

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM Horry COUNTY  
Court of Common Pleas  
The Honorable Cynthia Graham Howe, Master in Equity

SC Court of Appeals

Case No. 2018-CP-26-05361  
Appellate Case No. 2021-000039

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South Carolina Electric & Gas Company .....Respondent,

v.

Wendell Norris .....Appellant.

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**INITIAL BRIEF OF THE RESPONDENT**

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April 19, 2021

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## QUESTIONS PRESENTED

1. DID NORRIS WAIVE HIS RIGHT TO A JURY TRIAL AND HIS RIGHT TO APPEAL THE ISSUE OF THE MODE OF TRIAL BY FAILING TO APPEAL FROM THE ORDER OF REFERENCE?
2. DID NORRIS FAIL TO PRESERVE FOR APPELLATE REVIEW THE ISSUES OF WHETHER THE MASTER ERRED IN DENYING HIM PROTECTION UNDER S.C. CODE ANN. §§ 28-2-90(4), 28-2-100(A), OR 28-2-290, AND THE ISSUE OF WHETHER THE MASTER ENGAGED IN A CRIMINAL CONSPIRACY?
3. DID THE MASTER ERR IN HER DETERMINATION OF THE AMOUNT OF JUST COMPENSATION TO BE PAID TO NORRIS FOR THE TAKING?
4. DID THE MASTER VIOLATE S.C. CODE ANN. § 28-2-470 BY PROCEEDING WITH THE TRIAL OF THE CONDEMNATION ACTION?
5. DID NORRIS ABANDON THE ISSUE OF WHETHER THE MASTER ERRED IN THE ORDER OF SANCTIONS BY FAILING TO APPEAL FROM THAT ORDER?
6. DID NORRIS ABANDON THE ISSUE OF WHETHER THE MASTER ERRED IN THE ORDER OF SANCTIONS BY FAILING TO SUPPORT IT WITH AUTHORITY?

## STATEMENT OF THE CASE

This is an appeal by a landowner from the trial order in a condemnation proceeding that established the amount of just compensation to be paid by the condemnor for the taking of a utility easement from the landowner's property.

On September 20, 2018, Respondent South Carolina Electric & Gas Company, which is now known as Dominion Energy South Carolina, Inc. ("DESC"), filed the Condemnation Notice and Tender of Payment (the "Condemnation Notice") for the acquisition of permanent and temporary utility easements (collectively, the "Easement") over, under, and upon certain real property in Horry County (the "Property") owned by Appellant Wendell Norris ("Norris") for the installation of a gas pipeline. (Condemnation Notice.) At the outset of this condemnation proceeding, DESC deposited its tender of just compensation for the taking in the amount of \$7,970.00 with the Horry County Clerk of Court. (Notice of Filing.)

Unbeknownst to DESC at the time of the filing of the Condemnation Notice, Norris had filed a separate civil action challenging the constitutionality of DESC's condemnation (the "Challenge Action") on September 11, 2018. (Challenge Action Complaint.) Although Norris filed a certificate of service in the Challenge Action stating that he served the summons and complaint from that action on DESC by "first class mail in the United States Post Office, Conway, South Carolina with sufficient prepaid postage," he never filed any proof of service of process on DESC in compliance with Rule 4, SCRCP. (Challenge Action Certificate of Service.)

On December 20, 2018, Norris wrote a letter to DESC's undersigned counsel acknowledging receipt of written discovery requests in this case, notifying DESC of the Challenge Action he had filed, and stating that he would "hold in [his] possession" while awaiting an Answer from DESC in the Challenge Action. (Letter from Wendell Norris to Sean

M. Foerster.) DESC ceased further proceedings in this case upon receipt of this letter.

By Form 4 Judgment entered on May 28, 2019, The Honorable Larry B. Hyman dismissed the Challenge Action pursuant to Rule 5(d), SCRCP, due to Norris's failure to properly serve the summons and complaint on DESC. (Challenge Action Form 4.) Norris never appealed from that judgment.

