

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL from Florence County
Court of Common Pleas

NOV 24 2014

S.C. SUPREME COURT

D. CRAIG BROWN, Circuit Judge

CASE NO. # 2011-CP-21-2095

CAMICHAEL T. FLOWERS

PETITIONER

-VS-

William K. BOONE

ET, AL

RESPONDENTS

PETITION for Writ of CERTIORARI

J. SCOTT KOZACK;
S.C. BAR NO. 64137
P.O. BOX 1909
Florence, S.C. 29503-1909
ATTY. for Respondents

CAMICHAEL T. FLOWERS
Agency # 335445, RCI
P.O. BOX 2039, SB 39
Ridgeland, S.C. 29936
In Pro - SE
(PETITIONER)

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CERTIFICATE OF PETITIONER IN PRO-SE

PETITIONER CERTIFIES THAT THE PETITION FOR REHEARING WAS MADE AND FINALLY RULED ON BY THE COURT OF APPEALS ON OCT. 20. 2014.

PRESENTATION OF QUESTIONS

1. Did THE COURT OF APPEALS ERR WHEN IT DISMISSED PETITIONER'S APPEAL BASED UPON HIS FAILURE TO ORDER TRANSCRIPT?
2. Did THE COURT OF APPEALS ERR WHEN IT ISSUED THE 10-20-14 ORDER DENYING REHEARING?

STATEMENT OF THE CASE

THIS MATTER CAME BEFORE THE APPELLATE COURT BY WAY OF AN APPEAL FROM FLORENCE COUNTY, ON OR ABOUT APRIL 10, 2013.

ON APRIL 22, 2013 I RECEIVED NOTICE THAT THE CASE HAD BEEN ASSIGNED THE APPELLATE CASE NO. 2013-000823. (APP. 15)

ON AUG 8TH 2013, I WROTE BOTH THE S.C. COURT OF ADMINISTRATION AND THE CLERK OF COURT IN FLORENCE CO. INQUIRING AS TO WHOM THE COURT REPORTER WAS AND HOW I COULD REACH THIS PERSON A COPY OF THIS LETTER WAS ALSO FORWARDED TO RESPONDENTS' ATTY. OF RECORD. (APP. 16)

ON AUG. 14, 2013 I RECEIVED ENDOISEMENT GRANTING APPELLANT (PETITIONER) MOTION TO PROCEED IN FORMA PAUPERIS. (APP. 17)

INITIALLY (PETITIONER) WAS GIVEN THE WRONG INFORMATION REGARDING WHO THE COURT REPORTER WAS.

ON AUG 29TH 2013, COURT REPORTER KRISTAL J. SMITH INFORMED ME (PETITIONER) THAT SHE DID NOT WORK ON THE DAY OF (PETITIONER'S) SUMMARY JUDGEMENT HEARING, BUT PROVIDED (PETITIONER) ONLY THE NAME OF THE REPORTER, "CRYSTAL HOLMES". (APP. 18)

On SEPT. 11. 2013, I WROTE RESPONDENTS' ATTY. AND ASKED IF HE WOULD AGREE TO NOT ORDERING THE TRANSCRIPT, THE RESPONDENTS' ATTY. (KOZACKI) KNOWING AT THIS POINT THAT APPELLANT WAS IN A STATE OF PENURY, HE DECLINED MY OFFER, STATING THAT THE RECORD WOULD NOT BE COMPLETE. (APP 19)

On SEPT. 19. 2013 (PETITIONER) WROTE MS. CRYSTAL HOLMES, (COURT REPORTER) REQUESTING THE TRANSCRIPT.

