

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
MAY 08 2014
SC Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of General Sessions
Brian M. Gibbons, Circuit Court Judge

Appellate Case No.: 2013-002510

THE STATE,Respondent,

v.

JOSEPH WRIGHT, JR.,Appellant.

**MOTION TO AMEND
DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

COMES now the Appellant, by and through his undersigned counsel, and moves this honorable Court for an Order amending the Designation of Matter to Be Included in the Record on Appeal to include copies of the following documents, to wit:

1. Letter, dated March 28, 2014, to the Honorable Jenny Abbott Kitching, Clerk of the S. C. Court of Appeals, from Matthew C. Buchanan, Esq., General Counsel for South Carolina Department of Probation, Parole and Pardon Services, which reads, in pertinent part:

. . . Respondent [Department of Probation, Parole and Pardon Services] respectfully request that the Court allow Respondent additional time in order to be served with the Initial Brief and be allowed time to file an Initial Brief of Respondent. [Copy of Letter attached as Exhibit A.]

2. Letter, dated March 31, 2014, to the Honorable Jenny Kitchings from the undersigned counsel for Appellant which reads, in pertinent part:

. . . As evidenced by the Hearing Transcript of September 6, 2013 in the matter of *State v. Joseph Wright* . . . the [South Carolina] Department [of Probation, Parole and Pardon Services] was not served because it is not a party to this matter. [Copy of Letter attached as Exhibit B.]

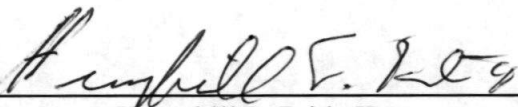
3. Letter, dated April 3, 2014, to the undersigned counsel for Appellant from Deputy Clerk V. Claire Allen which reads, in pertinent part:

. . . serve a copy of your appellant's initial brief and designation of matter upon Mr. Matthew Buchanan and provide a correct proof of service to this Court within ten (10) days of the date of this letter. [Copy of letter attached as Exhibit C.]

5. Correct Certificate of Service. [Copy of Certificate attached as Exhibit D.]

The Department of Probation and Parole has now served it's initial "Brief of Respondent" and Designation of Matter in this case and Appellant desires to supplement his Designation of Matter in order to rebut the Department of Probation and Parole's additional evidence.

**Law Office
of
HEMPHILL P. PRIDE II, LLC**



Hemphill P. Pride II
Post Office Box 4529
Columbia, South Carolina 29240
(803) 256-8015
e-mail address hppride@bellsouth.net

May 8, 2015

ATTORNEY FOR APPELLANT

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor



KELA E. THOMAS
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.state.sc.us/ppp

March 28, 2014


The Honorable Jenny Abbott Kitchings
Clerk of the S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

RE: State v. Joseph Wright, Jr.
Appellate Case No.: 2013-002510

Dear Ms. Kitchings:

Per the Court's letter dated March 25, 2014, indicating that Respondent has not served and filed an Initial Brief and Designation of Matter, please be advised that Respondent was never served with a copy of Appellant's Initial Brief and Designation of Matter. Therefore, Respondent respectfully requests that the Court allow Respondent additional time in order to be served with the Initial Brief and be allowed time to file an Initial Brief of Respondent.

Sincerely,



Matthew C. Buchanan
General Counsel

MCB:dn

cc: Hemphill P. Pride, II, Esquire
Robert Dudek, Appellate Defense

EXHIBIT A

LAW OFFICE
OF
HEMPHILL P. PRIDE II, LLC

1401 GREGG STREET
COLUMBIA, S C 29201
TELEPHONE (803) 266-8015
TELE-COPIER (803) 771-8014

MAILING ADDRESS
P.O. BOX 4529
COLUMBIA, SC 29240

March 31, 2014

Honorable Jenny Kitchings
Clerk of Court
SOUTH CAROLINA COURT OF APPEALS
Post Office Box 11629
Columbia, South Carolina 29211

RE: Joseph Wright, Jr., v. State of South Carolina
Docket No. 2003-GS-40-5502

Dear Ms. Kitchings:

In a letter to you dated March 28, 2014, of which the undersigned received a copy, Matthew C. Buchanan, Esq., Counsel for the South Carolina Department of Probation, Parole and Pardon Services [hereinafter "the Department"] advised: ". . . the [Department] was never served with a copy of Appellant's Brief and Designation of Matter."