Thereafter, DESC resumed its proceedings in this case. On June 6, 2019, DESC filed a Motion to Compel Discovery Responses from Norris due to his failure to ever serve responses to DESC's written discovery requests. (Motion to Compel Discovery Responses.) On August 13, 2019, the Court held a hearing on the motion to compel. (Transcript of Hearing on Motion to Compel.) Norris failed to appear at this hearing despite being noticed of it.

By Order entered on August 16, 2019, the Court granted the Motion to Compel Discovery Responses and ordered Norris to serve his discovery responses within 20 days of receipt of written notice of the entry of the order. (Order Granting Motion to Compel.) DESC served a copy of the filed Order Granting Motion to Compel on Norris on August 16, 2019. (Certificate of Service.)

Norris never served any responses to DESC's written discovery requests. With Norris having taken no action in response to the dismissal of the Challenge Action, having failed to appear of record in this case, having failed to file a jury trial demand in this case<sup>1</sup>, having failed to appear at the hearing on DESC's Motion to Compel, and having failed to comply with the Order Granting Motion to Compel, and with the undersigned counsel genuinely believing at the time that Norris did not intend to appear in the case and dispute the tender of just compensation,

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<sup>1</sup> At the time that the Order of Reference was entered in this case, Norris had made a jury trial demand in his pleading in the Challenge Action, but had not filed a jury trial demand in this action.

DESC filed a Motion for Order of Reference on October 18, 2019.

On October 21, 2019, The Honorable Benjamin H. Culbertson entered an Order of Reference that referred the case to The Honorable Cynthia Graham Howe, as Master in Equity for Horry County (the “Master”). (Order of Reference.)

On November 4, 2019, Norris entered his first appearance of record in this case when he filed the “Landowner’s Response to the Motion for Order of Reference and Order of Reference,” which was directed to the Master. (Landowner’s Response to Motion for Order of Reference.) This response stated that he was entitled to a jury trial and that he challenged the constitutionality of the condemnation. (*Id.*) Further, the response acknowledged Norris’s willful noncompliance with the Order Granting Motion to Compel, stating:

“Landowner has received an Order from the Circuit Court from the Condemnor. Landowner has not complied with said Order and Condemnor has not commenced any action compelling that the Court take any action as a result of the non-compliance. Specifically, from that Order, Condemnor admits in Fact #3, that Landowner informed the Condemnor on December 20, 2018[,] by letter, that he would not respond to the Discovery Requests until Condemnor responded to the Summons and Complaint *Wendell Norris v. South Carolina Electric & Gas Company*, case number 2018-CP-26-05269.”

(*Id.* at p. 2.)

On November 8, 2019, DESC served a filed copy of the Order of Reference on Norris. (Certificate of Service.) Norris never disputed being served with the filed Order of Reference at that time.

Norris never filed a motion pursuant to Rule 59(e), SCRCPC, with respect to the Order of Reference and never appealed from the Order of Reference.

On February 14, 2020, and in light of Norris’s appearance of record in the case by that time and his intentional refusal to comply with the Order Granting Motion to Compel, DESC filed a Motion for Rule to Show Cause that requested that the Master issue a Rule to Show Cause

requiring Norris to appear in court and show cause why he should not be sanctioned for failure to comply with the Order Granting Motion to Compel. (Motion for Rule to Show Cause.)

On June 16, 2020, the Master entered a Rule to Show Cause commanding Norris to personally appear in court on August 11, 2020, and show cause why he should not be sanctioned for failure to obey the Order Granting Motion to Compel. (Rule to Show Cause.) The Rule to Show Cause warned Norris that the failure to appear could result in fine and/or jail sentence. (*Id.*) On June 16, 2020, DESC served a filed copy of the Rule to Show Cause on Norris. (Certificate of Service.)

