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**Sep 23 2022**

**SC Court of Appeals**

*With the Name of Allah, Most Merciful, Most Gracious*

Nos. 22-1015(L), 22-1021

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

No. 22-1015(L)	No. 22-1021
Regina M. Hunter El	Elijah Hunter
Plaintiff-Appellant	<i>Plaintiff-Appellee</i>
v.	v.
Elijah Hunter, Sumter County Magistrate Court	Regina M. Hunter El
<i>Defendant-Appellees</i>	<i>Defendant-Appellant</i>

On Appeal from the United States District Court  
District of South Carolina  
Case No. :3:21-cv-02928-MBS Case No.: 3:21-cv-02929-MBS

**MOTION TO SUPPLEMENT RECORD  
Rule 27(b), FRAP**

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## **MOTION TO SUPPLEMENT RECORD**

NOW COMES, the Plaintiff-Appellant, pursuant to Rule 27 (b) Federal Appellate Court Rules (FRAP) for a procedural order to supplement the record and states the following grounds in support of:

### **GROUND 1: RISK OF TAPES BEING REUSED OR DESTROYED BY STATE**

The movant respectfully ask the United Court of Appeals, Fourth Circuit (USCA4) to supplement the record with the transcript from the appeal hearing held on 13 September 2021 at the Sumter County Court of Common Pleas. The primary and backup tapes are at risk of being reused or destroyed before the review by this Court may occur. The primary and backup tapes are the property of the South Carolina Judicial Branch. Under Rule 607(i), SCACR, the court reporter is required to retain the primary and backup tapes of a proceeding for a period of five years. When the proceeding is transcribed the retention period is one year after the original transcript is sent to the requesting party to challenge the accuracy of transcription. Specifically, Rule 607(i) states in part, *“If no challenge is received by the court reporter within the one (1) year period, the tapes may be reused or destroyed.”*

On 24 April 2022, Ms. Julie Cendroski (“Cendroski”), the court reporter stated she completed the transcript and sent an invoice in the amount of \$195.50 (46 pages at \$4.25/page) although no contract was formed between the parties. Cendroski performed transcription services without the Appellant’s written or expressed consent to form a contract or prepayment. On 21 April 2022, Cendroski was errantly instructed to prepare the transcript by Ms. Tammie Holmes (“Holmes”), the Court Reporter Manager for the South Carolina Court Administration (“SCCA”). The Appellant only made a request for an estimate for transcript on 16 September 2021, but did send an advance payment to Cendroski to commence work. The Appellant holds

that Cendroski proceeded unilaterally after having no contact with the Appellant for six months. Holmes mistook a letter sent to the Clerk of Court for the South Carolina Court of Appeals (“SCCOA”) on 20 April 2022 regarding compliance with Rule 207(a), SCACR, as a second request for a transcript. The letter only detailed the Appellant’s communications regarding a transcript estimate and informed the SCCOA Clerk of Office that she asked the Court Reporter Manager to replace the assigned reporter.

Further, the Appellant holds the SCCOA Clerk of Court also erred when she docketed the correspondence as a “*Transcript Ordered*”. SCCA Court Reporter Manual (CRM), as amended, which states “*Before any transcribing is begun, court reporters may require advance payment. The date such advance payment is received will be considered the transcript request date.*” The Appellant holds said Clerk erred in her 20 April 2022 docket entry “*Transcript Documents – Transcript Ordered*” when it held that the transcript was ordered because it is inconsistent with the CRM. Here, it is a fact that no such ‘*advance payment*’ was ever sent to Cendroski, which she requested.

Here, Cendroski had a duty to commence transcribing the appeal hearing once an advance payment was received by the Appellant. Cendroski responded to the Appellant’s request for an expedited transcript estimate on both 27 September 2021 and 13 October 2021, prior to the case being remanded. In both her offers, on 27 September 2021 and 13 October 2021, Cendroski explicitly wrote “*Upon receipt of a check or money order made out to Julie Cendroski for the full amount of \$150.00 the 10 days begin*”. On each occasion the Appellant did not accept Cendroski’s offer nor did she send her any consideration. Then, the Appellant did not hear from Cendroski verbally or in writing until 24 April 2022, six months later. Again, on 24 April 2022, Cendroski stated the transcript was completed and sent an invoice but Appellant

never sent her an advance payment to induce her performance. The Appellant's grievance with the SCCA remains unresolved and her letter to the Hon. Chief Justice Donald W. Beatty received no response. Cendroski was sent notice to cease and desist collection of a debt that did not exist.

SCCA could have easily assigned another court reporter or identified a private court reporter but refused to do. There is no legally enforceable contract without acceptance and consideration and the State cannot coerce the Appellant to enter into a contract. The SCCOA Clerk of Court dismissed the Appellant's appeal claiming she failed to comply to Rule 207(a) SCACR. Yet, the said Clerk did not apply an objective standard to the fact pattern as discussed *supra*.

