

RECEIVED

AUG 31 2017

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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

Tommy J. BellamyPetitioner

vs.

Horry County AssessorRespondent

**RESPONDENT HORRY COUNTY ASSESSOR’S REPLY TO PETITIONER’S RETURN
TO HORRY COUNTY ASSESSOR’S MOTION TO DISMISS PETITIONER’S
PETITION FOR WRIT OF CERTIORARI**

Respondent Horry County Assessor (“the County”) replies to Petitioner’s Return to the County’s motion to dismiss the Petition for Writ of Certiorari, respectfully submitting that this Court properly found that Petitioner’s repeated failure to cure deficiencies contained in his Record on Appeal, constitutes grounds for dismissal. As set forth in detail in Respondent’s Motion, Petitioner’s filings with the Appellate Courts have been procedurally non-compliant since the filing of his Initial Brief and Designation of Matter on May 6, 2016. Respondent has filed three Motions to Dismiss, dated June 20, 2016; March 2, 2017; and March 19, 2017; in response to Petitioner’s non-compliant filings. The Court of Appeals has issued three Orders in this matter addressing Petitioner’s record deficiencies, the last of which, dated June 26, 2017, dismissed the appeal.

In Petitioner's Return filed with this Court, Petitioner originally failed to serve the Appendix on Respondent; moreover, the Appendix filed with the Court, fails to contain all of the documents required by Rule 242(e), SCACR, and also fails to meet the requirements of Rule 267(d), SCACR. Specifically, Petitioner's filing is deficient because:

- (1) The Appendix does not contain all of the required documents – Rule 242(e), SCACR;
- (2) The Appendix is not bound – Rule 267(d), SCACR; and
- (3) Petitioner served Respondent's counsel with two (2) separate returns to the Motion to Dismiss, each containing different information, on August 21, 2017, and August 22, 2017¹.

Petitioner's Petition for Writ of Certiorari fails to meet the Requirements under Rule 242(e), SCACR, as detailed in the County's motion to dismiss and briefly described above. As this Court has held in *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992):

...the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.

See also *State v. Burton*, 356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9n.5 (2003) (“A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”).

The Horry County Assessor further submits that dismissal of this action is appropriate under Rule 260(a), SCACR, which provides:

...whenever it appears that . . . a Petitioner has failed to comply with the requirements of these Rules, the Clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.

¹ Petitioner's initial Return to the Motion to Dismiss was contained on the Index page of the Appendix and served August 21, 2017.

The Respondent respectfully submits that Petitioner's Petition for Writ of Certiorari should be dismissed pursuant to Rule 260(a), SCACR, by the Clerk to the Supreme Court, or, in the alternative, by the Court.

Respectfully submitted,



Emma Ruth Brittain, Esquire
S.C. Bar No. 5298
THOMAS & BRITTAIN, P.A.
4712 Jenn Drive, Suite B
Post Office Box 1290
Myrtle Beach, South Carolina 29578
Telephone: (843) 692-2628
Facsimile: (843) 692-0928
E-mail: erbrittain@myrlaw.com
Attorneys for Respondent

August 28, 2017

THE STATE OF SOUTH CAROLINA

In The Supreme Court

RECEIVED

AUG 31 2017

S.C. SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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

Tommy J. BellamyPetitioner

vs.

Horry County AssessorRespondent

PROOF OF SERVICE

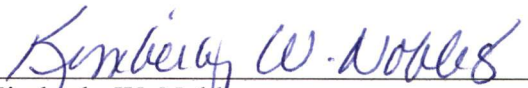
I certify that I have served the Respondent Horry County Assessor’s Reply to Petitioner’s Return to Horry County Assessor’s Motion to Dismiss Petitioner’s Petition for Writ of Certiorari by depositing a copy of it in the United States mail, postage prepaid, on August 28, 2017, addressed to the *pro se* Petitioner 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

August 28, 2017



Kimberly W. Nobles
Thomas & Brittain, P.A.
Post Office Box 1290 (zip 29578)
4712 Jenn Drive, Suite B (zip 29577)
Myrtle Beach, South Carolina
Telephone: 843-692-2628
Fax: 843-692-0928