

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr, Master-in-Equity

Appellate Case No. 2018-001279

RECEIVED
APR 23 2019
SC Court of Appeals

Michael Stehney, Jr., Respondents,

v.

Ronald E. Ferguson, Susan M. Ferguson, and Ronald J. Ferguson, Defendants,

Of whom Ron Ferguson, Ronald J. Ferguson, and Susan M. Ferguson are the Appellants.

APPELLANT'S REPSONSE TO MOTION FOR COSTS
TO BE PAID BY APPELLANT AND
COUNTERMOTION FOR SANCTIONS PURSUANT TO RULE 11 AND
SOUTH CAROLINA FRIVOLOUS PROCEEDINGS SANCTIONS ACT

Comes now Appellant(s), Ronald E. Ferguson, Susan M. Ferguson, and Ronald J. Ferguson who are in receipt of the filing titled Respondent's Motion for Costs to be Paid by Appellant which alleges, inter-alia, "he was forced to deal with a number of frivolous motions...". Appellant's herein submit that Plaintiff and counsel filed the Motion(s) before this Court which required Appellant's response.

Moreover, Appellant's would state for the record the actions by the Plaintiff's were taken in furtherance of their continuing criminal enterprise and for which they are currently under investigation.

Court of Appeals Filings

Clerk of Court indicates that Appellant(s) filed their Notice of Appeal on July 9, 2018.

Respondent's filed a Motion to Dismiss on July 16, 2018. However, that pleading failed to follow the applicable rules and the Motion was returned by the United States Postal Service for insufficient Postage. Counsel for Respondent tried to cover that fact up with correspondence to the Clerk alleging that Appellant's refused service then mailed the pleading a second time per their correspondence dated August 6, 2018. The Court issued a ruling on August 8, 2018, before any Appellant was even in possession of Respondent's filings or filed any response. Whereas the Court entertained an improperly served motion by Respondent's and received further correspondence making allegations of denied service it required investigation through the United States Postal Service before the matter could be addressed.

Appellant's submit, even though the judiciary is now under investigation for his conduct and likely to be named in federal litigation, the record is fairly clear that the Court did not find the motion(s) frivolous.

RULE 407, SCACR

Rule 3.1 of Rule 407, SCACR, provides, "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law." Footnote 2 further provides, "What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by good faith argument for an extension, modification or reversal of

existing laws.

Keeping with the Rules of Professional conduct, Rule 3.3 of Rule 407, SCACR states, “(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.”

Let's take a few moments to review the litigation in question. Respondent's Complaint alleged Appellant's caused damage to a neighboring property as a result of work performed by a South Carolina Contractor. Appellant's contended that Respondents' conduct of installing an underground drain which was connected to the street drains caused the issue. Respondent's counsel denied such conduct in all pleadings. Generated documentation alleging his client was not of sound health to meet with federal investigators on site and instead acted on the Respondent's behalf in those events, denied any of the acts during depositions, provided incomplete contact information for witness(es) supposedly not available to be contacted, and then managed to appear for trial. In addition to ex parte communications with judiciary, drafting memorandums of motion hearings where there was no court reporter present and engaging in hearings as well as drafting motions when matters were before the federal court.

CRIMINAL CONDUCT OF RESPONDENT'S WITNESS
PAUL STEVEN JONES, SENIOR

Due to the fact there has been a judicial review of some events resulting in a finding of cause for investigation, a criminal complaint signed, and strict instructions from the Court not to discuss the proceedings there will be limited examples submitted herein.

18 **BY MR. CAMPBELL:**

19 Q. Mr. Jones, what do you do for a living?

20 A. Home improvements; complete home improvements.

21 Q. How long have you been doing complete home
22 improvements?

23 A. Ever since I was nineteen in '58. So I'd say around
24 thirty-two years, thirty-three years.

25 Q. Your own company?

1 A. Yes.

2 Q. And have you on occasion done work for Mr. Stehney?

3 A. Yes, I have, throughout the years.

4 Q. And just give the Court a brief overview of the type
5 of work you've done for Mr. Stehney?

6 A. I replaced a drain pipe. I have did plumbing in his
7 house. Bushhogged around the pond. Quite a bit of --
8 whatever he needed done. I do all home improvements.