As evidenced by the Hearing Transcript of September 6, 2013 in the matter of *State v. Joseph Wright* (Docket No. 2003-GS-40-5502 to 5504), the Department was not served because it is not a party to this matter. The Transcript reads, in pertinent part:

THE COURT: Does the deal as presented get probation out of the picture?

MR. SAUNDERS: Yes, sir.

THE COURT: Because y'all want to terminate the probation, he has been on it for more than five years now.

AGENT BOYD: Yes, sir.

MR. SAUNDERS: Yes, sir. It does.

See enclosed copy of TR. p. 3, lines 19-25.

EXHIBIT B

Honorable Jenny Kitchings
Page Two
March 31, 2014

The Office of the Solicitor for the Fifth Judicial Circuit is, in fact, the party of record. Accordingly, Solicitor Daniel Johnson was duly served with the Initial Brief of Appellant and Designation of Matter to Be Included in the Record on Appeal.

Sincerely,


Hemphill P. Pride II

HPPII/pab

Enclosure

c: Matthew C. Buchanan, Esq. [w/Enclosure]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND
2003-GS-40-5502 to 5504

State of South Carolina
vs.
Joseph Wright

Lancaster, South Carolina
September 6, 2013
Before the Honorable Brian Gibbons

APPEARANCES

For Probation: Agent Lynn Oliver
For the Defendant: Harrison Saunders
For Homeowners Enterprise, Inc.: Robert P. Wood
Reported by: Michael C. Watkins
Official Court Reporter

1 THE COURT: All right. Yes, ma'am?

2 AGENT BOYD: Your Honor, you have before you Joseph
3 Wright on indictments number 2003-40 for Richland County
4 5503, 5504 and 5502 for forgery value \$5,000 or more,
5 obtaining signatures and property under false pretenses
6 \$5,000 or more and financial identity fraud. His probation
7 began actually July 9th of 2008, had an expiration date of
8 July 8th of 2013. He was sentenced by the Honorable
9 Reginald Lloyd in Richland County, sentence was ten years
10 suspended upon the service of 60 days and five years
11 probation for each indictment. The indictment was later
12 amended in July of 2007 and stipulates that \$45,000 had
13 already been paid to Homeowners Mortgage Enterprise, and
14 \$5,000 had been paid to Mr. Amos Price. It was ordered on
15 the same date at the request of Homeowners that Mr. Wright
16 be sentenced to a 60 day incarceration at Alvin S. Glenn
17 Detention Center and was waived so that Defendant Wright
18 could remain gainfully employed in order to make restitution
19 as set out herein. That five year probationary period would
20 begin on July 1st of 2007 and end on July 1st of 2012, the
21 total remaining restitution due to Homeowners -- the total
22 remaining restitution due to Homeowners from Defendant
23 Wright was the sum of \$100,000. An installment of \$25,000
24 was to be paid on or before June 10th of 2007, the remaining
25 balance of restitution \$75,000 together with the court

1 required fee of 20 percent pursuant to South Carolina Code
2 17-25-322C for a total of \$90,000 would be paid over the
3 course of four years which required 80 percent of Defendant
4 Wright's probation at the rate of \$1,875 per month.

5 THE COURT: All of his fees to y'all have been paid?

6 AGENT BOYD: Your Honor, at the time that the process
7 was issued we were still showing outstanding sur-charges for
8 the Richland County Clerk of Court.

9 THE COURT: All right. I see there's several lawyers
10 standing in front of me now so apparently there has been a
11 deal reached was the best way to put it, is that correct,
12 Mr. Saunders?

13 MR. SAUNDERS: That is correct, Your Honor, Harrison
14 Saunders here for Joseph Wright. That is correct, Your
15 Honor, and we have it -- I think I'll let Mr. Wood explain
16 the deal, Your Honor, and see if you would accept that. I
17 think he's a little clearer on it and probably would present
18 it better than me.

