

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein, First Judicial Circuit
Honorable Maite Murphy, First Judicial Circuit

Appellate Case No. 2023-000879

Molly M. Morphew

Appellant

v.

Stephen Dudek and Doreen Cross

Respondents

APPELLANT'S MOTION TO COURT TO CLARIFY AND AMMEND COURT ORDER FILED
JULY 11, 2024

Appellant, Molly Morphew, (herein "Appellant") submits this Motion to ask this Court to clarify its instructions to Appellant in its Order (filed July 11, 2024) and to amend its Order based on new evidence withheld by Respondents (**Ex. A**, Order).

On July 15, 2024, Appellant received an Order from this Court dated July 11, 2024, stating, "*Accordingly, within thirty days of the date of this order, Appellant shall serve and file her final Appellant's brief and a record on appeal that contains all matter designated for inclusion by the parties...*"

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SC Court of Appeals

Appellant asks for clarification in its Order regarding its instruction [to include items (3) and (4) in the Record and filing its final brief and Record], *see* questions #1-5 below, where the Court orders *Appellant only* to *file* its final briefs and Record on Appeal within 30 days of the date on its Order. (Ex. A)

1. Is the Appellant not required to first *serve* the ‘updated’ Record, pursuant Rule 210 SCACR?
2. Aren’t all parties required to *serve* a copy of their final brief(s) on every other party to the appeal pursuant Rule 211(a) SCACR?
3. Why does the Order only include the *Appellant* and not *all* parties to file its final brief(s) as required by Rule 211(a) SCACR?
4. Are the Respondents not required to file their final brief in accordance with Rule 211(a) SCACR?
5. If they are, what time limit are they required to do so? Meaning, if the Appellant is required to file its final brief(s) (and Record) within 30 days of the date of the Order, then the Respondents should also be required to file their final brief within the same time period and any Respondent requirement should also be included in the Order.
6. If Appellant is not required to serve an ‘updated’ Record on the Respondents, how will the Respondents properly format and file their final brief if they are unable to review and reference the ‘updated’ Record pursuant Rule 211(b)(1) SCACR?¹

¹ It should be noted by this Court that Appellant’s Fraud appeal with the same parties was dismissed for failure to serve an updated Record on Appeal to the Respondents. Specifically, even though the updated Record was filed and was only a redaction requirement in that case, and they had already been served the unredacted version, they contended they were required to be served the updated/amended Record in order to properly review it to ensure all matter was

According to the rules of this Court, the Record or updated Record that contains all appropriate matter designated is required to be served on the Respondents before any final briefs or filing of the Record is due. This Court ordered the Record to be amended or updated but failed to allow the service of prior to ordering the filing of the Record. Additionally, *all* parties who filed a brief are required to serve and file their final briefs in accordance with SCACR Rule 210 and Rule 211. This Court ordered only the Appellant to *file* her briefs, not serve. Nor did it address the Respondents requirements to serve and file their final brief. Appellant asks this Court to amend its Order to clarify its directions on *all* parties in accordance with Rule 209, 210 and 211 SCACR.

In reference to the Respondents' Matter item (3), Transcript of October 2, 2019, hearing, this Court's Order states, "*Appellant has still failed to file any proof of communications with Court Administrator or any other body demonstrating that there was no court reporter present*". To clarify for the record in this Court, the Appellant spoke to the Clerk in person. Consequently, Appellant would have no written record of any communication with any reporter, court administration or other body to provide to this Court.

On the other hand, the Respondents did have communications with the court reporter scheduled for Judge Goodstein that day but did not copy Appellant or this Court or the Administrative Court regarding their request. Specifically, the reporter has no record of taking a transcript nor a request for such.. A non-existent transcript is not relevant to the appeal, let alone "appropriate matter" and should not be included in the Respondents' Designation of Matter or else it is a violation of (Rule 209(b) SCACR, "A party *shall not* include any matter in his Designation which is not relevant to the appeal.") Further, The Respondents had this information *prior* to this Court's July 11th Order but failed to inform

included in order to produce, serve and file their final briefs pursuant Rule 211(b). To not require service of an updated Record in this Case but dismiss an entire appeal in another case because an updated Record was not served is highly contradictive and discriminatory.

either this Court or the Appellant that no transcript was taken, and though they had this knowledge they failed to amend their Designation of Matter pursuant Rule 209 (b). (Ex. B Email response from reporter, Ms. Johnson, to Ms. Hansbarger (attorney at Zachary Closser² firm). The Appellant should not be required to take action to change the current Record when the Respondents had full knowledge their designated matter does not even exist thus is not appropriate to include in their Designation. Consequently, based on their withheld knowledge and pursuant Rule 209, 210 and 211 SCACR, it is the Respondents that should be required to take any costs or action, not Appellant.

