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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Molly M. Morphew,

Petitioner,

v.

Stephen Dudek, Doreen Cross, David Collins, Allison Williams, First
Federal, Michael Scarafile, Susan Nicholson, Carolina One Real Estate,
Carrie Boyer, Woody Law Firm,

Respondents.

On Petition for a Writ of Certiorari to the
South Carolina Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Molly M. Morphew, pro se
121 Sterling Rd.
Rincon, GA
(843) 514-7299
Pro Se Petitioner

QUESTIONS PRESENTED

Where a court dismisses an appeal based on an alleged failure of Appellant to comply with the court's direction, does dismissal require (1) failure to comply with an actual ORDER as a legal basis for dismissal; or (2) that courts balance the particular prejudice to the Appellant against the particular reasons (or lack thereof) for the dismissal? a) Is dismissal appropriate when the basis for dismissal is failure to re-serve the filed Record after minor redaction on personal data that is irrelevant to the appeal and where redaction does not affect the serving and filing of the final briefs or final briefing timeline? b) Is dismissal appropriate when the basis for dismissal is unwarranted or improper and contradicts the rules of the court? c) Is dismissal appropriate when the basis for dismissal raises violations of Rule 11 or would require the amending of rules, specifically Rule 41.2?

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THE STATE OF SOUTH CAROLINA
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On Petition for a Writ of Certiorari to the
South Carolina Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Molly Morphew petitions for a writ of certiorari to review the South Carolina Appellate court's Order dismissing the appeal.

ORDER BELOW

The South Carolina Court of Appeals' Order denying rehearing (Pet. App. 1a – Order, August 11, 2022). The South Carolina Court of Appeals Order dismissing the appeal (Pet. App. 3a – Order May 24, 2022)

JURISDICTION

The South Carolina Court of Appeals entered its order denying certiorari on August 11, 2022, making this petition due on August 15, 2022. This Court has jurisdiction.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment provides that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend V.

State shall . . . deprive any person of life, liberty, or property, without due process of law.” U.S. The Fourteenth Amendment provides that “[n]o Const. amend. XIV.

STATEMENT OF THE CASE

This isn't a simple case but instead a case of fraud and fraud on the court where such fraud led to the unlawful award of specific performance and therefore invalid purchase of property by Respondents Stephen Dudek and Doreen Cross (herein “Dudeks”).

The facts or issues raised and uncontested in this case are 1) The Dudeks contract had expired before making initial application for mortgage credit, leading to their lender, co-Respondent First Federal, rejecting their application and denying them a loan for having no legal contract and/or right to the property, 2) the Dudek contract is invalid, 3) therefore, pursuant the principles and maxims of equity, South Carolina court precedents and the lower court order, the master of equity had no jurisdiction or discretion to award specific performance to the Dudeks¹, 4) the lower court order is void in-part the award of specific performance to the Dudeks, 4) Morphew had a valid contract and sole legal right to the property and was also awarded specific performance, 5) if not for Respondents' fraud, including perjury, forgery, false promises by lender and/or conspiring together to commit such fraud, the outcome of the original case in which this case arises would be significantly different. Such raises novel questions of law, where dismissal and the reason thereof are not justified, but instead this case should be reviewed and decided on its merits.

¹ Jurisdiction to *hear* the case but had no jurisdiction or discretion to *award* specific performance.

Bases on the uncontested facts and valid evidence in the Record, there is substantial justification for this case to be fully heard on its merits and the evidence provided, and not dismissed with a wave of the hand and without substantial justification or extreme non-compliance by Appellant.

On May 24, 2022, the Appellate court issued an order dismissing Appellant's appeal. (Pet. App. 3a – Order, May 24, 2022) based on non-compliance of a clerk's letter, not an order reviewed and signed by a judge. The clerk's January 14, 2022 letter was in response to opposing counsel's letter, signed only by the clerk, and only advising the parties to take actions. No notice that failing to comply will or may result in dismissal of the appeal was included in the letter.

