

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Hon. J. Mark Hayes, II, Judge

Case No. 2017-CP-42-01180

Appellate Case No. 2018-001747

South Carolina Department of Transportation, Respondent

v

Geary Thomas Dooly and Eleanor S. Dooly, Landowner(s),

Of whom Geary Thomas Dooly is the Appellant.

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SC Court of Appeals

RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL

John B. White, Jr., Esquire
Ryan F. McCarty, Esquire
Harrison | White, P.C.
178 W. Main Street
Spartanburg, SC 29306
864-585-5100
Attorney for Respondent

Respondent South Carolina Department of Transportation submits the following Return to Appellant Geary Thomas Dooly's Motion to Reinstate their appeal following this Court's dismissal of the same by way of Order dated November 21, 2018.

ARGUMENT

Appellant's Motion arises in an Appeal of an Order filed in a condemnation action regarding the lower court's subject matter jurisdiction over the underlying condemnation action which still remains pending in the Court of Common Pleas for Spartanburg County. Prior to the condemnation action being tried on its merits, Appellant filed a Motion to Dismiss the condemnation action based upon his belief that the Court of Common Pleas lacks both subject matter jurisdiction and personal jurisdiction over him. On August 21, 2018, a hearing was held before the Honorable J. Mark Hayes, II, Circuit Court Judge, on Appellant's Motion to Dismiss. Judge Hayes issued an Order denying the Appellant Motion to Dismiss the case, and Appellant filed a Notice of Appeal with the South Carolina Court of Appeals. By way of Order filed November 21, 2018, this Honorable Court dismissed the appeal.

Appellant's Motion for Reinstatement appears to rest largely in the Appellant's contention that the courts of South Carolina do not have jurisdiction over Geary Thomas Dooly as a "living man, a NON-U.S. citizen, and a NON-'The State of South Carolina Citizen.'" Appellant's Motion at Page 3, Paragraph 1. Appellant's Petition to Reinstate his Appeal fails to address substantive case law regarding what matters are immediately appealable and which matters are not, and rather addresses the beliefs of the Appellant that courts do not have jurisdiction over him as a living man.

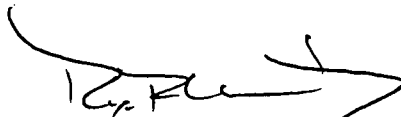
Respectively, Respondent South Carolina Department of Transportation believes the Appellant's appeal was properly dismissed because Appellant's issue on appeal is an issue that is not immediately appealable. See *Deskens v. Boltin*, 319 S.C. 356, 461 S. E.2nd 395 (1995); *Woodard v Westcorp.*, 319 S.C. 240, 460 S.E.2d 395 (1995).

CONCLUSION

For the foregoing reasons Respondent South Carolina Department of Transportation respectfully request that this court deny Appellant's Petition to Reinstate his Appeal, dismiss his appeal as interlocutory, dispense with further briefing, and grant any other such relief that this Honorable Court deems just and proper.

Respectfully submitted,

**RESPONDENT SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION**



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Telephone: 864-585-5100
Attorneys for Respondent

Dated: December 17, 2018

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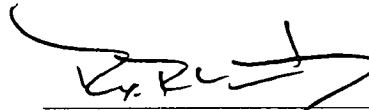
Geary Thomas Dooly and Eleanor S. Dooly, Landowner(s),

Of whom Geary Thomas Dooly is the Appellant.

CERTIFICATE OF SERVICE

I, the undersigned, of the Law Offices of Harrison | White, P.C., attorneys for Respondent South Caroling Department of Transportation, hereby certify that I have served a true and accurate copy of the RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL by First Class U.S. Mail, postage prepaid to the following:

Mr. Geary Thomas Dooly
Ms. Eleanor S. Dooly
P.O. Box 3326
Spartanburg, SC 29304



Ryan F. McCarty, Esq.

December 17, 2018

HW HARRISON | WHITE & P
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December 17, 2018

The Hon. Jenny Abbott Kitchings
South Carolina Court of Appeals
Clerk of Court's Office
P.O. Box 11629
Columbia, SC 29211

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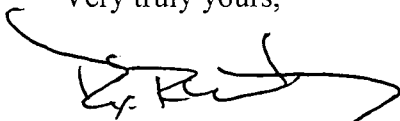
Re: **South Carolina Department of Transportation, Respondent v. Geary Thomas Dooly and Eleanor S. Dooly, Landowner(s), Of Whom Geary Thomas Dooly is the Appellant.**
Appellate Case No. 2018-001747

Dear Madame Clerk:

Enclosed herewith, please find the original and six copies of Respondent South Carolina Department of Transportation's Return to Appellant's Motion to Reinstate the above-referenced appeal for filing. Additionally, please find enclosed a Certificate of Service on Appellant along with a copy of my letter to the same that I am requesting be filed as well.

Thank you in advance for your attention to this matter. Please do not hesitate to contact me with any questions or concerns that you may have.

Very truly yours,



Ryan F. McCarty
Attorney for SCDOT

cc: Mr. Geary Thomas Dooly
Mrs. Eleanor S. Dooly

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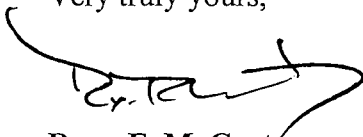
Mr. Geary Thomas Dooly
Ms. Eleanor S. Dooly
Post Office Box 3326
Spartanburg, SC 29304

Re: **South Carolina Department of Transportation, Respondent v. Geary Thomas Dooly and Eleanor S. Dooly, Landowner(s), Of Whom Geary Thomas Dooly is the Appellant.**
Appellate Case No. 2018-001747

Dear Mr. and Mrs. Dooly:

Enclosed herewith, I am serving upon you a copy of Respondent South Carolina Department of Transportation's Return to your Motion to Reinstate the above-referenced appeal along with a Certificate of Service for the same. The original and six copies of Respondent's Return are being sent to the South Carolina Court of Appeals.

Very truly yours,



Ryan F. McCarty
Attorney for SCDOT

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H HARRISON WHITE

P.O. Box 3547, Spartanburg, South Carolina 29304

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