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Sep 06 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

The Honorable Allison Renee Lee, Circuit Court Judge

Case No. 2020-CP-40-01980  
Appellate Case No. 2021-000804

Johnnie Cordero, ..... Appellant,

v.

Matthew Kisner, in his official capacity as Chair of The Richland County Democratic Party; The Richland County Democratic Party; Trav Robertson, Jr., in his official capacity as Chair of The South Carolina Democratic Party; and The South Carolina Democratic Party, ..... Respondents.

**RESPONDENTS' JOINT MOTION TO CORRECT  
AMENDED RECORD ON APPEAL AND  
RETURN TO APPELLANT'S MOTION  
FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL**

Respondents Matthew Kisner, the Richland County Democratic Party, Trav Robertson, Jr., and the South Carolina Democratic Party (collectively, "Respondents") respectfully move this Court for an Order requiring Appellant Johnnie Cordero ("Appellant") to correct the Amended Record on Appeal to comply with Rule 210, SCACR, and this Court's Order dated July 20, 2022, and request that the Court deny Appellant's Motion for Leave to Supplement Record on Appeal Pursuant to SCACR 212(b).

On May 2, 2022, Appellant filed a Record on Appeal that failed to comply with Rule 210, SCACR, in that Appellant failed to include a full copy of the Remand Order dated

September 30, 2020, as proposed in Respondents' Designation of Matter to be Included in Record on Appeal, and Appellant included five documents that were not proposed in Appellant's or Respondents' Designation of Matter to be Included in Record on Appeal. SCACR 210(b) ("The Record on Appeal shall include all matter designated to be included by any party under Rule 209"); SCACR 210 (g) ("Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material."). The five improperly included documents were as follows:

4. Motion for Speedy Hearing and Calendar Advancement May 29, 2020;
18. Respondents' Supplemental Memorandum in Support of Joint Motion to Dismiss June 10, 2021;
19. Appellant's Memorandum in Opposition to Respondents' Supplemental Motion June 21, 2021;
21. RCDP Report of Executive Committee Meeting April 20, 2020; and
22. Appellant's Reply to Respondents' Initial Brief March 3, 2022.

Based on the foregoing, Respondents filed a Motion to Correct Record on Appeal on May 19, 2022, which this Court granted on July 20, 2022. This Court's Order granting Respondents' Motion to Correct Record on Appeal directed Appellant to "serve and file an amended record on appeal that includes a complete copy of the Remand Order and omit any matter that was not included in either party's designation of matter."

On August 18, 2022, Appellant filed an Amended Record on Appeal. Appellant's Amended Record on Appeal still contains three of the five documents stricken from the Record on Appeal by this Court's July 20, 2022, Order. The three documents included in the Amended Record on Appeal in violation of this Court's Order are

4. Motion for Speedy Hearing and Calendar Advancement May 29, 2020;
18. Respondents' Supplemental Memorandum in Support of Joint Motion to Dismiss June 10, 2021; and
19. Appellant's Memorandum in Opposition to Respondents' Supplemental Motion June 21, 2021.

Additionally, the matter contained in Appellant's Amended Record on Appeal is not arranged in the order required by Rule 210(b), SCACR. Id. ("Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant.")

On August 26, 2022, Appellant filed a Motion for Leave to Supplement Record on Appeal Pursuant to SCACR 212(b). Appellant seeks to supplement the Record on Appeal with filings from an unrelated circuit court proceeding. This material was not presented to the lower court and, therefore, cannot be included in the Record on Appeal. SCACR 210(c).<sup>1</sup>

For these reasons, Respondents respectfully urge this Court to issue an Order denying Appellant's Motion for Leave to Supplement Record on Appeal, granting Respondents' Motion to Correct Amended Record on Appeal, and requiring Appellant to file and serve a Second Amended Record on Appeal corrected to comply with this Court's Order issued July 20, 2022, Rule 210, SCACR, and all other applicable rules.

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<sup>1</sup> To the extent Appellant seeks to have this Court take judicial notice of the documents appended to his Motion, Respondents note that the circuit court order in the unrelated proceeding is neither binding nor persuasive authority and that the cases are distinguishable by parties, procedural mechanism, and organizational rules, among other distinctions fatal to Appellant's argument set forth in his Motion.

Respectfully submitted,

s/ Grant Burnette LeFever  
Nekki Shutt (SC Bar 8784)  
Grant Burnette LeFever (SC Bar 103807)  
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**ATTORNEYS FOR RESPONDENTS**

Columbia, South Carolina

September 6, 2022

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**PROOF OF SERVICE**

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I do hereby certify that I have served a copy of **RESPONDENTS' JOINT MOTION TO CORRECT MOTION AMENDED RECORD ON APPEAL AND RETURN TO APPELLANT'S MOTION FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL** upon Appellant by mailing a copy of the same via USPS first-class mail, addressed to the following:

Johnnie Cordero  
4204 Mandel Drive  
Columbia, SC 29210

s/Grant Burnette LeFever  
Grant Burnette LeFever

September 6, 2022  
Columbia, South Carolina