

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Dorchester County
Honorable Brian M Gibbons, Circuit Court Judge
Appellate Case Tracking No. 2019-00066

MAY 21 2020

SC Court of Appeals

The State,

Appellant,

v.

Christopher Huggins,

Respondent.

INITIAL BRIEF OF RESPONDENT

Adam J. Russo
James E. Courtney
A. Eck Niravong

1350B Chuck Dawley Blvd
Mount Pleasant, SC 29464
(843) 606-2970 (phone)
(843) 606-2971 (fax)
adamrusso@drennanlawfirm1.com
jimcourtney@drennanlawfirm1.com
eck@drennanlawfirm1.com

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....ii, iii

STATEMENT OF ISSUES ON APPEAL.....1

STATEMENT OF THE CASE.....2

ARGUMENT.....4

 I. The Circuit Court properly dismissed the appeal of the magistrate’s ruling filed by the State as untimely, as the State clearly filed its appeal far beyond the time limit of ten (10) days from the magistrate’s ruling, as understood by 18-3-20 and 18-3-30 of the South Carolina Code. Further, while the Circuit Court did not rely on equal protection principles to find that the State had to file its appeal within ten (10) days, had it so relied, this would have been proper.....4

CONCLUSION.....9

TABLE OF AUTHORITIES

Cases

<i>Denman v. City of Columbia</i> , 387 S.C. 131, 691 S.E.2d 465, 468 (S.C. 2010).....	7
<i>Griffin v. Illinois</i> , 76 S.Ct. 585, 590 (1956).....	8,9
<i>South Carolina Coastal Council v. South Carolina State Ethics Comm'n</i> , 306 S.C. 41, 44, 410 S.E.2d 245, 247 (1991).....	5
<i>Stardancer Casino, Inc. v. Stewart</i> , 347 S.C. 377, 556 S.E.2d 357 (2001).....	4
<i>State v. Alls</i> , 330 S.C. 528, 500 S.E.2d 781 (1998).....	5
<i>State v. Belviso</i> , 360 S.C. 112, 600 S.E.2d 68 (2004).....	6
<i>State v. Gaines</i> , 380 S.C. 23, 32, 667 S.E.2d 728, 733 (2008).....	4
<i>State v. Dudley</i> , No. 2015-001785, 2018 WL 2979768, at*1 (Ct. App. June 13, 2018).....	2
<i>State v. Pittman</i> , 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007).....	4
<i>State v. Oxner</i> , 391 S.C. 132, 134, 705 S.E.2d 51, 51 (2011).....	7, 8

Statutes

S.C. Code Ann. § 18-3-20 (Supp. 2019).....	<i>Passim</i>
S.C. Code Ann. § 18-3-30 (Supp. 2019).....	<i>Passim</i>

Other Authorities

Rule 74, SCRCP.....7, 8

STATEMENT OF ISSUES ON APPEAL

- I. The Circuit Court properly dismissed the appeal of the magistrate's ruling filed by the State as untimely, as the State clearly filed its appeal far beyond the time limit of ten (10) days from the magistrate's ruling, as understood by 18-3-20 and 18-3-30 of the South Carolina Code. Further, while the Circuit Court did not rely on equal protection principles to find that the State had to file its appeal within ten (10) days, had it so relied, this would have been proper.

STATEMENT OF THE CASE

On January 30, 2016, Christopher Huggins, the Respondent, was arrested and charged with DUI 1st Offense. During the course of this arrest, Respondent was issued Uniform Traffic Ticket (hereinafter "UTT") H409663. At a pretrial hearing on March 14, 2017, before the Honorable Tera S. Richardson, Respondent moved to dismiss the case on the basis that the State failed to comply with section 56-5-2953 of the South Carolina Code. (Magistrate's Return; R. ____). On April 25, 2017, Magistrate Richardson granted Respondent's motion and dismissed UTT H409663. (Respondent's Motion to Dismiss Appeal; R. ____).

