

Bond Case Briefs

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ANNEXATION - SOUTH CAROLINA

Vicary v. Town of Awendaw

Court of Appeals of South Carolina - August 3, 2016 - S.E.2d - 2016 WL 4123978

The Circuit Court held that the Town of Awendaw's purported annexation of a ten-foot strip of United States Forest Service property was *ultra vires* of the Town's authority, and thus the the Town's subsequent annexations of two tracts failed because those tracts lacked contiguity with the Town.

The Town appealed, arguing that the Court erred in finding that: (1) the South Carolina Coastal Conservation League had standing; (2) the Town never received a proper petition requesting the 2004 annexation; (3) the Town falsely claimed it had a proper petition to annex the United States Forest Service property; (4) the Town was estopped from asserting a statute of limitations defense; and (5) the statutory time period for challenging the 2004 annexation was tolled.

The Court of Appeals held that the South Carolina Coastal Conservation League lacked standing, either under the public importance exception or as taxpayers challenging government action under the South Carolina Uniform Declaratory Judgment Act.

"We agree with the Town that Respondents lacked standing. Our case law provides that 'to challenge a 100% annexation, the challenger must assert an infringement of its own proprietary interests or statutory rights,' and the State of South Carolina is the only non-statutory party which may challenge a municipal annexation. "

In light of the disposition of the case, the Court deemed it unnecessary to address the Town's remaining issues.