The Appellant has the right to self-determination; and the State does not have right to interfere in the free exercise of this fundamental human right except a matter of public health or emergency. Article 1 of the *International Covenant on Civil and Political Rights* (United Nations General Assembly, 23 March 1976), to which the United States is a party and ratified in 1992, states "*all peoples have the right of self-determination*". Neither Holmes nor Cendroki obtained my written or verbal consent to enter into a contract for transcription services. The Appellant's freedom to contract or not contract was overlooked. Here, the Appellant argues SCCA breached its duty when it commenced work without advance payment and breached its standard of care that a reasonable person would exercise to keep the Appellant informed. Even 28 U.S. Code § 753(f) states "*The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.*" Thus, State Court acted inconsistent with its own rules and policies similar to the federal code. Therefore, USCA4 should include the transcript in its review since the tapes may be reused or destroyed

## **GROUND 2: COURT REPORTERS NOT IMMUNE FROM LIABILITY**

The exceptions to the waiver of immunity as stipulated in S.C. Code of Laws Sec. 15-78-60 (1), (2), and (5) do not bar a claim under the *SC Torts Claim Act* since the U.S. Supreme Court ruled it has rejected absolute judicial immunity for court reporters from damages liability since they act in an administrative capacity. The Supreme Court held “*because their job requires no discretionary judgment, court reporters are not entitled to immunity as part of the judicial function*” (*Antoine v. Byers & Anderson, Inc.*, 508 US 429, 436, 1993). Court reporters for U.S. Courts are required to provide a verbatim transcript under 28 U.S.C. § 753(b). Similarly, the SCCA Court Reporter manual states that the court reporter’s duty is to provide a verbatim transcript of the proceeding (CRM, p. 5, 1 May 2018). Thus, the court reporter’s function does not include an exercise of judicial discretion or judgment.

Here, Cendroski should have known the risk in preparing a transcript without advance payment to compensate her performance. Cendroski should have known that the requestor was under no obligation to provide remuneration for a service she did not order. Cendroski also should have known that reporting that the transcript was complete to the SCCOA Clerk of Court based on an order from the Appellant was false. By performing transcription services without prepayment, Cendroski assumed the risk of not being able to collect a payment. Although past consideration is not legally sufficient consideration, the Cendroski had no prior business relationship with the Appellant to act prematurely and independent of the requesting party. By the time Cendroski sent her second invoice she unequivocally knew her act was fraudulent and would harm the Appellant’s appeal. Moreover, Holmes did not address the Appellant’s request for a new court reporter until 18 May 2022, 30 days later. Here, it was wrong for Holmes to form a contract on the Appellant’s behalf, without her written or expressed consent to do so.

Therefore, Cendroski is not immune from damage liability and her employer is vicariously liable for acts and omissions.

### **GROUND 3: DIGITAL RECORDING MADE UNDER FEDERAL JURISDICTION**

The transcript was not part of the record transmitted by the United States District Court for the District of South Carolina (USDS-DSC). However, this Court should include the transcript from the State court because the USDS-DSC had jurisdiction of the case as soon as prompt notice was served on the Sumter County Court of Common Pleas Clerk of Court. The James C. Campbell, Clerk of Court recorded the Notice of Removal on 13 September 2021 at 10:56 a.m. In addition, the Appellant informed the Hon. Judge R. Ferrell Cothran, Jr. of the Notice of Removal, in open court, that same morning and he still chose to hold the hearing. Thus, since the USDC-DSC had jurisdiction at the time the hearing was held in the lower court, the record of hearing is also rightly the property of the federal court. District Judge Margaret B. Seymour's order to remand the matter to the State Court was made on Sunday 17 October 2021 when the Clerk's office was closed and was entered by the District Clerk on 18 October 2021.

Further, the Appellant argues the transcript is essential to review the actions of the lower federal court prior to the matter being remanded to the Sumter County Court of Common Pleas. As stated supra, the Clerk of the State court received prompt notice of the removal in compliance with 28 U.S.C. §1446(d). Yet, it failed to cease jurisdiction until the matter was remanded. Here, all subsequent pleadings filed in the State court prior to remand fall under the jurisdiction of the federal court too. In addition, the Appellant asked the District Court Judge Seymour for additional time to review the trial court record prior to filing her objections to the report and recommendations of the District Court Magistrate Judge Paige but her request was denied. This

decision adversely impacted the Appellant's ability to enter the appeal hearing transcript in the record as an exhibit to any objections.

In addition, the Appellant's initial request for an estimate the transcript services was made prior to the docket of the appeal with the SCCOA should be performed by a court reporter under the supervision of the U.S. Office of the Courts pursuant to 28 U.S.C. §753.

**GROUND 4: STATE COURT CAN ONLY PROCEED AFTER A CERTIFIED COPY OF THE REMAND ORDER IS MAILED**

The District Clerk has not complied with 28 U.S.C. 1447(c) which required her to send a certified copy of the order by mail to the State court. The State Courts should have only proceeded thereafter. Upon discovery, Appellant asked the district clerk to do so on 8 April 2022 before Cendroski was instructed to complete the transcript by her manager. Yet, the said Clerk refused. The Appellant argues that at the time the transcript was prepared, federal authority was active and the transcript is within control of the federal court. Thus, despite Judge Seymour's 17 October 2021 order that remanded the case to the State Court and the conduct of the parties; federal jurisdiction is still in effect until the district clerk meets the statutory requirement. Thus, for the reasons stated above, the Appellant respectfully ask this Court to supplement the record with the State Court transcript at the government expense.

Respectfully,



I Am: Regina M. Hunter El  
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A Natural Person, In Full Life, In Propria Persona, Sui Juris

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**CERTIFICATE OF SERVICE**

I, Regina M. Hunter El, certify that I served a copy of the *Appellant's Motion to Supplement Record* on Elijah Hunter and the Sumter County Magistrate Court by depositing a copy of the same with the United States Postal Service, with first class mail postage, to the parties in the attached service list.

Executed this 23<sup>rd</sup> day of September 2022 C.E., 26 Safar 1444 A.H.

Respectfully,



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Notice to the Principal is Notice to the Agent, Notice of the Agent is Notice to the Principal

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