Subsequently, the State authored an appeal on May 22, 2017, which it caused to be filed in Dorchester County on May 25, 2017, thirty (30) days subsequent to Magistrate Richardson's dismissal of UTT H40966. (Respondent's Motion to Dismiss Appeal; R. ____). Magistrate Richardson issued her return on July 18, 2017. (Magistrate's Return of Appeal; R. ____). Respondent filed a Motion to Dismiss Appeal. (Respondent's Motion to Dismiss Appeal; R. ____).

The hearing on the Appeal was continued numerous times by the State, without objection by the Respondent, in reference to *State v. Dudley*, No. 2015-001785, 2018 WL 2979768, at*1 (Ct. App. June 13, 2018). The state was unsuccessful in this appeal. Subsequently, on May 28, 2019, a hearing on the State's appeal and Respondent's Motion to Dismiss took place before the Honorable Brian M. Gibbons. (5/28T.1; R. ____). The State, in its statement of the case, incorrectly asserts that Respondent asserted that the appeal should be dismissed based on a failure to file the Notice of Appeal within 10 days pursuant to section 18-3-30 of the South Carolina Code. Rather, the Respondent relied on both 18-3-20 and 18-3-30 in conjunction with

the rest of Title 18. The State countered that the statute did not apply and the Notice of Appeal needed to be served and filed within 30 days pursuant to Rule 74, SCRCR. The Court granted Respondent's motion and issued a Form 4 Order, wherein he found "Appeal is hereby denied. Not timely filed." (Form 4 Dismissal Order; R. ____). The State served and filed a Motion for Reconsideration. This motion was denied on June 18, 2019, by Form 4 Order. (Form 4 Denial of Motion to Reconsider; R. ____).

The State served its Notice of Appeal to the Court of Appeals on June 26, 2019. On August 2, 2019, Respondent made a motion to dismiss the appeal with the Court of Appeals, citing Rule 260, SCACR. This, and a similarly situated motion to dismiss in January 2020 were denied. The State exchanged the file from the Department of Public Safety to the Attorney General's Office in December, 2019. This appeal followed and was filed on April 21, 2020.

ARGUMENT

- I. **The Circuit Court did not commit an error of law in dismissing the appeal of the magistrate's ruling filed by the State as untimely, as the State clearly filed its appeal far beyond the time limit of ten (10) days from the magistrate's ruling, as understood by 18-3-20 and 18-3-30 of the South Carolina Code. Further, while the Circuit Court did not rely on equal protection principles to find that the State had to file its appeal within ten (10) days, had it so relied, this would have been proper.**

The circuit court was correct in finding the State had to serve and file its Notice of Appeal to the circuit court within ten days pursuant to sections 18-3-20 and 18-3-30 of the South Carolina Code. By its express terms, section 18-3-20 requires that "all" appeals from "criminal causes" in Magistrate court "shall" be taken and prosecuted according to that "chapter". Likewise, the language of 18-3-30 refers to an "appellant" having 10 days to file and serve the notice of appeal. The court was correct in not applying 18-7-20 and Rule 74, SCRCF, as they are either more general statutes than 18-3-20 and 18-3-30, or they do not apply in the manner that the state suggests. Finally, there is no evidence that the court relied on equal protection in its analysis and decision at the circuit court level; however, if it did, then it did so properly.

1. The Application of 18-3-20 and 18-3-30

"The cardinal rule of statutory construction is to ascertain the and give effect to the intent of the legislature. *State v. Pittman*, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007). In interpreting statutes, the Court looks to the plain meaning of the statute and the intent of the legislature. *State v. Gaines*, 380 S.C. 23, 32, 667 S.E. 2d 728, 733 (2008). A statute's language must be construed in light of the intended purpose of the statute. *Id.* Statutes which are part of the same legislative scheme should be construed together. *Stardancer Casino, Inc. v. Stewart*, 347 S.C. 377, 556 S.E.2d 357 (2001). In construing statutory language, the statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given

effect, if it can be done by any reasonable construction. *State v. Alls*, 330 S.C. 528, 500 S.E.2d 781 (1998). Furthermore, the court should not consider the particular clause being construed in isolation, but should read it in conjunction with the purpose of the whole statute and the policy of the law. *South Carolina Coastal Council v. South Carolina State Ethics Comm'n*, 306 S.C. 41, 44, 410 S.E.2d 245, 247 (1991).

