

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM HORRY COUNTY

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Cynthia Graham Howe, Master-in-Equity

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Case Number 2018-CP-05361

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

v.

Wendell Norris, .....Appellant.

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BRIEF OF APPELLANT

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Appellant, Pro se

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL POWERS IN DENYING APPELLANT A TRIAL BY JURY?
- II. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 1, SECTION 28-2-90(4)?
- III. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 28-2-100(A)?
- IV. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 3, SECTION 28-2-310(b)?
- V. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, SECTION 28-2-290?
- VI. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 3, SECTION 28-2-370?
- VII. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 4, SECTION 28-2-470?
- VIII. DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN ENGAGING IN A CRIMINAL CONSPIRACY AGAINST THE CONSTITUTIONAL RIGHTS TO A FAIR AND IMPARTIAL TRIAL, DUE PROCESS AND EQUAL PROTECTION OF THE LAW?
- IX. DID THE HORRY COUNTY MASTER-IN-EQUITY OF HORRY COUNTY ERR GROSSLY IN THE AUGUST 18, 2020 ORDER OF SANCTIONS AGAINST LANDOWNER WENDELL NORRIS?

## STATEMENT OF THE CASE

This matter originated as an Eminent Domain action against Appellant Wendell Norris. The condemnor, Respondent South Carolina Electric & Gas Company filed a condemnation Proceeding on September 20, 2018 in the Horry County Court of Common Pleas. Within The condemnation proceeding, Respondent specifically stated in Paragraph 12 that Respondent Had the right to deposit the tender amount with the Horry County Clerk of Court. This is in Direct conflict with the findings and rulings of the United States Supreme Court. Paragraph 14, Wherein Respondent is required by South Carolina statutory law to “*shall demand a trial by jury Or by the Court without a jury. The Landowner has a right to demand a trial by jury*” was not Effected by the Respondent. Rather, with an abundance of procedural knowledge of the “takings” process, Respondent engaged in the unlawful maneuverings within the Courts to deny Appellant a jury trial. The circumventing allegations are best documented by Respondent’s Testimony at the August 13, 2019 hearing before Judge Larry Hyman wherein, on transcript Page 3, Lines 22-25, Respondent’s attorney stated to the Court “so that was the first I had Learned of the challenge action. I immediately put everything in this case on hold because of That. The issue is that he (Appellant) filed the challenge action but never served it on my Client.” Respondent’s attorney clearly perjured himself. In a separate action where the Appellant brought an action against Respondent’s attorney, said attorney produced the Challenge Summons and Complaint, Civil Action 2018-CP-26-5269 with the Certificate of Service Having been filed on September 11, 2018, as a part of his Answer as Defendant in his action. That documented revelation clearly proves that the Respondent thru its attorney committed Perjury as an officer of the Court-an actionable crime.

At some point in time, evidence contained in this appeal shows that Respondent’s Attorney colluded and conspired criminally with the Horry County Office of the Clerk of Court To remedy the fraudulent act aforementioned.

Appellant, realizing that the unlawful testimony had been a strategy schemed to avoid



A jury trial contacted the Horry County Clerk of Court by letter on April 21, 2019. Appellant Specifically requested by letter the desire to have a hearing inre this matter and asked to be Present.

At some point in time, Circuit Court Judge Culbertson entered the case and ultimately Granted Respondent's request to assign the case to the Horry County Master-in-Equity for Disposition. Respondent fully knew and understood that this process would circumvent a Trial by jury which resulted to the denial of the constitutional protection of the due process Of law and the equal protection of the laws.

As a consequence of the findings and decisions of the Horry County Clerk of Court staff Member, Circuit Court Judges Hyman and Culbertson and the Master-in-Equity, Appellant now Has filed this appeal seeking justice to the South Carolina Court of Appeals with specific Attention to the August 18, 2020 Order of Sanctions against Appellant with emphasis on Page 3, Stating "**NOW THEREFORE, it is ordered that: 1. At the trial of this case, Landowner Wendell Norris is prohibited from offering any demonstrative, real, testimonial, documentary, or Any other type of evidence for any purpose, AND IS ORDERED.**" Appellant deems the over-Reaching Order to exceed the protection of qualified immunity.

