

THE STATE OF SOUTH CAROLINA

In the South Carolina Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Jr., Circuit Court Judge

Civil Action No. 13-CP-40-0301

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MAY 19 2014
SC Court of Appeals

Basil W. Akbar, #065498,

Appellant,

v.

South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Respondents.

**RESPONDENTS' MOTION TO CHALLENGE
APPELLANT'S RECORD ON APPEAL AS SUBMITTED**

Under Rule 210(a), South Carolina Rules of Appellate Procedure, “[w]ithin thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.” As for the content of the Record on Appeal, under Rule 210(c), it “shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal.” Rule 210 also sets forth guidelines for how the

content of the Record on Appeal is to be arranged. Furthermore, under Rule 211, SCACR, the parties to an appeal have twenty (20) days after the service of the Record on Appeal in which to file and serve their final briefs.

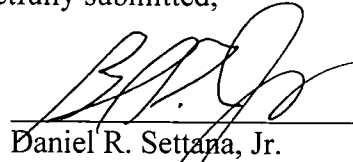
On April 30, 2014, the undersigned counsel for Respondents received a document from Appellant entitled "Record on Appeal." *See* Exhibit A. However, while the document is identified by the Appellant as the Record on Appeal, it clearly does not comply with Rules 210 or 267, SCACR, as the Record on Appeal submitted by the Appellant does not include all of the documents listed by the Respondents in their Designation of Matters to be Included in the Record on Appeal. Also, the Appellant's apparent Record on Appeal includes documents that appear to have not been presented to the circuit court. Therefore, because the purported Record on Appeal submitted by the Appellant does not comply with the South Carolina Rules of Appellate Procedure, it is unclear if the document submitted by the Appellant is a proper Record on Appeal. Therefore, Respondents respectfully move this Court to determine whether the document received by the Respondent from the Appellant is a proper Record on Appeal which commences the twenty (20) day time period in which parties are to file final briefs.

Furthermore, to the extent the Court construes the document served by the Appellant to be the Record on Appeal, Respondents respectfully request an Order from the Court requiring the Appellant to supplement the Record with those documents included by the Respondents in their Designation of Matters which are not currently a part of the Appellant's Record on Appeal as submitted.

Respondents further respectfully request that all time limits for filing final briefs be stayed pending the Court's decision with regard to this Motion.

[SIGNATURE LINE ON FOLLOWING PAGE]

Respectfully submitted,



Daniel R. Settana, Jr.

Brandon P. Jones

McKay, Cauthen, Settana & Stublely, P.A.

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May 19, 2014

THE STATE OF SOUTH CAROLINA

In the South Carolina Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Jr., Circuit Court Judge

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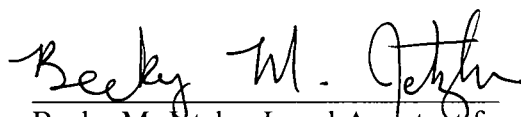
South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Respondents.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 19, 2014, a copy of the foregoing **RESPONDENTS' MOTION TO CHALLENGE APPELLANT'S RECORD ON APPEAL AS SUBMITTED** was served on Pro Se Plaintiff by mailing a copy of same in the United States Mail, via certified mail, return receipt requested, proper postage prepaid, addressed as follows:

Basil W. Akbar, #65498
Lee Correctional Institute
990 Wisacky Hwy, Ker. 2224-N
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Meghan H. Hall

May 19, 2014

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: Basil Akbar v. SCDC, Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe
SC Appeal No.: 2013-002306
Richland Co. Case No: 2013-CP-40-0301
Claim No: 75046
Our File No: 9-372

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MAY 19 2014

SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed for filing the original and eight (8) copies of **Respondents' Motion to Challenge Appellant's Record on Appeal as Submitted** in reference to the above matter. Please return two (2) clocked-in copies of each of these documents to me via my courier.

Thank you for your assistance. Should you have any questions or concerns, do not hesitate to contact me.

With kindest regards, I am,

Very truly yours,

Meghan H. Hall, for

Brandon P. Jones

BPJ/bmj

Enclosures

cc: Basil Akbar, #65498 (via Certified/Return Receipt Requested)