

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
The Honorable Edward W. Miller, Judge of Circuit Court

Case No. 2019-CP-23-01501
Appellate Case No.: 2020-000506

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Jun 18 2020
SC Court of Appeals

Raymond A. Wedlake, as Member of
Woodington Homeowners' Association, Inc.

Appellant,

v.

Scott Bashor, William Craig, Christopher
Edwards, Dennis Esteve and Charles Koshis
in their capacity as Members of the current
Board of Directors of Woodington
Homeowners' Association, Inc. and Doe
Entities 1-10, and John & Jane Does 1-10,

Respondents.

**RESPONDENTS OPPOSITION TO APPELLANT'S MOTION TO EXCLUDE
CONTENT FROM THE RECORD ON APPEAL**

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I. Appellant's Email to the Court Is Part of the Record

Appellant is arguing in his appeal that he was not given afforded an opportunity to submit objections or given the opportunity to submit his own proposed Order for the lower Court's review. Moreover, the Appellant cannot now attempt to impugn the lower Court's order by alleging that the Order contained "numerous incorrect facts" and facts that are in "dispute." Additionally, the Appellant is alleging the lower court was biased against him.

It is well settled that on an appeal, the defendant [Appellant] cannot complain that the Circuit Court signed its order prepared by the opposing counsel before the defendant [Appellant] was given an opportunity to review it and object to its contents where the defendant [Appellant] failed to move under Rule 59(e), SCRPC, to alter or amend the judgment. Grant v. South Carolina Coastal Council (S.C. 1995) 319 S.C. 348, 461 S.E.2d 388.

Here, the Appellant made no such motion and/or objection to the proposed Order to the Court. The lower court gave the Appellant an opportunity to do so, and Appellant declined. The emails between the Appellant and the lower court on March 11, 2020 clearly show that such an opportunity was afforded. As such, the emails are relevant to the Appeal and should be included in the Record on Appeal.

Additionally, the Appellant's assertion that the email was never presented before the Court is erroneous. The March 11, 2020 email from Grace Barringer, Judge Edward Miller's Law Clerk clearly states "Judge Miller will allow you until 5:00PM tomorrow, Thursday March 12th, to submit any objections you have to the proposed order's language." This would indicate that Judge Miller reviewed the Appellant's emails to the Court and relayed his message to the Appellant through his law clerk. As such, it appears that the emails from March 11, 2020 were presented before the lower court, and as per Rule 210(c) of the South Carolina Appellate Court Rules, should be included as part of the Record on Appeal.

II. Appellant’s Motion for a Preliminary Injunction, all supporting documents and the Respondents’ Opposition to the Motion should not be Excluded from the Record on Appeal

Appellant’s Motion for a Preliminary Injunction, all supporting papers, and Respondents’ Opposition to Appellant’s motion are relevant to this Appeal. They highlight the Appellant’s inconsistent arguments that began at the very beginning of this case. Throughout this instant lawsuit, and all the prior ones before it, the Appellant has altered his arguments when legally challenged in such a manner that contradicts his prior positions or otherwise shows his intent to use the system to his advantage, no matter the consequences. An example of this is reflected in the Motion for Preliminary Injunction as well as the Appellant’s accompanying Affidavit in which he continues to falsely maintain that his lawsuits have been brought “derivatively on behalf of the WHOA”, when it is simply not the case. The Respondents believe that presenting the Appellant’s inconsistencies to this Court is necessary and relevant to the Appeal under Rule 210(c) of the South Carolina Appellate Court Rules.

Additionally, the aforementioned documents are part of the Public Index. The Appellant stated in his Motion to Exclude that is presently before the Court, that “he [Appellant] accedes, however, that matter found in the “Public Index” would arguably not be subject to exclusion, regardless of its irrelevancy relative to Summary Judgment.” As such, since these documents are part of the Public Index, we believe that Appellant would agree that they should not be subject to exclusion.

Conclusion

For all the reasons stated above, the Appellant’s motion to exclude content from the Record on Appeal must be denied.

Respectfully Submitted by:

CLARKSON, WALSH & COULTER, P.A.

s/James P. Walsh

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