

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS
THE HONORABLE DANIEL F. PIEPER
THE HONORABLE JOHN D. GEATHERS, JJ.,
THE HONORABLE JASPER M. CURETON

RECEIVED

JUL 25 2012

S.C. SUPREME COURT

Case No. 2009-121-926

Kenneth Lee Holbert, Jr.,Appellant,

v.

South Carolina State Board for Technical and
Comprehensive Education, Respondent.

**APPELLANT'S RESPONSE IN OPPOSITION
TO RESPONDENT'S RETURN IN OPPOSITION
TO APPELLANT'S MOTION FOR
STAY OF TIME OR EXTENSION TO FILE A MOTION
FOR WRIT OF CERTIORARI UNTIL COURT SETTLEMENT OR
SETTLEMENT CAN BE REACHED**

INTRODUCTION

Appellant, Kenneth L. Holbert, (hereinafter "Appellant"), hereby files his Response in Opposition to Respondent, South Carolina State Board for Technical and Comprehensive Education (hereinafter State Tech or Respondent), by and through its undersigned counsel,

Boykin and Davis, LLC, Return in Opposition to Appellant's Motion for Stay of Time or Extension to File a Motion For Writ Of Certiorari Until Court Settlement or Settlement with Respondent Can Be Reached. Respondent filed a motion for Relief to File Return out Of Time on July 11, 2012 because the Respondent Miscalculated the Deadline of July 9, 2012. The Court Granted this Motion Until July 12, 2012. Appellant is responding in opposition to their Motion granted on July 12, 2012 within the 10 day time to respond according to rule 240 (e) which ended on Sunday July, 23 , 2012, which according to Rule 263 (a) allows the time to run to the end of the next day which is neither a Saturday, Sunday, nor such Holiday. So this day, 7-23-2012 is considered the 10th day.

I am not going into any legal analysis at this time regarding my appeal. I have an attorney ready to do that for me when I can pay him. I hired a law firm, Tinsley and Tinsley for the sole purpose of retrieving my belongings from Greenville Technical College, (hereinafter "Tech") to sell and pay **my attorney to represent me in the Supreme Court** and to use the additional funds from the sale of my belongings for living expenses. Tinsley is working tirelessly on this matter as I am writing this response to try to resolve this issue. Boykin and Davis are in a position to wait this out and allow this to expire based on time. Boykin and Davis are well aware that the Tech has discussed this and are in fact aware that the retrieval of my belongings is tied to my ability to retain counsel for this employment matter. Tech knew that and at least in February 2012 Boykin and Davis understood that. After trying to work with Tech for years to return my belongings, they finally returned 3 of my items in a meeting in October 2011. I subsequently sold these within 3 weeks for over \$1,000.00. I believe this sets a precedent to the amount of money in my inventory Tech possesses. I have been told again and again that tech did not have any more of my belongings until my meeting with them in October 2011. At that time I told the

HR director and Manager 3 of my items and there last known locations which I have previously given to Tinsley. They promptly went and retrieved them for me. Greenville Tech put my former supervisor Shrum in charge of retrieving acknowledging the history behind his past negative actions towards me that resonate to this day. The HR director and Manager acknowledged during our discussion that Shrum might make it hard for me to retrieve my belongings. They led me to believe that they would help me retrieve the rest of my items in October 2011. After 3 more months of active correspondence with Tech, Boykin and Davis sent me a cease and desist letter.

ARGUMENT

I will directly respond to Boykin and Davis by listing their statement in

“Italics and underline.”

I - “Holbert’s third motion should be denied because Holbert continues to file such motions as a delay tactic”

I have thought a long time about this and cannot understand how a delay would be of any benefit to me. I have an attorney that will represent me before the Supreme Court and I would like to hire him to represent me. The wholesale value of my belongings at Tech is over \$20,000.00 and I need those funds to pay the attorney.

II - "Holbert's reliance upon matters that are outside of the record and not related to the facts in this case, as a basis for a stay of extension of time is misplaced."

My attorney is now preparing a case to prove that the respondent is obstructing the retrieval of my belongings. Therefore this matter should be proven in court to have been, "misplaced". Part of the evidence supports that this obstruction is due to the Tech not wanting to return my items to me rather than having not having my items in their possession. Therefor the reliance upon this matter is not misplaced. I have already made reference to some evidence of that above. Part of my job at Tech was overseeing a significant amount of donations as well as arrainging the loan of items to Tech from third parties including software. I worked for 7 Engineering Technology Departments and it was Tech's, or in this case Tech's department heads, responsibility to provide a list of items that are either on loan to Tech or donated to Tech. There are forms to fill out and other proper accounting for these items. The last big loan I made was some of the most expensive equipment and that was in June of 2006 and loaned to the Power Lab in Bldg. 103 Room 144 of Tech.

III - "However, recently – six days prior to the original deadline in which Holbert was to file the petition before this court – an attorney contacted counsel for the college regarding more equipment allegedly belonging to Holbert."

