

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Aug 19 2022

SC Court of Appeals

CERTIORARI TO GREENVILLE COUNTY

Court of Common Pleas

Alex Kinlaw, Jr. Circuit Court Judge

Appellate Case No. 2019-000907
Lower Case No. 2017-CP-23-5901

Jerald D. Gaskins, Jr. #00362923. Petitioner,

vs.

State of South Carolina Respondent

SECOND SUPPLEMENTAL APPENDIX

TAYLOR ZANE SMITH
Attorney General Office
P.O. Box 11549
Columbia, SC 29211
S.C. Bar # 103282
(803) 734-3970

Attorney for Respondent

C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
SC Bar # 6188
864) 229-5010

Attorney for Petitioner

SUPPLEMENTAL APPENDIX
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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED CLERK OF COURT
GREENVILLE, S.C.

IN THE FAMILY COURT
THIRTEENTH JUDICIAL CIRCUIT

Jerald Gaskins, Jr.,

2012 APR 23 P 1:54

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

vs.

FAMILY COURT

Rachel Gaskins,

Defendant.

Docket No. 2012-DR-23- 1843

Plaintiff's Attorney:

Ronald S. Clement, Bar No. 1277

Address:

P.O. Box 10261, Greenville, SC 29603

Phone: 233-6225 Fax 298-0033

E-mail: _____ Other: _____

Defendant's Attorney:

_____, Bar No. _____

Address:

Phone: _____ Fax _____

E-mail: _____ Other: _____

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: temporary relief

Estimated Time Needed: 15 minutes

Court Reporter Needed: ☒ YES/ ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Ronald S. Clement
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

4/23/2012

Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$ _____

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____ Date: _____

Judge Signature: _____

CLERK'S VERIFICATION

Collected by: BM Date Filed: 4-23-12

☒ MOTION FEE COLLECTED: \$ 25

☐ CONTESTED - AMOUNT DUE: \$ _____

Custodial Parent (if applicable): _____

SCCA 233F (12/2009)



Clement, Ron

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jerald Gaskins, Jr.,

FILED CLERK OF COURT
GREENVILLE, S.C.

Plaintiff,)

IN THE FAMILY COURT
THIRTEENTH JUDICIAL CIRCUIT

FAMILY COURT COVERSHEET

vs.

2012 APR 23 P 1:54

Rachel Gaskins,

Defendant.) Docket No. 2012-DR-23-1893

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for docketing purposes for the Clerk of Court and must be signed and dated, and filled out completely. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

Submitted by: Ronald S. Clement
Address: P.O. Box 10261
Greenville, SC 29603
Email: _____

SC Bar # 1277
Telephone # 864-233-6225
Fax # 864-298-0033
Other: _____

DOCKETING INFORMATION (Check one box below if filing in a Mandatory Mediation County)

- ☐ This case is subject to MEDIATION pursuant to the Family Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

Nature of Action Codes
(Check One)

Marital Dissolution

- ☒ Divorce (110)
☐ Annulment (120)
☐ Separate Support and Maintenance (130)
☐ Registration of Foreign Divorce Decree - without support/custody (190)
☐ Registration of Foreign Divorce Decree - with support/custody (191)
☐ Marital Dissolution - Other (199) _____

Abuse and Neglect

- ☐ Abuse and Neglect - Child (210)
☐ Abuse and Neglect - Adult (220)
☐ Abuse and Neglect - Other (299) _____

Juvenile Delinquency

- ☐ Truancy (311)
☐ Incurable (312)
☐ Runaway (313)
☐ Criminal Offense (320)
☐ Juvenile Delinquency - Other (399) _____

Protection from Domestic Abuse

- ☐ Domestic Abuse - Intimate Partner (410)
☐ Domestic Abuse - Minor (420)
☐ Registration of Foreign Order of Protection (490)
☐ Domestic Abuse - Other (499) _____

Support

- ☐ Child Support - Private (501)
☐ Child Support - Administrative Process (502)
☐ Child Support - Judicial Process (503)
☐ Registration of Foreign Order of Support (504)
☐ UIFSA - Outgoing (505)
☐ UIFSA - Incoming (506)
☐ Modification of Child Support - Private (507)
☐ Modification of Child Support - DSS (508)
☐ Modification of Alimony (525)
☐ College Expenses (530)
☐ Support - Other (599) _____