On August 11, 2020, the Master held a hearing on the Rule to Show Cause. (Transcript of Rule to Show Cause Hearing.) Norris defied the Rule to Show Cause by failing to appear at the hearing as commanded. (*Id.*) At the hearing, DESC did not request a fine or jail sentence for Norris, but merely requested that Norris be prohibited from ambushing DESC with any undisclosed testimony and other type of evidence at the trial on the issue of just compensation. (*Id.*)

On August 18, 2020, the Master entered an Order of Sanctions Against Landowner Wendell Norris, which prohibited Norris from offering any demonstrative, real, testimonial, documentary, or any other type of evidence for any purpose at trial.

On October 7, 2020, DESC filed an Amended Condemnation Notice and Tender of Payment to increase its tender of just compensation for the taking to \$8,580.00 based on an updated appraisal by DESC's expert appraiser that accounted for the change in Norris's property value between the offer appraisal and the date of the filing of the Condemnation Notice. (Amended Condemnation Notice.) DESC then deposited the additional funds tendered to Norris with the Horry County Clerk of Court. (Trial Tr. 46:18-23.)

On November 12, 2020, the Court held a trial on the issue of the amount of just compensation to be paid by DESC to Norris for the taking at issue. (Trial Transcript.) Norris made his first court appearance in this case at the trial. (*Id.*) Norris sat in the back of the courtroom throughout the trial and refused the Master's invitation to sit at the front tables designated for the parties. (Trial Tr. 3:5.) Norris informed the Master that he was attending trial only as an "observer" (Trial Tr. 9:13-15; 17:21-23) under a "gag order" (Trial Tr. 4:16-20) despite the Master assuring him he was not prohibited from speaking and inviting him to raise any issues he may have had (Trial Tr. 5:3-19). Norris requested a jury trial (Trial Tr. 5:20-21), but the Master denied this request because he had failed to appeal from the Order of Reference (Trial Tr. 16:17-17:6.) Norris also complained that his neighbor had received more compensation from DESC than he had been offered by DESC, to which DESC timely objected. (Trial Tr. 6:15-25; 10:22-11:2; 12:4-19.) Finally, Norris complained about the dismissal of his Challenge Action. (Trial Tr. 13:9-16; 15:11-17.)

The Master then proceeded with the trial that day. (Trial Transcript.) DESC first offered the testimony of Robert Priester, a gas pipe line project manager for DESC who was familiar with the design of gas pipe lines and the siting and permitting of gas pipe lines and their associated infrastructure, and who described the project and the public purpose of the taking of the Easement from the Property. (Trial Tr. 19:3-29:9.) The Court deemed Mr. Priester qualified as an expert in the design of gas lines. (Trial Tr. 21:21-22:1.)

DESC then offered the testimony of Travis Avant, a certified real estate appraiser whom the Court deemed qualified as an expert in the field of condemnation appraisal. (Trial Tr. 34:2-4.) Mr. Avant testified as to his opinion as to the appropriate amount of just compensation for the taking of the Easement and explained the methods he used in reaching that opinion. (Trial Tr.

30:4-44:5.)

Norris failed to timely object to any of the testimony or documents offered into evidence by DESC at trial. (Trial Tr. 19:3-44:5.) Norris never asked to cross-examine either of DESC's witnesses. (Trial Tr.) While the Order of Sanctions prohibited Norris from offering any evidence of his own at trial, Norris could have at least proffered any such evidence, but failed to do so. (Trial Tr.)

On December 8, 2020, the Court entered an Order ("Trial Order") setting the amount of just compensation to be paid by DESC to Norris for the taking at \$8,580.00. (Trial Order.)

On December 21, 2020, Norris served (but did not file) a Motion for Reconsideration of Non-Jury Trial asking the Court to grant him a new trial by jury. (Motion for Reconsideration.) On December 28, 2020, Norris served (but did not file) a Motion for Stay of Master-in-Equity Order Dated December 7, 2020, asking the Court to stay the Trial Order. (Motion for Stay.)

