

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Black Horse Run POA

FILED
OFFICE OF
CLERK OF COURT

2024 JUN 07 A 10:56

FROM Court of Common Pleas
case no. 2023-cp-2900628

Plaintiff

CLERK OF COURT
LANCASTER, SC

v

Alexis Carberry Benson

Defendant

Notice of Appeal

RECEIVED

JUN 10 2024

SC Court of Appeals

On May 20th and 21st a Jury Trial took place for the complaint. The following were errors by the Court of Common Pleas within Lancaster County, SC:

1. The Court erred by not awarding Summary Judgement to the Defendant as there was no case against the defendant and the animal in question is a Emotional Support Animal under Section 504, FHA and ADA:

HUD Clarifies Definition of Assistance Animals Under FHA and Section 504

a. Section 504

Unlike the Fair Housing Act, Section 504 does not distinguish between reasonable accommodations and reasonable modifications. Instead, both are captured by the term "reasonable accommodations". Under Section 504, the requirement to make reasonable accommodations applies to any changes that may be necessary to provide equal opportunity to participate in any federally-assisted program or activity. This includes a change, adaptation or modification to a policy, program, service, facility, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in housing, or perform a job. Reasonable accommodations also include any

structural changes that may be necessary. Reasonable accommodations may include changes which may be necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces, or participate in the federally-assisted program or activity. Under Section 504, reasonable accommodations must be provided and paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the program. In such cases, the provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program. In addition to the statutory requirement to make reasonable accommodations under Section 504, HUD's Section 504 regulation provides for making "housing adjustments" at 24 C.F.R. § 8.33.

b. Americans with Disabilities Act (ADA)

Similar to and based upon the Section 504 reasonable accommodation requirement, Titles II and III of the ADA require public entities and public accommodations to make reasonable modifications to policies, practices, or procedures to avoid discrimination. This obligation applies unless the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity (Title II), or the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations (Title III). For more information, see the Department of Justice ADA page."

c. The Fair Housing Act (FHA) (42 U.S. Code § § 3601-3619 and 3631)

FHA protects tenants and home owners against housing discrimination. As a federal law, the FHA applies across the country, including all 50 states and Washington, D.C., as well as all U.S. territories and possessions. The emotional Support animal, or ESA Statute,

includes ALL ANIMALS with a Document from a Licensed Professional indicating so.

2. The Court Erred by not allowing Medical Documentation into the record including but not limited to the ESA letter, the Child Comprehensive Psychological Report and a ESA certificate for the animal in question.

- a. Rule 803. Exceptions to the Rule Against Hearsay

(3) Then-Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) Statement Made for Medical Diagnosis or Treatment. A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(6) Records of a Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

3. The Court Erred by Denying the Defendant's Constitutional right to a Jury Trial by not allowing the case to be decided by the Jury Trial, Fifth and Fourteenth Amendment.

The Constitution contains two due process clauses: a clause in the Fifth Amendment that applies to the federal government and a clause in the Fourteenth Amendment that applies to the states. The traditional definition of "due process" is that the government cannot take away life, liberty, or property from any person without a legal proceeding.

The Due Process Clause in the Fourteenth Amendment incorporates nearly all of the rights provided by the Bill of Rights, which consists of the first 10 amendments to the Constitution. These rights initially protected individuals only against federal government actions, while state governments were constrained by state constitutions. Supreme Court Case Law has determined that the Due Process Clause incorporates the Bill of Rights. State and local governments must not infringe on them.

In Conclusion the Defendant gives this court the "Notice of Appeal" to the Fourth Circuit of Appeals of the United States of America, Richmond Virginia.

Signed this Day, June 5th, 2024

X

Alexis Carberry Benson
acb32482@protonmail.com
235 Straightaway lane
Fort Mill, SC 29707

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Black Horse Run POA

)
FILED
OFFICE OF
CLERK OF COURT

IN THE Court of Common Pleas
case no. 2023-cp-2900628

2024 JUN 7 A 10:56

Plaintiff

CLERK OF COURT
LANCASTER, SC

Certificate of Service

v

Alexis Carberry Benson

Defendant

RECEIVED
JUN 10 2024
SC Court of Appeals

I HEREBY CERTIFY that a true and correct copy of :

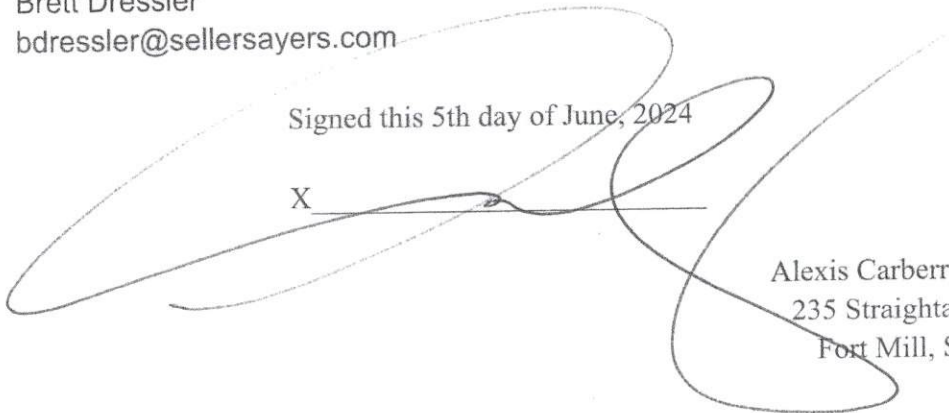
Notice of Appeal

Was served upon the following by electronic mail , 6/5/24

To Sellers, Ayera, Dortch & Lyons, P.A
Brett Dressler
bdressler@sellersayers.com

Signed this 5th day of June, 2024

X



Alexis Carberry Benson
235 Straightaway lane
Fort Mill, SC 29707



PRESS FIRMLY TO SEAL

PRIORITY MAIL
LEGAL FLAT RATE ENVELOPE
POSTAGE REQUIRED

UNITED STATES | PRIORITY®

FROM:

P

US POSTAGE IMI R2305K136496 2000052189
\$10.15
CPU
PRLS
06/08/24 Mailed from: 29707 028W2310895

PRIORITY MAIL®

0 Lb 2.80 Oz
RDC 03

EXPECTED DELIVERY DAY: 06/10/24

SHIP TO:

1220 SENATE ST
COLUMBIA SC 29201-3769

C076

USPS TRACKING® #



9505 5285 1226 4180 7917 12



RECEIVED

JUN 10 2024

TO SC Court of Appeals
Clerk of Courts
Court of Appeals
1220 Senate St.
Columbia, SC
29201

0060