Custody/Visitation

- ☐ Child Custody/Visitation (610)
☐ Modification of Custody/Visitation (615)
☐ Registration of Foreign Child Custody Order (690)
☐ Custody/Visitation - Other (699) _____

Miscellaneous Actions

- ☐ Name Change (710)
☐ Correction/Birth Record (720)
☐ Judicial Bypass (730)
☐ Adoption (740)
☐ Foreign Adoption (741)
☐ Post Dissolution Equitable Distribution (750)
☐ Paternity - Private (761)
☐ Paternity - DSS (762)
☐ Termination of Parental Rights - Private (771)
☐ Termination of Parental Rights - DSS (772)
☐ Miscellaneous Actions - Others (799) _____

Submitting Party Signature: Ronald S. Clement Date: 4-23-12

Custodial Parent (if applicable): _____

Note: Frivolous civil proceedings are subject to sanctions pursuant to Rule 11, SCRCP and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 et seq.

SCCA 467 (6/2011)

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Oconee (Family Court Only), Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York Counties.

SUPREME COURT RULES REQUIRE MEDIATION OF ALL CONTESTED DOMESTIC RELATIONS ACTIONS. IF THE DOCKETING INFORMATION ON PAGE 1 OF THIS COVERSHEET INDICATES THAT THIS CASE IS SUBJECT TO MEDIATION YOU ARE NOTIFIED THAT MEDIATED SETTLEMENT CONFERENCES ARE REQUIRED IN THIS CASE, AND THAT THE COURT-ANNEXED ADR RULES SHALL APPLY TO ALL CASES IN WHICH MEDIATION IS REQUIRED. FOR ADDITIONAL INFORMATION CONCERNING THE PROCESS AND TIME FRAMES, PLEASE CONSULT THE ADR RULES. KEY SECTIONS OF THE RULES ARE IDENTIFIED BELOW.

CONTESTED ACTIONS INVOLVING CUSTODY AND VISITATION

Rule 3	Actions Subject to ADR
Rule 4(d)(1)(3)(4) &(5)	Appointment of Mediator by Family Court
Rule 5(g)	Scheduling in Family Court
Rule 6(g)	Agreement in Family Court
Rule 7(f)	Reporting Results of Conference
Rule 9	Compensation of Neutral

ALL OTHER CONTESTED ACTIONS

Rule 3	Actions Subject to ADR
Rule 4(d)(2)(3)(4) &(5)	Appointment of Mediator by Family Court
Rule 5(g)	Scheduling in Family Court
Rule 6(g)	Agreement in Family Court
Rule 7(f)	Reporting Results of Conference
Rule 9	Compensation of Neutral

Indigent Cases: Where a mediator has been appointed, a party may move before the Chief Judge for Administrative Purposes to be exempted from payment of neutral fees and expenses based upon indigency. Applications for indigency shall be filed no later than ten (10) days after the ADR conference has been concluded. Determination of indigency shall be in the sole discretion of the Chief Judge for Administrative Purposes.

Please Note: Attendance at mediated settlement conferences is mandatory. You must comply with the Supreme Court rules regarding court-ordered mediation. Failure to do so may affect your case and may result in sanctions.

Note: Frivolous civil proceedings are subject to sanctions pursuant to Rule 11, SCRCP and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 et seq.

CCA 467 (6/2011)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FILED CLERK OF COURT
GREENVILLE, S.C.

FAMILY COURT
THIRTEENTH JUDICIAL CIRCUIT

2012 APR 23 P 1:54

Jerald Gaskins, Jr.,
Plaintiff,

FAMILY COURT

VS

Rachel Gaskins,
Defendant.

NOTICE OF MOTION AND MOTION
FOR TEMPORARY RELIEF

Judge Juge
Docket No: 2012-DR-23-1893

TO: STEPHEN O. REID, DEFENDANT ABOVE NAMED:

YOU WILL PLEASE TAKE NOTICE that on the 2nd day of May, 2012, at 11 a m., or as soon thereafter as this matter may be heard, Plaintiff will move before the presiding Judge of the Family Court of Greenville County, South Carolina for an Order granting the following temporary relief:

1. For custody, care and control of the minor child of the parties;
2. For child support;
3. For possession of the 1998 Jeep Cherokee; and
4. For attorney's fees.