Shortly after, Appellant submitted a motion to reinstate the appeal pursuant Rule 260(a). The Appellate Court construed the motion as a motion for rehearing. Appellant does not agree with their action and raises issue to this Court that for legal reasons the motion should be construed exactly as it is presented, thus preserves this issue for future review, if applicable.

On August 11, 2022, the Appellate court issued an Order denying the construed petition for rehearing (Pet. App. 1a).

Appellant submits this Petition for Writ of Certiorari to the South Carolina Supreme Court.

HISTORY

The below timeline begins January 2021 due to the dismissal order stating, '*...starting in February 2021...*', though any order prior to November 30, 2022 is irrelevant or moot.

Monday, January 11, 2021: Appellant files combined motion for 1) Extension to compile and serve the Record on Appeal and 2) motion for all Respondents to amend their Designation to clearly identify their matter (i.e., dating and including page numbers where applicable) pursuant SCACR Rule 209(b), and exclude all irrelevant, unreferenced, unargued or improper matter as

pursuant SCARC Rule 210(c).² Appellant had discovered many errors, lack of specificity, and matter in their designations not referenced in their briefs, not in existence or matter not in the lower court Record, thus making it impossible to compile the Record IAW their Designations of Matter. The specific issues were raised by Appellant in her motion. (Pet. App. 1b)

Thursday-Friday, January 14-January 15, 2021: All Respondents except Respondent David Collins³, pro se, (herein “[some] Respondents”)file returns requesting Appellate court to deny Appellant’s motion, arguing they shouldn’t have to submit their designations with specificity (or comply with SCACR Rules 208, 209 or 210). [Some] Respondents also requested the court to order Appellant serve a compliant Record to include all their matter, which contradicts Respondents’ own non-compliance, as addressed by Appellant in its previous and subsequent motions. Appellant had previously argued that it is impossible to serve a compliant Record if the designation does not exist or is not in the lower court Record for Appellant to obtain, let alone the confusion due to their Designations’ lack of specificity when there were duplicate and sometimes triplicate documents in the lower court with the same name, but nothing to decipher the difference.

Tuesday, February 23, 2021: Appellate Court filed an Order granting Appellant’s request for extension of time to serve the Record on Appeal; denying motion to require [some] Respondents to clarify their designations; directs Appellant to serve the Record on all Respondents...within thirty days of the date of this order and gave notice that failure *may* result in dismissal of the appeal. (Pet. App. 5a)

Monday, March 22, 2021: Appellant compiled the Record to the best of her ability and served the Record on appeal on all Respondents, despite the confusion caused by their non-compliant Designations of Matter, the lack of matter not on hand, not in existence or not in the lower court Record. (Pet. App. 1c)

² Further, irrelevant, unreferenced [in their briefs], unargued or improper matter added *substantial* and *undue* effort and costs to Appellant and its compiling of the Record after it pointed out the specific issues to the court and the respondents.

³ It should be noted that David Collins has not participated in this case, except for one document, his initial motion to dismiss the complaint in the lower civil court. Collins has not only failed to file an Answer to the complaint and failed to file a response/defense to Appellant’s motion for default in the lower civil court but failed to participate in any discovery. All his failures and the lower court’s unsupported or improper orders that fail on its four corners are included in Appellant’s appeal.

Thursday, April 8, 2021: [Some] Respondents filed a 3-page motion to dismiss.

Tuesday, May 4, 2021: Appellant filed its motion to dismiss or strike Respondents' motion to dismiss and to compel the court to order Respondent compliance of SCACR Rules 208, 209 and 210. (Pet. App. 25b)

Friday, May 21, 2021: Appellant filed a return to [some] Respondents' returns. (Pet. App. 5c) In its' return, Appellant points out that it had previously and first made the simple request for Respondents to amend their Designations to clarify or clearly identify their matter to prevent ambiguity and speculation, as it is not the responsibility of the Appellant to guess or speculate which or what a party's proposed designations are, or else there would be no need for Appellate court rules 208 and 209⁴. Appellant also points out the matter not in existence and matter not in the lower court Record and asks this court to have them remove those items. Neither the Appellate court nor the Respondents denied there existed irrelevant matter or non-existent matter in their Designations.