In THE INTERIM BOTH PARTIES FILED THEIR INITIAL BRIEFS AND DESIGNATION OF MATTER. (APP 20) AND (APP 21)

On OCT. 28. 2013 DEPUTY CLERK V. CLAIRE ALLEN SENDS ME A COPY OF A LETTER SHE WROTE THE RESPONDENTS, "IN AS MUCH AS BOTH PARTIES HAVE SERVED AND FILED THEIR RESPECTIVE BRIEFS AND DESIGNATION OF MATTER, THE COURT CAN ONLY PRESUME THAT THE TRANSCRIPT PREVIOUSLY ORDER BY THE APPELLANT IS NO LONGER NEEDED," "AND COUNSEL FOR THE RESPONDENTS IS REQUESTED TO SERVE AND FILE AN AMENDED DESIGNATION OF MATTER REMOVING THE TRANSCRIPT OF RECORD WITHIN TEN DAYS OF THE DATE OF THIS LETTER." App ~~20~~ 21

On or about JAN 30. 2014, WHICH IS APPROXIMATE 94 DAYS PAST THE DIRECTIVE OF THE COURT, THE ATTY. FOR THE RESPONDENTS FILED A MOTION TO DISMISS.

. . . App 22

On 5/14/14 AN ORDER WAS HANDED DOWN FROM THE HON. JUSTICE TEN, GIVING (PETITIONER) TWENTY (20) DAYS TO provide THE COURT WITH proof I (PETITIONER) HAD MADE ARRANGEMENTS WITH COURT REPORTER HOLMES, FOR PAYMENT OF THE TRANSCRIPT.

Although TWO HUNDRED AND TEN (210) DAYS HAS PASSED SINCE I LAST WROTE COURT REPORTER HOLMES WITHOUT ANY RESPONSE, I AGAIN WROTE MS. HOLMES AND RELAYED THE FOLLOWING, "PLEASE - TRANSCRIBE THE ENTIRE RECORD, (PETITIONER) AGREES TO PAY THE PER PAGE CHARGE FOR THIS TRANSCRIPT, AS PROVIDED BY SCACR RULE 607", LETTER DATED MAY 15, 14. (APP 23)

On MAY 26, 14, AFTER NO ANSWER, I WROTE THE HON. CHIEF JUSTICE TOAL, AFTER READING SCACR 207, SUB. SEC. (A)(6), ONLY TO BE TOLD MY COMMUNICATION WAS EX PARTE, LETTER FROM SUPREME COURT DATED JUNE 3, 2014. (APP 24)

On JUNE 19, 2014 (PETITIONER) WROTE THE HON. ROSALYN W. FRIETSON, DIR. OVER COURT ADMINISTRATION COMPLAINING THAT (PETITIONER) HAD WRITTEN COURT REPORTER HOLMES BUT GOT NO RESPONSE, NOW OVER 30 DAYS AND COUNTING. (APP 25)

On 6/30/14 ASSOC. JUSTICE CURETON, GRANTS RESPONDENTS MOTION TO DISMISS.

JUSTICE CURETON FURTHER STATES THAT. . .

"THE RESPONDENTS HAVE FILED A MOTION TO DISMISS BASED UPON APPELLANTS' (PETITIONER) FAILURE TO ORDER TRANSCRIPT, AND THAT APPELLANT (PETITIONER) FAILED TO SHOW PROOF HE HAS MADE ARRANGEMENTS FOR PAYMENT OF THE TRANSCRIPT."

Justice CURETON FURTHER STATED THAT THE COURT ADMINISTRATION INFORMED HIM THAT APPELLANT NEVER FURNISHED THE COURT REPORTER WITH THE DATE OF THE HEARING AND LASTLY JUSTICE CURETON ADDS "APPELLANT (PETITIONER) PROVIDED THIS COURT WITH A COPY OF A LETTER TO THE COURT REPORTER WHEREIN HE (PETITIONER) REQUEST TO ORDER A TRANSCRIPT. (APP 26)

ON JULY 7, 2014 (PETITIONER) FILED A PETITION FOR REHEARING AND AFFIDAVIT, THE AFFIDAVIT BASICALLY - STATING, "AFTER NINE MONTHS AND MANY LETTERS (PETITIONER) HAS NOT HAD ANY COMMUNICATION WITH THE COURT REPORTER AT ALL. (APP 27)

ON JULY 8, 2014, (PETITIONER) RECEIVES A LETTER FROM S.C. COURT ADMINISTRATION, MS. DESITEE R. ALLEN, COURT REPORTER MANAGER, ATTACHED IS AN "UNSIGNED" LETTER FROM COURT REPORTER HOLMES, REQUESTING I SEND HER THE DATE OF THE HEARING SO SHE CAN LOCATE THE TAPE. (APP 28)

BE ADVISED THIS LETTER COMES EXACTLY - (54) DAYS AFTER (PETITIONER) WAS ORDERED TO WRITE THE COURT REPORTER, MS. HOLMES.

