

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Cherokee County
Court of Common Pleas

Perry Gravely, Circuit Court Judge
R. Keith Kelly, Circuit Court Judge

Docket Case No.: 2017-CP- 11-00735

Appellate Case No. 2022-001582

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SC Court of Appeals

Sharon Brown, Appellant,

vs.

Cherokee County School District One, Respondent.

APPELLANT'S INTIAL BRIEF

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STATEMENT OF THE ISSUES ON APPEAL

1. Did Judge Perry Gravely err when he did not render a directed verdict in Brown's favor for breach of contract and breach of contract accompanied by a fraudulent act when it was discovered that Carl Carpenter, director of personnel for Cherokee County School District, and Cherokee County School District Attorneys had an additional charge before the school board unbeknownst to Brown?

2. Was it fair for Judge Gravely to allow the school district to discuss an additional charge at trial for reasons for Brown's termination when in fact Brown was first notified about the charge at trial before a jury?

3. Did Judge Perry Gravely err when he failed to stop the breach of contract and breach of contract accompanied by a fraudulent act actions at trial before him once he saw the procedural violations committed in Brown's teacher termination process?

4. Does South Carolina Employment and Dismissal Act allow a school district to terminate a teacher without giving a teacher the opportunity to defend him or herself against all of the charges before a school board?

5. Did Judge Perry Gravely err when he failed to declare a mistrial when respondent's counsel informed the jury that Brown had been unsuccessful in this school termination case before the circuit court?

6. Was Brown due process rights violated at trial when she was denied a meaningful trial because Judge Perry Gravely failed to order a new trial due to the respondent's counsel telling the jury about a previous court ruling concerning the case at trial?

7. Did Judge Perry Gravely err when he granted summary judgment to the respondent on appellant's gross negligence claim on the ground that you have to be a student, patient, prisoner, inmate, or client of a government entity to sue for gross negligence?

8. Did Judge R. Keith Kelly err in ruling in his September 10, 2021 order the following (1.) that Cherokee County School District did not receive the charges of discrimination filed by Brown on August 5, 2015 and October 9, 2015, (2.) Brown requested her mother be in a July 30, 2015 meeting, and (3) "When Moore questioned Brown about Carpenter's directive that Brown should not speak with other employees during the investigation's pendency, Brown stated she "did not remember" Carpenter's directive.

STATEMENT OF THE CASE

This matter is before the Court on the appeal of Sharon Brown (hereinafter "Brown") from the decisions of the Honorable Perry Gravely and the Honorable R. Keith Kelly. (See Jury Verdict Form, R.p.____); (See Order by Judge Keith Kelly dated Sept. 10, 2021, R. p.____); (See Order of Judge Keith Kelly dated Oct. 10, 2022, R.p. ____). Brown filed this appeal on November 4, 2022. It is to be noted that by separate action brought in 2015 under the South Carolina Teacher Employment and Dismissal Act (TEDA) S.C. Code Ann § 59-25-410 et. Seq., Brown requested and was granted an evidentiary hearing before the District's Board of Trustees regarding then-Superintendent Quincie Moore's recommendation that Brown be terminated. (See School Board Order Exhibit to Trial Transcript, R.p. ____). The Board upheld Moore's recommendation and the Circuit Court and the Court of Appeals affirmed the Board's decision. Our S.C. Supreme Ct. and U.S. Supreme Court did not grant Brown Certiorari

Thereafter, Brown instituted causes of actions against Cherokee County School District One in the Court of Common Pleas in Gaffney, S.C. Brown filed a Summons and Complaint on October 4, 2017. (Complaint, R.p.____). Subsequently, Brown filed an amended complaint on December 7, 2017. (Amended Complaint, R. p.____).

