

RECEIVED

Feb 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Courtney Clyburn Pope, Circuit Court Judge

C/A No. 2021CP0202344
Appellate Case No. 2023-001222

Da’Nita White.....Respondent,

v.

Roshana Robins.....Appellant.

RETURN TO MOTION TO AMEND RECORD

Respondent, by and through her undersigned counsel, hereby submits its Return to the “Appellant’s Motion for Amended Record on Appeal.” For the reasons set forth below, the Respondent respectfully submits that the Appellant’s Motion should be denied, or in the alternative, held in abeyance.

Background

The Appellant filed this appeal from the grant of summary judgment to Respondent by the Circuit Court. On or about September 20, 2023, the Appellant filed and served her Designation of Matter to be Included in the Record on Appeal (hereinafter, “Appellant’s DOM”). On or about October 20, 2023, the Respondent filed her Designation of Matter to be Included in the Record on Appeal (hereinafter, “Respondent’s DOM”).

Subsequently, on or about January 12, 2024, the Appellant filed and served the Record on Appeal (hereinafter, “ROA”). Notably missing from this ROA, however, are various documents designated by both parties. Moreover, the Appellant included various documents which were designated by neither of the Parties. After the undersigned corresponded with counsel for the Appellant, the Parties agreed that an

amended ROA would be filed and served no later than close of business on Wednesday, January 24, 2024. However, no amended ROA was filed at that time.

On or about January 24, 2024, the Respondent then filed a Motion to Strike the Record filed by the Appellant. On or about February 14, 2024, the Court sent correspondence to the Parties confirming receipt of the Respondent's Motion, and further ordered that the appeal would be held in abeyance pending a ruling on the Respondent's motion.

Thereafter, on or about February 16, 2024, the Appellant filed a motion to amend the record on appeal. The Respondent respectfully submits this Return in Opposition to the Appellant's most recent filing.

Argument

The Court's correspondence, dated February 14, 2024, directed that the appeal is on hold until the Court rules on the Respondent's Motion to Strike. Therefore, the Respondent respectfully asserts that no motion regarding the Record on Appeal is proper until the Court makes its ruling on the Respondent's Motion to Strike, especially since the deadlines for filing final briefs are also now on hold.

Furthermore, given the Appellant's most recent filing, if the Court grants the motion and then accepts the amended Record on Appeal as filed on February 16, 2024—and prior to deciding the Respondent's Motion to Strike—the deadlines for filing the final briefs would be potentially accelerated, without knowing if the true Record is accurate. In practice, the Parties have 20 days from service of the Record on Appeal to file their Final Briefs (Rule 211(a), SCACR). However, if the Court accepts the Amended Record on Appeal as filed on February 16, 2024, Final Briefs would be due on or about March 7, 2024. At a minimum, the Respondent would be prejudiced if the Court granted the Appellant's Motion to Amend before the Court rules on the Respondent's Motion to Strike, since at this time, the Parties are still unsure of exactly what the correct Record on Appeal contains.

Conclusion

Therefore, and based on the foregoing, the undersigned respectfully submits that the Appellant's Motion to Amend the Record on Appeal is premature, as the Court has not yet ruled on the

Respondent's Motion to Strike, and further requests that this Court either

1. Deny the Appellant's Motion to Amend the Record on Appeal without prejudice; or
2. Order that a decision on the Appellant's Motion to Amend the Record on Appeal be held in abeyance until the Respondent's Motion to Strike is decided with finality.

Respectfully submitted,

McCANTS & McCANTS

s/ Clarke W. McCants, IV
Clarke W. McCants, IV
Post Office Box 2881
Aiken, South Carolina 29802
(803) 649-6200 Ext. 3
Clarkemccants4@gmail.com
S.C. Bar No. 103228
Attorney for Respondent

Dated: February 25, 2024

RECEIVED

Feb 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Courtney Clyburn Pope, Circuit Court Judge

C/A No. 2021CP0202344
Appellate Case No. 2023-001222

Da’Nita White.....Respondent,

v.

Roshana Robins.....Appellant.

PROOF OF SERVICE

I certify I have served the Respondent’s Return to Motion on counsel for the Appellant, Shalonda Wilburn, Esquire on February 26, 2024, by electronic mail via the email address on record with AIS, at scwilburn@wilburnlawfirm.com.

McCANTS & McCANTS

s/ Clarke W. McCants, IV
Clarke W. McCants, IV
Post Office Box 2881
Aiken, South Carolina 29802
(803) 649-6200 Ext. 3
Clarkemccants4@gmail.com
S.C. Bar No. 103228
Attorney for Respondent

Dated: February 26, 2024