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**Aug 19 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM UNION COUNTY  
Court of Common Pleas

Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2023-001049

Jane and John Smith, individually and as Guardians of H.A., and  
H.A., Individually, ..... Appellant,

v.

South Carolina Department of Social Services, South Carolina  
Department of Children's Advocacy, Tammy Gaye Causey Dalsing,  
and Edward Anthony Dalsing, ..... Respondents.

RESPONSE OF RESPONDENTS SOUTH CAROLINA DEPARTMENT OF SOCIAL  
SERVICES AND SOUTH CAROLINA DEPARTMENT OF CHILDREN'S ADVOCACY TO  
APPELLANTS' MOTION FOR A NEW TRIAL AND ALTERNATIVE RELIEF

**BACKGROUND**

Contrary to the language used in Appellants' motion, there was no trial in this case. This appeal arises from two orders, both of which relate to summary judgment motions heard by the trial court on May 25, 2023. The trial court issued the first order on June 30, 2023, granting the motions for summary judgment of South Carolina Department of Social Services (SCDSS) and South Carolina Department of Children's Advocacy (SCDCA). The trial court issued the second order on July 3, 2023, granting the motion for summary judgment of Tammy Gaye Causey Dalsing and Edward Anthony Dalsing (the Dalsings).

By letter dated June 10, 2024, counsel for Appellants advised this Court that she had received a copy of the summary judgment hearing transcript on June 6, 2024. (June 10, 2024, Letter.) Respondents SCDSS and SCDCA are not aware of any actions taken by Appellants to challenge the accuracy of that transcript. On July 18, 2024, counsel for the Dalsings contacted Appellants' counsel requesting contact information for the stenographer who prepared the transcript. (Aug. 12, 2024, Mot., Ex. A, p. 2-3.) Counsel for the Dalsings requested and obtained a copy of the transcript and noticed stenographic issues with the transcript and notified the stenographer. (Id.) On August 6, 2024, a revised transcript was produced. (Id.) On August 12, 2024, three days before Appellants' deadline to file and serve their Initial Brief, Appellants filed a motion seeking remand to the trial court for a "new" trial and a stay of Appellants' deadline to file their Initial Brief.

## **ARGUMENT**

### **Appellants Are Not Entitled to the Relief they Seek**

In State v. Eubanks, 437 S.C. 458, 878 S.E.2d 335 (Ct. App. 2022), the defendant appealed his convictions for criminal sexual conduct. Apparently, Eubanks asked the appellate court for guidance relating to errors in the trial transcript. Id. at 468, 489, 878 S.E.2d at 340, 352. This Court declined to issue an advisory opinion regarding that issue instead noting "[t]he South Carolina Appellate Court Rules provides a process for challenging the accuracy of transcripts." Id. at 490, n.4, 878 S.E.2d at 351, n.4. This Court also noted that in response to the defendant's requests, "Court Administration conducted an independent review of the transcript and required the correction of 'proofreading errors that included word misspellings and grammar, punctuation, and typographical errors.'" Id. Accordingly, this Court determined that it could "provide no further relief regarding the court reporter or the transcript." Id.

Respondents SCDSS and SCDCa are not aware of any actions taken by Appellants to challenge the accuracy of the transcript. Instead, although cast as motion to remand for a “new trial,” Appellants apparently seek to have a second chance to argue the summary judgment motions. Appellants are not entitled to a new hearing. In addition, Appellants do not demonstrate that any of the inaudible sections of the motion hearing transcript impede them from making any legal arguments regarding the merits of their appeal. There was no testimony offered by witnesses, only arguments made by counsel. At most, Appellants should seek to have Court Administration conduct an independent review of the transcript and correct proofreading errors in the transcript. Respondents SCDSS and SCDCa do not object to Appellants’ request for an extension of the deadline for Appellants to file and serve their Initial Brief until Court Administration resolves any challenge to the accuracy of the transcript. However, this Court should deny Appellants’ request for any additional or alternative relief concerning this issue.

### **CONCLUSION**

Based upon the foregoing authorities and argument, Respondents South Carolina Department of Social Services and South Carolina Department of Children's Advocacy respectfully submit that Appellants must address any issue regarding accuracy of the hearing transcript with Court Administration and that Appellants’ motion for a new trial should be denied.

August 19, 2024

s/Stephanie H. Burton  
Stephanie H. Burton  
GIBBES BURTON, LLC  
308 East Saint John Street  
Spartanburg, SC 29302  
sburton@gibbesburton.com  
Telephone: (864) 327-5000  
Facsimile: (864) 342-6884

*Attorneys for Respondents South Carolina  
Department of Social Services and South Carolina  
Department of Children's Advocacy*

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PROOF OF SERVICE

I certify that I have served the Response of Respondents South Carolina Department of  
Social Services and South Carolina Department of Children's Advocacy to Appellants' Motion for  
a New Trial and Alternative Relief by email, on August 19, 2024, addressed as follows:

Ms. Melinda I. Butler  
The Butler Law Firm  
211 East Main Street  
Union, SC 29379  
[melinda@butlerservingjustice.com](mailto:melinda@butlerservingjustice.com)

Mr. Chris Smith  
Mr. James P. Walsh  
Clarkson Walsh & Coulter, P.A.  
P.O. Box 6728  
Greenville, SC 29607  
[csmith@clarksonwalsh.com](mailto:csmith@clarksonwalsh.com)  
[jwalsh@clarksonwalsh.com](mailto:jwalsh@clarksonwalsh.com)

Mr. L. Dale Dove  
Thompson Dove Law Group, LLC  
P.O. Box 907  
Rock Hill, SC 29731  
[dale@tdlawgroup.com](mailto:dale@tdlawgroup.com)

s/Stephanie H. Burton  
Stephanie H. Burton  
GIBBES BURTON, LLC  
308 East Saint John Street  
Spartanburg, SC 29302  
sburton@gibbesburton.com  
Telephone: (864) 327-5000  
Facsimile: (864) 342-6884

*Attorneys for Respondents South Carolina  
Department of Social Services and South Carolina  
Department of Children's Advocacy*