

# The South Carolina Court of Appeals

James Dustin Lucas, Appellant,

v.

Andre Knox, Respondent.

Appellate Case No. 2023-001135

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## ORDER

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Appellant filed this appeal on July 13, 2023. On November 21, 2023, this court dismissed the appeal, finding the order on appeal was interlocutory. The case was remitted on December 11, 2023. Counsel for Respondent has now filed a motion for costs. *See* Rule 222(d), SCACR ("A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule.").

Counsel's motion for costs states Respondent was the prevailing party in this appeal; attached to the motion is an "itemized statement of costs," requesting \$2,500 in attorney's fees. Appellant opposes the motion.

Rule 222(a) of the South Carolina Appellate Court Rules provides, "Unless 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." In light of this court's *sua sponte* dismissal prior to any briefing, this court exercises its discretion to award \$1,000 in attorney's fees. *See* Rule 222(b), SCACR (permitting an appellate court to award an attorney's fee); *Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199, 750 S.E.2d 78, 84 (2013) (explaining that "it is within [the appellate] Court's discretion whether to award fees and costs under Rule 222"). The Greenville County Clerk of Court is directed to add this award to the remittitur.

  
FOR THE COURT

**FILED**  
**Feb 15 2024**

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Columbia, South Carolina

cc:

Jeanmarie Tankersley, Esquire

Joshua Thomas Hawkins, Esquire

Brice Garrett