

**THE STATE OF SOUTH CAROLINA
In the Supreme Court**

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS

Case No. 2014-002513

Richard Stogsdill,.....Petitioner,

v.

South Carolina Department of
Health and Human Services,.....Respondent.

**PETITIONER'S REPLY TO RESPONDENT'S RETURN
RE MOTION TO SUPPLEMENT RECORD PURSUANT TO
RULE 201 OF THE SOUTH CAROLINA RULES OF EVIDENCE**

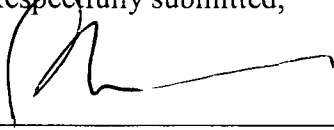
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JAN 22 2015
S.C. Supreme Court

Patricia Logan Harrison, Esquire
611 Holly Street
Columbia, SC 29205
803-256-2017
Attorney for Petitioner

Petitioner has requested that this Court supplement the Record with documents meeting the requirements of Rule 201 of the South Carolina Rules of Evidence. In response, the State has asked this Court to allow the Government to enter new “evidence” into the Record that does not meet those requirements. The Government asks that the Court consider its unilateral version of the facts of this case by allowing “knowledgeable Department of Disabilities and Special Needs (DDSN) staff” to show this Court “how the Petitioner’s services have been provided according to his needs...” This would be grossly unfair, unless Petitioner were allowed to present new evidence into the Record from Richard’s treating medical providers and caregivers, which would clearly show that DDSN has not met his medical needs and that DDSN has continued to administer the program based on arbitrary and capricious “rules” and caps set, and changed at will, by DDSN employees without consideration of the impact on persons like Richard Stogsdill. This evidence would show that DDSN continues to ignore the orders of Richard’s treating physician and that his Personal Care Attendant services have been capped at the number of hours he was receiving in 2009, which his treating physicians determined then and now to be inadequate. Petitioner would not object to each side being allowed to enter into the Record evidence of Richard’s current condition and “how Petitioner’s services have been provided,” and whether these services have been provided “according to his needs,” or, as Petitioner has alleged, according to arbitrary rules established and changed at the whim of DDSN employees without promulgation of regulations.

Petitioner does not object to the admission of DDSN Accountability Reports, because those are admissible under Rule 201. Petitioner would request, however, that all DDSN Accountability Reports through the most recent Report be admitted under Rule 201.

Respectfully submitted,



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Attorney for the Plaintiffs

Columbia, South Carolina

January 17, 2015

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APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS **SC SUPREME COURT**

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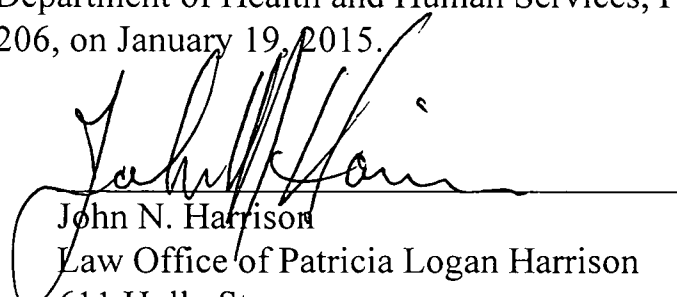
Richard Stogsdill,.....Appellant,

v.

South Carolina Department of
Health and Human Services,.....Respondent.

Certificate of Service

I, John N.Harrison, certify that I sent by US Mail the *Petitioner's Reply to Respondent's Return re Motion to Supplement Record Pursuant to Rule 201 of the South Carolina Rules of Evidence* in the above case to Richard G. Hepfer, Esq., Office of General Counsel, South Department of Health and Human Services, PO Box 8206, Columbia, SC 29202-8206, on January 19, 2015.


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~~January 19, 2015~~

The Honorable Daniel E. Shearouse
Clerk, The South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211

Re: *Petitioners Reply to Respondent's Return re Motion to Supplement
Record Pursuant to Rule 201 of the South Carolina Rules of Evidence*
Richard Stogsdill v. SCDHHS
Appeal from the South Carolina Court of Appeals
Case No. 2014-002513

Dear Mr. Shearouse:

Enclosed is the original of the above *Petitioner's Reply* plus seven (7) copies and a Certificate of Service. Please clock a copy of the *Reply* plus the copies of this letter and the Certificate of Service and return in the enclosed, stamped envelope.

Thank you for your assistance in this matter.

Sincerely yours,


John N. Harrison

Enclosures

c: Richard G. Hepfer, Esq.
Anna Maria Darwin, Esq.
Sarah Garland St. Onge, Esq.
Kirby Mitchell, Esq.
Philip J. Corson, Esq.
Stephen Suggs, Esq.

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S.C. SUPREME COURT