Appellant did appear at said hearing and upon inquiry from the Master-in-Equity, Appellant informed the Court that the imposed "gag order" left me with no position other Than as an observer. The insincere denial of the Order not being a "Gag Order" fell short of Adequate. Appellant did not sit for the Court but truthfully answered numerous questions Posed by the Master-in-Equity from the audience. The blatant denial of due process glares Daily and gives Appellant yet another resolve to seek justice. Hopefully justice will come from Within the walls and halls of the courthouse. I abhor contemplating the demise of the Appellant if Respondent, with the assistance and support of an unlawful judiciary , continues To abuse its power, responsibility and duty to this Appellant. Appellant believes that Information is not information if it is not accepted as information.

The Master-in-Equity insisted on inquiry after inquiry, directing attention to the Appellant's Presence but never once gave Appellant the opportunity to cross-examine Respondent's Witnesses. Appellant considers the awkwardness and ineptness of the Master-in-Equity as a cause for the procedural misconduct but cannot disregard the fact that narcissism, anger, and bridled outrage may have been the determining cause. For whatever reason, Appellant's Fifth and Fourteenth Amendment constitutional protections were vehemently denied.

Appellant did file a timely Motion for Reconsideration of the non-jury trial hearing. Appellant did not receive a reply within the allowable 30-day designation allowed. Appellant, as a result of the silence of the Master-in-Equity, filed the present Notice of Intent to Appeal. Appellant then filed a Motion for a Stay of the Master-in-Equity Order pending the Decision of the South Carolina Court of Appeals. Again, there was no response from the Master-in-Equity. As a result of the Court's refusal to acknowledge the aforementioned Motions, Appellant filed the appeal now before the South Carolina Court of Appeals.

With questions regarding an investigation into the criminal activity amid the Horry County Clerk of Court staff member, Respondent's attorney and two local resident judges, The Master-in-Equity, after an elapsed time exceeding two months, scheduled a Motion for Reconsideration hearing for March 24, 2021. Appellant does not know if the hearing will be An attempt at reconciliation and justice being served, a farce or fireworks. Criminals do not Ordinarily reveal their motives.

Given the history of Respondent, the purposeful timeline gives Appellant yet another Cause and great concern. With trepidation, Appellant will not be daunted in the pursuit of Justice.

The South Carolina General Assembly has now recognized that South Carolina Electric & Gas Company has, for many, many years, lobbied (bought) the unconstitutional Act, Title 28-Eminent Domain, Chapter 2. Begrudgingly, Respondent, a private for-profit corporation, Masquerading as a "public *purpose*" entity is reluctant to cede the unconstitutional rights,

Powers and privileges granted to them exclusively.

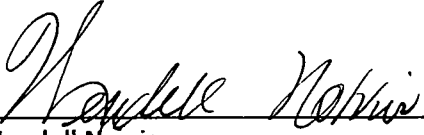
Appellant has two South Carolina Electric & Gas Company has two gas lines within 100 feet of his residence and is denied the product prescribed for public use.

Appellant includes in this appeal documentation of the acknowledgements from the Horry County Clerk of Court's office confirming the unlawful acts alleged.

Appellant includes in this appeal documentation of the surprising and unexplained Notice of the Motion for Reconsideration hearing.

It is the plea of the Appellant that the South Carolina Court of Appeals will adhere to The United States and South Carolina constitutions rather than re-write those constitutions For self-serving purposes. Having sworn by oath to uphold those constitutions as a member of The judiciary, I await your conclusions.

Respectfully submitted,

  
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March 19, 2021

ARGUMENT FOR STATEMENT OF ISSUE NO. 1

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT A TRIAL BY JURY?

No Act of Congress can authorize a violation of the Constitution of the United States.

The Fifth Amendment of the Constitution guarantees ".....nor be deprived of life, liberty, or Property, without due process of law; nor shall private property be taken for public use without Just compensation. Many federal Courts have ruled that compensation *must* be paid prior to The taking of private property.

The South Carolina Rules of Civil Procedure, Rule 38 stipulates that actions for money Damages *must* be tried by a jury unless the jury trial is waived.