Respondent district essentially denied the allegations, asserted res judicata, and filed a motion for summary judgment. (See Memorandum In Law In Support of Defendant's Motion For Summary Judgment dated Mar. 19, 2021, R.p. ____); (See Defendant's Motion for Summary Judgment and Supplemental Motion for Summary Judgment filed Sept. 23, 2022, R.p.____). On September 10, 2021 Judge Kelly issued an order on respondent's motion for summary judgment.(Order of Judge Kelly, dated Sept. 10, 2021, R.p.____). Thereafter, on October 24-26, 2022 Judge Perry Gravely presided over the trial of three causes of actions that survived summary judgment before Judge R. Keith Kelly. (Trial Transcript

p. 1, R.p.____). The causes of action before Judge Perry were breach of contract, breach of contract accompanied by a fraudulent act, and gross negligence. (See Trial Transcript p. 28, R.p. ____).

During the jury trial of the case at hand, Judge Gravely overturned Judge Kelly's decision denying summary judgment on the gross negligence cause of action. (Order of Judge Kelly dated Sept. 10, 2021 pp. 8-9, R.p.____); (Judge Gravely's Ruling in Trial Transcript pp. 226-228, R.p.____).

On September 16, 2021 Brown filed a Motion to Amend Order and Judgment and Motion for Reconsideration concerning Judge Kelly's September 10, 2021 order. (See Motion to Amend Order and Judgment and Motion for Reconsideration, R.p. ____); (See Defendant's Memorandum In Opposition to Amend Order and Judgment and Motion for Reconsideration, R.p. ____). Judge Kelly denied the motion. (See Judge Kelly's order dated Oct. 10, 2022, R.p. ____).

The Appellant, Sharon Brown, worked from August 1, 1999 to October 7, 2015 with the subject employer (Cherokee County School District), most recently as a second-grade teacher. The Appellant was terminated effective October 7, 2015 for alleged conduct violations. At the time of this action, Ms. Brown was in her seventeenth year of teaching experience with Cherokee County School District (CCSD). Ms. Brown has never had any special conditions or stipulations on any of her teaching contracts with Cherokee County School District in her seventeen years of employment. (See Teacher Contract for 2014/2015 Exhibit to Trial Transcript, R.p. ____); (See Teacher Contract for 2015/2016 Exhibit to Trial Transcript, R.p.____).

Ms. Brown has a bachelor's of science degree in criminal justice, a master's degree in elementary education, a master's degree in reading, and an educational specialist degree in school administration. She is certified as an elementary teacher, reading teacher, reading consultant, elementary principal, and an elementary supervisor. Ms. Brown was employed by Respondent to teach a second-grade class during the 2014-2015 school term at Luther Vaughn Elementary School. On June 1, 2015, two days before the last day of school, Ms. Brown met with Dr. Carl Carpenter (Dr. Carpenter) the

then-Director of Human Resources for Cherokee County School District (CCSD) and the then-principal of *Luther Vaughn Elementary*, Ms. Nanette Ruppe (Ms. Ruppe) concerning an allegation of child abuse. (See Trial Transcript p. 193, R.p. ____).

STANDARD OF REVIEW

1. When viewing the grant of a summary judgment motion, an appellate court applies the same standard as the trial court under Rule 56, SCRPC. *Wogan v. Kunze*, 379 S.C. 581, 585, 666 S.E.2d 901, 903 (2008). The circuit court should grant summary judgment "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56 (c) SCRPC, *Russell v. Wachovia Bank, N.A.* 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003).

2. S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

ARGUMENT I

1. Did Judge Perry Gravely err when he did not render a directed verdict in Brown's favor for breach of contract and breach of contract accompanied by a fraudulent act when it was discovered that Carl Carpenter, director of personnel for Cherokee County School District, and Cherokee County School District Attorneys had an additional charge before the school board unbeknownst to Brown?

Standard of Review: S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Our courts have applied the APA standards to certain local administrative decisions. In *Lee County School District Board of Trustees v. MLD Charter School Academy Planning Committee*, a case involving a local school board's decision regarding a charter school application, our Supreme Court established that the standard of review was the APA standard of review. 371 S.C. 561, 565, 641 S.E. 2d 24, 26 (2007). In *Adamson v. Richland County School District One* this Court stated: "S.C. Code Ann § 1-23-380(6) (Supp 1997) [an APA provision] gives the circuit court authority to reverse an agency decision made upon unlawful procedure or in excess of statutory authority." 332 S.C. 121, 128, 503 S.E. 2d 752 755-56 (Ct. App. 1998) (emphasis added).

