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Aug 18 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

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Appellate Case No. 2023-000061  
Case No. 2023-CP-23-03040

Randall D. Price,

Appellant,

v.

Greenville County Sheriff's  
Office and Deputy Compton,

Respondents.

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RESPONDENTS' MOTION TO DISMISS APPEAL

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/s/ Charles F. Turner, Jr.

Charles F. Turner, Jr., Bar No. 64996

J. Nathan Ozmint, Bar No. 103783

Willson Jones Carter & Baxley

325 Rocky Slope Rd., Ste. 201

Greenville, SC 29607

(864) 213-4146

August 18, 2023

*Counsel for Respondents*

## INTRODUCTION

Respondents Greenville County Sheriff's Office and Deputy Compton hereby move this Court to dismiss this appeal in its entirety, pursuant to Rule 240 of the *South Carolina Rules of Appellate Practice*. Appellant has repeatedly failed to comply with the *South Carolina Rules of Appellate Practice*, has failed to cure deficiencies identified to him by the Court, and has made material misrepresentations to the Court regarding service of Appellant's Record on Appeal upon Defendants.

## ARGUMENT

When an appellant fails to comply with the statutory and appellate authority, dismissal of the appeal may be an appropriate remedy. In *Henning v. Kaye*, the Court of Appeals noted that it would be completely justified in dismissing [the] appeal where,

Appellant's brief fails to comply with the [then applicable rules] in the following particulars: the components of the brief are incorrectly organized and labeled, the issues are not distinctively headed, the table of authorities is not alphabetized or referenced to the body of the brief, the statement of the case contains contested matter and omits required information, and the arguments contain no citations to the record or to the cases listed in the table of authorities.

*Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794 (S.C. 1992). The Court further emphasized the importance of the *South Carolina Rules of Appellate Practice*, advising that, "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review." *Henning*, 307 S.C. at 436. Accordingly, Appellant's consistent failure to follow the rules of the Court in this matter can, alone, serve as ample grounds for dismissal.

Respondents recognize that Appellant is *pro se*, and has accordingly hesitated in filing the instant motion. However, Appellant's continued disregard for the *South Carolina Rules of*

*Appellate Practice* did not occur in a vacuum; on the contrary, Appellant has been issued numerous deficiency letters by the Court, each containing explicit curative instructions, and has repeatedly failed to address those deficiencies in a timely manner. Further, even were Appellant simply unable to understand what the rules required of him, Respondents would nonetheless be entitled to a dismissal of the present appeal where Appellant wrongly presented the Court with a certificate of service representing that Respondents had been served with Appellant's Record on Appeal; such Record on Appeal was never served on Respondents.

Appellant, from the outset of this appeal, has failed to abide by the *South Carolina Rules of Appellate Practice* and this Court's Orders. On January 19<sup>th</sup>, 2023, the Clerk of Court sent Appellant a letter requesting the transcript associated with the Orders challenged in the present appeal, and giving Appellant ten (10) days to comply. (Dkt., *January 19, 2023, Letter from Clerk of Court*). As of April 26, 2023, the Court had still not received the requested transcript and sent a follow-up letter, again allowing Appellant ten (10) days to comply. (Dkt., *April 26, 2023, Letter from Clerk of Court*). It was not until May 15<sup>th</sup>, 2023, that Appellant informed the Court that he had, on May 1<sup>st</sup>, 2023, finally ordered the transcript. (Dkt., *May 15, 2023, Letter from Appellant*). As the Court noted and established to Appellant in its letters, the Court would have been within its authority to dismiss the present appeal at any point during Appellant's three-month period of non-compliance. Appellant's disregard of this Court's rules, however, was not limited to this instance. On August 4<sup>th</sup>, 2023, the Clerk of Court sent another deficiency notice to Appellant, noting multiple deficiencies in Appellant's Record on Appeal, filed on August 3<sup>rd</sup>, 2023. (Dkt., *August 4, 2023, Letter from Clerk of Court*). These deficiencies included failing to use the proper caption, as required by Rule 267(a), improper pagination, and failing to list all counsel of record as required under Rule 267. *Id.* As in its previous letters to Appellant, the Court granted Appellant ten (10)

days to comply with the relevant rules. As of the date of the filing of this Motion, August 18, 2023, Appellant has again failed to comply. As the Supreme Court stated in *Henning*, “the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Henning*, 307 S.C. at 436. Appearing *pro se*, Appellant may have difficulty comprehending all the rules governing the appellate process – however, this Court has repeatedly granted Appellant leave and related to him the application of the appellate rules. Thus, Appellant’s continued refusal to comply with the terms, rules, and time-limits expressly provided to him by the Court cannot be justified. Accordingly, Respondents move that this appeal be dismissed.

