

The South Carolina Court of Appeals

Lawrence Terry, Appellant,

v.

Allen University, Respondent.

Appellate Case No. 2013-000340

ORDER

Appellant has filed motions seeking judicial notice, contempt and sanctions, and an extension of time and clarification. Respondent has filed returns to the latter two motions, and Appellant has filed a reply to the last motion. After careful consideration, Appellant's Motion for Judicial Notice and Motion for Contempt and Sanctions are hereby denied.

We construe Appellant's Motion for Clarification as a motion to strike portions of Respondent's Designation of Matter and Initial Brief. We find the motions Respondent filed with the circuit court which were misfiled remained misplaced in another case file until after the circuit court issued its orders dismissing Appellant's action and denying reconsideration. Accordingly, we find those motions were "not presented to the lower court" and may not properly be included in either the Record on Appeal or a Supplemental Record on Appeal in this matter. *See* Rule 210(c), SCACR ("The Record shall not . . . include matter which was not presented to the lower court or tribunal."); *see also* Rule 210(h), SCACR ("Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal."); Rule 212, SCACR (requiring either written consent of all attorneys of record or leave of court to file a supplemental record on appeal).

Appellant's Motion for Extension of Time is hereby granted. Appellant shall prepare and file the record on appeal within fifteen days from the date hereof.

IT IS SO ORDERED.


FOR THE COURT

Columbia, South Carolina

cc:

Lawrence Terry

Debbie Whittle Durban

FILED
2/9/15