19 THE COURT: Does the deal as presented get probation
20 out of the picture?

21 MR. SAUNDERS: Yes, sir.

22 THE COURT: Because y'all want to terminate the
23 probation, he has been on it for more than five years now.

24 AGENT BOYD: Yes, sir.

25 MR. SAUNDERS: Yes, sir, it does.

1 THE COURT: Mr. Wood, let me hear from you then and we
2 will see what we're going to do.

3 MR. WOOD: Thank you, Your Honor. My name is Robert P.
4 Wood, I go by Bob Wood, I represent Homeowners Enterprises,
5 Inc. We have reached a deal whereby today probation will be
6 deemed over, ended whether it's Richland County or Lancaster
7 or wherever it may be for Mr. Wright. Also today Mr. Wright
8 will confess today to being guilty of willful civil contempt
9 for not having made his payments, however -- and he would
10 agree to serve six months in jail for that contempt. He can
11 purge himself of that contempt, however, if he will pay my
12 client through my office, Rogers, Townsend and Thomas, the
13 sum of \$5,000 on or before October 1st of 2013. Thereafter
14 as long as he pays \$1,500 a month we will not try to enforce
15 the civil contempt until he has paid my law firm the sum of
16 \$38,500, that sum of money being the sum that starts today
17 or moving forward. If however he misses any of these
18 payments we will have --

19 THE COURT: And the payments are due on what day each
20 month?

21 MR. WOOD: The 5th day of each month.

22 THE COURT: Commencing?

23 MR. WOOD: October 1.

24 THE COURT: So October 1 you're going to get 6,500.

25 MR. WOOD: No, I'm glad you asked. On October 1 he

1 will pay my client through my law firm \$5,000.

2 THE COURT: Got it.

3 MR. WOOD: On November 1 he will pay my office \$1,500.

4 THE COURT: Got it.

5 MR. WOOD: On December 2 -- we had to work this out --
6 on December 2 he will pay my office \$1,500. On January 6th
7 he will pay my office \$1,500 and thereafter starting
8 February 5 he will pay my office \$1,500 a month until he has
9 paid my office, my client the total sum of \$38,500 starting
10 with this payment that's due.

11 THE COURT: Prepay without penalty?

12 MR. WOOD: That's right. And Your Honor, we are
13 working out a different deal but we couldn't get it done
14 today and if we do reach this different deal it would not
15 require Court approval. And what that is is if he does this
16 other deal then I would simply agree not to file a motion to
17 have him put in jail but I don't think you need to know
18 about that. So the ball would be in my court to ask this
19 Court to put him in jail if he misses one of these payments.
20 Also if he makes all of these payments then my office, my
21 client will satisfy this big judgment that we have against
22 Mr. Wright, I think it's for roughly \$150,000, but we will
23 satisfy all judgments we have against Mr. Wright, we will
24 give him a release, we will agree not to prosecute him for
25 any crimes, the whole case will be totally over if he meets

1 all of these payments on time as he is agreeing here this
2 morning. And that is our deal, Your Honor.

3 THE COURT: Mr. Saunders, is that your understanding of
4 the agreement?

5 MR. SAUNDERS: That's right, Your Honor. And I was
6 talking to my client and I didn't hear the very end of that
7 but I believe Mr. Wood said all judgments would be
8 released --

9 THE COURT: All judgments satisfied, released,
10 everything will be over with upon the payment of 38-5 per
11 the terms he just stated, plus the five initially up front.

12 MR. WOOD: Well, no, the 38-5 includes that five that
13 he pays up front.

14 THE COURT: So a total of 38-5.

15 MR. WOOD: That's right.

16 THE COURT: Not 43-5.

17 MR. WOOD: Right. The 43-5 is really what he owes
18 according to probation and part of the deal, the sweetener,
19 is we would drop that last \$5,000 if he meets these terms.

20 THE COURT: Okay. I've got it. All right. And Mr.
21 Wright, if you will raise your right hand for me.

22 (The defendant was sworn.)

23 THE COURT: And I need you to answer out loud so my
24 court reporter can pick up your testimony. First of all
25 have you heard what Mr. Wood and your lawyer stated into the

1 record?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: Do you understand the agreement?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Has anybody forced, pressured, coerced or
6 made you enter into this agreement against your will?

7 THE DEFENDANT: No.

8 THE COURT: Are you today under the influence of
9 alcohol, drugs or any other mind alternating substance?

10 THE DEFENDANT: No.

11 THE COURT: Do you understand this agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that one of the terms, in
14 fact, the very important term of this agreement being that
15 you are admitting that you have willfully violated the terms
16 of any repayment you were supposed to do to get this debt
17 off of you. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that once I adjudicate or
22 find that you are in civil contempt of court you could be
23 sentenced up to six months in jail for civil contempt
24 without a jury trial. If you have a jury trial then you're
25 looking at it could be five years or so, do you understand

1 that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. But the terms of this agreement
4 say that you're admitting that you're in civil contempt of
5 court and you're agreeing that if you don't pay as stated in
6 this agreement you're looking at six months in jail for your
7 contempt, do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have the ability to make these
10 payments?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And I find that he has the ability to make
13 these payments. Now, you understand what happens if you
14 don't make these payments?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What happens?