On July 9, 14 (PETITIONER) RESPONDS TO LETTER FROM MS. DESIREE ALLEN AND ATTACHMENT FROM COURT REPORTER MS. HOLMES.

PETITIONER PROVIDES THE HEARING DATE 3 TIMES IN THIS LETTER AND INCLUDES THE ORIGINAL REQUEST DATED SEPT. 19. 13. (APP 29)

On July 31, 2014 (PETITIONER) RECEIVES HIS SECOND (2ND) LETTER FROM COURT REPORTER HOLMES STATING THAT SHE ESTIMATES THIS TRANSCRIPT TO BE 30 PAGES IN LENGTH AND THAT SHE WILL NEED \$97.50 TO TYPE THIS TRANSCRIPT, MS. HOLMES ALSO STATED SHE WANTED A CERTIFIED CHECK OR POSTAL MONEY ORDER, ETC. AND THAT SHE WOULD BEGIN WORK ONCE SHE RECEIVED THE DEPOSIT. (APP 30)

On Aug. 6, 2014, (PETITIONER) CONTACTED CASE ANALYST ELIZABETH CARTER TO LET HER KNOW I WAS IN THE PROCESS OF CONTACTING MY MOTHER IN REGARDS TO THE TRANSCRIPT AND THAT I HAD HEARD NOTHING FROM THE COURT IN REGARDS TO THE REHEARING. (APP 31)

On Aug. 10TH 2014, (PETITIONER) WROTE THE CLERK OF COURT AND STATED "PURSUANT TO SCACR Rule 207, ~~HE~~ HE (PETITIONER) WAS REQUIRED TO FURNISH, CONTEMPORANEOUSLY, ALL COUNSEL, CLERKS, COURT OF ADMINISTRATION WITH COPIES OF CORRESPONDENCE WITH COURT REPORTER, I HAD INFORMED MS. HOLMES MY FAMILY WOULD PROVIDE ME WITH THE \$97.50. (APP 32)

PETITIONER REQUESTED A CLOCKED STAMPED FILED COPY OF THE RECORD ON APPEAL, INCLUDED IN THAT RECORD WAS A WRITTEN COLLOQUY THAT TOOK PLACE BETWEEN V. CLAIPE ALLEN, (DEPUTY CLERK) AND S.C. - COURT ADMIN. COURT REPORTER MANAGER (DESIREE ALLEN) ON SEPT. 10. 14 AT 1433 HRS, "DESIREE ALLEN IS TELLING DEPUTY CLERK ALLEN THAT SHE TOLD COURT REPORTER HOLMES THE DATE OF THE HEARING AND ASKS HER TO SEND - (PETITIONER) A LETTER ADVISING (PETITIONER) OF THE COST FOR THE TRANSCRIPT.

ON OCT. 4. 14, (PETITIONER) SPOKE WITH HIS BROTHER, WHO INFORMED (PETITIONER) THAT HE HAD MAILED (MS. HOLMES) COURT REPORTER THE DOWN PAYMENT OF \$197.50 FOR THE TRANSCRIPT. ON SEPT. 19 2014. I (PETITIONER) REQUESTED THAT HE SEND ME 3 COPIES OF THE NONNEGOTIABLE CHECK/MONEY ORDER SO THAT (PETITIONER) COULD PROVIDE THE COURT WITH PROOF OF PAYMENT.

ON OCT. 20. 2014, AN ORDER IS HANDED DOWN FROM THE COURT OF APPEALS DENYING MY PETITION FOR REHEARING. (APP 34)

THIS PETITION FOR A WRIT OF CERTIORARI ENSUED.