Brown was terminated by the Cherokee County School District Board of Trustees (Board) on October 15, 2015. Brown never received notice from then-Superintendent Dr. Quincie Moore (Moore), that she was charging Brown with a performance charge. (See 8/15 Letter Exhibit in Trial Transcript, R.p. ____); (See School Board Order Exhibit to Trial Transcript, R.p. ____). Brown found out during her jury trial before Judge Gravely in October of 2022.(See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p.____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p.____). Brown contends that her due process rights and procedural due process were violated by CCSD. CCSD did not follow our Teacher Employment and Dismissal Act.

Dr. Carl Carpenter testified that Brown was fired because she was an unsatisfactory teacher and she did not render acceptable service. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p. ____);

(See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p. ____). Cherokee County District Attorneys and Dr. Carl Carpenter were aware of these charges, but failed to tell Brown about them.

Superintendent Moore never gave Brown notice of the performance charge that Dr. Carl Carpenter and District Attorneys claimed at the jury trial held before Judge Gravely.

Pursuant to Section 59-25-440 of TEDA, the Board must afford the adversely affected teacher a hearing based on the notice of dismissal that was recommended by the Superintendent.

Brown was due a meaningful and fair review of the evidence and all the charges prior to the Board making a final determination. *See Brown's prior case* Brown vs. James (2010) S.C. Ct. of Appeals, Case No. 4674

The Superintendent and Board's failure to follow procedure as prescribed in TEDA, should tender Brown's teacher termination null and void. The wording of the TEDA is unambiguous regarding procedures, and the record fails to show that CCSD and its Board complied with its requirements.

It is to be noted that there was nothing for a jury to decide once it was discovered that CCSD and the Board undermined our TEDA. A directed verdict should have been entered in Brown's favor. Brown did all that she was required to do under TEDA. Consequently, she should have been reinstated to her teaching position with back pay and benefits. Alternatively, she should have received front pay and other benefits once it was discovered by Judge Gravely that CCSD did not follow our dismissal procedures in TEDA.

ARGUMENT II

2. Was it fair for Judge Gravely to allow the school district to discuss an additional charge at trial for reasons for Brown's termination when in fact Brown was first notified about the charge at trial before the jury?

Standard of Review: S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Brown contends that it was unfair for Judge Gravely to allow CCSD to discuss an additional charge at trial. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p.____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p.____). Again, Brown was terminated by the Cherokee County school District Board of Trustees (Board) on October 15, 2015.. Brown never received notice from then-Superintendent Dr. Quincie Moore (Moore), that she was charging Brown with a performance charge. (See 8/15 Letter Exhibit to Trial Transcript, R.p. ____); (See School Board Order Exhibit to Trial Transcript, R.p. ____). Brown found out during her jury trial before Judge Gravely in October of 2022. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p.____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p.____). Brown contends that her due process rights and procedural due process were violated by CCSD. CCSD did not follow our Teacher Employment and Dismissal Act.

Dr. Carl Carpenter testified that Brown was fired because she was an unsatisfactory teacher and she did not render acceptable service. Cherokee County District Attorneys and Dr. Carl Carpenter were aware of these charges, but failed to tell Brown about them.

Superintendent Moore never gave Brown notice of the performance charge that Dr. Carl Carpenter and District Attorneys claimed at the jury trial held before Judge Gravely.

Pursuant to Section 59-25-440 of TEDA, the Board must afford the adversely affected teacher a hearing based on the notice of dismissal that was recommended by the Superintendent.