17 THE DEFENDANT: Six months in jail.

18 THE COURT: Right. Are you satisfied with your lawyer?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has he answered all of your questions?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you believe that under the circumstances
23 this a fair resolution to this situation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you asking me to approve this

1 agreement?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is this what you want me to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Saunders, any other questions for your
6 client?

7 MR. SAUNDERS: Your Honor, I do not believe so.
8 Actually we talked in one of the rooms outside of the
9 courtroom, all three of us, Mr. Woods, Mr. Wright and myself
10 went over this particular agreement and the contingent
11 agreement that Mr. Wood referenced and I believe he
12 understands everything and I believe this is a fair
13 arrangement.

14 THE COURT: All right.

15 MR. SAUNDERS: So we would ask you to accept it.

16 THE COURT: All right. Mr. Wood, do you agree?

17 MR. WOOD: Yes, sir. I do want to make sure, though,
18 that I'm going to prepare an order whereby the Court will
19 today find that Mr. Wright is in willful civil contempt of
20 court and is sentenced to six months.

21 THE COURT: I'm fixin' to do that.

22 MR. WOOD: I just want to make sure we're straight
23 about that.

24 THE COURT: That's why I had to ask them those
25 questions. Anything else from probation's standpoint?

1 AGENT BOYD: No, sir Your Honor.

2 THE COURT: The terms of this agreement then would be
3 taking it off your rolls and that is the good thing for
4 probation. And you understand that then, sir, you won't be
5 on probation anymore, that's going to be done, be over with
6 so that's a big lick for you. The big lick for them, of
7 course, is they're getting their money back. And, of
8 course, you understand that I'm going to find based upon my
9 questioning of you that you have not paid this money when up
10 to this point you had the ability to do so so therefore I am
11 going to make a finding of contempt against you, do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you agree with that finding of
15 contempt?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Therefore it is ordered. I
18 find that Mr. Wright is in willful civil contempt of the
19 previous restitution orders ordering that he pay the
20 restitution in full. I find that the total amount that he
21 is behind is \$38,500 comprised by the agreement of the
22 parties. I therefore sentence him to six months in the
23 Lancaster County Detention Center, however he may purge
24 himself of that sentence if he abides by the agreed upon
25 terms previously stated into the record. That order will be

1 prepared by Mr. Wood. Mr. Saunders, I'll ask that you sign
2 off on that order as well when it comes in so it will be a
3 consent order and I also want your client to sign it if you
4 can get him in the office to sign it as well before it comes
5 to me for my signature.

6 MR. SAUNDERS: Yes, sir.

7 MR. WOOD: Your Honor, because the \$5,000 comes off the
8 back end, I think I do want the Court to find that he owes
9 the \$43,500.

10 THE COURT: The sentence of the Court -- or the finding
11 of the Court is that the total amount is the 43-5, however I
12 find that your client, Mr. Wood, has agreed to take 38-5 in
13 exchange for this settlement today.

14 MR. WOOD: That's exactly right.

15 (End of the hearing.)

16

17

18

19

20

21

22

23

24

25

1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial of the captioned case,
6 relative to appeal, in the Court of General Sessions for
7 Lancaster County, South Carolina, on the 6th day of
8 September, 2013.

9 I do further certify that I am neither of kin, counsel,
10 nor interest to any party hereto.

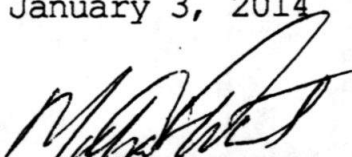
11

12

January 3, 2014

13

14


Michael C. Watkins
Court Reporter

15

16

17

18

19

20

21

22

23

24

25



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 03, 2014

Mr. Hemphill P. Pride, II, Esquire
PO Box 4529
Columbia SC 29240-4529

Re: The State v. Joseph Wright, Jr.
Appellate Case No. 2013-002510

Dear Counsel:

Please serve a copy of your appellant's initial brief and designation of matter upon Mr. Matthew Buchanan and provide a correct proof of service to this Court within ten (10) days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Matthew C. Buchanan, Esquire

EXHIBIT C

