



THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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DEC 03 2014

**SC Court of Appeals**

174364

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

James J. Corbett, Circuit Court Special Referee

Appellate Case No. 2014-001280

Glen K. LaConey, successor of Lynn G. Yacoubian, Appellant,

v.

Xavier Troy Smith, Respondent.

APPELLANT'S NOTICE OF MOTION  
AND MOTION FOR EXCLUSION OF  
RESPONDENT'S DESIGNATIONS TO BE  
INCLUDED IN THE RECORD ON APPEAL

Glen K. LaConey  
9401 Wilson Boulevard #68  
Columbia, South Carolina 29203  
(803) 738-6731  
Appellant, Pro Se

COMES NOW the undersigned Appellant, Glen K. LaConey, and moves this Court for exclusion of certain designations of matters to be included in the Record on Appeal proposed by the Respondent, Xavier Troy Smith. The grounds for the relief sought are as follows: Respondent Smith served his Designation of Matter to be Included in the Record on Appeal upon LaConey on or about November 16, 2014. The Designation proposed the following materials be included in the Record on Appeal, which LaConey argues are irrelevant to the appeal, or; otherwise, were not presented to and filed with the circuit court:

1. Affidavit of Glen K. LaConey in Support of Motion for Supplementary Proceedings, dated October 17, 2005;
2. Affidavit of Glen K. LaConey, filed January 30, 2006;
3. Appellant's Motion for Disqualification, filed June 3, 2011;
4. Affidavit of Glen K. LaConey, filed June 3, 2011;
5. Respondent's Motion for Relief from Default Judgment (including exhibits), dated September 3, 2013;
6. Respondent's Motion to Dismiss and/or Stay Supplemental Proceedings (including exhibits), dated September 3, 2013;
7. Affidavit of Xavier Troy Smith, dated September 5, 2013;
8. Supplemental Affidavit of Xavier Troy Smith, dated September 26, 2013;

It is undisputed that Items 1 – 4 above were in fact prepared and filed by LaConey in a matter unrelated to the appeal, and in which the Respondent was not a party. Therefore, those materials are irrelevant to the appeal.

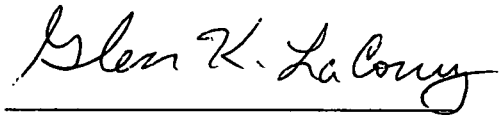
Rule 209 (b), SCACR, provides in pertinent part that "A party shall not include any matter in his designation which is not relevant to the appeal."

Items 5 - 8 above were not filed with the clerk of the circuit court. Rule 210 (c), SCACR, provides in pertinent part that "The Record shall not, however, include matter which was not presented to the lower court or tribunal." The inclusion of the foregoing irrelevant materials would be unduly burdensome for LaConey; thereby, imposing unnecessary costs which do not serve the administration of justice.

#### CONCLUSION

For the reasons stated, Appellant LaConey respectfully requests that the Court direct that the foregoing irrelevant materials be excluded from the Record on Appeal.

Respectfully submitted,



Glen K. LaConey  
9401 Wilson Boulevard #68  
Columbia, SC 29203  
(803) 738-6731  
Appellant, Pro Se

December 3, 2014

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In The Court of Appeals

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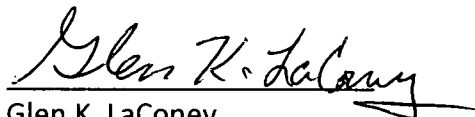
Xavier Troy Smith, Respondent.

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PROOF OF SERVICE

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I, the undersigned, hereby certify that I have served APPELLANT'S NOTICE OF MOTION AND MOTION FOR EXCLUSION OF RESPONDENT'S DESIGNATIONS TO BE INCLUDED IN THE RECORD ON APPEAL on Xavier Troy Smith by depositing a true copy of same in the United States Mail, postage prepaid, on December 3, 2014, properly addressed to Smith's attorney of record, Robert L. Reibold, Post Office Box 61140, Columbia, South Carolina 29260.



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December 3, 2014