Thursday, May 27, 2021: The Appellate court issued an order both denying [some]Respondents' motion to dismiss and Appellant's motion to strike. It refused to compel Respondents to comply with Rules 208, 209 and 210. It ordered [some] Respondents to provide Appellant with copies of the missing matter or matter not in the lower court Record within 10 days of the order, and upon receipt Appellant to serve and file an amended Record on appeal to include all matter designated within 30 days. Notice was given that failure to comply with this order may result in dismissal of this appeal. (Pet. App. 6a)

Friday, June 4, 2021: Respondents First Federal and Woody Law Firm mail their matter pursuant court order to Appellant.

June 21, 2021: Respondents Dudek mail their matter pursuant court order to Appellant.

⁴ Just because the Appellate Court denied the Appellant's request for Respondents to clarify its Designations in its previous order, therefore basically creating a guessing game of the record, its ruling clearly does not allow Respondents to be limitless in their Designation(s) or waive Rule 208 and Rule 209's Requirement, that a party limit their designation appropriately. Respondents' complete compliance of Rule 208 ii and Rule 209 is mandatory and has not been ruled otherwise by this Court.

June 24, 2021: Appellant filed motion to compel compliance *no returns by Respondents. (Appellant received documents but after reviewing found some matter was not included in the lower court Record or could not be discovered by Appellant nor served on Appellant, which raised the issue that Appellant was not given the opportunity to defend the matter while this court's order demanded it be included in the Record [for its review]. Such is a violation of Appellant's due process, partiality, and abuse of discretion. Further, some matter provided did not match the alleged designations and did not include a date (such as the designation stated motion for summary judgement but it was a motion to dismiss that was ruled on years before and had nothing to do with the Appellant's appeal. Appellant included it in the Record though irrelevant to their brief or to the issues raised by Appellant. There was also matter in their Designations that does not exist or that they could not provide) The issue that filing a Record that is knowingly missing designation not at fault of App and that contains matter not in the lower court Record is a violation of court rules in itself and sets App up for failure either way. It again asks for the Designations to be amended to comply with the rules.) (Pet. App. 84b)

August 16, 2021: Order, August 16, 2021: Denying Appellant's motion to compel compliance; Directed App to serve compliant Record within 30 days. (Pet. App. 8a) Shortly after, Appellant files 59e motion to reconsider or amend order, but no disposition since it is not part of court process to entertain this type of motion (see letter from clerk dated Sept. 2, 2021).

September 15, 2021: Appellant filed motion to stay appeal and for compliance. This motion filed in place of its 59e motion. [Some] Respondents file return.

November 5, 2021: Order Denying Appellant's motion to stay appeal; Denying Appellant's request to amend Designations; denying request to hold appeal in abeyance until all designation matters are resolved or preserved for appeal; directed Appellant to serve Record within 20 days. (Pet. App. 10a)

November 23, 2021: Appellant filed motion for first extension of time to serve the amended Record due to a family medical emergency.

November 30, 2022: Order granting extension to serve amended Record until January 4, 2022. (Pet. App. 11a)

January 3, 2022: Appellant serves Record and files proof of service.

Tuesday, January 11, 2022: Mr. Wheeler, counsel of Record, emails a letter to the court informing them he had moved [to another state] and changed firms, and is removing Stephen L. Smith from counsel of Record as he will have no more involvement. He also stated he received Appellant's updated Record on Appeal but hadn't gotten a chance to review it to ensure it includes all items and complies as requested, but some additional redaction was required, which he stated he had provided a copy of the redacted pages back in June 2021 but will mail another copy to Appellant. A copy of his letter and redaction request was mailed via USPS to pro se Appellant. Appellant did not receive Wheeler's letter/requests until Monday, January 24th. (Pet. App. 19c)

Friday, January 14, 2022: Appellate clerk responded via email to Mr. Wheeler's January 11, 2022 letter, and specifically to Mr. Wheeler. The clerk advised Mr. Wheeler that he must serve and file a motion to relieve counsel⁵ and also informed him that she additionally *advises* Appellant that she must serve the redacted amended Record on appeal within 10 days of its letter. (Pet. App. 21c) A copy of the clerk's letter was mailed via USPS to pro se Appellant. Appellant did not receive Wheeler's letter until Monday, January 24th.