Brown was due a meaningful and fair review of the evidence and all the charges prior to the Board making a final determination. *See Brown's prior case Brown vs. James (2010) S.C. Ct. of Appeals, Case No. 4674*

The Superintendent and Board's failure to follow procedure as prescribed in TEDA, should tender Brown's teacher termination null and void. The wording of the TEDA is unambiguous regarding procedures, and the record fails to show that CCSD and its Board complied with its requirements.

It is to be noted that there was nothing for a jury to decide once it was discovered that CCSD and the Board undermined our TEDA. A directed verdict should have been entered in Brown's favor. Brown did all that she was required to do under TEDA. Consequently, she should have been reinstated to her teaching position with back pay and benefits. Alternatively, she should have received front pay and other benefits once it was discovered by Judge Gravely that CCSD did not follow our dismissal procedures in TEDA. (*See Trial Transcript pp. 28-29, R.p. ____*).

ARGUMENT III

3. Did Judge Perry Gravely err when he failed to stop the breach of contract and breach of contract accompanied by fraudulent actions trial once he saw the procedural violations committed in Brown's teacher termination process?

Standard of Review: S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a.) in violation of constitutional or statutory provisions;

- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Brown was terminated by the Cherokee County School District Board of Trustees (Board) on October 15, 2015. (See School Board Order Exhibit to Trial Transcript, R.p. ____). Brown never received notice from then- Superintendent Dr. Quincie Moore (Moore), that she was charging Brown with a performance charge. (See 8/15 Letter Exhibit to Trial Transcript, R.p. ____); (See School Board Order Exhibit to Trial Transcript, R.p. ____). Brown found out during her jury trial before Judge Gravely in October of 2022. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p. ____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p. ____). Brown contends that her due process rights and procedural due process were violated by CCSD. CCSD did not follow our Teacher Employment and Dismissal Act.

Dr. Carl Carpenter testified that Brown was fired because she was an unsatisfactory teacher and she did not render acceptable service. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p. ____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p. ____). Cherokee County District Attorneys and Dr. Carl Carpenter were aware of these charges, but failed to tell Brown about them.

Superintendent Moore never gave Brown notice of the performance charge that Dr. Carl Carpenter and District Attorneys claimed at the jury trial held before Judge Gravely.

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Brown was due a meaningful and fair review of the evidence and all the charges prior to the Board making a final determination. *See Brown's prior case* Brown vs. James (2010) S.C. Ct. of Appeals, Case No. 4674

The Superintendent and Board's failure to follow procedure as prescribed in TEDA, should tender Brown's teacher termination null and void. The wording of the TEDA is unambiguous regarding procedures, and the record fails to show that CCSD and its Board complied with its requirements.

It is to be noted that there was nothing for a jury to decide once it was discovered that CCSD and the Board undermined our TEDA. A directed verdict should have been entered in Brown's favor. Brown did all that she was required to do under TEDA. Consequently, she should have been reinstated to her teaching position with back pay and benefits. Alternatively, she should have received front pay and other benefits once it was discovered by Judge Gravely that CCSD did not follow our dismissal procedures in TEDA.

ARGUMENT IV

4. Does South Carolina Employment and Dismissal Act allow a school district to terminate a teacher without giving a teacher the opportunity to defend him or herself against all of the charges before a school board?

Standard of Review: S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
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- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Brown was terminated by the Cherokee County school District Board of Trustees (Board) on October 15, 2015.(See School Board Order Exhibit to Trial Transcript, R.p.____). Brown never received notice from then- Superintendent Dr. Quincie Moore (Moore), that she was charging Brown with a

performance charge. (See 8/15 Letter Exhibit to Trial Transcript, R.p. ____); (See School Board Order Exhibit to Trial Transcript, R.p. ____). Brown found out during her jury trial before Judge Gravely in October of 2022. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p.____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p.____). Brown contends that her due process rights and procedural due process were violated by CCSD. CCSD did not follow our Teacher Employment and Dismissal Act.

