



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Town of Sullivan's Island,

Case No. 2016-CP-10-5578

Plaintiff/Respondent,

vs.

**ORDER IN RESPONSE TO
DEFENDANT/APPELLANT'S MOTION
TO ALTER AND AMEND IN
ACCORDANCE WITH SCRPC
RULE 59**

Michael Murray,

Defendant/Appellant.

FILED
2018 FEB 23 PM 2:13
CLERK OF COURT

This matter is before the Court on Defendant/Appellant's Motion to Alter or Amend in accordance with SCRPC Rule 59. This matter was initially heard by the Court on January 4, 2016. This is an appeal from the Town of Sullivan's Island Municipal Court's decision related to a ticket issued to Plaintiff/Respondent for violation of the Town's ordinances Chapter 21-75 which governs the construction of docks and Chapter 5-10 of the Town's ordinances which requires issuance of a building permit before commencing construction in the Town. The Municipal Court determined that Defendant/Appellant Murray had violated ordinances 21-75 and 5-10 in construction of a dock located at 1102 Osceola Avenue, Sullivan's Island.

This Court issued a Form 4 Order in this matter on January 6, 2016. The following notation was included on the Form 4 Order: "*The appeal filed by Murray is denied. Based on the record, Murray acknowledged notice of the zoning laws and permit requirements and was found in violation. Murray has failed to demonstrate error of law.*"

Defendant/Appellant Murray filed a Rule 59 Motion to Alter or Amend on January 25, 2017, but Murray's Counsel failed to notify this Court of the Motion as required in SCRPC Rule 59. Murray asserts that the ruling embodied in the Form 4 Order does not address the primary

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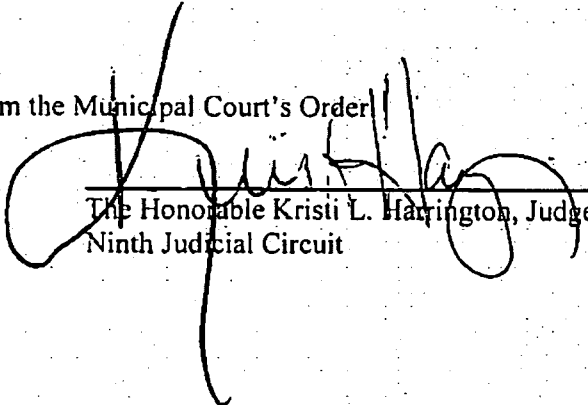
SC Court of Appeals

issue raised by Defendant/Respondent which is the whether the Town of Sullivan's Island can enforce a requirement that has not been promulgated and is merely an interpretation by the Town of its authority and whether such enforcement can be in the form of a criminal prosecution.

This Court modifies the Form 4 Order with the following Findings of Fact:

1. There is no express requirement in the Town of Sullivan's Island's ordinances, including Chapter 21-75 which would prohibit docks from extending any further than adjacent docks.
2. Chapter 5-10 of the Town of Sullivan's Island's ordinances require an applicant seeking to construct to secure a building permit application.
3. Defendant/Respondent submitted an application and accepted a building permit from the Town that included provisions that the dock not extending any further into Cove Creek than adjacent docks.
4. It is undisputed that the dock extends further into Cove Creek than the adjacent docks.

Based on these findings I affirm the Municipal Court's Order


The Honorable Kristi L. Harrington, Judge
Ninth Judicial Circuit

February 22, 2018
Charleston, South Carolina

JULIE J. ARMSTRONG

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JOHN JOSEPH DODDS III
858 LOWCOUNTRY BLVD STE 101
MT PLEASANT SC 29464-3080

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order in response to defnt/appellant mot to alter or amend

CASE NO: 2016CP1005578

Michael Murray VS Sullivans Island Town of

This judgment was entered on the 23rd day of February, 2018, and notice mailed first class on Monday, February 26, 2018, to all counsel of record and/or all parties entitled to receive notice.

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