Appellant did not waive the right to be tried by a jury.

South Carolina Code of Laws, Title 28, Eminent Domain, Chapter 2, Article 2, Section 28-2-290 dictates that a trial to determine just compensation will be by jury unless both parties Request trial by the court without a jury.

The Fifth Amendment of the United States Constitution guarantees ".....nor be deprived Of life, liberty, or property with due process of law; nor *shall* private property be taken for Public use, without just compensation."

The Fifth Amendment of the United States Constitution guarantees ".....nor deny to any Person within its jurisdiction the equal protection of the laws."

The Constitution of the State of South Carolina mirrors the federal Constitution in as Much as it pertains to the protection of the citizens civil rights, to include the eminent domain Clauses. Therein, the aforementioned Title 28 is found to be unconstitutional.

ARGUMENT FOR STATEMENT OF ISSUE 2

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 1,

SECTION 28-2-90(4)?

Appellant incorporates statements in Issue 1 as if they were presented verbatim herein.

Appellant was subjected to the property appraisal submitted by an independent Appraisal firm that testified that they do a lot of appraisals for the Respondent; clearly a Conflict regarding fairness and impartiality to the Appellant. Understandably, the appraisal Will always reflect the values that the Respondent dictates. Without any argument offered, The Respondent, without any intervention or challenge, selected the option most favorable Rather than utilizing an appraisal panel wherein the Respondent loses its dictatorial power to And unknown factor in determining the value and just compensation. Appellant can easily Determine that Title 28 was written by South Carolina Electric & Gas Company, thanks to the Efforts of lobbyists with unlimited funds generated from the retail customer base.

Payment was deposited on 2020 with the Clerk of Court of Horry County even though Installation of the pipeline was commenced in 2018 in direct conflict with the findings of the United States Supreme Court, Knick v. Township of Scott.

ARGUMENT FOR STATEMENT OF ISSUE 3

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE I, SECTION 28-2-100(a)?

Appellant incorporates statements in the preceding statements as if they were Presented verbatim herein.

Appellant is denied access to approximately 10-12 acres of forestlands, now either Containing harvestable timber or planted trees growing for future harvest.

Federal courts have determined that compensation is required for related losses When property is lessened in value in the "takings" of a private citizens property.

ARGUMENT FOR STATEMENT OF ISSUE 4

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 3, SECTION 28-2-310(B)?

Quoting in part, ".....**must** be placed on the jury trial roster."

Without challenge, the Courts had a statutory duty to place the eminent domain takings On the trial roster in spite of Respondent's statements to the Court, referenced in the Respondent's Motion for Order of Reference, paragraph 6. Saying "Condemnor believes that Landowner does not intend to appear and contest this action." Likewise, paragraph 7. has Stated, "Consequently, this case should be referred to the Master-in-Equity to schedule a Non-jury trial. Pursuant to the wrongful and unlawful statements of perjury, the Court did Refer the action to the Master-in-Equity for disposition. As an officer of the Court, Respondent's attorney is assumed to be under oath and his contributions are to be deemed Truthful.

ARGUMENT FOR STATEMENT OF ISSUE 5.

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, SECTION 28-2-290?

"A trial to determine just compensation will be by jury unless both parties request a Trial by the Court without a jury." Appellant alleges and asserts that the Court has violated An inviolable Constitutional guarantee; a direct and consequential harm to the Appellant And a breach of the sworn oath of office before assuming the duties of a judgeship.

ARGUMENT FOR STATEMENT OF ISSUE 6

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND

DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 3, SECTION 28-2-370?

"In determining just compensation, only the value of property taken, any diminution in value of the Landowner's remaining property, and any benefits as provided in Section 28-2-370 may be considered." Appellant is confused as to the application of this section of the statute. The agreement with the Respondent prohibits the Appellant from encroaching on the "taken" property and further binds the Appellant to keep the vegetation cut shorter than three feet. Appellant sincerely believes that the lobbying of our congressional representation should stipulate that the House and Senate members of the district where the pipeline is buried be required to cut the vegetation. After all, they are the persons that were compensated generously. Any of the lobbyist that is not incarcerated, could verify that the easements were maintained to the standards that the Legislature deems appropriate.