Furthermore, Appellant has made a material misrepresentation to this Court, which alone ought to justify the dismissal of Appellant’s appeal. On August 3<sup>rd</sup>, 2023, Appellant filed a certificate of service representing that Respondents had been served with Appellant’s Record on Appeal. (Dkt., *Proof of Service of Record on Appeal*, 8/03/2023). The Record on Appeal filed with the Court includes thirty-seven (37) pages, including a title page and index, and encompassing exhibits ranging from “Ex A” to “Ex H.” (Dkt., *Filed Record on Appeal*, 8/03/2023). Leaving aside the deficiencies within Appellant’s Record on Appeal, Appellant’s certificate of service misrepresented to the Court that Appellant served Respondents with those documents. Respondents, contrarily were served only with the title page and index to Appellant’s Record on Appeal, along with Appellant’s final brief. (Ex. A, *Documents Received by Respondents*). Appellant, via his signed and notarized Certificate of Service, misled this Court and Respondents in representing that Respondents had been served with his Record on Appeal. Such a material misrepresentation justifies the dismissal of this appeal.

**CONCLUSION**

Appellant has repeatedly failed to abide by the *South Carolina Rules of Appellate Practice*, and this Court's explicit instructions. Moreover, Appellant has perjured himself, in submitting a Certificate of Service representing that Respondents had been served with Appellant's Record on Appeal. Accordingly, Respondents pray that this Court dismiss the present appeal.

Respectfully submitted,

/s/ Charles F. Turner, Jr.

Charles F. Turner, Jr., Bar No. 64996  
J. Nathan Ozmint, Bar No. 103783  
Willson Jones Carter & Baxley  
325 Rocky Slope Rd., Ste. 201  
Greenville, SC 29607  
(864) 213-4146

August 18, 2023

*Counsel for Respondents*

**EXHIBIT A**

*Documents Received by Respondents*

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Greenville Co.  
Court of Common Pleas

The Hon. Brian M. Gibbons, Cir. Court Judge

No. 2023-000061

Randall D. Price

Appellant

vs

Greenville Co. Sheriff Office  
and Deputy Compton

Respondent

CERTIFICATE OF SERVICE

I, Randall Price do hereby certify that I have served the below persons my final brief. By placing the above said into the MacDC-I. mail room on this 1 day of Aug 2023 placed in the U.S. mail w/postage prepaid to be S.C. Court of Appeals  
1015 Sumter St. PO BOX 11629  
Cola, SC 29211

Atty At Law  
Charles F. Turner  
325 Rocky Slope Rd Ste 201  
Greenville, SC 29607

Sworn to before me  
this 1 day of August 2023

[Signature]  
Notary Public  
My Commission Expires 04-12-2031

[Signature]  
51

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Greenville, Co  
Court of common Pleas  
The Hon. Brian M. Gibbons, Cir. Ct. Judge

Randael D. Price

vs

Appellant

Greenville, Co. Sheriff Office  
and Deputy Compton

Respondent

CERTIFICATE OF SERVICE

I Randael Price do hereby certify that I have  
served the below persons my record on appeal, this 1st  
day of Aug 2023

S.C. Court of Appeals  
1015 Sumter St.  
Columbia, SC 29201

Atty At Law  
Charles F. Turner  
325 Rocky Slope Rd Ste 201  
Greenville, SC 29607

SWORN to before me  
this 1st day of August 2023



Randael D Price

[Signature]  
Notary Public

my Commission Expires 04-12-2031

CERTIFICATE OF COUNSEL

I do hereby certify that my final brief  
complies with rule 211(b) SCACR

DATE: July 31 2023

Sincerely  
Randall  
D. Pi

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
Court of Common Pleas  
Cir. Court Judge Brian M. Bibbons

---

No 2023-000061

Randall D. Price

Appellant

vs

Greenville Co Sheriff Office  
and Deputy Compton

---

RECORD ON APPEAL

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Other counsel of record

Charles F. Turner, Jr  
325 Rocky Slope Rd. Ste 201  
Greenville, SC 29607

Randall D. Price

MacDougall Corr. Inst.  
1516 Old Billiard Rd.  
Ridgeville, SC 29472

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## CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the record on appeal contains all material proposed to be included by any of the parties and not any other material

DATE: July 31, 2023

s/ Randall O'Brien

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville Co.  
Court of Common Pleas  
The Hon. Brian M. Bibbons, Cir Court Judge

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No. 2023-000061

Randall D. Price

Appellant

vs

Greenville Co. Sheriff's Office  
and Deputy Compton

Respondent

---

FINAL BRIEF OF APPELLANT

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Other counsel of record  
Charles F Turner, Sr  
325 Rocky Slope Rd. #201  
Greenville, SC 29607

Randall D. Price  
MacDougall C.I.  
1516 Old Billiard Rd.  
Ridgeville, SC 29472

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# TABLE OF AUTHORITIES

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## Other Authorities

## STATEMENT OF ISSUES ON APPEAL

WHETHER JUDGE BIBBONS ORDER OF DISMISSAL  
WAS IN ERROR WHEN IT FAILED TO ADDRESS  
APPELLANT AMENDED COMPLAINT WHICH  
SHOWED "FACTS" SUFFICIENT TO  
CONSTITUTE A CAUSE OF ACTION