Friday, January 21, 2022: email regarding Final briefing timeline from Jordan Crapps requesting relief from filing their final briefs following service of amended Record. A copy of the letter was mailed via USPS to pro se Appellant.

Saturday, January 22, 2022: Appellant receives clerk's January 14 letter with a copy of Mr. Wheeler's letter attached. Appellant responds, contending it has not received Mr. Wheeler's letter or redaction requests but it the Record attached [and due to be filed by January 24th pursuant court order of November 30, 2021] contains the additional redaction requested by Mr. Wheeler⁶. It further contended that re-service of the Record based on redaction is improper and unsupported by the rules or lack of and that if Mr. Wheeler compares the served Record and the updated pages from the served Record sent to him with his redaction requests, he would see they match exactly, and if he or any party has any further contentions regarding any further redaction request to see

⁵ Mr. Wheeler had moved to another state and law firm. No motion filed.

⁶ The same redaction requests were provided to Appellant in June 2021 and performed on the 2022 filed Record.

Rule 42.1. Regardless, the redacted information is irrelevant to the final briefs and process of the appeal, so reserving the Record after redaction is moot, that's why it's not mandated or required in any rule or precedent. (Pet. App. 22c)

Appellant serves and files Record, which has been amended/redacted pursuant Mr. Wheeler's requests. Appellant serves and files its final briefs.

Monday, January 24 2022: email from clerk to counsel in response to Jordan Crapps Jan. 21 letter - advising him if [the Respondents] wish to request relief [from filing the final brief/final briefing timeline] they must do so in form of a motion pursuant Rule 240 SCACR. (Pet. App. 22c)

Thursday, February 3-February 18, 2022: Several letters to and from court arguing redaction requests by Mr. Wheeler; also requests for relief from final briefing, which service was due January 23, 2022.

Thursday, February 24, 2022: Letter from clerk to Mr. Crapps and Mr. Wheeler, again advising if they wish relief from the court, they must file motion.

Wednesday, March 9, 2022: [Some] Respondents file motion to dismiss the appeal. Motion contained no precedents, mandates, cases or rules not complied with. Appellant responded, contending if Mr. Wheeler would review the filed Record, it would see his redaction has been accomplished; it also repeated that there were no failed rules or orders which mandate re-service of the file Record or which support dismissal.

March 24, 2022: Appellant filed motion for a 5-day extension to respond to [some] Respondents motion to dismiss due to the extended delay in receiving the motion. On March 30, 2022 the court issued an order granting the extension, though Appellant had served and filed its return.

March 30, 2022: Appellant filed motion to dismiss final briefs due to Respondents intentional non-compliance of the final briefing timeline. *No returns by Respondents. *Court has not rule on this motion though issue included in motion to reinstate.(Pet. App. 214b)

Appellant respectfully requests this court to reinstate the appeal or require Appellate court to rule on the motion and amend its order accordingly to include a ruling of this motion.

Wednesday, May 4, 2022: Respondents Woody Law Firm submits motion to substitute counsel. On May 24th, court files order granting.

Tuesday, June 7, 2022: Appellant files motion to reinstate appeal. *No returns filed or timely filed.

Monday, August 8, 2022: [Some] Respondents filed motion for extension of time to reply to Appellant's motion to reinstate. *The court has not ruled on this motion or allowed an extension.

Thursday, August 11, 2022: Order (denying rehearing) though Appellant's motion was for reinstatement.