For the Record and full disclosure, and according to Court rules, Appellant respectfully asks this Court for an Order requesting the Respondents provide a copy of their full communications with court reporter, Ms. Johnson, in reference to their designated matter, the October 2, 2019, hearing transcript.

In reference to the Respondents' matter item (4), the lower court Order dated October 11, 2022, this Court's Order stated it is appropriate for inclusion in the Record on Appeal. Appellant contends that a CERTIFIED order was not available from the Clerk due being vacated for procedural error, incorrect legal procedures, and/or violation of Appellant's due process rights³, where the hearing and decision is wiped out and no longer has any legal effect, and Order not appealed by either party.

“In the court system, the term “vacated” has an important legal meaning. When a court “vacates” something, it essentially invalidates or cancels it. The vacated judgment, order or other court decision is wiped out and no longer has any legal

² Zachary Closser, attorney for Respondents

³ In this case, the Appellant was absent the hearing which the October 11, 2022, Order arose from but was under an order of protection of appearance at the hearing. The hearing was vacated, and the Order rendered void and not replaced or appealed.

effect.” “To put it simply, a “vacated” or “scratched” hearing or case means that a court order or judgment has been cancelled or rendered void. This action essentially erases the previous decision, leaving it without legal effect.”⁴

The October 11th Order was vacated two (2) days after the filing of it and the case restored, and the motions rescheduled to be heard at a later hearing (Ex. C Order October 13, 2022). The October 11th Order was neither appealed nor replaced, thus contrary to this Court’s April 24th order, the unappealed invalid order having no legal effect is not appropriate for inclusion in the Record. Rule 209 and Rule 210, SCACR.

CONCLUSION

As outlined above, Appellant asks amendment of this Court’s Order providing clarification in respect to *both* the Appellant and Respondents serving and filing final briefs or the Record in accordance with the rules and processes of this Court.

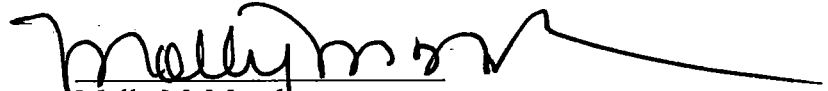
Also, and based on the above, Appellant asks this Court for an order that Respondents remove item (3) as inappropriate to include since it does not exist and that they had full knowledge of this fact and did not inform the Appellant or this Court prior to this Court’s July 2024 Order. Further, Appellant asks this Court for an order that Respondents provide the full communications, including their request, between themselves and court reporter, Ms. Johnson, regarding the transcript for the hearing dated October 2, 2019.

As to item (4), Appellant contends the matter has no legal effect and/or is not admissible within the scope of this appeal, therefore not appropriate for inclusion in the Respondents Designation of Matter or the Record on Appeal.

⁴ <https://thecourtdirect.com/what-does-vacated-mean-in-court/>

Consequently, Appellant asks this court for an extension to file its final briefs and Record on Appeal until this Court's clarification and decision.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Molly M. Morphew', with a long horizontal flourish extending to the right.

Molly M. Morphew, pro se
300 Blue Moon Crossing Apt. 4201
Pooler, GA 31322

July 15, 2024

EXHIBIT A

The South Carolina Court of Appeals

Molly M. Morphew, Appellant,

v.

Stephen Dudek and Doreen Cross, Respondents.

Appellate Case No. 2023-000879

ORDER

Appellant's successive motion to exclude items (3) and (4) from Respondent's designation of matter from the record on appeal is denied. As we previously explained in our April 24, 2024 order, item (4), the circuit court's October 11, 2022 order, is appropriate for inclusion in the record on appeal. Appellant asserts the October 11, 2022 order is "no longer in existence," but, in fact, the order is readily available online on the Dorchester County Public Index. As to item (3), the transcript of the October 2, 2019 hearing, Appellant has still failed to file any proof of communications with Court Administration or any other body demonstrating that there was no court reporter present.¹ Accordingly, within thirty days of the date of this order, Appellant shall serve and file her final Appellant's brief and a record on appeal that contains all matter designated for inclusion by the parties, pursuant to Rule 210, SCACR. Failure to do so will result in dismissal of this appeal. No further motions to strike Respondent's designated matters will be considered by this court. See Rule 221(c), SCACR ("The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.").



