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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

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

Case No. 2017-CP-11-00735
Appellate Case No. 2022-001582

Sharon Brown, Appellant,

v.

Cherokee County School District, Respondent.

RESPONDENT'S RETURN TO APPELLANT'S MOTION TO ADD

By and through its undersigned counsel, Respondent Cherokee County School District One submits this return ("Return")[1] pursuant to Rule 240(e), SCACR in response to Appellant Sharon Brown's Motion to Add Judge Perry Gravely's Name in the Caption of the Case On Appeal ("Motion to Add").

Respondent, by and through undersigned counsel, respectfully submits this Return in response to Appellant's Motion to Add.

[1] Contemporaneous with this Return, Respondent moved this Court to accept a late filing of this Return due to lack of notice or service of Appellant's Motion to Add until the tenth day of the filing period to ordinarily file this Return under Rule 240, SCACR.

I. Rule 267, SCACR Supports Inclusion of Judge Gravely in the Caption

Respondent does not oppose adding Judge Perry Gravely's name to the caption/cover page of this appeal. As provided in her Notice of Appeal, Appellant is appealing two distinct rulings: (1) the Order Partially Granting Summary Judgment in Respondent's favor issued by Judge R. Keith Kelly on September 10, 2021, and (2) the jury trial and relevant motions rulings overseen by Judge Perry Gravely on October 22, 2022. Rule 267, SCACR requires the caption to include the names of the circuit judges whose rulings are under review. Accordingly, Respondent consents to the Court granting Appellant's request to amend the caption to include Judge Gravely.

II. Appellant's Motion Lays Bare Her True Strategy: Delay at All Costs

Appellant openly concedes there is no dispute about adding Judge Gravely: "The respondent District and I have included his name on the initial briefs." (App's Mot. to Add p. 2). Yet she simultaneously pleads: "*Additionally, the Appellant requests that the timeline for perfecting the appeal be held in abeyance until this motion is decided*." (emphasis added) (App's Mot., p. 1). That sentence alone exposes Appellant's true goal: to dodge the July 7 deadline this Court ordered to file and serve the Record on Appeal. This is a transparent attempt to buy more time under the flimsiest of pretenses.

III. There is No Basis to Hold Appeal in Abeyance

While the clerical correction regarding the caption is unobjectionable, Respondent strenuously opposes Appellant's cynical request to "hold the timeline for perfecting the appeal in abeyance" over this trivial issue.

(a) Rule 240 SCACR Does Not Stay Deadlines

Under Rule 240, SCACR makes clear that filing a motion does not freeze court-imposed pending deadlines. In this case, Appellant relies on the filing of her Motion to Add and request

for an abeyance to circumvent the then-pending deadline to file the Record on Appeal as directed by the Court on June 4, 2025.

"Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition." *See* Rule 240(b), SCACR: Further, Appellant fails to cite any legal authority or factual basis for requesting the abeyance pending the outcome of her Motion to Add. Despite the Court's ruling on her Motion to Add--at worst, the parties would have to correct a minor, unimpactful typographical impediment that has no authentic procedural or meritorious bearing on this case or the appeal. Appellant also fails to articulate why the outcome of the Court's ruling on her Motion to Add would prevent or prejudice her ability to serve the Record on Appeal, further distancing any foreseeable basis for an abeyance other than to cause further delay in the Court's review of this matter.

This request is not only baseless—it is transparently calculated to stall the inevitable. The underlying Motion to Add a judge's name is purely clerical. It has no impact on the merits, the issues on appeal, or the Court's ability to proceed. Since the parties were not made aware that the Court granted the abeyance until July 8, 2025, at 4:34 p.m., the Appellant has no articulable or justifiable excuse for not contacting counsel, the Court, or proceeding with serving the Record on Appeal by July 7—the Court-imposed deadline.

As of July 8, 2025, Appellant would have found herself in one of two situations: (1) the Record on Appeal was filed and served per the Court's imposed July 7, 2025 deadline despite her then pending abeyance request; or (2) Appellant intentionally violated the Court's July 7, 2025, deadline and did not file or serve the Record on Appeal *before* learning of the grant of abeyance on July 8 at 4:34 p.m. by the Court's email notification.

If the former, Appellant should have no problem immediately filing and serving the Record on Appeal. If the latter, then her intentional violation of the deadline to file the Record on Appeal warrants immediate dismissal and demonstrates her lack of candor and deference to the authority of this Court.

In any event, Appellant knowingly ignored the authority of this Court on July 7, 2025, by not filing the Record on Appeal during the time before she could have known whether or not the abeyance request was granted. Appellant makes no argument, nor is there any section of the SCACR that would support a justifiable excuse not to file and serve the Record on Appeal before confirming the Court's response to her request for an abeyance. Furthermore, upon information and belief, the Appellant did not attempt to notify the undersigned of her untimely predicament, further demonstrating her persistent and intentional avoidance of her obligations to this Court and the opposing party. Appellant's deliberate choice to disregard the filing deadline before knowing whether the abeyance was granted shows precisely the way in which Appellant disregards the rules of this Court.

