

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM HORRY COUNTY

Case No. 2015-002255

RECEIVED

AUG 24 2017

S.C. SUPREME COURT

Tommy J. Bellamy-----Petitioner

V

Horry County Assessor -----Respondent

**PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS
PETITIONER'S PETITION FOR WRIT OF CERTIORARI**

Tommy J. Bellamy
3684 Sea Mountain Highway
Little River, South Carolina 29566
843 457-3625

The Respondent filed Motion to Dismiss Petitioner's Petition for Writ of Certiorari on August 16, 2017. The Respondent alleges that on July 17, 2017, the Petitioner served a hand delivered copy of the Petitioner's Petition for Writ of Certiorari but failed to serve a copy of the Appendix. The Petition for Writ of Certiorari and Appendix and relevant documents were re-served on August 21, 2017. South Carolina Appellant Court Rule 242(e) state. "If the matter was dismissed by the Court of Appeals for procedural or other reasons. The Appellant shall include any documents relevant to the dismissal including any motion and any return or reply that may have been filed"

This matter was not dismissed by the Court of Appeals for procedural reasons as the Respondent alleges. The petitioner's Petition to Reinstate was denied by the Court of Appeals Pursuant to Rule 221© of the South Carolina Appellant Court Rules. "The Appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." The Court decline to act on the Appellant's motion to rehear for that reason. The Court ruled that the petitioner failed to cure the deficiencies contained in the Record on Appeal. The court clearly ruled they would not act on Respondent's: "Motion to dismiss the appeal and dismiss Appellant's petition to reinstate the appeal."

Rule 210©, SCACR: 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"

On May 8, 2017, the Petitioner served the Respondent with Second Amended Record on Appeal and Supplemental Record on Appeal that included the designated documents. The Petitioner alleges that one of the documents is of unknown origin and not a part of the Horry County files. The Respondent clearly requested the document. The second designated document was a letter that was included in the Second Amended Record on File and Supplemental Record on file. The Respondent alleges that the letter had an addition page after the closing page.

The Petitioner has abided by the requirements of Rule 210(g) 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 any other material.

1. The Petitioner has proven exhaustion of all administrative remedies. Respondent's Horry County Assessor's actions were Arbitrary and Capricious when assessing the Petitioner's property, had no basis or foundation in accordance to the South Carolina Board of Assessor's regulations. The excessive assessment was reckless and harmful to the Petitioner.

2. There exist no evidence supported by statute that supports the fact that the Horry County Assessor's procedure of assessment of different taxes, on the citizens of Horry County's property in the same tax area with similar circumstances shows merit. There is no substantial evidence for cause of that agencies decision. Respondent failed to address the questions of statue.

3. Tax notices for properties under appeal: Title 12, Chapter 60, and 12-60-2550: Chapter 54, and 12-54-25 payment of taxes, interest and penalties when valuation of property is appealed: *Under receipt of written notice of appeal of a property valuation.*

*"If the valuation is less than that set as provided in this section, the assessment of the current year must be reduced by the cumulating difference between the assessment as entered and that determined by final review or appeal. The tax paid on the difference between the assessments as entered and that determined after final review **must be refunded together with interest** determined in accordance with section 12-54-25."*

Written request for an appeal of the property valuation with the Horry County Appeals Board for 2008 and 2009 Property taxes were submitted by Petitioner's Attorney, Mark A. Brunty on March 2, 2010 and request for an appeal by Petitioner on March 3, 2010. The Horry County Assessor's office refused to schedule a conference as requested with the Horry County Assessors Appeal Board. The Assessor's Office demanded payment of \$30,000 or property would be auctioned on Courthouse steps.

An assessment review of the Petitioner's property by the Horry County Assessor's office caused a reduction of taxes. The difference between the first assessment that included excessive property taxes of over \$30,000 and the correct reassessment determined after final review reduced the taxes to less than \$500.00 per year. The tax paid on the difference between the assessments as entered and the determined after final review was not refunded together with interest as determined in accordance with section 12-54-25.

4. There exists an Abuse of Agency Discretion by Horry County Assessor's Board not given to them by the South Carolina Statue of Law in this matter. The statutory interpretation or plain meaning of the statues that the Horry County Assessor's Board acted upon has no standing or merit.

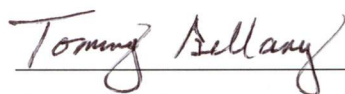
5. Respondent Horry County Assessor's moved for extension of time to file Initial Brief and Designation of Matter to be included in the record on Appeal which was due on **April 1, 2016**. The Respondent requested an additional twenty (20) days extension of time enlarging the time up to and including **April 21, 2016**. The Court granted the extension.

6. Respondent filed Initial Brief and Designation of Matter out of time on **May 6, 2016** without approval of the Court. The Court did not grant an extension.

7. Petition has provided all documents as required by Rule 221(g) Respondent has filed multiple motions to dismiss due to alleged deficiencies in the documents provided but has failed to provide proof of the the deficiencies.

Now here comes the Respondent' Motion to Dismiss Petitioner's petition for Writ of Certiorari

The Appellant prays that this Court finds the Respondent, Horry County Assessor in violation of improper assessment of property and in violation of improper filing procedures to the South Carolina Supreme Court.

 8/21/17

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PROOF OF SERVICE

I Tommy Bellamy certify that I will serve this Reply to Respondent's Motion to Dismiss Petitioner's Petition for Writ of Certiorari to the Respondent addressed below by hand delivering to Emma Ruth Brittain, Esquire office at 4712 Jenn Drive, Suite B. Myrtle Beach, South Carolina 29578 this date 8/22/ 2017

Tommy Bellamy 8/21/17
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