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Dec 21 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Circuit Court

G.D. Morgan, Jr., Circuit Court Judge

Case No. 2020-CP-23-01450

Michael Gene Putnam.....Appellant,

v.

Robert Henry Purkerson.....Respondent.

MOTION TO EXCLUDE AND OBJECTIONS TO
MATTERS DESIGNATED FOR INCLUSION IN THE
RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Respondent objects to inclusion of the following of Appellant’s designations of matter for inclusion in the Record on Appeal and respectfully moves the Court for their exclusion.

On June 6, 2023, the Court issued an Order granting in part and denying in part Respondent’s first motion to exclude matters from Appellant’s designation and ordered Appellant to file an amended designation of matter excluding the stricken items. Appellant additionally excluded some items originally included in the Designation related solely to co-defendant Maples, as the Court denied his motion to amend his Notice of Appeal. Respondent has no objection to the omission of those items. Appellant has also newly designated his Notice of Appeal dated October 11, 2022. That Notice of Appeal is part of this Court’s file, and thus Respondent has no objection to its inclusion. Appellant also omitted previous #16 Defendant Purkerson’s Answer, and Respondent respectfully requests that it be included in the Record.

However, Appellant also added in new items in the Amended Designation of Matter, which is not permissible. Appellant added in # 10 and 11, Purkerson’s Motion for Summary Judgment filed June 7, 2021, and the Denial of Purkerson’s Motion for Summary Judgment dated July 27, 2021. Those were not in the original Designation, and that order is not under appeal. Appellant cannot simply add new items to his Designation. Appellant also added #27 June 28, 2023 letter from clerk related to Motion for Leave to Amend not being withdrawn. That letter was sent from the Clerk of

Court of Greenville County to the Court of Appeals at Appellant's request. It was never before the lower court for consideration and thus cannot now be considered by this Court on appeal. Respondent therefore moves to strike # 10, 11, and 27 from Appellant's Designation of Matter to be Included in the Record on Appeal.



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Michael Gene Putnam.....Appellant,

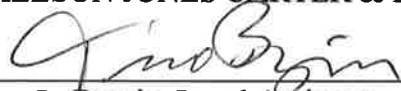
v.

Robert Henry Purkerson.....Respondent.

PROOF OF SERVICE

I certify that I have served a copy of the Motion to Exclude and Objections to Matters Designated for Inclusion in the Record On Appeal on T. Jeff Goodwin, Jr., counsel for Appellant, at 2309 Devine Street, Columbia, South Carolina 29205, by depositing a copy of the same in the U.S. Mail and via email to jgoodwyn@goodwynlaw.com on December 21, 2023.

WILLSON JONES CARTER & BAXLEY



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December 21, 2023



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December 21, 2023

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
1220 Senate Street, Columbia, SC 29201
Columbia, SC 29211

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SC Court of Appeals

Re: Michael Putnam v. Robert Purkerson et al., 2020-CP-23-01450
Appellate Case No. 2022-001432

Dear Ms. Kitchings:

Enclosed for filing please find Respondent's amended Initial Brief. Out of an abundance of caution, Respondent is also refileing his Designation of Matter to be Included in the Record on Appeal, which is unchanged from his initial filing. Respondent again respectfully requests that the Record on Appeal be arranged chronologically for the parties' and the Court's ease of access and mentions this because the Appellant's Designation is not in chronological order.

In an attempt to be helpful to the Court, Respondent would like to recap where we are procedurally with this case. On April 5, 2023, Appellant filed a motion for extension to file his Initial Brief due on April 10, 2023. That motion was granted until April 24, 2023, and stated that no further extensions would be granted absent extraordinary circumstances. On April 21, 2023, Appellant moved to amend his Notice of Appeal to include Judge Gravely's earlier orders dismissing co-defendant Robin Maples. On April 24, 2023, Appellant filed his Initial Brief and Designation of Matter to be Included in the Record on Appeal. On May 8, 2023, Robin Maples, pro se, filed a Motion to Strike the Initial Brief and Designation of Matter. On May 22, 2023, Appellant filed a motion for extension to file a Return simultaneously with the Return. On May 24, 2023, Respondent filed his Initial Brief, Designation of Matter, and Motion to Exclude and Objections to Matters Designated for Inclusion in the Record on Appeal. On May 30, 2023, Appellant filed his Return.

On June 6, 2023, this Court filed an Order denying Appellant's motion to amend his Notice of Appeal, mostly granted but denied in part Respondent's motion to strike, and declined to rule

on Maples' motion to strike as a non-party. The Court ordered Appellant to file an amended Designation of Matter and Initial Brief excluding stricken items and references thereto within thirty days. On July 3, 2023, the Clerk of Court for Greenville County filed a letter with the Court of Appeals at Appellant's request regarding his Motion for Leave to Amend. That was never before the lower court. On July 6, 2023, Appellant filed his Amended Initial Brief and Designation of Matter. Respondent was not required to file an amended brief and declined to do so, resting on the previously filed Initial Brief.

On July 7, 2023, Respondent moved to substitute counsel Langdon Cheves and Laura Tesh of Willson Jones Carter & Baxley for Wesley Shull. On July 21, 2023, Appellant's attorney filed a Consent Order Relieving Counsel. Appellant immediately emailed the Court that he did not consent to his attorney being relieved and filed a formal Reply objecting on July 27, 2023. On August 7, 2023, Appellant's counsel withdrew his Consent Order. By Order dated August 10, 2023, this Court granted Respondent's motion to substitute counsel and took no action on Appellant's motion to be relieved, considering it withdrawn. On August 10, 2023, Appellant filed another reply, advising that his motion was moot and requesting that the case be moved to the active docket with appropriate deadlines. On September 6, 2023, Appellant's counsel filed a Motion for Extension to File his Initial Reply Brief and the Record on Appeal. In response, this Court issued a letter on November 3, 2023, that the time for filing the Amended Appellant's Initial Brief would be in thirty days, even though Appellant had already filed his Amended Initial Brief on July 6, 2023. Also on November 3, 2023, the Court declined to rule on Appellant's pro se filed motion on the grounds that he was represented by counsel and rejected his filing. On December 4, 2023, Appellant again filed his Amended Initial Brief and Amended Designation of Matter, which appears to be an exact duplicate of the July 6, 2023 filing.

Respondent now files his Amended Initial Brief and re-files his original Designation of Matter. The only change in the brief is to remove the section regarding amending the Notice of Appeal, as that has already been properly denied. Respondent respectfully requests that the Court deny any further requests for extension. The next step is for Appellant within 30 days to file the Record on Appeal and his Final Brief and serve it on Respondent so that Respondent, once in receipt of the Record, can then prepare his Final Brief and submit this matter to this Court for decision.

Judge Verdin was the presiding judge at various points in this long and tortuous case and issued orders therein. To protect her and avoid complications later, Respondent respectfully requests that she be recused from this matter.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Laura C. Tesh