

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
COURT OF GENERAL SESSIONS

Appellate Case No. 2012-213631

Edward B. Cottingham, Circuit Court Judge

Case No. 2012-GS-26-00859

State of South Carolina, Respondent,

v.

Rickey Mazique, Appellant.

RETURN

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
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Counsel for Appellant

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SC Court of Appeals

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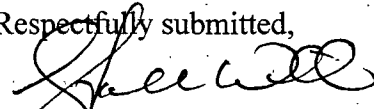
Rule 201, SCRE governs judicial notice. The pertinent portion states: (a) Scope of Rule. This rule governs only judicial notice of adjudicative facts. (b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Rule 201(a)-(b), SCRE.

"A trial court may take judicial notice of a fact only if sufficient notoriety attaches to the fact involved as to make it proper to assume its existence without proof." Bowers v. Bowers, 349 S.C. 85, 94, 561 S.E.2d 610, 615 (Ct.App.2002) (*quoting* Eadie v. H.A. Sack Co., 322 S.C. 164, 171-72, 470 S.E.2d 397, 401 (Ct.App.1996)). "A fact is not subject to judicial notice unless the fact is either of such common knowledge that it is accepted by the general public without qualification or contention, or its accuracy may be ascertained by reference to readily available sources of indisputable reliability." *Id.* (*quoting* Eadie, 322 S.C. at 172, 470 S.E.2d at 401).

The Supreme Court in Bowen, took judicial notice that, generally, Baptist churches are governed by their own congregations. Bowen, 275 S.C. at 434, 272 S.E.2d at 435. Therefore, an appellate court can take judicial notice of certain indisputable facts. Here, the Respondent does not argue that the fact that the Appellant would have this Court take notice of is not true. Rather it seeks to enforce a procedural rule to bar the Appellant showing that there were, in fact, pending charges against the witness which could have been explored. If the Supreme Court's records as recorded on the judicial website are accurate, then the Appellant can direct the Court's notice to them. "A court can take judicial notice of its own records, files[,] and proceedings for all proper

purposes including facts established in its records.” Freeman v. McBee, 280 S.C. 490,
313 S.E.2d 325 (Ct.App. 1984). Rule 201, SCRE, allows this Court to take notice of the facts at
issue.

Respectfully submitted,



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August 29, 2014.

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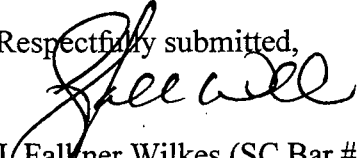
Rickey Mazique, Appellant.

CERTIFICATE OF SERVICE

I certify that I have served a copy of the Appellant's Return on the Respondent by placing a copy of same in the United States Mail, first class postage prepaid, this 29th day of August, 2014, addressed as follows:

David Spencer
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Respectfully submitted,


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SC Court of Appeals

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