In response to the Master's office calling Norris to schedule a virtual hearing on his post-trial motions, Norris refused to consent to the hearing being held virtually and then wrote a letter to the Master on January 5, 2021, in which he called her a "crooked, prejudicial and narcissistic creature masquerading as a judge" with a "willfully wanton agenda of corruption" who made "frail efforts to enhance and embolden the crimes of [DESC's counsel] and [DESC]," and he stated that he would "continue to protect [his] private property by whatever means that [he] deem[ed] essential to [his] being true to [himself] and [his] teachings." (Letter of January 5, 2021.) Norris's letter to the Master was one of the ugliest letters the undersigned counsel has ever seen written to anyone, much less to an excellent and highly reputable state court judge.

On January 11, 2021, Norris filed a Notice of Appeal from the Trial Order to the South Carolina Supreme Court. By Order of January 13, 2021, the South Carolina Supreme Court transferred the appeal to this Court.

On March 24, 2021, in light of Norris's pre-appeal refusal to have his post-trial motions heard virtually, and due to the South Carolina Supreme Court Order 2021-02-26-01 permitting in-person hearings to resume, the Master held a hearing on Norris's Motion for Reconsideration of Non-Jury Trial and Motion for Stay of Master-in-Equity Order Dated December 7, 2020. (Transcript.) The Master denied both motions at the hearing (*Id.*), but had not yet entered a written order to that effect as of the time of the filing of the Initial Brief of the Respondent in this appeal.

#### STANDARD OF REVIEW

The Court may affirm for any ground appearing in the record. Rule 220(c), SCACR; *see also Mortgage Elec. Sys., Inc. v. White*, 384 S.C. 606, 614, 682 S.E.2d 498, 502 n. 2 (Ct. App. 2009)(citing *I'On v. Town of Mt. Pleasant*, 338 S.C. 406, 420, 526 S.E.2d 716, 723 (2000)).

A condemnation action is a special statutory proceeding pursuant to the South Carolina Eminent Domain Procedure Act (the "Act"), S.C. Code Ann. § 28-2-10 *et seq.*, and is considered to be an action at law for purposes of appellate review. *S.C. Pub. Serv. Auth. v. Arnold*, 287 S.C. 584, 586, 340 S.E.2d 535, 537 (1986).

"In an action at law tried without a jury, an appellate court's scope of review extends merely to the correction of errors of law." *Wilson v. Gandis*, 430 S.C. 282, 291, 844 S.E.2d 631, 636 (2020)(citing *Temple v. Tec-Fab, Inc.*, 381 S.C. 597, 599-600, 675 S.E.2d 414, 415 (2009))(internal quotations omitted). "The Court will not disturb the trial court's findings unless they are found to be without evidence that reasonably supports those findings." *Id.* (internal

citation and quotations omitted). The Court will “review de novo the trial court’s legal conclusions in an action at law.” *Id.*

## ARGUMENT

The Court must affirm the Master’s Trial Order entered on December 8, 2020, for the following reasons:

**I. Norris waived his right to a jury trial and his right to appeal the issue of the mode of trial by failing to appeal from the Order of Reference.**

The Master did not err in proceeding with a non-jury trial because Norris never appealed from the Order of Reference. Therefore, Norris’s first and fourth issues raised on appeal are without merit.

“In a condemnation proceeding, a landowner has the right to demand a trial by jury, however, this right can be waived.” *Richland Cty. v. Lowman*, 307 S.C. 422, 424, 415 S.E.2d 433, 434 (Ct. App. 1992)(citing S.C. Code Ann. §§ 28-2-280 (C)(8) and 28-2-310).

The lower court has discretion to refer a condemnation proceeding to a master in equity or special referee. Rule 53(b), SCRPC (“In all other actions, the circuit court may, upon application of any party or upon its own motion, direct a reference of some or all of the causes of action in a case.”).

