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Feb 13 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from McCormick County
Court of Common Pleas

Lawton McIntosh, Circuit Court Judge

Case No. 2018-CP-35-00074

(Appellate Case No. 2023-001375)

Bryantavious Murray, Appellant,

v.

South Carolina Department of Corrections, Respondent.

MOTION TO STRIKE

Pursuant to Rules 209(b), 210(c) and 240, SCRAP, Respondent South Carolina Department of Corrections (“SCDC”) moves to strike the Request to Charge from Appellant’s Designation of Matter for Record on Appeal (“Designation of Matter”).

The grounds for this motion are that this Request to Charge is not part of the record from the lower court and it does not address the issues on appeal in this matter. Rule 209(b) requires that the Designation of Matter only include items submitted and made part of the lower court proceeding and that all items must be relevant to the appeal. Further, Rule 210(c) states that the Record on Appeal shall not include a matter which was not presented to the lower court. As there has been no jury trial in this matter, Appellant never presented this Request to Charge to the lower court. This matter was decided on a Motion to Dismiss based on procedural grounds and the merits were never reached. This Request to Charge appears to be a statement of Appellant’s version of

events on April 4, 2016, and is not relevant to this appeal.

Further, Respondent would request that this Court require Appellant to substitute the documents he submitted as the Order, the Complaint, and the Answer with the officially filed documents which include case captions. It is extremely difficult to follow Appellant's submissions in the form he used. Respondent would be willing to submit full copies of these materials if agreeable to the Court.

For these reasons, Respondent requests that this Court strike from Appellant's Designation of Matter the Request to Charge and to require Appellant to substitute officially filed documents, which include case captions for the Order, the Complaint and the Answer that Appellant designated in his Designation of Matter. In the alternative, Respondent would be willing to submit full copies of the Order, the Complaint, and the Answer if agreeable to the Court

Respectfully submitted,

By: s/ Steven M. Pruitt
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ATTORNEY FOR RESPONDENT

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Greenwood, SC

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CERTIFICATE OF SERVICE

I certify that I have served the Respondent’s Motion to Strike Portion of Appellant’s Designation of Matter for Record on Appeal on Bryantavious Murray by electronic mail at MurrayBryantavious@gmail.com and by depositing a hard copy in the United States Mail, postage prepaid, on February 13, 2024, addressed to the pro se appellant as follows: 2156 Cresthill Drive, Columbia, South Carolina 29223.

Respectfully submitted,

By: s/ Steven M. Pruitt
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