Dr. Carl Carpenter testified that Brown was fired because she was an unsatisfactory teacher and she did not render acceptable service. (See Trial Transcript at p. 200 Carl Carpenter-Cross, R.p.____); (See Trial Transcript pp. 203-205 Carl Carpenter-Redirect, R.p.____). Cherokee County District Attorneys and Dr. Carl Carpenter were aware of these charges, but failed to tell Brown about them.

Superintendent Moore never gave Brown notice of the performance charge that Dr. Carl Carpenter and District Attorneys claimed at the jury trial held before Judge Gravely.

Pursuant to Section 59-25-440 of TEDA, the Board must afford the adversely affected teacher a hearing based on the notice of dismissal that was recommended by the Superintendent.

Brown was due a meaningful and fair review of the evidence and all the charges prior to the Board making a final determination. *See Brown's prior case* Brown vs. James (2010) S.C. Ct. of Appeals, Case No. 4674

The Superintendent and Board's failure to follow procedure as prescribed in TEDA, should tender Brown's teacher termination null and void. The wording or the TEDA is unambiguous regarding procedures, and the record fails to show that CCSD and its Board complied with its requirements.

It is to be noted that there was nothing for a jury to decide once it was discovered that CCSD and the Board undermined our TEDA. A directed verdict should have been entered in Brown's favor. Brown did all that she was required to do under TEDA. Consequently, she should have been reinstated to her teaching position with back pay and benefits. Alternatively, she should have received front pay

and other benefits once it was discovered by Judge Gravely that CCSD did not follow our dismissal procedures in TEDA.

ARGUMENT V

5. Did Judge Perry Gravely err when he failed to declare a mistrial when respondent's counsel informed the jury that Brown had been unsuccessful in this school termination case before a circuit court?

Standard of Review: S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Brown was denied a meaningful and fair hearing when Judge Gravely did not declare a mistrial when respondent's counsel informed the jury that Brown had been unsuccessful in this school termination case before a circuit court. (See Trial Transcript p. 136, R.p. ____); (See Trial Transcript Objection by Attorney Smith pp. 137-138, R.p. ____); (See Judge Gravely's Ruling on the Objection, Trial Transcript pp. 139-140, R.p. ____).

ARGUMENT VI

6. Was Brown due process rights violated at trial when she was denied a meaningful trial because Judge Perry Gravely failed to order a new trial due to the respondent's counsel telling the jury about a previous court ruling concerning the case at trial?

S.C. Code Section 1-23-380 provides that "the court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a.) in violation of constitutional or statutory provisions;
- (b.) in excess of statutory authority of the agency;
- (c.) made upon unlawful procedure
- (d.) affected by error or law;
- (e.) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or
- (f.) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Brown was denied a meaningful and fair hearing when Judge Gravely did not declare a mistrial when respondent's counsel informed the jury that Brown had been unsuccessful in this school termination case before the circuit court. (See Trial Transcript p. 136, R.p. ____); (See Trial Transcript Objection by Attorney Smith pp. 137-138, R.p.____); (See Judge Gravely's Ruling on the Objection, Trial Transcript pp. 139-140, R.p. ____).

ARGUMENT VII

7. Did Judge Perry Gravely err when he granted summary judgment to the respondent on appellant's gross negligence claim on the ground that you have to be a student, patient, prisoner, inmate, or client of a government entity to sue for gross negligence?

Standard of Review: When viewing the grant of a summary judgment motion, an appellate court applies the same standard as the trial court under Rule 56, SCRPC. Wogan v. Kunze, 379 S.C. 581, 585, 666 S.E.2d 901, 903 (2008). The circuit court should grant summary judgment "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56 (c) SCRPC, Russell v. Wachovia Bank, N.A. 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003).

Brown contends that she can file suit for gross negligence as an employee of the district. S.C. Code Ann § 15-78- 60(25) does not directly address the issue presented in this case.