Respectfully submitted,

Ronald S. Clement

Ronald S. Clement, SC Bar # 1277
P.O. Box 10261
Greenville, SC 29603
(864) 233-6225

Greenville, South Carolina
4-23, 2012.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jerald Gaskins, Jr.,
Plaintiff,

VS

Rachel Gaskins,
Defendant.

FILED ON THE FAMILY COURT
GREENVILLE JUDICIAL CIRCUIT

2012 APR 23 P 1:55

FAMILY COURT

SUMMONS

Docket No: 2012-DR-23- 1843

YOU ARE HEREBY SUMMONED and REQUIRED to answer the Complaint in this action, a copy of which is herewith served upon you, (which was filed in the Office of the Clerk of Court on the _____ day of _____, 2012 and to serve a copy of your Answer or other responsive pleadings upon Ronald S. Clement, Attorney at Law, 8 Williams Street, Post Office Box 10261, Greenville, South Carolina, 29603, within thirty (30) days after the service hereof (exclusive of day of service). Failure on your part to answer the Complaint within that time will result in judgment by default for the relief demanded in the Complaint.



Ronald S. Clement - Bar #1277

Attorney at Law

Post Office Box 10261

Greenville, SC 29603

Phone: (864) 233-6225

Fax: (864) 298-0033

Greenville, SC

Dated: 4-23-12

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FILED CLERK OF COURT
GREENVILLE, S.C.
THIRTEENTH JUDICIAL CIRCUIT

2012 APR 23 P 1:55

Jerald Gaskins, Jr.,
Plaintiff,

FAMILY COURT

VS

COMPLAINT

Rachel Gaskins,
Defendant.

Docket No: 2012-DR-23- 1893

The plaintiff, complaining of the defendant above named, would respectfully allege as follows:

1. The parties hereto are husband and wife having been married on February 12, 2009 in Greenville County, South Carolina. At all times subsequent to the marriage of the parties, they have resided in Greenville County, South Carolina.

2. One child has been born of this marriage, to-wit: _____
Gaskins, DOB: _____. No other children are expected.

3. The plaintiff would show that the parties separated on April 14, 2012 when the defendant departed the marital residence. At that time she informed the plaintiff that she is dating a man. The plaintiff would therefore request a divorce a vinculo matrimonii on the statutory ground of adultery, or in the alternative, for an order of separate support and maintenance.

4. The plaintiff would show that since the defendant departed the marital residence, he has maintained physical possession of the minor child and would show that he is a fit and proper person to maintain custody, care and control of the minor child and would therefore request custody, both temporarily and permanently.

5. The plaintiff would show that the defendant is fully capable of providing support for the minor child and would therefore request child support, both temporarily and permanently.

6. The plaintiff would show that the parties own a 1998 Jeep Cherokee which is currently being repaired. The plaintiff would show that the vehicle is titled in his name and would request possession, use and ownership of the vehicle, both temporarily and permanently.

7. The plaintiff would show that there is no other marital property and that each party has his/her own personal belongings.

8. The plaintiff would show that as a result of the conduct of the defendant he has been required to retain the services of an attorney and would therefore request attorney's fees and costs for the bringing of this action, both temporarily and permanently.

9. The plaintiff would show that there is no fraud or collusion for the purpose of bringing this action.

10. The plaintiff would show that there is no chance of reconciliation among the parties.

WHEREFORE, having fully pleaded, the plaintiff prays as follows:

1. For a divorce a vinculo matrimonii on the statutory ground of adultery, or in the alternative, for an order of separate support and maintenance;
2. For custody, care and control of the minor child of the parties;
3. For child support;
4. For possession, use and ownership of the 1998 Jeep Cherokee;
5. For attorney's fees and costs;

6. For such other and further relief as the Court deems just and proper.



Ronald S. Clement, SC Bar#1277

Attorney for Plaintiff

Post Office Box 10261

Greenville, SC 29603

Phone: (864) 233-6225

Facsimile: (864) 298-0033

Greenville, SC

Dated: 4-23, 2012

J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
Greenville, South Carolina 29601

Telephone: (864) 282-1292
Facsimile: (864) 271-6035

April 21, 2017

Jerald Denton Gaskins, 00362923
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Dear Jerald,