Appellant does not even bother to proffer a legal justification or factual excuse, even arguing as to why Appellant would not have filed and served the Record on Appeal by July 7, 2025, not knowing the outcome of her abeyance request. Unless she can show the Record on Appeal was timely filed and served, it is theoretically impossible that Appellant maintained compliance with the Rules of this Court and the July 7, 2025, filing deadline from July 8, 2025, at 12:01 a.m. until July 8, 2025, at 4:34 p.m.—the time at which the parties were received notice of the abeyance. Accordingly, Appellant has failed to comply with Rule 210, SCACR, by failing to serve and file the Record on Appeal within the 30-day period ordered by this Court. Such a

knowing and willful violation warrants dismissal of the appeal by the Court pursuant to Rule 260, SCACR.

Therefore, the Court should dismiss the appeal under Rule 260, SCACR; or alternatively, at minimum, lift the abeyance and order the Appellant to file and serve the Record on Appeal within ten (10) days of the date of the *original*[2] deadline.

IV. Appellant's Well-Documented Pattern of Delay

This return is not an isolated incident. It is the latest in a long, unbroken series of deliberate, self-inflicted delays that have imposed needless burdens on Respondent:

- Appellant received over eight (8) extensions to file her Initial Brief.
- She violated this Court's formatting rules so egregiously that her appeal was dismissed outright when not corrected, but later reinstated.
- Even after Respondent filed its Initial Brief on February 12, 2025, Appellant tried to belatedly "fix" her brief by attempting a second bite at the apple using the Respondent's arguments wholesale, leading the Court to deny her motion to amend on June 4, 2025.
- The Court's June 4 letter could not have been clearer: Appellant was ordered to serve the Record on Appeal within 30 days, by July 7, 2025[3].

Instead of complying, Appellant now relies on this undisputed clerical issue with a motion days before the deadline, cynically designed to manufacture an excuse for her chronic noncompliance.

[2] At most, all that would be required would be to type or delete the name "Judge Perry Gravely" from the cover page.

[3] Notably, the 30-day deadline actually expired on Friday, July 4, 2025; thus giving Appellant three additional days to meet the filing requirement by July 7, 2025.

V. Over One Thousand Days of Delay Since Verdict

This case was tried before a jury in Cherokee County with a verdict in the Respondent's favor over one thousand (1,000) days ago. Yet despite the jury's clear decision, Appellant has not even managed to serve the Record on Appeal. Appellant's endless maneuvers are not mere carelessness. They are a deliberate, sustained strategy to deny Respondent its right to finality and to waste the limited resources of this Court. It is telling that Appellant did not even attempt to secure Respondent's consent or notice to this undisputed, purely clerical amendment contained in her Motion to Add, despite regularly emailing Respondent's counsel and this Court when convenient. Instead, she timed this motion to arrive less than a week before the Court-imposed deadline, hoping to wring a stay out of a non-issue. Whether an actual issue or not, Appellant was aware of her concerns regarding the caption as evidenced by her March 3, 2025, letter filed with the Court laying out the same argument in her Motion to Add. However, the Appellant chose the week before a pivotal deadline to cease the pendency of the appeal to address an issue that is, at best, a scrivener's error.

VI. Respondent's Request for Partial Grant and Denial

For the reasons above, Respondent respectfully requests that this Court: (1) Grant Appellant's motion only to the limited extent of amending the caption to include Judge Gravely under Rule 267 SCACR; (2) Deny in full Appellant's baseless, bad-faith request to hold the appeal in abeyance; and (3) order Appellant to serve the Record on Appeal within 10 days of the original July 7 deadline, which should have been in process, without further delay.

VII. Request for Sanctions or Alternative Relief

Pursuant to Rule 269, SCACR, this Court possesses the inherent authority to sanction parties who abuse the appellate process. Appellant's repeated, deliberate delays—culminating in

this motion to suspend deadlines over an undisputed caption fix—merit consequences. Respondent respectfully requests that the Court Order Appellant to pay the costs and fees Respondent has incurred in preparing and filing this Return, which, if unanswered, could have been construed as consent to the indefinite abeyance.

CONCLUSION

WHEREFORE, Respondent respectfully requests that the Court:

1. Grant Appellant's motion only as to amending the caption to include Judge Gravely;
2. Deny Appellant's request to hold the appeal in abeyance;
3. Order Appellant to serve the Record on Appeal within 10 days of the original July 7, 2025, service deadline.

Respectfully submitted,
WHITE & STORY, LLC

By: _____

Andrea E. White (SC Bar #11891)
J. Alexander Sherard (SC Bar # 103276)
P.O. Box 7036
Columbia, SC 29202
Telephone: 803.814.0993
Facsimile: 803.814.1183
awhite@sodacitylaw.com
asherard@sodacitylaw.com

Attorneys for Cherokee County School District

July 9, 2025
Columbia, South Carolina