Title 18 of the Code of Laws of South Carolina is entitled “Appeals” and it contains only four (4) chapters. Chapter 1 is entitled “General Provisions”, Chapter 3 is entitled “Appeals from Magistrates in Criminal Cases”, Chapter 7 is entitled “Appeals to Circuit and County Courts in Other Cases”, and Chapter 9 is entitled “Appeals to Supreme Court and Court of Appeals”. From the titles of the Chapters alone, it becomes clear that the legislature had a specific and clear intent for Title 18, Chapter 3: to govern magistrate’s criminal appeals. The language of various statutes within the Title makes it even clearer. Section 18-1-30 indicates that any “party aggrieved” may appeal “in the cases prescribed in this title”. Section 18-3-20 reads:

All appeals from magistrates’ courts in criminal causes **shall** be taken and prosecuted as prescribed in **this chapter**.”

(Emphasis added.) Section 18-3-30(A) reads, in pertinent part:

The **appellant, within ten days** after sentence, shall file notice of appeal with the clerk of court and shall serve notice of appeal on the magistrate who tried the case and upon the designated agent for the prosecuting agency or attorney who prosecuted the charge[...].” S.C. Code Ann. § 18-3-20 (Supp. 2019).

(Emphasis added.) Based upon the language of 18-3-20 and 18-3-30, when read in conjunction with one another and Section 18-1-30, along with the structure of the Chapters

within the title, it is clear that the intent of the legislature with regards to Chapter 3 was to have it govern the structure of all criminal appeals from magistrate's court, including those originating with the state. This is clarified further in *State v. Belviso*, 360 S.C. 112, 600 S.E.2d 68 (2004). The *Belviso* court recognized that affirming the State's right to appeal adverse outcomes from magistrate court was "consistent with the intent of the Legislature, especially when our statutory law is considered in its entirety [. . .] [i]n construing the statutory scheme as a whole, we 'escape the absurdity' and give efficacy to the manifest intention of the General assembly. [. . .] In doing so, our judicial decisions addressing the 'right of appeal' are in accord with legislative intent." *Id.* at 116-117. Thus, *Belviso* recognizes that the intent of the legislature is to govern the way that all appeals from criminal cases in magistrate court are prosecuted via Title 18. But if the "statutory law" as understood by *Belviso* indicates that the legislature's intent was to govern *all* criminal appeals in magistrate court, then how can that not be true – given that the statutes have not been amended since the time of *Belviso*'s publication – in the instant appeal?

The State seeks, rather, for the Court to issue an order indicating that the intention of the Legislature, in enacting Title 18, Chapter 3, was to not apply it to the only party who is a necessary party in a criminal prosecution, and thus allow the State to "island hop" from specific and unavoidable statutes to either general or clearly non-applicable ones.

Further, language specific to 18-3-30 should not be used to disqualify it from controlling the timing of the state's appeal, as this language is specific guidance set up to aid a rather peculiar type of litigant common to magistrate court: the pro se litigant. Summary courts in South Carolina handle the vast majority of all criminal cases created within its borders, and upon information and belief, the majority of those individuals who appear in magistrates court on criminal matters (including traffic tickets) are pro se. Thus, statistically speaking, it is likely that

a defendant who would be interested in appealing his case would be pro se. While it is not difficult for an experienced prosecutor to quickly ascertain the method to perfect his appeal, a pro se defendant, attempting to perfect service on one of the many various departments, organs, and permutations of the State may have trouble, even in a less populous county. Thus, the language about serving prosecuting agencies and prosecutors is meant to ensure that a pro se defendant is clearly and adequately guided so as to know what and whom needs to be given notice that they are appealing.

