

RECEIVED

May 01 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In The Circuit Court

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2022-000987

Saint Luke Baptist Church,

Respondent,

v.

Rayshawn Terry,

Appellant.

REPLY TO MOTION FOR ADDITIONAL MATTER

Pursuant to Rule 240, S.C.A.C.R., the Appellant, by his counsel herein, replies to Respondent's Motion, filed April 20, 2023, for the inclusion of additional matter in the Record on Appeal:

1. Counsel for Respondent moves to add the following matter:

Plaintiff's First Set of Interrogatories to Defendant, June 10, 2021.
Plaintiffs First Set of Requests for Production, October 11, 2021.
Form 4, April 6, 2022, signed by Judge Brian M. Gibbons.

2. When the exact meaning of the first two items above arose, I sent an e-mail dated March 29, 2023, a copy of which is attached hereto, I pointed out to opposing counsel that their Interrogatories and Requests were recited in our Responses.
3. I considered settling this question by a Motion, since neither Plaintiff's Interrogatories and Requests nor Appellant's responses were presented to the Circuit Judge pursuant to the Summary Judgment Motion.
4. While I do not recall a response to the e-mail above, I recall getting copies of Plaintiff's Interrogatories and Requests by e-mail. I assume this sending was intended to require those items' inclusion. Their omission in the submitted Record on Appeal was due to oversight on my part. I do reiterate that a) these Interrogatories and Requests were never seen by the

ruling Circuit Judge and b) their language is recited in the included responses already filed, as stated below:

Answers to Plaintiff's First Set of Interrogatories to Defendant – page 585
Answers to Plaintiffs First Set of Requests for Production – page 598

5. The Form 4 Order of April 6, 20232 was included in the Respondent's Designation of Matter and was overlooked by me. No objection to its inclusions was made by me. While this only a "place-holder" order, asking respondent to submit a draft of a proposed Order to the Circuit Judge, it should have been included.
6. Given what is already the extraordinary size of the Record on Appeal, the Appellant prays that if the Court orders the inclusion of any of these documents, it be done by supplemental filing.

The basis of this Motion is the within-cited Rules, the records of this appeal, and any attached affidavit or stipulation of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, the Appellant herein moves this Court to be allowed to file outside time and for an extension of time to file the Record on Appeal, as set out above, pursuant to Rule 240 and 263(b), S.C.A.C.R.

/s/ John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731
803 324-8100
Attorney for Appellant
jmfoster@comporium.net

May 1, 2023

Rock Hill, South Carolina

Other Counsel of Record:

Kenneth A. Davis
kdavis@boykinlawsc.com
Charles J. Boykin
cjboykin@boykinlawsc.com
Imani Newborn
inewborn@boykinlawsc.com
Post Office Box 11844
Columbia, S.C. 29211
803 254-0707
Attorneys for Respondent

RE: St Luke Baptist v Terry Appeal

Subject: RE: St Luke Baptist v Terry Appeal
From: Kenneth Davis <kdavis@boykinlawsc.com>
Date: 3/29/23, 11:34
To: John Martin Foster <jmfoster@comporium.net>, "Charles J. Boykin" <cjboykin@boykinlawsc.com>, Imani Newborn <inewborn@boykinlawsc.com>
CC: "Tierney F. Goodwyn" <tgoodwyn@boykinlawsc.com>, Hannah Gerald <hgerald@boykinlawsc.com>

Mr. Foster:

As a follow-up to our telephone conference, with respect to discovery documents included in the Record on Appeal, we believe the record should include the captioned documents, consisting of the written documents signed by counsel but not the entirety of the documents produced. We believe the attached documents serve that purpose.

Kenneth A. Davis
Boykin & Davis, LLC
Physical Address: 220 Stoneridge Drive, Suite 100
Columbia, SC 29210
Mailing Address: PO Box 11844
Columbia, SC 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

From: John Martin Foster <jmfoster@comporium.net>
Sent: Thursday, March 23, 2023 11:06 AM
To: Kenneth Davis <kdavis@boykinlawsc.com>; Charles J. Boykin <cjboykin@boykinlawsc.com>; Imani Newborn <inewborn@boykinlawsc.com>
Subject: St Luke Baptist v Terry Appeal

Mr. Davis, Mr. Boykin, Ms. Newborn:

The Court of Appeals is requiring the Record on Appeal be filed. Looking this over, I have two problems:

- 1) In your Designation of Matter, you added to the Record on Appeal your Interrogatories and Requests to Produce and our responses. I have our written responses, but cannot find your Interrogatories and Requests to Produce to us. This is apparently due to a computer crash we suffered. Your discovery requests are recited in our responses, if that is sufficient. Please resend your Interrogatories and Requests or advise if what we have will suffice.
- 2) You have added "Defendant's Answers to First Set of Request for Production". Again, our written response is available. Our response also referenced 589 pages and 3 audio files. Due to the bulk of this response, I did not retain a numbered list of those documents. If you wish the full response to be a part of the Record on Appeal, I must ask you to re-send me those items sent in response.

I am not trying to dictate your response to these requests, but I do note that, other than the items both sides put in front of the Circuit Court, these documents and audio files were not placed on

record.

RE: St Luke Baptist v Terry Appeal

Thank you in advance for clarification of your Designation of Matter.

--

Martin Foster

JMFOSTER@COMPORIUM.NET

THE GUARDIAN BUILDING 223 EAST MAIN STREET SUITE 520 ROCK HILL, SC 29730

P.O. Box 106 ROCK HILL, SC 29731-6106

803 324-8100 803 324-8109: FAX

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

—Attachments: —

32 - Def's Response to Ptf's 1st RTA 7.13.21.pdf	1.3 MB
37 - AnsInterstr 10.11.21.pdf	51.0 KB
38 - AnsReqProdTR 10.11.21.pdf	39.3 KB
41 - Plf's Answer to Def 1st Interrog 10.22.21.pdf	355 KB
42 - Plf's Resp. to Def's 1st RFP 11.24.21.pdf	84.6 KB
43 - Plf's Supp Answ. to Def's 1st INT 11.24.21.pdf	50.5 KB
46 - Plf's 1st Supp. Anws to Def's 1st RFP 3.8.22.pdf	476 KB
47 - Plf's 2nd Supp. Resp to Def's 1st RFP 3.11.22.pdf	7.7 MB

RECEIVED

May 01 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In The Circuit Court

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2022-000987

Saint Luke Baptist Church,

Respondent,

v.

Rayshawn Terry,

Appellant.

PROOF OF SERVICE

I certify that I have served the Reply to Respondent's Motion for Additional Matter in the Record on Appeal, dated April 20, 2023, on the following counsel or persons of record:

Kenneth A. Davis
kdavis@boykinlawsc.com
Charles J. Boykin
cjboykin@boykinlawsc.com
Imani Nicole Newborn
innewborn@gmail.com

by service to the opposing lawyer's primary e-mail address listed in the Attorney Information System (AIS), as authorized by Section (b)(2) of the Order of the Supreme Court dealing with Electronic Filing and Service issued May 6, 2022, or

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

/s/ John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731
803 324-8100
Attorney for Appellant

May 1, 2023

Rock Hill, South Carolina