“[T]he denial of a party’s right to a particular mode of trial is immediately appealable as a substantial right under Section 14-3-330(2).” *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005). An order referring a case to a Master in Equity affects the mode of trial—a substantial right—and a party waives his objection to the reference and his right to a jury trial by failing to immediately appeal the order. *Creed v. Stokes*, 285 S.C. 542, 542, 331 S.E.2d 351, 352 (1985). The order of reference becomes the law of the case once a party fails to timely appeal from it. *Id.* at 543, 331 S.E.2d at 352. “Moreover, the failure to timely appeal an order

affecting the mode of trial effects a waiver of the right to appeal that issue.” *Lester v. Dawson*, 327 S.C. 263, 266, 491 S.E.2d 240, 241 (1997).

This case is very similar to *Creed v. Stokes*, where the appellant had a right to a jury trial, objected to and opposed the order of reference of the case, but then waived the right to a jury trial by failing to immediately appeal from the order of reference. 285 S.C. at 542-43, 331 S.E.2d at 352.

When Norris failed to immediately appeal from the Order of Reference in this case within 30 days after receipt of written notice of its entry, Norris waived his right to a jury trial under the Act and waived his right to appeal from the Trial Order based on this issue. With the Order of Reference being the law of the case at the time of the trial, the Master did not err in proceeding with a non-jury trial. Accordingly, there is no error in the Trial Order stemming from the mode of trial.

**II. Norris failed to preserve for appellate review the issues of whether the Master erred in denying him protection under S.C. Code Ann. §§ 28-2-90(4), 28-2-100(A), or 28-2-290, and the issue of whether the Master engaged in a criminal conspiracy.**

Norris failed to preserve his second, third, fifth, and eighth issues raised on appeal for this Court’s review. “It is well settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved.” *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006). “If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.” *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. at 422, 526 S.E.2d at 724 (2000). This rule “prevents a party from keeping an ace card up his sleeve – intentionally or by chance – in the hope that an appellate court will accept that ace card and, via a reversal, give him another opportunity to prove his case.” *Id.*

Norris's issues on appeal concerning whether the Master erred in denying him protection under S.C. Code Ann. §§ 28-2-90(4), 28-2-100(A), or 28-2-290 are not preserved for review because:

- Neither the Trial Order nor Norris's Motion for Reconsideration of Non-Jury Trial addressed S.C. Code Ann. § 28-2-90(4), which states that "[a] condemnor may take possession of property ... upon payment to the owner or deposit with the clerk of court of the amount determined by the appraisal panel or awarded by the judgment in the condemnation action.";
- Norris failed to ever argue to the Master or proffer any evidence at trial showing that the condemnation created an uneconomic remnant within the Property. S.C. Code Ann. § 28-2-100(A) ("If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the condemnor may acquire the remnant concurrently by purchase or condemnation."); and
- Norris failed to ever argue that S.C. Code Ann. § 28-2-290, which dictates the form and content of the notice of report of appraisal panel, somehow applies in this case or has been violated. DESC elected to proceed by way of trial in this condemnation proceeding pursuant to S.C. Code Ann. § 28-2-240, not by way of an appraisal panel pursuant to S.C. Code Ann. § 28-2-250. (Condemnation Notice.)

Norris's eighth issue on appeal concerning whether the Master engaged in a criminal conspiracy is not preserved for review because the Trial Order did not address any criminal conspiracy issue and Norris did not raise any criminal conspiracy issue in his Motion for Reconsideration of Non-Jury Trial.

Further, Norris was prohibited from asserting a claim for criminal conspiracy in this condemnation proceeding at all. The South Carolina Eminent Domain Procedure Act, S.C. Code Ann. § 28-2-10 *et seq.* (the “Act”), is the “exclusive procedure whereby condemnation may be undertaken in this State” and prevails over the South Carolina Rules of Civil Procedure. S.C. Code Ann. §§ 28-2-60 and 28-2-120. Under the Act, after the time to challenge the condemnation has expired, the only issue to be determined is valuation.