“Statutes, as a whole, must receive practical, reasonable, and fair interpretations, consonant with the purpose, design, and policy lawmakers.” *Peake v. S.C. Dep’t of Motor Vehicles*, 375 S.C. 589, 599, 654, S.E. 2d 284, 289 (Ct. App. 2007) (quoting *Collins Music Col, Inc, v. IGT*, 365 S.C. 544, 550, 619, S.E. 2d 1, 3 (Ct. App. 2005)). This section applies to wards of the state and the actions that could be brought by such people who find themselves wards of the State. Here, Brown is not a ward of the State. Therefore, Judge Gravely should have denied Defendant District’s summary judgment motion. (See Judge Kelly's Order dated September 10,2021 pp. 8-9, R.p. ____); (See Trial Transcript pp. 225-226, R.p. ____); (See Judge Gravely's Ruling pp. 226-228, R.p. ____).

ARGUMENT VIII

8. Did Judge R. Keith Kelly err in ruling in his September 10, 2021 order the following (1.) that Cherokee County School District did not receive the charges of discrimination filed by Brown on August 5, 2015 and October 9, 2015, (2.)Brown requested her mother be in a July 30,2015 meeting, and (3) " When Moore questioned Brown about Carpenter's directive that Brown should not speak with other employees during the investigation's pendency, Brown stated she "did not remember" Carpenter's directive.

Standard of Review: When viewing the grant of a summary judgment motion, an appellate court applies the same standard as the trial court under Rule 56, SCRPC. *Wogan v. Kunze*, 379 S.C. 581, 585, 666 S.E.2d 901, 903 (2008). The circuit court should grant summary judgment "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56 (c) SCRPC, *Russell v. Wachovia Bank, N.A.* 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003).

On September 16, 2021, Brown filed a motion to Amend Order and Judgment and Motion for Reconsideration concerning Judge R. Keith Kelly’s September 10, 2021 order. (See Motion to Amend

Order and Judgment and Motion for Reconsideration, R.p. ____); (See Order of Judge Kelly dated September 10, 2021 p. 2, R.p. ____); (See Defendant's Memorandum In Opposition To Plaintiff's Motion To Amend Order and Judgment and Motion for Reconsideration, R.p. ____); (See Order of Judge Kelly dated October 10, 2022, R.p. ____). Brown contends that there is a dispute on whether CCSD received charges filed by her on August 5, 2015 and October 9, 2015. Additionally, there is a custom, practice, and business practice for the Equal Employment Opportunity Commission (EEOC) to send charging papers to the employer. Additionally, the EEOC mailed CCSD a Notice of Dismissal and Notice of Rights Letters for each of the individual charges. (See EEOC charge filed on August 5, 2015, R.p. ____); (See EEOC charge filed on October 15, 2015, R.p. ____); (See EEOC Notice of Dismissal and Notice of Rights Letter for charge filed on August 5, 2015, R.p. ____); (See EEOC Notice of Dismissal and Notice of Rights Letter for charge filed on October 9, 2015, R.p. ____).

Therefore, Brown contends that the issue concerning whether CCSD received the August 5, 2015 and October 9, 2015 charges should have been left up to a jury to decide. Brown has a Whistleblower case pending in Cherokee County Court of Common Pleas. Therefore, Brown is requesting that this issue be addressed.

Further Judge Kelly denied Brown's request that he remove the statement on pages 3-4 of his September 10, 2021 order that states the following, " Brown requested that her attorney and mother, Shirley Mills, be allowed in the meeting and Superintendent Moore granted that request." Plaintiff contends that this is not an undisputed fact. Plaintiff contends that she never requested that her mother, Shirley Miller, be allowed in the meeting. (See Exhibit C and Exhibit D to Motion to Amend Order and Judgment and Motion for Reconsideration, R.p. ____). Judge Kelly was in possession of Exhibit C and Exhibit D, however he totally overlooks these exhibits in the record.