REASONS FOR GRANTING PETITION

I. This Case Is Worthy Of This Court's Review

a. Most of the issues raised by Appellant in its appeal are questions of law and equity (such as, the original order fails to comply with the principles and maxims of equity therefore is void), constitutional rights or due process (such as, the master of equity had material evidence and knowledge after the trial but prior to his ruling the Dudeks had no legal right to specific performance [or the property] but intentionally stated he was not going to consider it; that the courts have continually refused to review or have turned a blind eye to the evidence presented), thus violating Appellant's Fifth and/or Fourteenth Amendment. Appellant's property or right to it was deprived when the courts violated, and still is, her due process of law by refusing to consider the valid and material evidence presented; and violates public policy.

b. To dismiss an appeal as punishment for Appellant's failure to comply with a clerks

letter, signed by the clerk alone, advising⁷ Appellant to [re]serve the filed Record where only minor additional redaction was requested and performed and when no rule or process of this court mandates such an irrelevant action, is improper or unlawful. Even redaction rule 42.1 does not direct the clerk themselves to re-serve filed documents they have been requested to perform redaction on. Dismissal of an appeal comes from Appellant's non-compliance of court rules. SCACR Rule 260(a). The clerk alone does not have legal standing to mandate any action upon the litigants where failure to perform would result in dismissal. The January 14th letter was not an 'order' or mandate reviewed and signed by a judge nor did the dismissal order provide any court rules or processes in which the Appellant failed to comply with. Therefore, dismissal of the appeal is not warranted or is unlawful.

Further, the dismissal causes ambiguity in regards to what is an order or directive and what is not. The dismissal also contradicts the legal ability of the clerk (no license to practice law) v. a judge. The clerk's advisement in her letter requires review of the rules and precedents of the court, which only a judge or practicing lawyer can do. Further, the letter gave no notice that failure to comply may or will result in dismissal of the complaint – but the dismissal order dismissed the appeal for failure to comply with the clerk's "directive" which would be a ruling or command, therefore raises a novel question of Federal law, "is the clerk practicing law without a license"? To uphold the dismissal would present as such and therefore would be a violation of Rule 11 and public policy to allow a clerk to practice law without a license.

⁷ Clerk's *advisement* in a *letter* is not a directive or ruling, therefore non-compliance is not an issue, especially to dismiss the appeal.

II. The Dismissal Requirements Conflicts With This Court's Rules Precedents And The Purpose Of The Due Process Clause

a. Granting [some] Respondents' motion to dismiss conflicts with Federal law and Rule 11.

Para. (b) above repeated word for word herein.

b. Granting [some] Respondents' motion to dismiss, where the case presents a novel issue of law.

This court has held that important questions of novel impression should not be decided on demurrer. See *Jackson v. Atlantic Soft Drink Co.*, 286 S.C. 577, 336 S.E.2d 13 (1985). See *Byrd v. Irmo High School*, 468 SE 2d 861 - SC: Supreme Court 1996

The entire appeal was dismissed because the Appellant failed to comply with the clerk's *advice* in her letter to counsel, specifically didn't re-serve to all Respondents, or four different attorneys, the filed Record on appeal, where the only difference between the previously [and the timely] served Record and the timely filed Record is the minor redaction requested by Attorney Wheeler of irrelevant personal information of his clients, Respondents Dudek.

The dismissal order was based on a previous January 14th [letter] issued by the clerk, and signed only by her, not an Order reviewed and signed by a judge, but where the dismissal order appears to misrepresent that the January 14th [document] was an 'Order'. In its subsequent motion for reinstatement/rehearing/amending the order, among other things, Appellant asked the Appellate court for clarification and to provide the order(s) or rule(s) in which Appellant has failed to comply with or that could justify dismissal of the appeal. Rule 260 SCACR. She also asked the court to include in its order the rules or precedents that mandate re-service of the Record after redaction is performed, whether by a party or the clerk herself. The Appellate court refused (Pet. App. 1a) The Respondents could not provide any rules or precedents either (Pet. App. 301b) (Pet. App. 21)



The South Carolina Court of Appeals

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January 14, 2022

Mr. Samuel McVid Wheeler, Esquire
23 South Brevard Street, Suite 204
Brevard NC 28712

Re: Molly Morphew v. Stephen Dudek (2)
Appellate Case No. 2018-002185

Dear Counsel:

We are in receipt of your correspondence dated January 11, 2022. Please be advised that if you wish to have counsel for the respondent relieved, a motion to relieve counsel must be served and filed. Furthermore, by copy of this letter, the appellant is advised that she must serve an amended record on appeal that has been fully redacted within ten (10) days of the date of this letter.

