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Jul 24 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court Of Common Pleas
Circuit Court Case No. 2024CP4001737

The Honorable Kristi Curtis, Circuit Court Judge

Appellate Case No.2025 - 000762

Alonzo C. Jeter, III,Appellant,

v.

State of South Carolina, Alan McCrory Wilson, Chelsey F. Marto,
Joseph Derham Cole, Mark J. Hayes, II, Ralph Keith Kelly,
Brandy W. McBee, Tonnya K. Kohn, Jean Hofer
Toal, Donald W. Beatty. . . . Respondents.

**MOTION OF STATE AND ATTORNEY GENERAL TO
STRIKE APPELLANT’S INITIAL BRIEF
AND DESIGNATION
AND REQUEST TO STAY**

Attorney General Wilson and the State of South Carolina move for this Court to strike Appellant’s Initial Brief and Designation of Matter for the Record. The Brief and Designation violate the Appellate Court rules by including matter outside the record of this case and factual arguments without any citation to the record.

While the Court considers this Motion, the State and the Attorney General respectfully request that the time limits for filing their initial brief and designation be stayed or tolled.

BACKGROUND

Appellant's Complaint asked the circuit court to issue an order with multiple provisions for the scheduling of post-conviction relief proceedings and the appointment of counsel in them. The Motion to Dismiss of the State and Attorney General contended that Appellant lacked standing to do so and that granting such relief was beyond the province of the circuit court. R. p. * (Motion and Memorandum in Support). It also contended that his action was barred by res judicata by decisions in his post-conviction relief proceeding and applicable statutes of limitations. Following a hearing at which Appellant objected to the lack of sufficient notice of the proceeding, the circuit court gave Appellant the opportunity to present additional information to the Court which he did do. After considering the additional exhibits, the circuit court granted the Motion to Dismiss by Order of the Honorable Kristi Curtis, September 5, 2024. The court denied Appellant's Motion to Reconsider on March 18, 2025.

ARGUMENT

I

Generally

Appellant's Brief and Designation do not comply with the authority set forth below:

Rule 208(b)(4) "The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged."

Rule 210(b): "[T]he Designation [of Matter for the Record] may only propose to include portions of the . . . materials which may be properly included in the Record on Appeal [see Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal."

Rule 210(c). “The Record shall not. . . include matter which was not presented to the lower court or tribunal. . . .”

As stated in former Chief Justice Toal’s book, Toal, Walker, Baker, *Appellate Practice in SC*, 3d ed., p. 407:

[T]he record must only include matters relevant to the appeal . . . [a]side from violating the Rules, the ‘kitchen sink’ approach requires the reader to sort through items that have nothing to do with the appeal. . . . When the parties honor Rule 209(b)’s requirement to limit the record to that which is absolutely essential, the . . . appellate court judges as well as their law clerks – are able to quickly ascertain the facts the parties view as critical to their respective positions.

See also, Rule 210(h) (“Except as provided by Rule 212 [supplemental record] and Rule 208(b)(1)(C) and (2) [statements of the case], the appellate court will not consider any fact which does not appear in the Record on Appeal.”).

Appellant’s Designation violates Rules 209 and 210 by including matter not presented to the lower court judge in this case prior to his rulings at issue. None of the items on his designated exhibit list appear to have been presented to the circuit court here except for the transcript of the June 13, 2024, proceeding, the 2008 Administrative Order, his exhibits A through R, the Form 4 Order in 2019CP1100457, and if intended to refer instead to the Supreme Court, the Order of “the Court of Appeals.”

His initial brief violates these rules and Rule 208 by including statements of a factual nature without references to the record. See, Initial Brief at pp. 18, 33, 34, and re prior PCR attempts, p.36. The brief also violates this authority by citing items not presented to the circuit court here. See Initial Brief at pp. 30 and 31, ¶¶1, 3, 5, 6, 8, 9 10 & 11; p. 32 (Transcript in 2019CP1100457), and p. 38 (*Jeter v. Cole*). Other examples may exist in Appellant’s lengthy brief.

CONCLUSION

For these reasons, the State and the Attorney General respectfully request that Appellant's Initial Brief and Designation be Struck in their entirety and that any corrected brief or designation subsequently filed be limited to fixing these problems and not present new substantive arguments or exhibits for the record. While the Court considers this Motion, the State and the Attorney General respectfully request that the time limits for filing their initial brief and designation be stayed and at least held in abeyance while the stay request is considered.

Respectfully submitted,

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ATTORNEYS FOR THE STATE AND ATTORNEY
GENERAL

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CERTIFICATE OF SERVICE

I certify that this July 24, 2025, I have served the Motion to Strike of the State and the Attorney General on the other parties by mailing it to Appellant through the United States mail at the address below and by emailing it to counsel for the other Respondents at the email address below.

Mr. Alonzo C. Jeter, III, #282902
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David Leggett
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s/J. Emory Smith, Jr.
J. EMORY SMITH, JR.
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July 24, 2025

ATTORNEY FOR THE STATE AND ATTORNEY
GENERAL