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Sep 28 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY

The Honorable Allison Renee Lee, Circuit Court Judge

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

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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.

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**RESPONDENTS’ JOINT RETURN TO APPELLANT’S PROPOSED  
ADDENDUM TO PENDING MOTION FOR LEAVE TO SUPPLEMENT  
RECORD ON APPEAL PURSUANT OT SCACR 212(b)**

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Respondents Matthew Kisner, the Richland County Democratic Party, Trav Robertson, Jr., and the South Carolina Democratic Party (collectively, “Respondents”) object to Appellant Johnnie Cordero’s (“Appellant”) Proposed Addendum to Pending Motion for Leave to Supplement Record on Appeal and respond as follows:

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), seeking to supplement the Record on Appeal with filings from an unrelated circuit court proceeding.

On September 6, 2022, Respondent's filed a Joint Motion to Correct Amended Record on Appeal and Return to Appellant's Motion for Leave to Supplement Record on Appeal. In said Motion and Return, Respondents ask this Court to deny Appellant's Motion for Leave to Supplement Record on Appeal because the proposed material was not presented to the lower court and is improper for inclusion in the Record on Appeal, pursuant to SCACR 210(c). Respondents also ask this Court to require 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.

On September 18, 2022, with the above motions still pending, Appellant filed a "Proposed Addendum to Pending Motion for Leave to Supplement Record on Appeal Pursuant to SCACR 212(b)." Appellant's "Proposed Addendum" seeks inclusion of a

recent South Carolina Supreme Court decision in the Record on Appeal and presents substantive arguments on said decision.

The material Appellant seeks to include in the Record on Appeal in his “Proposed Addendum” to his original Motion to Supplement likewise is improper for inclusion in the Record on Appeal because it was not presented to the lower court, as required by SCACR 210(c). Further, Appellant appears to be using motions related to the Record on Appeal as a vehicle to advance additional substantive arguments not raised in his Initial Brief.

Accordingly, Respondents object to Appellant’s “Proposed Addendum” and respectfully reiterate their request for this Court to deny Appellant’s Motion for Leave to Supplement Record on Appeal, grant Respondents’ Motion to Correct Amended Record on Appeal, and require 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. Respondents also respectfully ask this Court to limit further attempts by Appellant to supplement the Record on Appeal or otherwise improperly advance additional substantive arguments, as Respondents believe such limitation is necessary for the parties to proceed with final briefing so that this Court may reach a decision on the merits.

(Signature on following page.)

Respectfully submitted,

s/ Grant Burnette LeFever  
Nekki Shutt (SC Bar 8784)  
Grant Burnette LeFever (SC Bar 103807)  
BURNETTE SHUTT & McDANIEL, PA  
912 Lady Street, 2nd Floor (29201)  
PO Box 1929  
Columbia, South Carolina 29202  
Telephone: (803) 904-7912  
Fax: (803) 904-7910  
[NShutt@BurnetteShutt.Law](mailto:NShutt@BurnetteShutt.Law)  
[GLeFever@BurnetteShutt.Law](mailto:GLeFever@BurnetteShutt.Law)

**ATTORNEYS FOR RESPONDENTS**

Columbia, South Carolina

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Democratic Party; Trav Robertson, Jr., in his official  
capacity as Chair of the South Carolina Democratic Party;  
and the South Carolina Democratic Party ..... Respondent.

**PROOF OF SERVICE**

I do hereby certify that I have served a copy of **RESPONDENTS' JOINT RETURN TO APPELLANT'S PROPOSED ADDENDUM TO PENDING MOTION FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL PURSUANT TO SCACR 212(b)** 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 (SC Bar No. 103807)

September 28, 2022  
Columbia, South Carolina