

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jean H. Toal, Acting Circuit Judge

Case No. 2020-CP-40-02636

RECEIVED

Nov 30 2020

S.C. SUPREME COURT

JONATHON HILL and JONATHON
HILL FOR SC HOUSE DISTRICT 8;

Appellants,

v.

THE SOUTH CAROLINA REPUBLICAN
PARTY and VAUGHN PARFITT

Respondents.

**APPELLANTS' MOTION FOR CLARIFICATION,
AND FOR EXPEDITED BRIEFING,
AND MEMORANDUM IN SUPPORT**

The Court's order of November 25, 2020 dismisses this appeal. It does not state why the Court dismissed the appeal.

Perhaps the Court did so based on the following arguments from Respondents:

1. That the Ethics Commission may issue an advisory opinion about the Party's spending practices, Reply in Support of Motion to Dismiss, p. 11, and may hear a Verified Complaint raising the same issues raised to the lower court, *id.*, pp. 3, 6, 7, 11;
2. That the Ethics Commission may conduct a *de novo* review of the allegations, not bound by Justice Toal's reasoning regarding statutory and constitutional

interpretation, Reply, p. 11 (“Nor is it [the Ethics Commission] required to follow Justice Toal’s reasoning in her interlocutory order denying Appellants’ request for a preliminary injunction. That order has no precedential effect on the Commission’s ability to pass on these issues.”); and

3. That the matters of statutory and constitutional interpretation raised by Appellants in their Initial Brief are not “capable of repetition, yet evading review” because the Ethics Commission may rule on the legal issues;¹ and that “if Appellants are not pleased with the result in the State Ethics Commission, they can always come to the Court after a developed record,” Reply, pp. 14-15 .

If the Court did accept Respondents’ arguments (1)-(3), Appellants respectfully request that the Court so state and thereby make these conclusions *res adjudicata*. Doing so could spare counsel on both sides the need to brief these issues to the Ethics Commission and spare the Ethics Commission the need to decide matters this Court has already decided. It would also spare the parties the need to brief, and the Court the need to read the briefing of, the question of the appealability of the ensuing Ethics Commission decision.

The deadline for Appellants to file and serve a motion for rehearing of the Court’s November 25, 2020, order is December 10. *See* Rule 221(a), SCACR. Were the Court to inform

¹ E.g., Reply, pages 8-9,

While Appellants seek to get around mootness by arguing the issue is capable of repetition, yet evading review, that is a red herring. More importantly, it is simply not true. As was the case in Harpoonian, Appellants here are free to file this matter in the State Ethics Commission if they wish to pursue it. That is the appropriate entity to handle the investigation and adjudication of complaints regarding alleged violations of the Stat Ethics Act.

counsel of its reasoning in advance of that deadline, it might obviate any need to file a motion for rehearing.

Finally, because allowing Respondents the full ten days generally allowed to respond to a motion, *see* Rule 240(e), SCACR, would not allow time for the Court to consider any return to the motion in time to prevent the need for a motion to rehear the November order, Appellants respectfully request an expedited briefing schedule.

The undersigned spoke telephonically with counsel for the Respondents re this motion this morning, but as of this writing has not received a definitive response to this motion.

November 30, 2020

s/Brooks R. Fudenberg
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