

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No. 2018-000794
Case No. 2016-CP-40-2875

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SC Court of Appeals

South Carolina Public Interest Foundation, Edward D. Sloan,
Jr., and William B. DePass, Jr., individually, and on behalf of
all others similarly situated,..... Appellants,

v.

Richland County,..... Respondent,

and

Central Midlands Regional Transit Authority,..... Intervenor-Respondent.

**RESPONDENT'S RESPONSE BRIEF TO
AMICUS CURIAE BRIEF SUBMITTED BY
SOUTH CAROLINA DEPARTMENT OF REVENUE**

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Cases

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State ex rel. Wilson v. Condon,
410 S.C. 331, 764 S.E.2d 247 (2014) 2

ARGUMENTS

In its amicus curiae brief, the South Carolina Department of Revenue (“SCDOR”) expressly states that its interest in this appeal is limited to the Appellants’ first issue on appeal which pertains only to the summary judgment granted in favor of the Intervenor-Respondent Central Midlands Regional Transit Authority (“CMTRA”). SCDOR does not directly take a position on the appeal of the Circuit Court’s order granting the Respondent Richland County’s motion to dismiss for failure to prosecute.

Despite not taking a specific position on that aspect of the Appellants’ appeal, it is worth noting that the “Interest of Amicus” section of SCDOR’s brief makes the very points argued by the County as an additional sustaining ground, specifically defining the “oversight” authority that the Supreme Court has recognized SCDOR possesses. As SCDOR discusses in its amicus brief, in its decision in *Richland County v. South Carolina Department of Revenue*, 422 S.C. 492, 811 S.E.2d 758(2018), the Supreme Court explained that SCDOR has “extensive administrative, oversight, and enforcement responsibilities in the Transportation Act and ... Title 12 of the South Carolina Code confer[s] upon DOR a duty in ensuring the County’s expenditures of Penny Tax revenues comply with the revenue laws DOR is charged with enforcing.” 811 S.E.2d at 765. The Supreme Court also described SCDOR as “the agency statutorily tasked with

administering the Penny Tax program” and further noted that “the expenditure of millions of dollars of Penny Tax revenues is an issue of wide concern ... to DOR.”

Id.

In addition, in its amicus curiae brief, SCDOR states that “[t]he issues in this appeal are similar to the issues that were litigated in *Richland County v. Department of Revenue*, in which the Department challenged Richland County’s use of Transportation Act revenues on ‘administrative costs’ that were unrelated to any specific transportation project.” *See*, SCDOR Amicus Curiae Brief, p. 1. In its Respondent’s Brief, the County has asserted as an additional sustaining ground that the case at bar, which is a taxpayer-commenced lawsuit, is duplicative in nature to the ongoing SCDOR litigation; yet, it is SCDOR that the Supreme Court has recognized has the requisite oversight and enforcement authority over the expenditures of Transportation Tax revenues. As the County has argued, South Carolina jurisprudence explicitly disfavors duplicative litigation. Indeed, in *State ex rel. Wilson v. Condon*, 410 S.C. 331, 764 S.E.2d 247 (2014), the Supreme Court cautioned that “duplicative litigation should be avoided,” particularly in inherently complex and novel cases. 764 S.E.2d at 248.

In sum, SCDOR’s explanation of its interest as an amicus curiae in this litigation and its description of the pending litigation between SCDOR and the County reinforce the arguments made by the County as an additional sustaining ground in this appeal. Given the Supreme Court’s ruling, SCDOR would clearly

be the more appropriate party than the Appellants to prosecute claims for declaratory and injunctive relief within this context. Accordingly, the avoidance of duplicative litigation is an additional basis for upholding the Circuit Court's dismissal of the Appellants' lawsuit.

CONCLUSION

Based on the foregoing analysis and discussion, the Respondent Richland County respectfully renews its request that this Court affirm the dismissal of the Appellants' Amended Complaint for Declaratory Judgment.

Respectfully submitted,

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