9 Q. You're a handyman? That would be the ---

10 A. Well, a handyman, but more than that. I'm qualified.

11 Q. Have you ever helped Mr. Stehney do pipe work on the
12 pipe from the street to the ---

13 A. Yes, I have.

14 Q. And what type of work did you have to do?

15 A. We had to dig up the drain out in front of the house,
16 out in the road. When it rained it used to back up. And it
17 would back up years ago and it would flood out his front
18 yard. He was saying that it had to be drains under there
19 running to the pond. So we took the chance to dig up to see
20 what was going on at the drain, and it was a drain made out
21 of fifty-five gallon drums that was put back-to-back, and
22 they had caved in, corroded, roots all in it. So we moved
23 them and replaced them with PVC pipe.

24 Q. The drums that you found, had they been recently put
25 in or were they clearly of age?

1 A. They was probably older than I am, I'd say, because
2 they was all corroded, in fact.

3 Q. Mr. Jones, have you gone to high school? Did you
4 graduate from high school?

5 A. Yes.

6 Q. And where did you graduate from high school?

7 A. I was at Hillcrest, but I left Hillcrest and went to
8 Michigan, Northwestern High School in Michigan. I graduated
9 from Northwest and I went to Highland Park Community College
10 for a while, and that's in Highland Park, Michigan.

11 Q. And did you get a degree from there?

12 A. I went to PIE Engineering to get my degree, because
13 when I went to school, I wanted to be an architect. And Mr.
14 Jim Ferguson, which my uncle knew Jim Ferguson that owned
15 Ferguson Tractors and quite a few other things, he had an
16 engineering company. So they pulled me right in and that's
17 where I took off from.

18 Q. And did you ultimately get a degree in engineering?

19 A. Yes, mechanical engineer.

20 Q. And are you a professional engineer, as well?

21 A. Yes. I don't use it, but I think about my jobs that I
22 do and how I have to go about doing them.

23 Q. Have you had occasion to go out and look at the pond
24 on Mr. Stehney's property?

25 A. Yes, I did when it was -- had the mud clogged up in
1 the drain pipe. I seen it then. Because he wanted me to do
2 something about it at that time. And just the other day I
3 went back over to take a look at it.

4 Q. And have you formed an opinion as to what it would
5 cost to remediate that pond?

6 A. Yes, I did.

7 Q. And what would be that cost?

8 A. Altogether, twenty-six thousand five hundred dollars.
9 That's for material and labor. That's the rental of the
10 machinery, replacing two jet valves in pipe leading to the
11 jet pumps. I have to tear down two fences to get into the
12 pond. I would need a trackhoe to dig out where the mud
13 built up around the pipe coming from the water going in.
14 And then you really don't know what all you're going to run
15 into when you get there because it might even need to be
16 drained off, you know.

17 Q. You might have to drain the pond off?

18 A. Drain the whole pond. I don't know. But I know that
19 debris like trees and bushes and everything have growed up
20 around the pond within the years that Michael hasn't did
21 anything to it. But at one time he used to keep it clean. (Transcript Pages 166-168)

South Carolina Department of Labor Licensing and Regulation indicates that Paul Steven Jones, Senior, holds license specialty number 48320 which states, "**Licensee is authorized to perform work only in the classification(s) listed below.**

CARPENTRY

FLOOR COVERING

PAINTER/WALL PAPER". See attached License

First issue being Respondent, who filed the Complaint, failed to acknowledge in the pleading and following years of discovery his criminal conduct in hiring the party to perform the work. South Carolina Code states, **SECTION 40-11-200**. Unlawful practice; penalty.

(B) It is a violation of this chapter for an awarding authority, owner, contractor, or an agent of an authority, owner, or contractor to consider a bid, sign a contract, or allow a contractor to begin work unless the bidder or contractor has first obtained the licenses required by this chapter. Bids or contracts submitted by contractors may not be reconsidered or resubmitted to an awarding authority, contractor, or owner if the contractor was not properly licensed at the time the initial bid or contract was submitted.

(C) Charges under this section may be preferred by the board by delivering evidence of a violation to a solicitor or a magistrate having jurisdiction.

(D) Upon conviction under this section, the fines and assessments imposed by a court must be administered pursuant to Sections 14-1-205, 14-1-206, 14-1-207, 14-1-208, and 14-1-209.

Secondly, Witness Jones was not only committing criminal acts when performing the original work, he committed additional criminal acts by engaging in creating estimates of the damages and testifying about same before the Court.

2 RONALD E. FERGUSON: Objection, Your Honor. He
3 has no knowledge of the pond. He's not a civil engineer. (Transcript Page 169)

South Carolina LLR has provided explicit information Witness Jones has never qualified, held a license or posted bond for any of the type of the work, for which he testified about or qualified under law to testify about the damages he alleges.

