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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

Randal K Freeman,

Appellant,

v.

David Bryan Trapp,

Respondent.

**REPLY TO RESPONDENT'S RESPONSE TO APPELLANT'S MOTION TO
STRIKE RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER**

To the Honorable Court,

Appellant, Randal K. Freeman, *pro se* respectfully submits this Reply to Respondent's Response to Appellant's Motion to Strike Respondent's Initial Brief and Designation of Matter. Respondent's response is riddled with inaccuracies, baseless accusations, and mischaracterizations of the record. The Respondent's arguments fail to address the core issues on appeal and amount to a prejudicial attempt to mislead the Court and delay resolution.

1. Respondent's False Claims and Prejudice Against Appellant

The Respondent's accusation that Appellant has introduced extraneous evidence is baseless. Specifically:

- Item No. 6 – Lease Extension: The Respondent falsely claims that Item No. 6 is a forged document. This is untrue, as the Honorable Judge Griffin reviewed and accepted this document into the record during a February 14, 2024, closed session prior to open court. Respondents counseled on the record openly discussed the document and the court did not rule against its entry into the record Appellant's counsel provided copies to all parties, and the document was also referenced orally in the transcript of the appeal heard in the Court of Common Pleas prior on February 5th, 2024. Neither the Magistrate Court nor the Common Pleas Court ever adjudicated the document as forgery or excluded it as part of the record. As such, Item No. 6 remains a valid and proper part of the appeal record.

- March 2023 Rent Payment: The Respondent erroneously argues that the March check is "extraneous evidence." However, the Magistrate Court reviewed and accepted the February, and March rent check during the August 2023 hearing, which predates the November 2023 hearing. USPS tracking records and reissuance receipts further confirm the legitimacy of Appellant's compliance with payment requirements. Respondent's counsel's repeated attempts to exclude this payment as part of the record are both prejudicial and misleading.

2. Appellant's Compliance with S.C. Code Ann. § 27-40-800

The Respondent misapplies S.C. Code Ann. § 27-40-800, falsely alleging noncompliance by the Appellant. In truth:

- Compliance with the Magistrate's December 7, 2023, Order: The Magistrate only required payment for November and December 2023 and January 2024 if the appeal was not heard by then. Appellant followed these instructions and filed the required bond upon receiving notification of the Magistrate's decision on rehearing.

- Respondent's Reliance on False Statements: Respondent falsely claims that Appellant failed to pay February 2024 rent, but this is irrelevant as the statute requires compliance only with the court's specific orders. Chief Justice Donald Beatty's 2020 Memo to magistrates clarified that preconditions such as back rent cannot restrict appeal rights. Appellant complied fully with the Magistrate's orders, and Respondent's arguments to the contrary are legally incorrect.

3. Respondent's Improper Inclusion of Documents in the Record

The Respondent seeks to improperly include in the Record on Appeal their own *Application for Ejectment* and the Appellant's *Answer*—neither of which were provided in either the Magistrate Court or the Court of Common Pleas appeal, as confirmed by the record and the transcript. Judge Cothran explicitly acknowledged during the hearing that he had only received the *Order and Return* from Judge Griffin, underscoring that these documents were never part of the record in prior proceedings.

The Respondent's inclusion of these irrelevant documents is an attempt to distort the scope of this appeal. The *Application for Ejectment* and the Appellant's *Answer* were filed prior to the original appeal and are wholly unrelated to the central issue of whether the Appellant was lawfully ordered to pay bond monthly while awaiting a jury trial for the matter of the Writ of Ejectment to be heard. Their presence in the Record on Appeal is improper and prejudicial.

Furthermore, Respondent's counsel has falsely claimed that Item No. 6, a document properly notarized and legally witnessed under South Carolina law, is a forgery. This baseless accusation disregards the fact that the document was accepted as a matter of record in both the Magistrate Court and the Court of Common Pleas. Item No. 6 was specifically reviewed by Judge Griffin on February 14, 2024, during a closed session, with copies provided to all parties at that time. Additionally, it was referenced in the transcript and orally presented during the appeals hearing.

These repeated false claims by Respondent's counsel are a deliberate attempt to prejudice the Court against the Appellant and obstruct the Appellant's rights. The Appellant respectfully requests this Honorable Court to strike the Respondent's improper inclusion of irrelevant documents from the Record on Appeal and to deny the Respondent's motion to strike Item No. 6, as it is properly included and supported by the record.

4. Appellant's Right to a Reply Brief

The Appellant respectfully asserts that, regardless of this Court's decision on the Motion to Strike, Appellant's right to file a reply brief should not be hindered. Rule 211 of the South Carolina Appellate Court Rules guarantees a litigant's right to reply, and any decision not to strike the Respondent's Initial Brief must preserve the Appellant's ability to file a full and thorough reply.

-Delay Caused by Respondent: The delay in resolving this matter is not attributable to Appellant, but rather to the repeated false statements and prejudicial conduct of Respondent's counsel. Respondent has needlessly delayed proceedings by introducing irrelevant material, making baseless accusations of forgery, and attempting to mislead the Court.

5. Respondent's Accusations of Forgery and Misrepresentation

The Appellant further asserts that Item 6, the document in question, was properly notarized and, in accordance with South Carolina law, witnessed and executed in a legal manner. The document's validity has not been adjudicated or challenged in prior proceedings, and it was presented as part of the record during the February 14, 2024, session before Magistrate Judge Griffin, where copies were provided to all parties in a closed session. The Respondent's baseless allegations of forgery lack any factual or legal support and are an attempt to obscure the facts of the case. As such, Item 6 is a legitimate and lawful document that has been a matter of record, further underscoring the Respondent's counsel's ongoing efforts to mislead the Court and delay these proceedings unjustly.

Neither the Magistrate Court nor the Court of Common Pleas excluded this document or made any finding of forgery. The Respondent's accusations are unfounded and prejudicial, amounting to improper attempts to discredit Appellant and obscure the facts of the case.

Conclusion

The Appellant's request to strike the Respondent's Initial Brief and Designation of Matter is not an attempt to delay proceedings but rather a legitimate exercise of his constitutional rights to ensure a fair and impartial review by this Court. The Appellant's actions are grounded in substantial legal principles and supported by thorough research into the matters of record, as detailed in the Motion to Strike. Furthermore, the previous extension granted by the Court was due to unforeseen circumstances beyond the Appellant's control. During the time granted, the Appellant acted diligently and appropriately, carefully reviewing the record and preparing his motion with full consideration of all relevant facts and legal precedents.

In contrast, the Respondent's submissions contain material misrepresentations and baseless accusations, which are prejudicial and serve only to delay resolution of the straightforward issues on appeal. Such conduct undermines the integrity of this proceeding and obstructs the Appellant's right to a just and fair process.

Appellant respectfully requests that this Honorable Court:

1. **Strike Respondent's Initial Brief and Designation of Matter in its entirety** for prejudicial conduct and misrepresentation.
2. **Deny Respondent's request to strike Item No. 6 from Appellant's Designation of Matter**, as it is properly included in the record.
3. **Ensure Appellant retains the full right to file a reply brief**, with sufficient time granted by the Court, should the Court choose not to strike Respondent's Initial Brief and Designation of Matter.
4. **Sanction Respondent's counsel** for repeated false statements and prejudicial conduct.

December 17th, 2024

Respectfully submitted,

/s/Randal K Freeman

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