Because the Act “determine[s] the issues and the damages which may be awarded[,]... there are no complaints and no answers” in a condemnation proceeding. *S.C. State Highway Dep’t v. Moody*, 267 S.C. 130, 135, 226 S.E.2d 423, 425 (1976)(construing prior version of the Act). “None are needed since the issues to be tried are set out in the Code and are well known to the parties.” *Id.*; *see also S.C. State Highway Dep’t v. Rural Land Co.*, 250 S.C. 12, 22, 156 S.E.2d 333, 338 (1967)(“There are, of course, no formal pleadings in a condemnation case. The issues are to a large extent formed by the evidence.”); *Kiriakides v. Sch. Dist.*, 382 S.C. 8, 22, 675 S.E.2d 439, 446 (2009)(quoting 18 S.C. Juris. Eminent Domain § 38 (1993))(“The Act does not require the issuance of a summons and complaint and the filing of responsive pleadings.”). Accordingly, Norris was not permitted to assert a claim for criminal conspiracy within this proceeding.

Aside from this procedural barrier to such a claim, Norris lacks standing to assert a claim for criminal conspiracy against anyone, much less against the Master, because only the State can pursue an action for criminal activity. S.C. Code Ann. § 17-1-10 (“A criminal action is prosecuted by the State, as a party, against a person charged with a public offense, for the punishment thereof.”); S.C. Code Ann. § 16-17-410 (codifying the crime of criminal conspiracy).

For these reasons, Norris's second, third, fifth, and eighth issues on appeal are not preserved for this Court's review.

**III. The Master did not err in her determination of the amount of just compensation to be paid to Norris for the taking.**

There was sufficient evidence which reasonably supported the Master's determination of just compensation for the taking. Therefore, Norris's sixth issue raised on appeal is without merit.

"In determining just compensation, only the value of the property to be taken, any diminution in the value of the landowner's remaining property, and any benefits as provided in § 28-2-360 may be considered." S.C. Code Ann. § 28-2-370.

The only evidence before the Master of the value of the Property and any diminution in the value of the Property caused by the taking was the testimony of Travis Avant and the documents admitted into evidence through his testimony. Mr. Avant was qualified by the Master as an expert in the field of condemnation appraisal without objection. He testified in detail as to his opinion as to the appropriate amount of just compensation for the taking of the Easement and explained in detail the methods he used in reaching that opinion.

This evidence was unchallenged. Norris failed to object to any of Mr. Avant's testimony or the documents offered into evidence through his testimony. Norris never asked to cross-examine Mr. Avant. Norris failed to proffer any evidence to refute Mr. Avant's opinion as to the value of the Property and any diminution in the value of the Property caused by the taking.

Therefore, the evidence reasonably supported the Master's determination of just compensation for the taking and there is no error in the Trial Order on that issue.

**IV. The Master did not violate S.C. Code Ann. § 28-2-470 by proceeding with the trial of the condemnation action.**

Norris's seventh issue raised on appeal is without merit because the Condemnation Action was not stayed by S.C. Code Ann. § 28-2-470 at the time of trial.

"An action challenging a condemnor's right to condemn must be commenced in separate proceedings filed in the court of common pleas in the county in which the property or a portion thereof is located." S.C. Code Ann. § 28-2-470. "All proceedings under the Condemnation Notice are automatically stayed until the disposition of the action, if any, unless the landowner and the condemnor consent otherwise." *Id.*

Norris filed his Challenge Action on September 11, 2018. DESC ceased further proceedings in this case upon first learning of the pendency of the Challenge Action. The automatic stay under S.C. Code Ann. § 28-2-470 expired on May 28, 2019, when Judge Hyman dismissed the Challenge Action. The trial of this case took place on November 12, 2020, which was almost a year and a half after the automatic stay expired.

Further, the Master correctly disregarding any statements made by Norris at trial concerning the Challenge Action or the constitutionality of the taking because "[n]o issues involving the condemnor's right to condemn may be heard in the trial upon the issue of just compensation." S.C. Code Ann. § 28-2-470.

For these reasons, the Master did not violate S.C. Code Ann. § 28-2-470 by proceeding with the trial of this action and there is no error in the Trial Order stemming from this issue.