Very truly yours,
V. Elaine Deen
CLERK

cc: Molly Morphew
Steven L. Smith, Esquire
Amy Lynt Neuschäfer, Esquire
Amy L. Hill, Esquire
Jordan Michael Crapps, Esquire
Laura Ruth Bauer, Esquire
Robert McNair Peele, III, Esquire
David Collins

(Pet. App. 3a)

“After issuing numerous orders..., on January 14, 2022, this court directed Appellant to serve a fully redacted amended Record on appeal within 10 days. Appellant has failed to comply. Accordingly, this appeal is dismissed.” (emphasis added).

The South Carolina Court of Appeals

Molly Morphew, Appellant,

v.

Stephen Dudek, Doreen Croas, David Collins, Allison Williams, First Federal, Michael Scardifile, Susan Nicholson, Carolina One Real Estate, Carrie Boyer, Wooddy Law Firm, Respondents.

Appellate Case No. 2018-002185

ORDER

After careful consideration, Respondents' motion to dismiss is granted. ~~After issuing numerous orders requiring Appellant to serve and file a compliant record on appeal, starting in February 2021, on January 14, 2022, this court directed Appellant to serve a fully redacted amended record on appeal within ten days. Appellant has failed to comply. Accordingly, this appeal is dismissed. The remittitur will be sent as required by Rule 221(c), SCACR.~~

Respondents' motion to substitute counsel is also granted. Attorneys Amy Lynn Neuschäfer, Laura Ruth Bauer, and Robert McNair, Peele, III, are hereby relieved as counsel for Respondents. Attorneys Maïre (Molly) Elizabeth Flynn and Kelsey J. Bradvig shall be substituted as counsel of record for Respondents.

[Signature]
FOR THE COURT

Columbia, South Carolina

cc:

FILED
May 24 2022

First, Appellant has not failed to comply with any of the Appellate court orders or any order which would warrant dismissal of the appeal.

There has been a total of 8 orders in this appeal. All are irrelevant to the decision of the Appellate court in its Order of May 24, 2022 dismissing the appeal for non-compliance to serve the redacted Record. Specifically, three (3) are totally irrelevant, which include an order of March 31, 2022 granting 5-day extension for serving and filing a return to [some] Respondents motion to dismiss, the order dismissing the appeal and the order denying rehearing (Pet. App. 3a) (Pet. App. 1a).

The remaining five (5) cannot be held for non-compliance as each subsequent order after the February 2021 Order superseded the prior orders in regards to the date of service of the Record.

1. Order, Feb 23, 2021: (Pet. App. 5a)

Denied Appellant's Motion to amend all Respondents' filed Designations of Matter and granted extension to serve Record within 30 days of order.

*This order in-part regarding the service of the Record was superseded by the subsequent Order of May 27, 2021.

2. Order, May 27, 2021: (Pet. App. 6a)

Denied [some] Respondents' motion to dismiss, denied Appellant motion to Strike [some] Respondents' motion to dismiss, granted [some] Respondents' alternative motion to strike Record.

It also ordered: [some] Respondents to provide the missing or non-existent matter Appellant addressed in her motions; and Appellant to serve the Record within 30 days of the order, and to include all the items provided or designated in the Record.

* This order in-part regarding the service of the Record was superseded by the subsequent Order of August 16, 2021.

*Note: there were 2 non-existent items that [some] Respondents could not provide, and a mislabeled item which they provided but was already in the Record. There were also several items not in the lower court Record, but Appellant included in the Record.

3. Order, August 16, 2021: (Pet. App. 8a)

Denied Appellant's Motion to compel compliance (motion submitted due the errors or to remove the non-existent items they could not provide from their Designations. It also ordered Appellant to serve compliant Record within 30 days of the order.

* This order in-part regarding the service of the Record was superseded by the subsequent Order of November 5, 2021.