Respondent's statement above is one of the more distressing statements of all to me. It shows that counsel for the respondent is apparently not exercising due diligence in conveying the truth. Rather than listing every discussion as proof, I will list my February 3, 2012 discussion as an indication to the fact that the college does have my items even when they say they don't. I have

continually requested the return of my belongings since 2007. In April 2011 I met with Tech regarding the return of my belongings. I wrote Tech again in July 2011. I met with tech in October 2011 and after being told Shrum could not find any of my belongings, Tech immediately found 3 of my items. Tech's HR director then asked me to send them a list or pictures of the rest of the items and they would make sure I got them. I did that just prior to their Christmas break in December 2011. I followed up again on February 3, 2012 by writing Tech's HR manager Moore and stated the following:

"Regarding the items on loan to the college, I have some concerns about Sid Shrum 's intentions on finding my items. If you recall he stated in October 2011 that he was unable to find anything. I then brought up two readily identifiable items which they then produced for me and we were able to sell those for over \$1000.00 to help us pay our bills. There are a lot more that I need to get. "

Tech HR Manager Moore responded on that same day:

Ken,

I have forwarded your e-mail to Susan as she will be the person to approve another meeting.

February 2012 is also the time Boykin and Davis became involved and sent me a cease and desist letter. That is when I was forced to hire counsel for the retrieval of my belongings to pay an attorney for representation before the Supreme Court.

IV - "Holbert has yet to provide reasonable descriptions of the alleged property."

A dialog between my attorney and Tech's began in April 2012. My attorneys responded twice to Tech's request for their, "most current", necessary description. Their necessary description changed between correspondences. Tech would make a request and my attorney would respond favorably. Tech would then change their requirements and request a response. My attorney

would again respond favorably. It then became obvious in our opinion that Tech's intentions were to not allow me to retrieve my belongings or to be able to retain counsel.

V - "The college believes that Holbert is attempting to extort materials from the college by creating an unreasonable demand and using such a demand as a basis for not proceeding with the appeal that Holbert is seeking before this court"

The statement above is the most appalling of them all. I have stated above the provable facts regarding this case. The statement above is the reason why I am currently asking for a stay. I can see no rational reason for the statement.

CONCLUSION

With the utmost respect, and knowing of no benefit I could possibly receive from an extension or stay regarding the matter argued above, except for having an ability to obtain representation, I request that my motion for a stay or extension of time in this matter be granted, until a court can rule on it or it can be resolved with respondent be approved. I have consistently been misled by Tech regarding the return of my items and other matters since this began. I am copying my attorneys on this and they now have every aspect of ownership, pictures, purchase receipts, email correspondence etc., to these items in their hands and will be acting on this matter this week. If a number of days that I am requesting is necessary for the court then I would like to request 60 days from today, July 23, 2012. The understanding that I have a right to my day in court has been indoctrinated into me from childhood. If the respondent has control over my ability to that right and subsequently blocks every attempt at obtaining that right whether by not allowing me to retrieve my belongings, and in addition accuses me of extortion then I can only believe that

something is greatly amiss in this matter. I am therefore requesting that the request for stay or extension of time until a court can rule on it or it can be resolved with respondent be granted in regards to filing the writ of certiorari.

Respectfully submitted,



Kenneth Lee Holbert, Jr.

104 Sun Blvd
Easley, SC 29642
(864) 269-2838

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS

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S.C. SUPREME COURT

Case No. 2012-211989

Kenneth Lee Holbert, Jr., Petitioner,

v.

South Carolina State Board for Technical and
Comprehensive Education, Respondent.

PROOF OF SERVICE

The Undersigned hereby certifies that they have served **APPELLANT'S RESPONSE IN OPPOSITION TO RESPONDENT'S RETURN IN OPPOSITION TO APPELLANT'S MOTION FOR STAY OF TIME OR EXTENSION TO FILE A MOTION FOR WRIT OF CERTIORARI UNTIL COURT SETTLEMENT OR SETTLEMENT CAN BE REACHED**

on Respondent's counsel of record, by mailing a copy of same, postage prepaid and return address clearly indicated to the following:

Monday, July 23, 2012

Charles J. Boykin
Boykin & Davis, L.L.C.
P.O. Box 11844
Columbia, SC 29211



Kenneth L. Holbert Jr.
104 Sun Blvd
Easley, SC 29642

Kenneth Lee. Holbert
104 Sun Blvd
Easley, SC 29642
(864) 269-2838

Monday, July 23, 2012

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S.C. SUPREME COURT

VIA U.S. MAIL

The honorable Daniel Shearhouse Clerk.
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

Re: Kenneth L. Holbert v. South Carolina State Board for technical and
Comprehensive Education
Case No.: 2012-211989

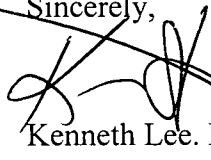
Dear Mr. Shearhouse:

Enclosed please find the original and 6 copies of the Return in Opposition to Appellant's Motion for Stay of Time or Extension to File a Motion for Writ of Certiorari until Court Settlement or Settlement with Respondent Can Be Reached.

By copy of this letter, I am serving a copy on the Respondent's counsel of record. I am copying the counsel I have retained in the retrieval of my belongings as discussed in the response.

Should you have any questions please feel free to contact me.

Sincerely,



Kenneth Lee. Holbert

Enclosures

cc: Charles J. Boykin (w.encl.)
Robert Tinsley (w.encl.)