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Dec 11 2024

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from Berkeley County
Court of Common Pleas

Jennifer B. McCoy, Circuit Judge

Case No. 2022-CP-08-02508

Appeal No. 2023-001837

Muhammad Nathaniel Wilson,

Appellant,

v.

Hanahan Police Department &
Other Law Enforcement Officials,

Respondents.

**Motion to Dismiss the Appeal, or in the alternative,
to Compel Appellant to Comply with Rules 210 and 211, SCARC**

The Respondents were served with the Appellant's Record on Appeal and Final Brief by email on December 2, 2024. The Respondents move to strike the Record on Appeal and dismiss the appeal on the ground that the Record on Appeal was not timely served within the time required under Rule 210(a), SCACR. In the alternative, the Respondents move the Court for an order to compel the Appellant to comply with Rules 210 and 211, SCACR, in regards to the Record on Appeal and the Final Brief.

I. The Record on Appeal was not served on time.

Rule 210(a), SCARC, provides in pertinent part: “Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.” The Respondents served their initial brief on October 9, 2024. The Appellant did not serve or file any reply brief. Therefore, the Appellant was required to serve the Record on Appeal by November 8, 2024. To the extent that the certificate of service submitted with final brief is confusing, the Record on Appeal was not served on August 19, 2024. The Record on Appeal was electronically served and filed on December 2, 2024, as evidenced by the email sent to the Court to which Respondents’ counsel was copied. Accordingly, the service of the Record on Appeal should be stricken as untimely, and the appeal should be dismissed.

II. The Record on Appeal does not comply with Rule 210, SCACR.

Rule 210(c), SCACR provides in pertinent part:

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal.

(g) Certificate of Counsel. The act of filing the Record on Appeal constitutes a certificate that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

The Record on Appeal does not contain any of the materials as designated by the parties, and moreover, the Record on Appeal contains other materials/information that were not designated.

The Appellant designated the following documents to be included in the Record on Appeal:

1. Indictment/warrant change Status change form 11 /09/2020;

2. Hand Written Request for a Jury Trial October 24 ,2022;
3. Compliant (LDF Media) Statement April 4,2022; and
4. Transcript of Court Proceedings Plaintiff Statement to the Judge. [See Designation received by the Court on June 28, 2024.]

The Respondent designated the following documents:

1. Judge McCoy's 10/18/23 Order, filed October 18, 2023;
2. Complaint, filed October 17, 2022, with Exhibits
 - a. LDF press release, dated 4/4/2022,
 - b. Indictment/Warrant Status Change Form, dated 1/9/2020,
 - c. Bond Order, dated 1/2/2019,
 - d. City of Hanahan Police Department, dated 8/14/2018;
3. Defendants' Motion to Dismiss, filed November 14, 2023;
4. Defendants' Memorandum in support of Motion to Dismiss, in the alternative, Motion for Summary Judgment, filed July 5, 2023 with exhibits
 - a. Exhibit 1 - C/A No. 2:20-3567-BHH Report and Recommendation, issued 7/13/2021;
 - b. Exhibit 2 - C/A No. 2:20-3567-BHH Order, issued 8/17/21 ;
 - c. Exhibit 3 - C/A No. 2020-CP-08-01987 Judge Young's order, issued 8/15/22; and
5. Transcript of Motion Hearing, July 10, 2023. [See Designation filed 10/9/24]

The Record on Appeal filed and served by the Appellant does not contain any of the documents designated by the Appellant or the Respondents. Moreover, none of the documents in the Record on Appeal were designated by either party. The Respondents move the Court to issue an order compelling the Appellant to comply with Rule 210 (as well as Rule 267 regarding formatting) and serve a corrected Record on Appeal that includes all the documents designated by

both parties and no other documents. The Respondents also move the Court to hold the time for filing the Respondents' final brief in abeyance until the Appellant files a corrected Record on Appeal.

III. The Final Brief of Appellant does not comply with Rule 211, SCACR.

Rule 211, SCACR, provides in pertinent part:

(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

After a protracted period of missteps by the Plaintiff in perfecting his appeal including the filing and service of multiple initial briefs, the Court directed the Respondents to respond to the initial brief served/filed by Appellant on August 14, 2024. Whereupon the Respondents served and filed an initial brief with references and citations to the August 14, 2024 brief.

The Final Brief served and filed by the Appellant on December 2, 2024, does not comply with Rule 211, because it has been substantively revised beyond corrections of typos and misspellings. Accordingly, the Respondents move the Court to issue an order directing the Appellant to serve a Final Brief consistent with the August 14th brief and containing only revisions limited to correction of typos and misspellings, and if appropriate, insertion of references to the Record on Appeal once it is corrected to include all the designated documents.

The Respondents also would note that the Appellant's final brief does not conform to Rule 267, SCACR, in regards to formatting. In particular, the brief is not double spaced. Since the

formatting issues do not directly affect the Court's ability to review the appeal, the Respondents defer to the Court's discretion as to whether the Appellant should be directed to comply with these formatting requirements.

SUMMARY AND CONCLUSION

While the Appellant is proceeding pro se, he still must comply with the Rules. “A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” State v. Burton, 356 S.C. 259, 589 S.E.2d 6, 9 n.5 (2003). “Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.” Goodson v. Am. Bankers Ins. Co. of Fla., 295 S.C. 400, 368 S.E.2d 687, 689 (Ct. App. 1988). “[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794, 794 (1992).

The Court of Appeals cannot consider an appeal from the trial court's decision without a Record that contains at least the most basic, essential documents necessary for appellate review. *See Goodson*, 368 S.E.2d at 690 (“We do not have the transcript of the trial before us and, therefore, cannot second guess the finding of the trial judge. The appellant is responsible for compiling an adequate record from which this court can make an intelligent review. We will not consider facts that do not appear in the transcript of record.”) This case is on appeal from an order granting summary judgment. The Respondents designated the relevant pleadings, motions, exhibits, and transcript, and cited to those matters in their initial brief. However, the Appellant has not included any of those documents in the Record on Appeal that he served and filed on December 2, 2024.

The deficient, non-compliant Record prevents the Respondents from completing their final brief and impedes the Court's ability to conduct an adequate and fair review.

Wherefore, based on the foregoing, the Respondents move the Court to dismiss the appeal for the untimely filing of the Record on Appeal, or in the alternative, to direct the Appellant to file a corrected Record on Appeal that complies with Rule 210. In addition, the Respondents move the Court to strike the Final Brief served and filed by Appellant on December 2, 2024, and to direct the Appellant to file a corrected Final Brief that adheres to the limits of revisions as provided in Rule 211. The Respondents also move the Court to hold the time for filing the Respondents' final brief in abeyance until the Appellant files a corrected Record on Appeal.

Respectfully submitted,

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**Attorneys for the Respondents
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Enforcement Officials**

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CERTIFICATE OF SERVICE

The undersigned certifies that on this **11th** day of **December, 2024**, a copy of the Respondent's Motion to Dismiss the Appeal or in the alternative to Compel Appellant to Comply with Rules 210 and 211, SCARC was served by mailing a copy to the following at the address listed below:

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