

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

H. Steven DeBerry, Circuit Court Judge

Civil Action No.: 2022-CP-26-05492

Appellate Case No.: 2023-001580

Rose Bernard,Appellant,

v.

Lucas Green; Aperture Investigations, Respondents.

RESPONDENTS’ MOTION TO STRIKE APPELLANT’S FINAL BRIEF
AND THE RECORD ON APPEAL

Respondents herein move to strike both the Final Brief of Appellant and the Record on Appeal. Respondents move to strike Appellant’s Final Brief on the grounds that Appellant’s Final Brief fails to meet the requirements of the Final Brief as set forth in Rule 211, SCACR. Respondents move to strike the Record on Appeal on the grounds that it fails to meet the requirements set forth in Rule 210, SCACR.

Appellant's Final Brief contains words and/or phrases that do not appear in Appellant's Initial Brief and/or omits words and/or phrases that were previously included in Appellant's Initial Brief, contrary to Rule 211, SCACR.

These inserted and/or omitted words and/or phrases are not references to the Record or corrections of typographical errors or misspellings and, therefore, fail to meet the criteria of the exceptions contained in Rule 211(b), SCACR.

Rule 211(b), SCACR reads as follows:

(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

The words and/or phrases that have been inserted and/or omitted are not references to the Record on Appeal, nor are they corrections of typographical errors and misspellings. Appellant has made changes on pages 2, 6, 8, and 9 of her Final Brief which are not allowable under Rule 211(b). Therefore, Appellant's Final Brief fails to meet the requirements of Rule 211, SCACR.

The requirements for the Record on Appeal are contained in Rule 210, SCACR, and Rule 210(c) specifically sets forth the contents and the format required for the Record on Appeal. Rule 210(c) reads, in part, as follows:

.... Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. Each page of

the Record on Appeal shall be numbered consecutively beginning with the index....

The Record on Appeal filed by Appellant is not formatted according to Rule 210(c). The documents to be contained on the record are not consecutively numbered and are, in fact, numbered in a way which fails to make sense. The Index to the Record on Appeal would appear to show three (3) separate Orders which, if listed as set forth as required by Rule 210(c), would indicate that all three (3) Orders appear on page 1 of the Record. The Index continues with seven (7) documents which all seem to appear on page 2 of the Record, despite the length of the documents. Appellant then attaches a seemingly secondary Index or table of some sort which adds more confusion and references separate pages for each document but ends with Transcripts labeled with the same page numbers. All of this information causes a great deal of confusion and creates difficulty for Respondents' in preparing their Final Brief to include proper references to the Record. These difficulties would not exist had the Record been properly prepared in accordance with Rule 210(c), SCACR.

Due to Appellant's failure to file her Final Brief in compliance with Rule 211 and her failure to file the Record on Appeal in compliance with Rule 210, Respondents herein move that both her Final Brief and the Record on Appeal be stricken.

McCUTCHEM VAUGHT GEDDIE &
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s/ Luther O. McCutchen, III

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Attorneys for Respondent

January 22, 2024

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SC Court of Appeals

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PROOF OF SERVICE

The undersigned certifies that he has served Respondents’ Motion to Strike Appellant’s Final Brief and the Record on Appeal upon Rose Bernard, pro se Appellant, via email to b4ornot@gmail.com, this 22nd day of January, 2024, pursuant to Rule 262 and the South Carolina Supreme Court’s Order as amended May 6, 2022..

McCUTCHEN VAUGHT GEDDIE &
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s/ Luther O. McCutchen, III

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Rose Bernard v. Lucas Green (2023-001580)

From: jgr@lawyersatthebeach.com

Sent: Mon, Jan 22, 2024 at 4:53 pm

To: Rose Bernard

Cc: Luther McCutchen

[Motion to Strike Record on Appeal and Appellant's Final Brief.pdf](#) (98.6 KB)

[POS - Mo Strike.pdf](#) (84.2 KB)

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Ms. Bernard:

Attached hereto and served upon you are the following related to the above matter:

- 1) Respondents' Motion to Strike Appellant's Final Brief and the Record; and
- 2) Proof of Service.

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