Lastly, Brown contends that Judge Kelly mischaracterizes what she said in response to a matter on page 4 of his September 10, 2021 order. Specifically, he states the following. "When Moore questioned Brown about Carpenter's directive that Brown should not speak with other employees during the investigation's pendency, Brown stated she "did not remember." (See Order Granting In Part and Denying in Part Defendant's Motion for Summary Judgment, R. p. ____). Brown believes this is a mischaracterization of what she said and would like for this court to allow a jury to decide this disputed matter. (See Exhibit E to Motion to Amend Order and Judgment and Motion for Reconsideration, R. p. ____).

CONCLUSION

The case at hand, involved Brown's termination of her continuing teacher contract. When CCSD School Board voted to accept Quincie Moore's recommendation for termination without notifying Brown of the teaching performance charge, prior to conducting a hearing on All charges, its decision had an immediate effect on Brown's legal rights.

Article 1, section 22 of the South Carolina State Constitution states: No person shall be finally bound by a judicial or quasi decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard, and he shall have in all such instances the right to judicial review.

Brown has proven with evidence that an order reinstating her to her teaching position with Cherokee County School District One should be entered by this Court. The respondent breached appellant's continuing contract by violating S.C. Code Section 1-23- 380. Therefore the Board's decision must be reversed. If reinstatement is not feasible because of the outrageous conduct exhibited by Cherokee County School District toward Appellant, Appellant requests front pay with benefits.

Further, judgment should be entered against Respondent for actual damages, including back pay, lost employment benefits, and contributions to the South Carolina Retirement System, Attorney Fees, Cost of this Action, and such other relief as the Court may deem just and proper.

Additionally, a new trial should be mandated for appellant's gross negligence action against Cherokee County School District One.

Respectfully Submitted,

A handwritten signature in black ink that reads "Sharon Brown". The signature is written in a cursive style with a horizontal line drawn through it.

SHARON BROWN

216 Ardmore Road

Spartanburg, S.C. 29306

(864)253-9975

sharon.brown21@yahoo.com

APPELLANT

November 29, 2024

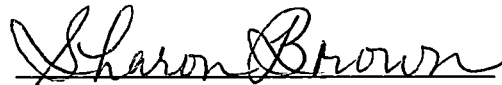
CERTIFICATE OF SERVICE

I, Sharon Brown, hereby certify that I have this 30th day of November served a copy of the herein below listed document to the address listed below by depositing a copy of same in the United States Postal System, postage prepaid, and mailing same to:

PLEADING(S): Appellant's Initial Brief and Designation of Matter to Be Included In The Record On Appeal

PARTY SERVED:

Ms. Andrea E. White, Esq.
Mr. J. Alexander Sherard, Esq.
P.O. Box 7036
Columbia, S.C. 29202



SHARON BROWN
216 Ardmore Road
Spartanburg, S.C. 29306
sharon.brown21@yahoo.com
(864)253-9975
Appellant

November 30, 2024

RECEIVED
DEC 02 2024
SC Court of Appeals

South Carolina Court of Appeals
ATTN: Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED
DEC 02 2024
SC Court of Appeals

Re: Sharon A. Brown, Appellant vs. Cherokee County School District One, Respondent.
Docket No. 2017- CP-11-00735
Appellate Case No: 2022-001582

November 29, 2024

Dear Clerk of Court,

Enclosed you will find 1(one) copy of Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal.

Additionally, you will find a Certificate of Service.

Sincerely,


Sharon Brown, Appellant

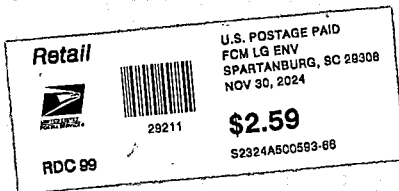
Enclosure(s)

Cc:

Ms. Andrea E. White/Mr. J. Alexander Sherard, Esquire

RECEIVED
DEC 02 2024
SC Court of Appeals

Sharon Brown
216 Ardmore Rd.
Spartanburg, S.C. 29306



RECEIVED

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SC Court of Appeals

South Carolina Court of Appeals
ATTN: Jenny Abbott Kitchings, Clerk of Ct
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Columbia, S.C. 29211