FOR THE COURT

¹ If Appellant is able to provide such proof, she may include this in place of Respondent's designated matter (3) in the record on appeal.

FILED
Jul 11 2024

Columbia, South Carolina

cc:

Molly M. Morpew

Zachary James Closser, Esquire

FILED
Jul 11 2024

EXHIBIT B

Morphew vs. Dudek & Cross

From: Johnson, Penny (pjohnson@sccourts.org)

To: ehansbarger@scnlaw.com

Cc: firegirl0926@yahoo.com

Date: Thursday, May 16, 2024 at 12:25 PM EDT

Ms. Hansbarger,

Per your request for a transcript from October 2, 2019 in Dorchester County in reference to the above case, I have looked through my transcripts that I produced for that time period and I do not see where that was done. I was the court reporter for Judge Goodstein on that date, but no transcript has been produced or requested for that date.

Thank you!

Penny M. Johnson
Court Reporter III
2nd Judicial Circuit

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# EXHIBIT C

STATE OF SOUTH CAROLINA  
COUNTY OF Dorchester  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1801661

Molly M Morphew  
PLAINTIFF(S)

Stephen Dudek et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

It was brought to the Court's attention that the Plaintiff had submitted a request for protection and was actually under protection at the time the motions were heard on September 19, 2022. Therefore, said order is hereby vacated and the case is to be restored and the motions rescheduled as soon as possible.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/13/2022 .

Molly M Morphew for Molly M Morphew  
Molly M Morphew for Molly M Morphew  
Zachary James Closser for Stephen Dudek,Doreen Cross

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Dorchester Common Pleas

**Case Caption:** Molly M Morpew VS Stephen Dudek , defendant, et al  
**Case Number:** 2018CP1801661  
**Type:** Order/Electronic Form 4

So Ordered

s/ Maite Murphy 2166

Electronically signed on 2022-10-13 13:30:52 page 3 of 3

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

The Honorable Diane Goodstein, First Judicial Circuit  
Honorable Maite Murphy, First Judicial Circuit

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Appellate Case No. 2023-000879

Molly M. Morphew, Appellant,

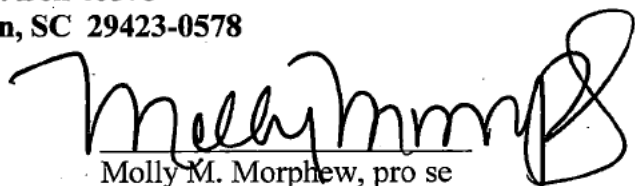
v.

Stephen Dudek and Doreen Cross, Respondents.

CERTIFICATE OF SERVICE

I, Molly M. Morphew, Appellant, pro se for said case, hereby certify that I have, on this date indicated below, served counsel below with Appellant's MOTION TO COURT TO CLARIFY AND AMMEND COURT ORDER FILED JULY 11, 2024, and CERTIFICATE OF SERVICE by mailing a copy of same via United States Mail, postage prepaid and return address clearly indicated on said envelope, to counsel at the following address:

**Zachary Closser, Esquire**  
**P.O. Box 40578**  
**Charleston, SC 29423-0578**

  
Molly M. Morphew, pro se

July 16, 2024

July 15, 2024

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211

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JUL 19 2024  
SC Court of Appeals

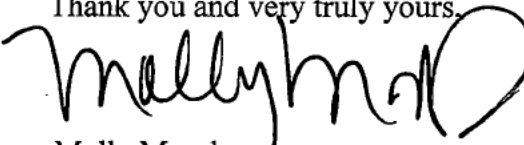
Re: Appellate Case No. 2023-000879  
Molly M. Morphew v. Stephen Dudek and Doreen Cross

Dear Ms. Kitchings:

Please find enclosed Appellant's MOTION TO COURT TO CLARIFY AND AMMEND COURT ORDER FILED JULY 11, 2024, and CERTIFICATE OF SERVICE.

Also enclosed is a copy of above to be kindly recorded and returned in the self-addressed, stamped envelope.

Thank you and very truly yours,



Molly Morphew, pro se

Cc: Zachary Closser, Esq.

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