CODE OF JUDICIAL CONDUCT

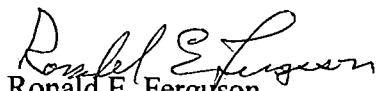
Cannon 3 of Rule 501, SCACR, proscribes, (1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.*

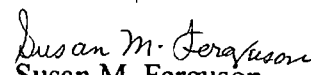
(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a


violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge* that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.*

Respondent and his counsel deliberately withheld information related to Respondent's criminal conduct in the original Complaint and throughout discovery. Once the forum moved from the Master-in-Equity to the appellate court it was Respondent and counsel who chose to continue their attempts to hide their conduct any way possible. Whether the Court decides to invoke jurisdiction and uphold the rules along with precedent remains to be seen. Fact remains, Judge D. Garrison Hill was previously implicated in the matters as judiciary who acted questionably and the light has begun shining on the conduct of other judiciary in these matters. Appellant's respectfully submit that Respondent nor his counsel are entitled to any costs as a result of their attempts to derail pursuit of justice. This Court should acknowledge the brief criminal conduct from the transcripts and engage in such further fact finding to determine whether Respondent's behavior in filing Motion to Dismiss was in furtherance of the fraud and predicated the "frivolous motions" they allege drove up the costs of the appeal or instead a violation of the Rules of Professional Conduct to increase monetary judgments.

Respectfully submitted,


Ronald E. Ferguson
103 Mill Creek Rd
Piedmont, SC 29673
(864) 509-0169
Appellant pro-se


Susan M. Ferguson
103 Mill Creek Rd
Piedmont, SC 29673
(864) 509-0169
Appellant pro-se


Ronald J. Ferguson
103 Mill Creek Rd
Piedmont, SC 29673
(864) 509-0169
Appellant pro-se

April 18, 2019

Print this page

Board: Residential Builders

PAUL S JONES SR
1051 SULLIVAN ROAD
FOUNTAIN INN, SC 29644

Associated Businesses:

- HOME IMPROVEMENTS

Status: ACTIVE

Registration number: 48320

Registration type: Specialty

Expiration: 06/30/2019

First Issuance Date: 11/06/2006

Licensee is authorized to perform work only in the classification(s) listed below.

CARPENTRY

FLOOR COVERING

PAINTER/WALL PAPER

No Bond On File

Board Public Action History:

[View Orders](#)

[View Other License for this Person](#)

No Orders Found

[File a Complaint against this licensee](#)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr, Master-in-Equity

Appellate Case No. 2018-001279

Michael Stehney, Jr., Respondent,

v.

Ronald E. Ferguson, Susan M. Ferguson, and Ronald J. Ferguson, Defendants,

RECEIVED
APR 23 2019
SC Court of Appeals

PROOF OF SERVICE

I certify, that on this date, I served a copy of Appellant's Response to Motion for Costs to be Paid by Appellant and Counter-motion for Sanctions Pursuant to Rule 11 and South Carolina Frivolous Proceedings Act, dated 04/19/2019 on Respondent's Attorney of record by mailing it to the address indicted by their counsel of record as follows:

Chace Campbell
12 East Stone Street
Greenville, SC 29609

This the 19th day of November, 2018.



Ronald E. Ferguson

Ronald E. Ferguson
103 Mill Creek Road
Piedmont, SC 29673

April 19, 2018

Hon. Jenny Abbott Kitchings
Clerk of Court
PO Box 11629
Columbia, SC 29211


Re: Stehney v. Ferguson, et al
Appellate No. 2018-001279

RECEIVED
APR 28 2019
SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed an original and six copies of an Appellant's Response to Motion for Costs to be Paid by Appellant and Counter-motion for Sanctions Pursuant to Rule 11 and South Carolina Frivolous Proceedings Act. If there should be any questions or concerns please do not hesitate to contact me.

Respectfully,


Ronald E. Ferguson

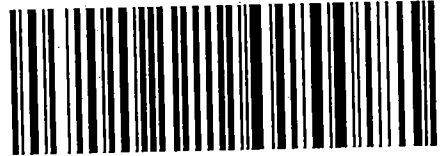
cc: Chace Damon Campbell

Ronald Ferguson
103 Mill Creek Road
Piedmont, SC 29673

7018 1830 0001 9215 8587

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

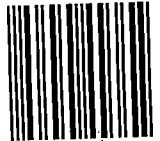
CERTIFIED MAIL



7018 1830 0001 9215 8587



1000



29211

U.S. POSTAGE PAID
FCM LG ENV
SIMPSONVILLE, SC
29681
APR 20, 19
AMOUNT

\$6.30

R2305K137364-12

RECEIVED

APR 23 2019

SC Court of Appeals

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