'S MOTION TO REHEAR**

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Attorneys for Respondent

July 10, 2017

The Respondent, Horry County Assessor, respectfully moves the Court for an order denying Appellant's Motion to Rehear his prior Motion to Reinstate the instant appeal on the grounds that the Court has neither overlooked nor misapprehended the relevant points before it in this matter. Moreover, Appellant has included a document in its most recent Motion, of unknown origin and signed by him, that is not a part of the Horry County Assessor's file, and is not listed in the Designations of Matter to be Included in the Record on Appeal. Appellant has also, again, failed to include the final page containing Horry County's findings of Law, Fact and Conclusion, as designated by Respondent for inclusion in the Record on Appeal.¹

Rule 210(c), SCACR, provides: "The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267." Appellant's filing repeatedly failed to comply with the South Carolina Appellate Court Rules. Additionally, as referenced above Appellant's Motion to Rehear includes a document of unknown origin that is not a part of Horry County's file regarding this matter. If the Court finds it helpful in deciding this matter, the County Assessor's Office is willing to submit an Affidavit in this regard.

In summary, Rule 210(g), S.C.A.C.R. requires that "Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other materials." The Court properly denied Appellant's Motion to Reinstate for

¹ Respondent filed its first Motion to Dismiss Appeal for Failure to Comply with the South Carolina Appellate Court Rules on June 16, 2016, noting that the Record on Appeal was incomplete and did not contain all of the items designated by Respondent in its Designation of Matter. Appellant filed a Motion to Reinstate the Appeal on December 8, 2016. A second Motion to Dismiss Appeal for Failure to Comply with the South Carolina Appellate Court Rules was filed on February 28, 2017, noting Appellant's Second Amended Record on Appeal still did not include documents noted in the Respondent's Designation of Matter and it was almost identical to the original incomplete Record on Appeal. The Court issued an Order filed April 27, 2017, ordering the Appellant to serve and file a supplemental record on appeal addressing the deficiencies brought to the Court's attention. On June 26, 2017, the Court issued its Order finding that Appellant had still failed to cure the deficiencies contained in the Record on Appeal in the second submission and therefore there was no basis for granting Appellant's petition to reinstate the appeal. Appellant has now filed a "Motion to Rehear" its Motion to Reinstate the Appeal, requesting the Court to reinstate the appeal on grounds that there were "points that were overlooked or misapprehended by the Court."

Appellant's failure to cure deficiencies in the Record, and his Motion to Rehear the Motion to Reinstate should be denied.

Based on the above, Respondent Horry County Assessor respectfully requests the Court deny the Appellant's petition to rehear the Motion to Reinstate the appeal.

Respectfully submitted,



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ADMINISTRATIVE LAW COURT

Honorable H. W. Funderburk, Jr., Administrative Law Judge

Docket No.: 15-ALJ-17-0462-CC

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PROOF OF SERVICE

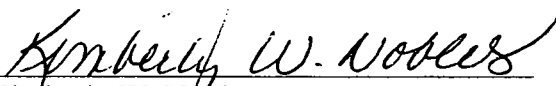
I certify that I have served the Respondent Horry County Assessor's Return to Appellant's Motion to Rehear by depositing a copy of it in the United States mail, postage prepaid, on July 10, 2017, addressed to the *pro se* Appellant as follows:

Tommy J. Bellamy
3684 Sea Mountain Highway
Little River, South Carolina 29566

And a copy served on:

Arrigo P. Carotti, Esquire
Horry County Attorney
Post Office Box 1236
Conway, South Carolina 29528

July 10, 2017


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& LABOR LAW SPECIALIST

July 10, 2017

Via Fax Transmission and U.S. Mail

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Tommy Bellamy v. Horry County Assessor
Appellate Case No. 2015-002255

Dear Ms. Kitchings:

Our firm represents the Horry County Assessor in the above-referenced matter. Please find enclosed for filing the original and seven (7) copies of the Respondent Horry County Assessor's Return to Appellant's Motion to Rehear. Also enclosed is our check in the amount of \$25.00 for the filing fee.

Please do not hesitate to contact our office if you have any questions.

Sincerely yours,

THOMAS & BRITTAIN, P.A.



Emma Ruth Brittain

ERB/kwn

Enclosures

cc: Mr. Tommy J. Bellamy

Arrigo P. Carotti, Esquire, Horry County Attorney

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