Affiant believes that this testimony is given under penalty of perjury, offers this attestation consistent with Rule 11 of the South Carolina Rules of Civil Procedure; Rule 43(D), of South Carolina Rules of Civil Procedure, and Rule 603 of the South Carolina Rules of Evidence.

Affiant sayeth no further:

Sworn to and subscribed
before me this 18 day of
November 2014

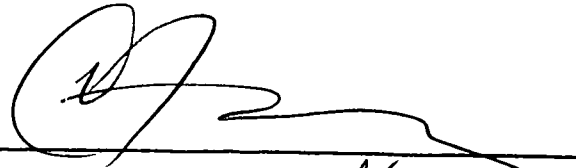
Virginia Rolensen

Notary Public

My Commission Expires May 26, 2021

DATE: 11/18/14

Jasper Co.



CAMICHAEL T. FLOWERS
Agency #335945, RCI
P.O. Box 2039, SB 39
Ridgeland, S.C. 29936

ARGUMENT

I. THE COURT OF APPEALS ERRED WHEN IT DISMISSED PETITIONER'S APPEAL FOR FAILURE TO ORDER THE TRANSCRIPT OF RECORD OF FLORENCE COUNTY COURT OF COMMON PLEAS ON 5-14-14.

THE ORDER OF THE CIRCUIT/TRIAL COURT WAS ISSUED ON 3-21-2013, AND FILED 4-1-2013.

IT'S APPARENT PETITIONER FILED AND SERVED A TIMELY NOTICE OF APPEAL, INITIAL BRIEF AND DESIGNATION OF MATTER, FOR THERE IS THE 9-16-13 LETTER OF THE RESPONDENT'S ATTY. WHICH SET FORTH, "WITHOUT THE TRANSCRIPT IN THIS CASE THE RECORD ON APPEAL WILL NOT BE COMPLETE".

THE CLERK'S OFFICE LETTER OF 10-28-2013 SHOWED; THEREFORE, APPELLANTS' INITIAL BRIEF AND DESIGNATION OF MATTER ARE ACCEPTED AS FILED. THE RESPONDENTS' INITIAL BRIEF AND DESIGNATION OF MATTER HAVE BEEN RECEIVED. COUNSEL FOR RESPONDENT IS REQUESTED TO SERVED AND FILE AN AMENDED DESIGNATION OF MATTER REMOVING THE TRANSCRIPT OF RECORD WITHIN TEN DAYS OF THIS LETTER.

RESPONDENT'S ATTY. (KORACKI) RESPONDED ON 10-29-13 THAT, "I RESPECTFULLY REQUEST THAT YOU RECONSIDER YOUR REQUEST AND THAT THE INSTANT APPEAL BE DISMISSED DUE TO APPELLANTS' CONTINUED FAILURE TO COMPLY WITH THE RULES OF APPELLATE PROCEDURE".

RESPONDENT'S ATTY. POINTED TO RULE (207)(A) OF SOUTH CAROLINA Appellate COURT RULE(S) WHICH INDICATE "IN APPEALS FROM THE COURT OF COMMON PLEAS, MASTERS IN EQUITY, SPECIAL REFEREES OR FAMILY COURT IN DOMESTIC ACTIONS, THE TRANSCRIPT MUST BE ORDERED WITHIN TEN (10) DAYS AFTER. . .". FORM 10 OF SCACR SHOWS AGREEMENT FOR ORDERING LESS THAN THE ENTIRE TRANSCRIPT OF A TRIAL, (CRIMINAL OR CIVIL).

PETITIONER POINTS THAT HE IS ONLY APPEALING A MOTION FOR SUMMARY JUDGEMENT (HEARING) WHERE IT IS FURTHER NOTED RESPONDENT(S) WERE SUCCESSFUL AND HE ATTEMPTS TO ATTACK THE ORDER OF THE LOWER (TRIAL) COURT BASED ON ERROR OF LAW.

