

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
Nov 22 2023
S.C. SUPREME COURT

APPEAL FROM GREENWOOD COUNTY
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2022-000740
Case No. 2016-CP-24-0157

Tony Young, Petitioner,

v.

Greenwood County Detention Center and the Greenwood
County Sheriff's Office, Defendants,

Of which, the Greenwood County Sheriff's Office is Respondent.

**MEMORANDUM IN SUPPORT OF
MOTION FOR COSTS ON APPEAL**

By Opinion No. 2023-MO-015 filed November 8, 2023, the South Carolina Supreme Court dismissed Petitioner's writ of certiorari as improvidently granted. That occurred after full briefing by the parties before the Supreme Court as well as oral argument held on October 24, 2023, at Furman University.

Rule 222(a), SCACR, provides that "[u]nless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed." Rule 222(a), SCACR. Similarly, Rule 242(j)(1), SCACR, provides that "[u]nless otherwise ordered by the Supreme Court or agreed to by the parties, costs shall be assessed against the appellant if the decision of the Supreme Court has the effect of affirming the judgment of the lower court or tribunal which was reviewed by the Court of Appeals." Rule 242(j)(1), SCACR.

The Respondent Greenwood County Sheriff's Office, therefore, qualifies as the prevailing parties in this appeal. As the prevailing parties, the Respondent is entitled to an award of costs on appeal in accordance with Rule 222(b), SCACR, and Rule 242(j), SCACR, which includes the costs of printing the Final Brief of Respondents in the Court of Appeals, the Brief of Respondents in the Supreme Court, as well as a copy of the trial transcript. The Respondents are also entitled to attorneys' fees in the amount of \$5,000.00, which is an amount set by order of the Supreme Court, pursuant to Rule 222(b), SCACR, and Rule 242(j)(2), SCACR.¹

The filing of this motion is timely. The Remittitur was filed on November 8, 2023. This motion is filed within fifteen days of the issuance of the Remittitur, as required by Rule 222(d) and Rule 242(j)(4), SCACR.

¹ This amount includes attorney's fees of \$2,500 allowed for the appeal in the Court of Appeals and an additional \$2,500 allowed for the appeal in the Supreme Court.

As a result, the Respondent Greenwood County Sheriff's Office moves this Court, pursuant to Rule 222(d) and Rule 242(j), SCACR, for an award of costs on appeal in the amount of \$5,803.64. The requested costs on appeal are set forth in the Statement of Costs on Appeal, which is also filed herewith.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: s/ Andrew F. Lindemann
ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

RUSSELL W. HARTER, JR. #2778
CHAPMAN HARTER, P.A.
14 Lavinia Avenue
Post Office Box 10224
Greenville, South Carolina 29603
(864) 233-4500

*Counsel for Respondent
Greenwood County Sheriff's Office*

November 22, 2023