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Dec 12 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY

Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2024-CP-43-000366

Appellant Case No. 2024-000283

Randal K. Freem,

Appellant,

v.

David Bryan Trapp,

Respondent.

**RESPONDENT’S RETURN TO APPELLANT’S MOTION TO STRIKE
RESPONDENT’S INITIAL BRIEF AND DESIGNATION OF MATTER**

Respondent hereby responds to Appellant’s Motion to Strike Respondent’s Initial Brief and Designation of Matter. On December 2, 2024, Appellant moved to strike Respondent’s Initial Brief and Designation of Matter in the entirety arguing: 1) Respondent made false claims of unpaid rent; 2) Respondent inaccurately applied S.C. Code Ann. § 27-40-800, et seq.; and 3) extraneous documents were introduced.

The Appellant’s argument that Respondent’s false claims of unpaid rent are unsubstantiated and lack basis. Respondent’s Initial Brief alleged non-payment of rent for April – July 2023. Appellant has introduced extraneous evidence -- which is not part of the record and should be stricken itself – demonstrating a rent payment for March 2023, which was not referenced in Respondent’s Initial Brief. As such, there is no basis to strike Respondent’s Initial Brief in the entirety based on a matter of objective fact.

The Appellant's argument that Respondent has inaccurately alleged noncompliance under S.C. Code Ann. § 27-40-800 is again a matter of objective fact. The trial court's ledger, which is readily ascertainable on the public index, evidences nonpayment of the February 2024 bond payment required under the statute as well as the late payment for November 2023, which were findings of fact by the trial court and presented in the Order and Return recorded on January 23, 2024, which the Appellant himself has attached as an unlabeled exhibit to his motion. Further, Respondent finds Appellant's logic to be flawed and circular in nature to the extent the Appellant vehemently argues his rights to appeal and a stay of execution should be preserved, yet the Appellant has failed to strictly adhere to the statutory requirements under § 27-40-800.

Lastly, the Appellant's notion that pleadings and exhibits are "extraneous evidence" is directly contrary to Rule 210, which specifically states, "The Record on Appeal shall include all matter designated to be included by any party . . . [the] Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, and exhibits and other materials or documents." The Respondent's Application for Ejectment and Exhibits dated April 3, 2023, and Appellant's Answer and Exhibits dated April 20, 2023, are both appropriate and relevant in the Record for the Court's review. Alas, the only document designated in the Record on Appeal which is not proper is the Appellant's falsified lease extension as it was not a part of the Record and was never presented to a lower court or tribunal. Respondent strongly urges this Court to not only strike Appellant's purported lease extension (Item No. 6 Appellant's Designation of Matter), but to also investigate the same document for fraud, forgery and perjury.

The issues presented by the Appellant are straightforward and ready for appellate review. Instead, Appellant continues to delay this matter by seeking numerous extensions and arguing over objective facts that are not in dispute. Respondent respectfully request that this Court: 1) deny Appellant's Motion to Strike Respondent's Initial Brief and Designation of Matter; 2) find that the Appellant has failed to timely file his Reply Brief that was due on November 4, 2024, and granted an extension until December 4, 2024; and 3) strike Appellant's inclusion of Item No. 6 on Appellant's Designation of Matter due to its absence of the record, and more emphatically as a forgery.

Respectfully submitted,

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Sumter, South Carolina

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David Bryan Trapp,

Respondent,

v.

Randal K. Freeman,

Appellant.

PROOF OF SERVICE

I certify that I have served the Respondent's Return to Appellant's Motion to Strike Respondent's Initial Brief and Designation of Matter on Randal K. Freeman and by depositing a copy of it in the United States mail, postage prepaid, on December 12, 2024, addressed to Randal K. Freeman at their current or last known address of 8 Warren Ct, Sumter, South Carolian 29150.

/s J. Benjamin Cahill

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