2. The Court was correct in not applying 18-7-20 or Rule 74, SCRCP.

It is a fundamental canon of statutory construction that “where there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given effect. *Denman v. City of Columbia*, 691 S.E.2d 465, 468 (S.C. 2010). In this case, while urging the Court to apply section 18-7-20 to Respondent’s appeal, the initial brief of the Appellant literally calls that code section a “general provision”. (Initial Brief of Appellant, at 8). As such, given the specificity of 18-3-20 and 18-3-30, those statutes would control in the event that the court held there was a conflict.

Further, the state misstates the application of Rule 74, SCRCP to criminal cases originating in magistrate’s courts. While the state suggests that the South Carolina Supreme Court has found that Rule 74 is “applicable” to magistrate’s courts appeals, the *Oxner* case it cites to says something very different. 391 S.C. 132, 134, 705 S.E.2d 51, 51. In *Oxner*, the court held that the rules of civil procedure apply to the circuit court sitting in appellate jurisdiction, to wit:

ISSUE[:] Whether a party may appeal an erroneous subject matter jurisdiction ruling without first preserving the issue for appellate review?

ANALYSIS[:] We begin by correcting the state's mischaracterization of respondent's appeal in the circuit court. Specifically, the State argues this criminal appeal is not subject to the South Carolina Rules of Criminal Procedure. In making that argument, the State ignores S.C. Code Ann. § 18-3-10 (Supp. 2009) which provides that criminal appeals from magistrate's court are made to the Court of Common pleas. Further, under the SCRCPP, these appellate "proceedings in the circuit court shall be in accordance with [the SCRCPP]." Rule 74, SCRCPP. 391 S.C. 132, 134, 705 S.E.2d 51,41 (2011).

Thus, the Oxner court recognizes two very specific notions which are damaging to the state's case: first, that appeals from magistrate's courts proceed based on the statutes located in Title 18, and that the SCRCPP only apply to the circuit court sitting in appellate jurisdiction – not to the origination of the appeal from magistrate's court itself.

3. The Circuit Court did not rely on Equal Protection Principles, in Granting Respondent's motion to Dismiss, or in the alternative, if it did, Doing so was Proper.

While there is no indication in any of the Form 4 orders that the Circuit court relied on the Equal Protection clause in either the South Carolina or Federal constitution, in the event that it did, it did so properly. The State argues that there is no application for the equal protection clause in this analysis unless there is some implication of a suspect class or an abridgment of a fundamental right. However, in *Griffin v. Illinois*, the US Supreme Court has held that "due process and equal protection both call for procedures in criminal trials which allow no invidious

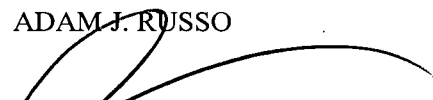
discrimination [. . .] Appellate review has now become an integral part of the [. . .] trial system for finally adjudicating the guilt or innocence of a defendant. Consequently, at all stages of the proceedings, the Due Process and Equal Protection Clauses protect persons like petitioners from invidious discriminations.” 76 S.Ct. 585, 590 (1956). Therefore, failing to equate the defendant and the state does abridge the fundamental right to be treated equally in a court of law, and thus, in the event that the circuit court did mean to implicate the equal protection clause in its granting of Respondent’s motion to dismiss, it did so properly.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this Court affirm the decision from the Circuit Court, finding that the State’s appeal was not filed in a timely manner pursuant to the South Carolina Code.

Respectfully Submitted,

ADAM J. RUSSO


1350B Chuck Dawley Blvd.
Mount Pleasant, SC 29464
843-606-2970

ATTORNEY FOR RESPONDENT

May 19, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Appeal from Dorchester County
Honorable Brian M. Gibbons, Circuit Court Judge
Appellate Case Tracking No. 2019-001067

MAY 21 2020

SC Court of Appeals

Christopher Huggins

Respondent,

vs.

