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Apr 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Courtney Clyburn Pope, Circuit Court Judge

Case No. 2017-CP-02-1413

Otis Owens, Respondent,

v.

Michael Hunt, in his Official Capacity as Sheriff
of Aiken County, Aiken County Sheriff’s Office,
Aiken County Detention Center, and Aiken County, Appellants.

**RETURN IN OPPOSITION TO RESPONDENT’S
MOTION FOR ORDER TO MEDIATE**

The Respondent Otis Owens has filed a motion requesting that this Court issue an order directing the parties to hold a “binding mediation” while this action is pending on appeal. Not surprisingly, the Respondent fails to cite any provision of the South Carolina Appellate Court Rules, the South Carolina ADR Rules, or case law to support or substantiate his motion. Indeed, there is no such authority to

support the Respondent's motion, and on that basis, the Appellants request that it be denied.

Notably, in his motion, the Respondent actually requests the Court to order a "binding mediation." There is no such process under the ADR Rules. Moreover, even if the Respondent is seeking a commonly-defined "voluntary mediation" to be held, the Appellants submit that the parties complied with the mediation requirements under the ADR Rules in this case while it was pending in Circuit Court. The lower court record includes a Proof of ADR filed February 18, 2021. There is no requirement for the parties to mediate an additional time following final judgment or while a case is pending on appeal.

The Respondent also argues that a "binding mediation" should be ordered because "[t]he Respondent believes that the Appellants do not have any legitimate reason to appeal the verdict in this case." The Court cannot base any decision on what the Respondent "believes" about the merits of an appeal – an appeal which incidentally has not even been briefed at this point because the trial transcript has not been delivered by the court reporter at this time. In contrast, the Appellants believe that there are numerous issues of substantial merit that are being appealed. The Court is obviously not in a position to assess the merits of the appeal at this juncture.

In sum, the Appellant's motion is legally frivolous. It is unsupported by any legal authority and is premised solely on the Appellant's unsupported "belief" that the Appellants' appeal lacks merit. The Court is respectfully requested to deny the motion.

Respectfully submitted,

s/ Andrew F. Lindemann

ANDREW F. LINDEMANN #13030
LINDEMANN LAW FIRM, P.A.
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920
Email: andrew@ldlawsc.com

WILLIAM H. DAVIDSON, II #1558
DAVIDSON & WREN, P.A.
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
(803) 806-8222
Email: w davidson@dml-law.com

Counsel for Appellants

April 14, 2024

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Courtney Clyburn Pope, Circuit Court Judge

Appellate Case Number 2023-000009
Case No. 2017-CP-02-1413

Otis Owens, Respondent,

v.

Michael Hunt, in his Official Capacity as Sheriff
of Aiken County, Aiken County Sheriff’s Office,
Aiken County Detention Center, and Aiken County, Appellants.

CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court’s Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Appellants, does hereby certify that service of the **Return in Opposition to Respondent’s Motion for Order to Mediate** in the above-captioned matter was made upon all counsel of record by email only this the 14th day of April 2023, as follows:

Joshua T. Hawkins, Esquire
Hawkins & Jedziniak, LLC
Email: josh@hjlsc.com

William H. Davidson, II, Esquire
Davidson & Wren, P.A.
Email: wdavdison@dml-law.com

s/ Andrew F. Lindemann



Telephone (803) 881-8920
Facsimile (803) 862-1181

5 Calendar Court, Suite 202 (29206)
Post Office Box 6923
Columbia, South Carolina 29260

ANDREW F. LINDEMANN*
Direct Dial: (803) 881-8921
Email: andrew@ldlawsc.com

*Also Admitted in North Carolina

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SC Court of Appeals

Via Email Only

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Otis Owens v. Sheriff Michael Hunt, the Aiken County Sheriff's Office, Aiken County
Detention Center and Aiken County
Appellate Case Number: 2023-000009
Civil Action Number: 2017-CP-02-1413
Claim Number: 012017G00000066
Our File Number: 333.20648

Dear Ms. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as amended May 6, 2022), please find enclosed for filing the **Return in Opposition to Respondent's Motion for Order to Mediate** with regard to the above referenced matter. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

If you have any questions, please advise. Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosure

cc: Joshua T. Hawkins, Esquire (w/ Enclosure, Via Email Only)
William H. Davidson, II, Esquire (w/ Enclosure, Via Email Only)