

# The South Carolina Court of Appeals

Ronald Carl Cox, III, Appellant,

v.

Michael John Dimaggio, Respondent.

Appellate Case No. 2023-001497

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## ORDER

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On June 7, 2024, this court granted Respondent's motion to strike Lauren Lipscomb's affidavit from Appellant's designation of matter. Specifically, this court stated, "Although it does appear that Appellant attempted to submit Lipscomb's affidavit to the lower court with his petition for publication, only a small portion of the affidavit is visible. However, Appellant may include the illegible version of the document if he chooses." Also, on June 7, 2024, this court addressed Respondent's motion to strike an order of protection. This court noted it did not appear the order of protection was filed in this case in the circuit court. As a result, this court granted Respondent's motion to strike the order of protection "to the extent that the referenced order was issued in a separate matter and not presented below," and denied the motion otherwise. On October 16, 2024, Appellant filed the record on appeal, which included Lipscomb's affidavit in its complete form and the order of protection.

On October 17, 2024, Respondent moved to dismiss this appeal or for an order directing Appellant to comply with this court's June 7 order, imposing sanctions, and requiring Appellant to pay Respondent's attorney's fees and costs of preparing and submitting the motion. According to Respondent, this court excluded the order of protection dated September 7, 2023, and the Lipscomb affidavit in its complete form, but Appellant had included both in the record on appeal. Appellant filed a return on October 28, 2024, arguing the items had been previously filed with the circuit court, were argued by counsel during the hearing, and were in filings with the circuit court. Regarding the Lipscomb affidavit, Appellant argued that the affidavit in its complete form was properly in the record on appeal because

this court has the discretion to review the entire record and Rule 210(c) of the South Carolina Appellate Court Rules provides that "[w]here a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the [r]ecord on [a]ppeal, the entire page shall be included." Regarding the order of protection, Appellant argued it was "essential to this appeal," was granted by the chief administrative judges for common pleas and general sessions for Greenville County, was argued during the hearing in circuit court, and is Appellant's "primary defense." Appellant admits the order of protection was "not filed as an exhibit" in this case.

After careful consideration, we deny Respondent's motion to dismiss, for sanctions, and for attorney's fees and costs. However, we grant Respondent's motion to order Appellant to comply with this court's June 7 order. Within twenty days of the date of this order, Appellant shall serve and file an amended record on appeal that excludes the Lipscomb affidavit in its complete form and the order of protection.

  
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FOR THE COURT

Columbia, South Carolina

**FILED**  
**Nov 13 2024**

cc:

Daniel Joseph Farnsworth, Jr., Esquire  
John Kirkman Moorhead, Esquire