WHY DOES RESPONDENT(S) NEED THE TRANSCRIPT OF RECORD TO DEFEND THE LOWER COURT'S ORDER OF 4-1-13? THE RESPONDENT(S) ATTY. (KOZACKI) KNEW I APPEALED IN FORMA PAUPERIS, HE'S TRYING TO TAKE ADVANTAGE OF THE FACT PETITIONER MAY NOT BE ABLE TO AFFORD THE TRANSCRIPT.

APPENDIX (B) APPEALS CHART, MAKE REFERENCE, "CASES REQUIRING NO TRANSCRIPT."

THE APPEALS COURT FURTHER ERRED IN GRANTING RESPONDENT'S MOTION TO DISMISS, WHERE THE COURT GAVE RESPONDENT TEN (10) DAYS TO REMOVE THE TRANSCRIPT OF RECORD AND FILE AN AMENDED - DESIGNATION OF MATTER.

INSTEAD OF THE RESPONDENT'S ATTY. (KOZACKI) ACKNOWLEDGING THE TRUTH AND FACT THAT THE TRANSCRIPT WASN'T NEEDED, BECAUSE HE HAD JUST PROVED THAT POINT WHEN HE FILED RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER WITHOUT A TRANSCRIPT.

ATTY. KOZACKI WRITES AND ACCUSES THE CLERK, COURT AND PETITIONER BECAUSE HE FILED HIS BRIEF AND DESIGNATION OF MATTER AND EXPOSED HIS "FALLACIOUS" AND SUPPOSED NEED FOR A TRANSCRIPT STATING THAT THE RECORD WOULD NOT BE COMPLETE.

IT SHOULD BE NOTED THAT THE CLERK OF COURT ON OCT 28. 2013 REMINDS ATTY. KOZACKI THAT I (PETITIONER) HAD PREVIOUSLY ORDERED THE TRANSCRIPT, AND ON NOV. 20. 2013, REMINDED ATTY. KOZACKI THAT ANY REQUEST MADE TO THE COURT MUST BE IN THE FORM OF A MOTION AND MUST BE IN COMPLIANCE WITH RULE 240 OF THE SOUTH CAROLINA APPELLATE COURT-RULES).

AFTER BEING TOLD THAT PETITIONER HAD IN FACT ORDERED THE TRANSCRIPT RESPONDENT'S ATTY. THEN WAITS (94) DAYS, AFTER BEING GIVEN A TEN (10) DAY DEADLINE/DIRECTIVE TO AMEND HIS DESIGNATION OF MATTER AND REMOVE THE UNNEEDED - TRANSCRIPT, HE FILES FOR A MOTION TO DISMISS,

ARGUMENT

II. THE COURT OF APPEAL EDITED, DENYING PETITIONER'S REQUEST FOR REHEARING ON 10-20-14; ALTHOUGH THE ATTY. FOR RESPONDENTS STRESSED, "I AM UNABLE TO AGREE TO YOUR REQUEST THAT YOU NOT BE REQUIRED TO OBTAIN AND FILE THE TRANSCRIPT OF THE UNDERLYING PROCEEDINGS" OF MAR. 21. 13

PLEASE NOTE, ATTY. KOZACKI SET FORTH NO REASON TO SUPPORT SUCH ASSERTION (I.E. HE IS UNABLE TO DEFEND THE LOWER TRIAL COURT'S ORDER WITHOUT THE TRANSCRIPT).

FLOWERS (PETITIONER) COMES TO THE CONCLUSION THAT RESPONDENT'S ATTY. (KOZACKI) WISHES TO CAPITALIZE THEREUPON APPELLANT (PETITIONER'S) HARDSHIP OF PRISON, ATTY. KOZACKI IS TRYING TO UNDERMINE (PETITIONER'S) - APPEAL AND OBTAIN A FAVORABLE DECISION FROM THE - APPELLATE COURT ON PROCEDURAL GROUNDS).

