

Bond Case Briefs

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ANNEXATION - SOUTH CAROLINA

Vicary v. Town of Awendaw

Court of Appeals of South Carolina - May 1, 2019 - S.E.2d - 2019 WL 1928364

Residents brought action against town, seeking declaratory judgment that town's annexation of property located in national forest was void.

Following bench trial, the Circuit Court ruled in residents' favor. Town appealed. The Court of Appeals reversed. Residents petitioned for certiorari review, which was granted. The Supreme Court reversed and remanded to the Court of Appeals.

The Court of Appeals held that:

- Town did not receive petition from United States Forest Service requesting annexation;
- Town was equitably estopped from asserting statute of limitations defense; and
- Town's false representation, along with town's failure to provide timely notice of annexations, tolled statutory time period for residents to challenge annexation.

Town did not receive petition from United States Forest Service requesting annexation of ten-foot strip of land owned by Forest Service as required by statute under 100% petition method for annexation to be complete, in action for declaratory judgment by residents, where letter from Forest Service representative that town relied upon to support annexation referred to strips of land, but did not identify specific property proposed for annexation.

Town was equitably estopped from asserting statute of limitations defense to residents' challenge to annexation, after residents missed 90-day deadline to bring challenge; town had unclean hands in issuing annexation ordinance given that it falsely claimed Forest Service had filed proper petition for annexation, and town failed to provide timely notice regarding annexations.

Town's false representation in issuing annexation ordinance that Forest Service had filed proper petition for annexation, along with town's failure to provide timely notice of annexations, tolled statutory time period for residents to challenge annexation.