

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Greenville County
Edward W. Miller, Circuit Court Judge

THE STATE,

Respondent,

vs.

WILMOND VINCENT MATHIS,

Appellant.

**MOTION TO STRIKE INITIAL BRIEF OF
APPELLANT AND DESIGNATION OF
MATTER PURSUANT TO RULES 209 AND 268(d), SCACR**

Respondent moves to strike Appellant's Initial Brief and Appellant's Designation of Matter of an irrelevant circuit court order from an unrelated case. Respondent respectfully requests that other deadlines be held in abeyance pending resolution of Respondent's motion. Respondent, though undersigned counsel, would respectfully show this Court as follows:

I.

The Initial Brief of Appellant includes citation and quotation from a circuit court order in the Eighth Judicial Circuit in a matter unrelated to the present case. Initial Brief of Appellant, p. 6. Citation is improper under Rule 268(d), SCACR, which expressly states: "Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved." Accordingly, citation and reference to this

order should be struck from the Initial Brief of Appellant. See also, Ford v. Beaufort County Assessor, 398 S.C. 508, 515, 730 S.E.2d 335, 339 n.3 (Ct. App. 2012).

II.

The above mentioned order is also designated by Appellant. It is improper for the record on appeal. Rule 209, SCACR(b) specifies that parties: “shall not include any matter in [the] Designation which is not relevant to the appeal.” The order, which is improper for citation in briefs to this Court, is not proper for designation on appeal since it is irrelevant to the appeal.

III.

WHEREFORE, Respondent prays that the Court strike the Appellant’s Initial Brief; strike the challenged order from the designation of matter; hold the filing deadlines in abeyance pending resolution of this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General

BY: 

DAVID SPENCER

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(803) 734-3727

ATTORNEYS FOR RESPONDENT

May 6, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Greenville County
Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

Respondent,

vs.

WILMOND VINCENT MATHIS,

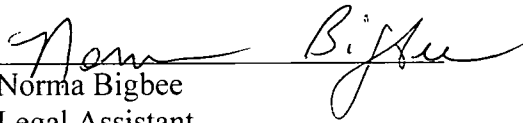
Appellant.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served Respondent's Motion to Strike Initial Brief of Appellant and Designation of Matter Pursuant to Rules 209 and 268(d), SCACR on Appellant's Attorney by depositing a copy of the same in the United States mail, postage prepaid, addressed to Aaron J. Angell, Esquire, 398 College Ave., Clemson, SC 29631.

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

This 6th day of May, 2014.


Norma Bigbee
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737



ALAN WILSON
ATTORNEY GENERAL

May 6, 2014

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MAY 06 2014

SC Court of Appeals

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Wilmond Vincent Mathis
Appellate Case No: 2013-001020

Dear Ms. Jennings:

Enclosed for filing are the original Respondent's Motion to Strike Initial Brief of Appellant and Designation of Matter Pursuant to Rules 209 and 268(d), SCACR, along with proof of service, in the above-referenced case.

Sincerely,

David Spencer
Senior Assistant Attorney General

DS/nb

Enclosures

cc: Aaron J. Angell, Esquire
Ms. Trisha Allen