I am sorry to inform you that the court has ruled on your appeal and affirmed the conviction and sentence. I have reviewed the opinion and given the nature of the ruling and issues I do not believe that it would be productive to pursue direct appeal any further. I say this because to continue the direct appeal to the state supreme court is by way of petition for writ of certiorari. That process can take years and given the ruling of the court of appeals, a petition for certiorari is very unlikely to get you any relief. The drawback to pursuing the direct appeal further is that you can not pursue a post conviction relief case until the conclusion of the direct appeal process. At this point I do not believe that the time involved in a petition for writ of certiorari to the state supreme court would be a good use of time or resources. Turning now to a PCR action would, in my opinion, be the better course of action. PCR allows you to raise the issue of prosecutorial misconduct, due process violations, and ineffective assistance of counsel. It also allows you to have an evidentiary hearing, so unlike the direct appeal, you have the ability to call witnesses and introduce evidence to prove your case in a PCR.

I am enclosing an application for post conviction relief for you to use if you would like to initiate a PCR action. If you file an action immediately you will be appointed counsel who should then have plenty of time to investigate the case and amend the application if necessary. If you intend to file a PCR now I highly recommend that you work on the application and get it filed within a month or so. You have a one year deadline to file after the conclusion of the direct appeal, but if you wait and try to file at the last minute you may find yourself out of time. It is always best to file early. The form must be properly executed which includes being witnessed by a notary public. You must then send it to the clerk of court in



the county in which you were convicted. You should request the clerk to return to you a clocked copy for your records. You also want to keep a copy or proof of mailing when you mail anything to the clerk of court. Filling out the affidavit of indigent status properly should cause the attorney general to make sure that an attorney is appointed to represent you.

Again I will remind you that I have been retained to handle the court of appeals case and nothing more. My representation does not extend past the court of appeals case. Plus, as you probably are aware, I was never paid all of the fees for the handling of the case in the court of appeals. Of course that has not stopped me from perfecting the appeal in the court of appeals, nor will it deter me from attempting to preserve your rights if you decide that you want to continue the direct appeal. If you want to continue the direct appeal to the state supreme court I will try to preserve your right to do so but will ask to be relieved and request the public defender to take over.

My recommendation is that you pursue the PCR at this time. There are numerous PCR issues that can be raised. Although I do not represent you on a PCR I will provide you with a list of things that I believe should be included in your PCR if you would like for me to do that. This would probably help you in filing a more complete application. Once an attorney is appointed your PCR attorney can then review the case and make any corrections or additions to the application that appear necessary by way of an amendment to the application.

Further direct appeal constitutes two steps. First is the petition for rehearing in the court of appeals. This is a necessary step to the second step, which is a petition for writ of certiorari in the state supreme court. The petition for rehearing must be filed within fifteen days of April 19, 2017. That means that the petition must be received by the clerk's office before the end of the day on May 4, 2017. If a petition for rehearing is not received by that date the direct appeal will be considered over and final and a remittitur will be sent to the circuit court letting it know that the direct appeal has concluded. Once this happens you will be able to file your PCR. If a timely petition for rehearing is filed, then the direct appeal continues. In your case I would anticipate the court would deny your petition for rehearing within a month or two. You would then have thirty days within which to file a petition for writ of certiorari with the supreme court. If that is done timely then you will wait a year or years for the court to rule on the petition. If you do

that I believe that the court would deny the petition. If that happens then you would be able to file your PCR at that time.

Let me know immediately if you want to continue the direct appeal process and I will file the petition for rehearing. I am enclosing an stamped self-addressed envelope for you to use to let me know if choose to continue the direct appeal process rather than move on PCR case. Unless I hear back from you within time to file the petition for rehearing I will not do so as I do not believe that it is in your best interests given all facts and circumstances and the options available to you. If I do not hear back from you I will assume that you are working on the PCR application. If you choose to do that, please let me know if you would like for me to send you my thoughts on issues that I am aware of that you should include in a PCR case. Of course by my doing that I am not indicating that I am representing you in the PCR. That would be part of my concluding my appellate representation and I would be glad to do that for you.

I am sorry that we did not get results in the direct appeal. I am hopeful that PCR will provide you a better result.

Sincerely,

J. Falkner Wilkes