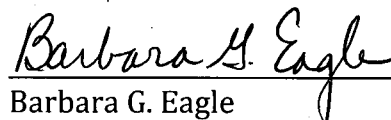
The State of South Carolina

Appellant.

PROOF OF SERVICE

I do hereby certify that I have served the Initial Brief of Respondent in the above-captioned action, by depositing it in the United States Mail, postage prepaid on this 19th day of May, 2020, addressed to:

William M. Blich, Jr.
Senior Assistant Deputy Attorney General
SC Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549



Barbara G. Eagle
Case Manager Specialist
Drennan Law Firm, LLC
1350B Chuck Dawley Blvd.
Mt. Pleasant, South Carolina 29464
(843) 606-2970

DRENNAN LAW FIRM, LLC

JOHN L. DRENNAN, ESQ., FOUNDER 1965-2018
1350-B CHUCK DAWLEY BLVD.
MOUNT PLEASANT, SC 29464
WEB: WWW.DRENNANLAWFIRM1.COM
TEL (843) 606-2970 • FAX (843) 606-2971



A. ECK NIRAVONG, ESQ.
(843) 318-8388
ECK@DRENNANLAWFIRM1.COM

ADAM J. RUSSO, ESQ.
(843) 830-5733
ADAMRUSSO@DRENNANLAWFIRM1.COM

JAMES E. COURTNEY, ESQ.
(843) 822-6369
JIMCOURTNEY@DRENNANLAWFIRM1.COM

May 19, 2020

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
MAY 21 2020
SC Court of Appeals

RE: State v. Christopher Huggins
Initial Brief of Respondent
Designation of Matter
Appellate Case No. 2019-001067

Dear Clerk of Court:

Drennan Law Firm Represents the above-named defendant.

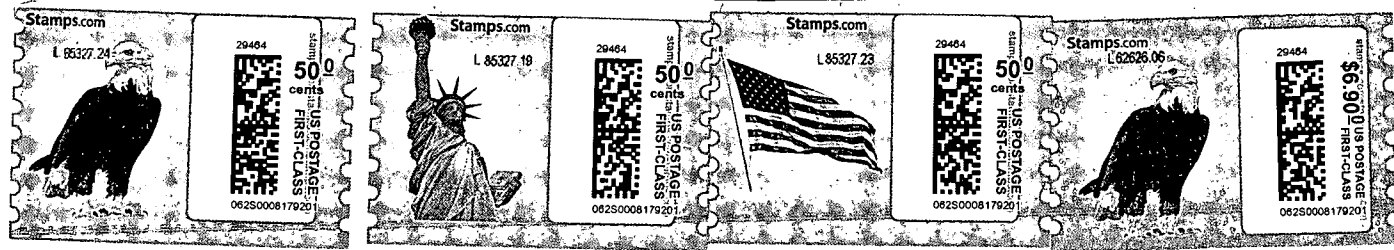
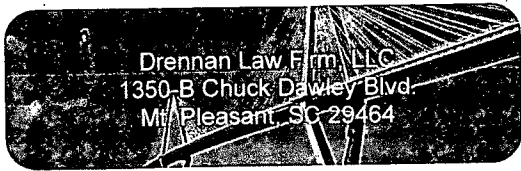
I am writing to you in regards to the above-referenced case. Please find enclosed an original and six copies of the Initial Brief of Respondent, Designation of Matter and Certificates of Service for the same. I respectfully request that you file these documents and return any extraneous clocked copies to us in the enclosed self-addressed stamped envelope.

If you have any questions, please feel free to give our office a call.

Sincerely,

Adam J. Russo, Esq.

ADJ/bge
Enclosures



Drennan Law Firm, LLC
1350-B Chuck Dawley Blvd.
Mt. Pleasant, SC 29464

RECEIVED
MAY 21 2020
SC Court of Appeals

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211