4. Order, November 5, 2021: (Pet. App. 10a)

Denied Appellant's motion to stay appeal until all designated matters were resolved or preserved for appeal Also, denied Appellant's request to amend Respondents' filed Designation of Matter to comply with the court rules. Ordered Appellant to serve Record within 20 days.

* This order in-part regarding the service of the Record was superseded by the subsequent Order of November 5, 2021.

5. Order November 30, 2021: (Pet. App. 11a)

Granting Appellant's motion for 5-day extension to serve Record due to family medical emergency. Extension granted until January 4, 2022.

*Record timely served per order and Proof of Service January 3, 2022

As demonstrated above, Appellant hasn't failed to comply with any rule, process, mandate or order of the court; and neither the Appellate court nor the Respondents have provided any failure, especially that could warrant dismissal of the appeal(Pet. App. 301b) (Pet. App. 3a) (Pet. App. 1a)

On the flip side, it is the Respondents and the Appellate court that have violated court rules and failed to comply with the processes of the court.

The Respondents have failed to file their final briefs. No court rule or order has stayed the Final briefing timeline. SCACR Rule 240(b). In fact, the Appellate court provided two (2) separate notices to counsel in response to their letter that if they wish for *relief* [from filing the final brief/final briefing timeline] they must file a motion pursuant Rule 240. (Pet. App. 24c) (Pet. App. 22c) (Pet. App. 25c). No Respondent final briefs have been filed.

Further, based on the reason for dismissal, the Appellate court has allowed the clerk to practice law without a license. As previously argued above and repeated herein, the Appellate court dismissed this appeal based on Appellant's 'non-compliance' of the January 14, 2022 clerk's *letter, signed only* by the clerk, *addressing only* counsel and cc'ing Appellant. The clerk is not a lawyer therefore cannot practice law. Rule 11. Nor is the clerk a legal authority in regards to the laws or rules of the court, especially to mandate actions of litigants, where in this case the litigant's failure to perform the clerk's advice resulted in dismissal of an appeal.

Additionally, the fact the clerk's letter was issued only 3 days after receiving the letter from counsel indicates it is not an order or mandate. Meaning, counsel's letter was not considered a motion as 3 days is not enough time to allow Appellant to receive and respond [where a return to a motion is allowed 10 days after service of the motion SCACR Rule 240(e)]; therefore, the January 14th clerk's letter is not an order or mandate. If considered an order, it would be inappropriate, untimely or violate Rule 240, therefore voidable, plus violates Appellant due process.

Lastly, Appellant had already mailed the additionally redacted Record for filing before she received counsel's letter⁸. (Pet. App. 27c). Appellant's alleged non-compliance is failing to serve the filed Record where minor redaction was performed by Appellant after the initial service of the Record. Appellant has discovered no rule, process, precedent, or mandate that addresses re-service of a redacted document, let alone *requires* re-service. Not only is there no law, rule or precedent that mandates re-service of any filed document based on redaction that could warrant dismissal, there was no rule or precedent or language presented by the Respondents or the Appellate court that mandates or requires re-service of the Record due to minor redaction. No such language exists in the redaction rules or provision. In fact, the redaction rules do not address this at all nor does it expressly require the clerk to re-serve any document or filing when itself receives a request to redact. Rule 42.1

The additional requirement to re-serve the Record should not be implied where the redaction provision expressly enumerates the requirements on which it is to operate (Where a statute expressly enumerates the requirements on which it is to operate, additional requirements are not to be implied. *Trayco, Inc. v. United States*, 994 F.2d 832 (Fed.Cir.1993); (*Byrd v. Irmo High School*, 468 SE 2d 861 - SC: Supreme Court 1996). If there is, Appellant has not been provided that rule, process, precedent or mandate; therefore, non-compliance has not been demonstrated by the Respondents or the Appellate court. It should be noted that the exact pages from the filed Record where additional redaction was performed was provided to the complainant, Mr. Wheeler. Mr. Wheeler has easy access to the court Records and could have compared his requests with the filing and

⁸ Appellant is pro se, therefore service is via mail.

easily communicated with his co-attorneys⁹ that his redaction requests were performed, though whether or not they were performed is irrelevant or has no effect on the co-Respondents since they did not submit any issue with the served Record and it did not stay the final briefing timeline or the process of this appeal. Meaning, redaction of irrelevant information is exactly what it says, irrelevant information that does not in any way affect the process and time constraints of the appeal.

