

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM JASPER COUNTY
Court Of Common Pleas
The Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2023-000790

THE STATE,

Respondent,

v.

STEVEN FRANTZ,

Appellant.

**MOTION TO STRIKE
AND
REQUIRE FILING OF
AMENDED RECORD ON APPEAL**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On September 30, 2021, a Jasper County Magistrate found Appellant Steven Frantz guilty of trespassing and imposed a \$260 fine.¹ Frantz filed a notice of appeal with the Jasper County Circuit Court on October 28, 2021. The Circuit Court found the appeal not perfected due to Frantz’s failure to comply with S.C. Code Ann. § 18-3-30.

¹ Due to a potential clerical error, Appellant’s \$260 fine was waived.

II.

On June 1, 2024, Frantz filed the original version of his Initial Brief of Appellant along with his designation of matter. Frantz subsequently amended his Designation of Matter on June 18, 2024. In his amended designation of matter, Frantz designated: (1) the transcripts from his circuit court hearing; (2) the notice of transcript request; (3) a notice of public records request; (4) a notice of FOIA request; (5) his notice of appeal; (6) a Jasper county letter; (7) a discovery motion dated April 20, 2021; (8) a discovery motion dated May 19, 2021; (9) a DNR arrest report; (10) pictures of the arrest site; (11) an order from Judge Joanne McDonald; (12) a notice of motion of dismissal; (13) a notice of motion to change venue; (14) a notice of motion dated February 26, 2023; and (15) a letter from Quatray Truesdale. (App. Des.).

III.

Subsequently, the State filed its Initial Brief of Respondent and Designation of Matter on October 7, 2024. In its designation of matter, the State designated the following for inclusion in the Record on Appeal: (1) Magistrate's Return and notice of appeal; (2) Transcript dated June 4, 2019; and (3) Circuit Court order dated April 26, 2023. Contemporaneously with this filing, the State filed a motion to amend its Designation of Matter to correct the improper date assigned to the transcript from the circuit court hearing.

IV.

On January 8, 2025, Frantz filed the Record on Appeal with this Court. In that record, Frantz included the items designated in his amended designation of matter. However, Frantz failed to include the Magistrate's Return and notice of appeal from Magistrate Court Documents as designated by the State. Furthermore, although *not* designated by either party, Frantz *also* included in the Record on Appeal a notice of motion scheduling dated March 10, 2022 (p. 13), a

notion of motion scheduling dated December 15, 2022 (p. 14), a letter from the Jasper County Clerk of Court (p. 15), a notice of appeal dated May 8, 2023 (p. 16-19), a letter from Court Administration dated October 19, 2023 (p. 25-26), a duplication of Frantz’s notice of appeal which also appears earlier in the record (p. 39), and a scanned copy of Black’s Law Dictionary (p. 58-9).

V.

Pursuant to Rule 210(c) of the South Carolina Appellate Court Rules the Record on Appeal— “shall include *all* matter designated to be included by any party under Rule 209[.]” Rule 210(c), SCACR (emphasis added). Additionally, material not included in Appellant’s Designation of Matter cannot be included in the Record on Appeal. See State v. Hawes, 423 S.C. 118, 813 S.E.2d 513 (Ct. App. 2018) (finding defendant failed to preserve claim he was prejudiced by admission of evidence where he did not include challenged materials in his designation of matter to be included in the record on appeal). Accordingly, based on the plain mandates of South Carolina law, the Record on Appeal *must* include all the matter properly designated by the parties for inclusions and may not include matter not designated. Id.; see State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (“A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”).

VI.

In the Record on Appeal as presently filed, Frantz has improperly failed to include all the items designated by the parties by omitting his Magistrate’s Return and notice of appeal from Magistrate Court. Thus, the Record on Appeal as presently filed is currently incomplete. Germain v. Nichol, 278 S.C. 508, 509, 299 S.E.2d 335, 335 (1983) (“Appellant has the burden of

providing [an appellate court] with a sufficient record upon which [the appellate court] can make its decision.”); Rule 210(c), SCACR. Furthermore, Frantz has *also* embedded in the Record on Appeal as presently filed various documents that were neither designated for inclusion in the Record on Appeal by either party. Accordingly, because the Record on Appeal as presently filed does not contain all the designated matter it was required to contain and also contains matter it cannot properly contain, it does not currently comply with the plain mandates of our state’s appellate court rules and must be stricken. Rule 210(c), SCACR; see Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) ([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. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”). Therefore, this Court should strike the Record on Appeal as presently filed and require Frantz to file an amended Record on Appeal including all the properly designated matter *and nothing else*.

VI.

The Record on Appeal as presently filed also fails to comply with the formatting requirements of Rule 210(d), SCACR and correspondingly Rule 267, SCACR. The Record on Appeal as presently filed fails to be substantially in the form of the example provided in Rule 267, SCACR. The title page fails to include the name of the pertinent lower court judge, fails to include the name, address, and phone number of all counsel in the case, and contains the improper title of “Appellant’s Record on Appeal.”


WHEREFORE, the State prays this Court strike the Record on Appeal as presently filed; require the service and filing of an Amended Record on Appeal that complies with all the requirements of Rule 210 of the South Carolina Appellate Court Rules; hold the time period for

service and filing of the Final Brief of Respondent in abeyance pending a ruling on this motion;
and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

ANDREW D. POWELL
Assistant Attorney General

BY: 

Andrew D. Powell
Bar # 106415

January 28, 2025

RECEIVED

Jan 28 2025

SC Court of Appeals

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PROOF OF SERVICE

I, Andrew D. Powell, certify that I have served the within Motion to Strike and Require Filing of Amended Record on Appeal on Steven Frantz, pro se Appellant via U.S. Mail.

Steven Frantz
536 S. Summit Street
Smithville, OH 44677

I further certify that all parties required by Rule to be served have been served.

This 28th day of January 2025.



Andrew D. Powell
Assistant Attorney General

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