## STATEMENT OF THE CASE

On Oct 2, 2020 Deputy Compton with the Greenville Co. Sheriff's Office stopped Dalton Taylor on Hwy 14 operating an unsafe moped. Although Dalton Taylor was allowed to continue on his way, And during my drive home on Hwy 11, I hit and killed Mr. Taylor. Thus, I was arrested and pled guilty to Hit and run with Death Dec 8, 21. On Jan 9, 22 I filed my civil action against Greenville, Co. Sheriff's Office et al. On Sept 22, 22 judge Cravely gave me 20 days to submit an amended complaint. On Oct 17, 2022 I appeared before judge Gibbons upon my amended complaint, which he denied. On Dec 2, 2022 I filed a timely 59 (a) (e) motion, which he denied on Dec 14 2022. This appeal follow

## ARGUMENT

Judge Gibbons order of dismissal was in error when it failed to address my AMENDED complaint / issue SEE: Ex A (1) which showed "FACTS" sufficient to constitute a cause of action. But here his dismissal / order failed to make specific of findings of facts and conclusions of law to my AMENDED Complaint / issues SEE Ex. B Thus I filed a timely 59 (a) cert motion SEE Ex C which judge Gibbons denied SEE: Ex D

Here on Aug 26, 22 I appeared via video before judge Gravely - per judge Gravely order (1.) The amended complaint was properly filed see Ex A.

dated Sept 22, 22 he gave me 20 days to  
submit my AMENDED complaint/issues  
SEE Ex E

Which on Nov. 18 2023 I appeared before judge  
Gibbons upon my AMENDED complaint/issues  
SEE Ex A and F Tr

And, as argued above judge Gibbons order  
did not address my AMENDED complaint/  
issues. When his order only referred  
back to judge Bravely original order, giving  
me 20 days to make an amendment SEE  
Ex B Ex E and Ex G

Here, its too clear, that judge Bravely  
order never "fully" address my Tort  
Claims / GROSS NEGLIGENCE = AMENDED  
Complaint/issues SEE Ex A and Ex B

Here in my AMENDED complaint SEE Ex A

I argued - and now argued that Deputy Compton was GROSS NEGLIGENCE when he interacted with Dalton Taylor his conduct failed out-side the scope of his MINISTERIAL duties. When Deputy Compton failed to ticket and or arrest MR Taylor, who was operating an unsafe moped in VIOLATION of S.C. Code Ann § 56-2-3070

In part (E) a person may not operate a moped on a public hwy that has a speed limit of greater, than 55 miles per hour

(F) No light on moped - 56-1-1760  
Never displayed moped license

Also see 56-2-3000 and 56-1-1720

And MR. Taylor even had drugs on him in his system

Here, I argue Deputy Compton did not exercise any slight due care. Which caused the domino affect..... resulting in my damages..... Which Deputy Compton reasonably knew or should have known of the foreseeable danger, not only to Mr. Taylor. danger/injury to anyone that would be on the same Hwy with Mr Taylor, as in this case at bar SEE Ex H

In. Simms interview of Michael Burns. Here the Defendants is more at fault than I was in this case.

Thus, knowing the foreseeable danger - GROSS NEGLIGENCE as in my case. The lower court failed to address or apply the heightened GROSS NEGLIGENCE standard, to determine whether the Defendants immunity was waived per 15-78-60 (25) Where gross negligence

is a mixed question of law and Fact and should be presented to the jury. Unless the evidence supports only one reasonable inference. Which did not in this case at bar.

And, further where Deputy Compton told Mr Taylor, "that you ain't got no lights you gonna wind up getting HURT.

Here, Mr. Taylor asked Deputy Compton "if he can make it to the Spine." Deputy Compton says "Man that is SUPER unsafe dude and way too far.

Thus, the Defendants was not entitled to any form of immunity (ies) per 15-78-20(a); 15-78-78(b). And or my case should have been submitted to a jury on all issues triable by a jury - plus the amount of damages. I

requested from the Defendants, And, in  
his individually capacity against Deputy  
Compton per 15-78-120 (a)

### CONCLUSION

WHEREFORE: due to the above arguments  
this court should reverse the lower  
court ruling(s) and grant me a jury  
trial upon all triable issues. And,  
further grant me any other relief this  
court deems just and fair.

DATE: July 31, 2023

Respectfully submitted  
Randall D Rice

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Randall D. Price, Appellant,

v.

Greenville County Sheriff's Office and Deputy Compton, Respondents.

CERTIFICATE OF SERVICE

I, Nathan Ozmint, hereby certify that on August 18, 2023, I served Appellant Randall D. Price with copies of Respondents' Motion to Dismiss Appeal by mailing copies of the same to the following address:

*Randall D. Price #386694  
MacDougall Correctional Institute  
1516 Old Gilliard Road  
Ridgeville, SC 29472*

/s/ J. Nathan Ozmint  
Charles F. Turner, Jr., Bar No. 64996  
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Greenville, SC 29607  
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*Counsel for Respondents*

August 18, 2023