**V. Norris abandoned the issue of whether the Master erred in the Order of Sanctions by failing to appeal from that order.**

Norris has abandoned the ninth issue raised on appeal because it challenges the unappealed Order of Sanctions. "It is a fundamental rule of law that an appellate court will

affirm a ruling by a lower court if the offended party does not challenge that ruling.” *First Union Nat’l Bank v. Soden*, 333 S.C. 554, 566, 511 S.E.2d 372, 378 (Ct. App. 1998)(citing *Lindsay v. Lindsay*, 328 S.C. 329, 491 S.E.2d 583 (Ct. App. 1997)). “Failure to challenge the ruling is an abandonment of the issue and precludes consideration on appeal.” *Id.* “The unchallenged ruling, right or wrong, is the law of the case and requires affirmance.” *Id.*

Norris has appealed from only the Trial Order, and his time to appeal from the Order of Sanctions has expired. Therefore, the Court is precluded from reviewing this issue on appeal.

Aside from the abandonment of this issue, Norris failed to proffer at trial any evidence that would have been excludable under the Order of Sanctions, and therefore has failed to show any prejudice resulting from the Order of Sanctions. *See Greenville Mem’l Auditorium v. Martin*, 301 S.C. 242, 244, 391 S.E.2d 546, 547 (1990)(“An alleged erroneous exclusion of evidence is not a basis for establishing prejudice on appeal in absence of an adequate proffer of evidence in the court below.”).

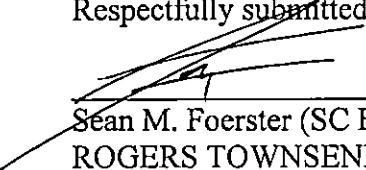
**VI. Norris abandoned the issue of whether the Master erred in the Order of Sanctions by failing to support it with authority.**

Norris cites to no statute, rule, or case law in support of his ninth issue on appeal concerning whether the Master erred in the Order of Sanctions; therefore, this issue is abandoned. *Bluffton Towne Ctr., LLC v. Gilleland-Prince*, 412 S.C. 554, 573, 772 S.E.2d 882, 892 (Ct. App. 2015)(“An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory.”).

## CONCLUSION

Based on the foregoing and any additional sustaining grounds appearing in the record, DESC respectfully requests that the Court affirm the Master's Trial Order entered December 8, 2020.

Respectfully submitted,



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Carolina, Inc.

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

APR 19 2021

APPEAL FROM HORRY COUNTY  
Court of Common Pleas  
The Honorable Cynthia Graham Howe, Master in Equity

**SC Court of Appeals**

Case No. 2018-CP-26-05361  
Appellate Case No. 2021-000039

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South Carolina Electric & Gas Company .....Respondent,

v.

Wendell Norris.....Appellant.

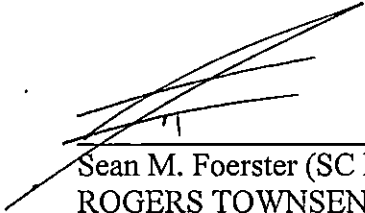
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**PROOF OF SERVICE**

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I HEREBY CERTIFY that I have served a copy of the Initial Brief of the Respondent on April 19, 2021, by depositing a copy in the United States Mail, postage prepaid, addressed to the following party of record:

Wendell Norris  
Post Office Box 505  
Conway, South Carolina 29528



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April 19, 2021

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SC Court of Appeals

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court for the South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

RE: *South Carolina Electric & Gas Company v. Wendell Norris*  
Appellate Case No. 2021-000039  
Our file # 22053.333

Dear Ms. Kitchings:

Enclosed are the original and four copies of the Initial Brief of the Respondent and a Designation of Matter to be Included in the Record of Appeal in reference to the above matter, along with a Proof of Service for each document.

By copy of this letter, I am serving copies of these documents all other parties of record.

Please have your staff return the extra clocked copies of these documents to me via the courier. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. M. Foerster", is written over a horizontal line.

Sean M. Foerster

/ow  
Enclosures

cc:  
Wendell Norris  
Post Office Box 505  
Conway, South Carolina 29528