ARGUMENT FOR STATEMENT OF ISSUE 7

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN DENYING APPELLANT PROTECTION UNDER TITLE 28, ARTICLE 4, SECTION 28-2-470?

"An action challenging a condemnor's right to condemn must be commenced in separate proceedings filed in the court of common pleas .....". " All proceedings under the Condemnation Notice are *automatically stayed* until the disposition of the action.....". Appellant did file the challenge action in a timely manner and Respondent 1) did not answer the Summons and Complaint and testified in Court that they did not have the Summons and Complaint. Afterwards, Appellant filed a civil action in the court of common pleas against Respondent's attorney and as a result of that action, said attorney did produce and use the Summons and Complaint as Defendant's Exhibit #1. This is a clear conflict with the prior admissions in the condemnation action. This document will be included in the Appellant's

Brief.

ARGUMENT FOR STATEMENT OF ISSUE 8

DID THE LOWER COURT(S) ERR AND/OR ABUSE ITS CONSTITUTIONAL AND DISCRETIONARY POWERS IN ENGAGING IN A CRIMINAL CONSPIRACY AGAINST THE CONSTITUTION RIGHTS TO A FAIR AND IMPARTIAL TRIAL, DUE PROCESS AND EQUAL PROTECTION OF THE LAW?

The Fifth Amendment and the Fourteenth Amendment of the United States Constitution Specifically dictates the requirements placed upon the Courts and has been supported by the United States Supreme Court as evidenced by the findings in Slaughter-House wherein the Rule of law determination was State laws cannot impede a person's federal rights. Documents in this appeal will clearly show that the Horry County Clerk of Court's staff, two Horry County circuit court judges, the Horry County Master-in-Equity in concert with the Respondent's attorney conspired in a criminal manner to deny Appellant the Constitutional Rights afforded all United States Citizens. All of the aforementioned parties have Constructive knowledge that the willful and intentional obstruction of justice is actionable And accordingly, do not have absolute immunity.

ARGUMENT FOR STATEMENT OF ISSUE 9

DID THE HORRY COUNTY MASTER-IN-EQUITY OF HORRY COUNTY ERR GROSSLY IN THE AUGUST 18,2020 ORDER OF SANCTIONS AGAINST LANDOWNER WENDELL NORRIS?

Page 4, following the Conclusions of Law, Cynthia Graham Howe vehemently wrote the Following: NOW, THEREFORE, It is ordered that:

1. At the trial of this case, Landowner Wendell Norris is prohibited from offering any Demonstrative, real, testimonial, documentary, or any other type of evidence for Any purpose.

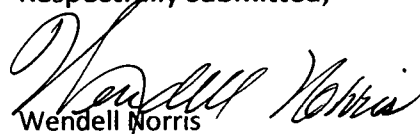
AND IT IS SO ORDERED.

Appellant finds that nothing in this filing is more revealing than the Conclusion of Law  
Wherein the judge unveils her biases, her prejudices, her frustration, her anger and her total  
Disregard for the rule of law, her oath of office and her very own morality.

CONCLUSION

For all of the reasons stated, this Appellate Court should reverse the Order from  
The Lower Court with appropriate instructions for disposition in the proper Court.

Respectfully submitted,



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March 19, 2021.

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM HORRY COUNTY

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Cynthia Graham Howe, Master-in-Equity

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Case Number 2018-CP-05361

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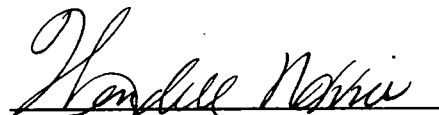
Wendell Norris, .....Appellant.

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PROOF OF SERVICE

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I certify that I have served the Brief of Appellant on the Clerk for the South Carolina Court of Appeals, Jenny Abbott Kitchings, The South Carolina Court of Appeals, 1220 Senate Street, Columbia, South Carolina 29201 and to Respondent's attorney of record, Sean Foerster, Rogers Townsend, Attorneys at Law, 1221 Main Street, Columbia, South Carolina 29201 by depositing a copy of the appeal in the United States Parcel Service, postage prepaid on March 19, 2021.



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