Even so, Mr. Wheeler did not provide his redaction requests to his co-Respondents or the Appellate court, so even if I served the 1870-page filed Record to all 4 attorneys, how would the co-Respondents or the court verify Appellant performed the redaction as requested by Mr. Wheeler? The answer is, the court would not do that comparison regardless, as it is not their job to verify redaction in filed Records (see Rule 42.1). They would rely on Mr. Wheeler to perform his duty¹⁰, which he admitted he has not done.

As to the co-Respondents, they cannot verify Mr. Wheeler's redaction requests without his requests so would also have to rely on Mr. Wheeler to verify. Some co-Respondents raised issue that if they weren't provided a copy of the filed Record, they wouldn't know what was redacted and there may be citation errors. Their argument has no basis or is moot. 'Redaction' is on irrelevant data, and irrelevant data is not cited. Even if they did site it, their citation would become irrelevant. Again, re-service of a filed Record where only additional redaction was performed as requested is moot, especially when not mandated. To demand a moot action that causes undue *substantial costs and effort* to

⁹ Since they are always filing joint documents its apparent they can be considered one entity sharing all information with each other.

¹⁰ If this Court finds it should review Mr. Wheeler's redaction requests compared to the filed Record, Appellant can provide those pages, but did not include in this petition due the vast volumes of the Record.

Appellant, especially when computer and printer access and Appellant's time was very limited due to Covid, and her husband's cancer/chemo/ radiation and eventual death in May.

In a nutshell, the redaction requested by Mr. Wheeler is the only issue raised by any party on the served Record, and redaction is irrelevant to the final briefs or final briefing timeline and processes of this appeal. To dismiss an appeal based on Appellant's non-compliance of a moot or irrelevant action that is not mandated or provided for in any rule, precedent or court process is highly inappropriate or unlawful and severely prejudices Appellant. Appellant has expended vast costs, time and effort in this appeal, and even as a pro se has not failed or intentionally failed any court order, law, rule or mandate. Appellant has a very valid case for fraud and fraud on the court, a void order, and let's not forget violation of her constitutional rights.

Ultimately, can the Appellate court legally justify dismissing an appeal, let alone a fraud and fraud on the court appeal, when the failed action accused was not an order, is not mandated or a rule of the court, is irrelevant, and does not affect the processes or timeline of the appeal?

Moreso, Appellant has not failed to comply with any court order or violated any rule or process, therefore the extreme action of dismissal is not supported and must be reversed. As demonstrated, Appellant has followed all orders and time restraints to the best of her ability in this case, while on the other hand, it is the Respondents that have failed to comply as they failed to file their final briefs within 30 days of service of the Record, even when given notice (Pet. App. 24c) (Pet. App. 22c). No motions or requests for time extensions were served or filed. Additionally, Appellant did provide the

requester of the redaction, Mr. Wheeler, the exact numbered pages from the filed Record in which the minor additional redaction was performed for him to verify that his requests as provided in his documentation were performed exactly, though that was not a requirement of the rules either.

c. Most of the issues raised by Appellant in its appeal are questions of law and equity.

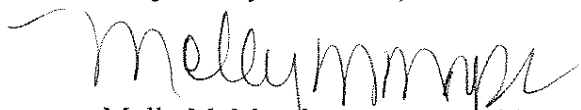
Para. I(a) repeated here word for word.

d. The clerk's administrative enforcement action deprived Appellant's procedural due process.

CONCLUSION

As demonstrated herein, the Appellant has complied with all Appellate court rules and orders, and at the same time, it is demonstrated that the Appellate court failed to provide any justification or actual non-compliance of an order, rule, process, or mandate that would warrant the extreme dismissal of the entire fraud appeal, notwithstanding the substantial time, cost and effort that has been extended in this case by all parties, including the courts. Due the above, the petition for writ of certiorari should be granted.

Respectfully submitted,



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