IF KOZACKI WAS RATIONAL AND REASONABLE, HE WOULD LOOK TO SCACR RULE 212(B) (SUPPLEMENTAL RECORD) AND SUPPLEMENT THE RECORD TO SHOW GOOD FAITH IN THIS APPEAL INSTEAD OF ARGUING FLOWERS (PETITIONER) FAILED TO ADHERE TO SCACR WHILE HE MAKES SUGGESTIONS TO THE COURT IN VIOLATION OF MOTION RULES AND THE COURT OF APPEALS GOING ALONG WITH SUCH INAPPROPRIATE PRACTICES). SEE RULE 260(A). . . .

THERE IS SIMPLY NO APPELLATE COURT RULE THAT ABSOLUTELY REQUIRES APPELLANT (PETITIONER) TO PERFECT HIS APPEAL WITH A TRANSCRIPT OF RECORDS.

PETITIONER ASKS THE COURT TO SEE SCACR RULE 207 (A), ORDERING THE TRANSCRIPT, "WHERE A TRANSCRIPT MUST BE ORDERED OF THE PROCEEDINGS". . . .

PETITIONER'S APPEAL ONLY DEALS WITH AN ERROR OF LAW IN THE ORDER, NOTHING IN APPELLANT'S BRIEF MENTIONS A TRANSCRIPT AND APPELLANT IS THE MASTER OF HIS APPEAL.

PETITIONER AGAIN ASKS THE COURT TO SEE SCACR RULE 208 (A)(1), BRIEF OF APPELLANT, WITHIN THIRTY (30) DAYS AFTER RECEIVING THE TRANSCRIPT OR, IF NO TRANSCRIPT IS ORDERED. . . .

FURTHERMORE THE COURT OF APPEALS HAS JUST RULED IN THE MATTER OF, FEROLA-VS-SCDC CASE NO. 2014-001877, NOV. 14, 2014, "THAT TRANSCRIPT WAS NOT NEEDED TO PERFECT HIS APPEAL.


Conclusion

PETITIONER, A LAYMAN AT LAW, ORDERED THE TRANSCRIPT OF THE PROCEEDINGS FROM TWO (2) - COURT REPORTERS, ONE TAKING A TOTAL OF NINE MONTHS TO RESPOND TO PETITIONER'S REQUEST, HOWEVER THE TRANSCRIPT HAS BEEN PAID FOR, AS OF SEPT. 19. 14; WHERE THE TRANSCRIPT IS NOW OF THE MONEY IS ANYONE'S GUESS. PETITIONER DID SEND A COPY OF THE RECEIPT TO THE HON. DANIEL E. SHEAROUSE.

AS PETITIONER'S ARGUMENT STATED, HIS APPEAL ONLY APPEALS AN ERROR OF LAW IN THE ORDER WHICH CAN BE PERFECTED WITHOUT THE TRANSCRIPT.

FOR THE REASONS STATED, PETITIONER ASKS THE COURT TO GRANT THE PETITION FOR A WRIT OF CERTIORARI.

NOV. 17. 2014

Respectfully,

Calmichael T. Flowers
Agency #335941, RCT
P.O. BOX 2039, SB39
Ridgeland, SC 29936
INI PRO-SE

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Appeal from Florence County NOV 24 2014

D. Craig Brown, Circuit Judge **S.C. SUPREME COURT**

CASE NO. 2011-CP-21-2095

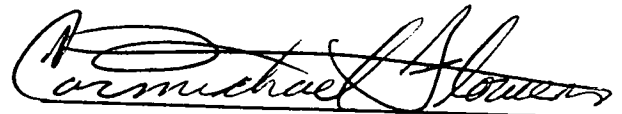
Carmichael Flowers PETITIONER
-VS-
William K. Boone, ETAL. RESPONDENTS

Proof of Service

I, THE UNDERSIGNED, CERTIFY THAT I HAVE SERVED PETITIONER'S WRIT OF CERTIORARI ON THE COURT OF APPEALS AND THE RESPONDENT'S ATTY. OF RECORD by depositing THE SAME IN THE U.S. MAIL, postage prepaid addressed AS follows: J. SCOTT KOZAKI, P.O. BOX 1909, SC 29503, S.C. COURT of Appeals P.O. BOX 11629, Columbia, SC 29211.

Nov. 17, 2014

Jasper Co.



IN PRO - SE
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