

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

RECEIVED
MAR 09 2020
SC Court of Appeals

CASE NO: 2018-CP-400-5641

RONALD I. PAUL.....Appellant,

V.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Firm of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Firm, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation..... Respondents.

**REPLY TO RESPONDENT’S RETURN TO APPELLANT’S MOTION
FOR LEAVE TO FILE RULE 60(B) MOTION AND MOTION FOR
LACK OF JURISDICTION AND MOTION TO REMAND**

In Respondent’s Return, to Appellant’s “Motion for leave to file Rule 60(b) Motion and Motion for lack of jurisdiction and Motion to remand”.

Respondent's only raised and addressed their Motions to Dismiss that must be denied on remand as argued below pursuant to authoritative precedent and binding authority in Knick¹. Moreover, Respondent's never raised are addressed Summary Judgment that's granted in the Form 4 Order filed on August 9, 2019. Not even one time in their Return.

The United States Supreme Court's decision in Knick v. Township of Scott, apply retroactively. Knick v. Township of Scott, overruled, in part, Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City, 473 U.S. 172 (1985) 34-year old precedent that established a federal claim was not ripe until a state takings plaintiff exhausted its remedies under state law.

In South Carolina, “[t]he general rule regarding retroactive application of judicial decisions is that decisions creating new substantive rights have prospective effect only, whereas decisions creating new remedies to vindicate existing rights are applied retrospectively.” Carolina Chloride, Inc. v. S.C. Dep't of Transp., 391 S.C. 429, 433, 706 S.E.2d 501, 503 (2011) (citation omitted). See Carolina Chloride, Inc., 391 S.C. at 433-34, 706 S.E.2d at 503 (finding judicial decision should be applied retroactively when it created no new right or cause of action; rather, it abandoned former test and restated the focus for what a landowner must prove to entitle him to damages in an

¹ In Respondents Return, in a calculated attempt to ignore/overlook Knick are misrepresenting the documents that are before the Court; misrepresenting the nature of Paul's arguments below and to this Court by continuing to rely upon and attempting to put forward their motions to dismiss, that Knick struck down.

inverse condemnation action. “Prospective application is required when liability is created where formerly none existed.” Id. at 433–34, 706 S.E.2d at 503. “As a common rule, judicial decisions in civil cases are presumptively retroactive.” *Miranda C. v. Nissan Motor Co.*, 402 S.C. 577, 586, 741 S.E.2d 34, 39 (Ct.App.2013).

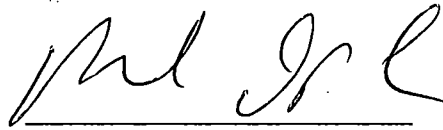
Therefore, *Knick* apply retroactive - the holding in *Knick* applies to the instant case. As a result, on Remand, after the circuit court receive a supplemental brief / supplemental motion under Rule 59 (e) and motion under Rule 60(b) as to the effect of *Knick* on the circuit court rulings under these circumstances, Respondent’s Motions to Dismiss must be denied.

CONCLUSION

As described herein, the above-captioned matter is currently before the Court pursuant to an appeal instituted by Appellant from the granting of Respondents motions to dismiss and summary judgment.

Appellant respectfully ask the Court to remand this appeal for lack of jurisdiction, for leave to make a motion pursuant to Rules 60(b)(1)(3)(4) and (5) of the South Carolina Rules of Civil Procedure and, to hold this appeal in abeyance pending Judge Newman ruling on Appellant’s Motion to Reconsider filed on August 19, 2019 (supplemented because *Knick* was overlooked) and Motion pursuant to Rule 60(b)(1)(3)(4) and (5) of the South Carolina Rules of Civil Procedure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. I. Paul", written over a horizontal line.

Ronald I. Paul
Post Office Box 4353
Columbia, S.C. 29240
Appellant, *Pro Se* litigant
(803) 414-2305

Columbia, South Carolina

March 9, 2020

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SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION; PAUL D. DE HOLCZER, individually and as a partner of the law Firm of Moses, Koon & Brackett, PC; MICHAEL H. QUINN, individually and as senior lawyer of Quinn Law Firm, LLC; J. CHARLES ORMOND, JR., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner; OSCAR K. RUCKER, in his individual capacity as Director Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as assistant chief counsel South Carolina Department of Transportation..... Respondents.

PROOF OF SERVICE

I, Ronald I. Paul hereby certify that I have served the appellant **Reply to Respondent's Return to Appellant's Motion for leave to file Rule 60(b) Motion and Motion for lack of Jurisdiction and Motion to Remand** on Respondents South Carolina Department of Transportation; Paul D. de Holczer individually, and as a partner of the law Firm of Moses, Koon & Brackett, P.C; Michael H. Quinn, individually and as senior lawyer of

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March 9, 2020

HAND DELIVERY

The Honorable Jenny Abbot Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

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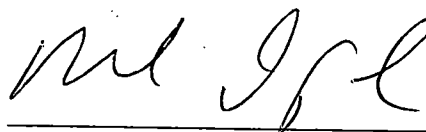
SC Court of Appeals

Re: Ronald I. Paul v. SCDOT, et al
Court of Appeals Case No: 2019-002076
Civil Action Case Number: 2018-CP-400-5641

Dear Ms. Kitchings:

Hand delivered for filing the original and six copies of Appellant Reply to Respondent's Return to Appellant's Motion for leave to file Rule 60(b) Motion and Motion for lack of Jurisdiction and Motion to Remand in the above referenced matter. By copy of this letter I am serving copies on the other parties or other parties counsel of record.

Very truly yours,



Ronald I. Paul, *Pro se*
Appellant

cc. Andrew F. Lindemann
Michael H. Quinn
J. Charles Ormand