

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable Edgar W. Dickson

Appellate Case No. 2023-001318
Case No. 2018-CP-38-01339

Rufus Rivers and Merle Rivers, pro se Respondents,

v.

James Smith, Jr.. Petitioner.

**PETITIONER’S RETURN IN OPPOSITION TO RESPONDENTS’
MOTION TO STRIKE**

On September 18, 2024, pro so Respondents Rufus Rivers and Merle Rivers (“Respondents”) filed a Rule 12(f) Motion to Strike Petitioner James Smith Jr.’s (“Petitioner”) reference to previous litigation in which Respondents were involved.

The basis of Respondents’ motion is that Respondents, after having their attempt to include irrelevant matter into this Court’s consideration of the Petition rebuffed by Order of this Court on September 17, 2024, would now like Petitioner’s reference to relevant material struck. Respectfully to Respondents, Rule 12(f) is a Rule of Civil Procedure relating to striking material in a pleading, not an appeal. Even if this Rule did apply to appeals pending in this Honorable Court, Rule 12(f), SCRCP requires that a motion to strike be filed within 30 days after the service of the offending pleading. Respondents

request that this Court strike references from the Petition for Writ of Certiorari and Petitioner's Opening Brief. The Petition was filed on August 18, 2023. The Opening Brief on July 19, 2024. It has been over 30 days since either filing was made. Respondents had their opportunity to address Petitioner's arguments in their Response in Opposition and did not do so. This matter should proceed to final briefing and consideration without any further delay.

For the above reasons, Petitioner opposes Respondents' Motion to Strike, and requests that this Honorable Court proceed with consideration of Petitioner's case. Further, Petitioner would request that Respondents be directed by this Court to cease filing motions to delay the resolution of this Petition.

Respectfully submitted,

s/Kathleen McDaniel

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September 19, 2024

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