

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Greenville County  
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

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**RECEIVED**  
JAN 30 2015  
S.C. Supreme Court

Opinion No. 5237 (S.C. Ct. App. filed May 30, 2014)

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Lee C. Palms and Nelle S. Palms, as Guardians ad Litem for  
L.P., a minor .....Petitioners,

v.

The School District of Greenville County ..... Respondent.

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**REPLY IN SUPPORT OF  
PETITION FOR WRIT OF CERTIORARI**

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**ARGUMENT**

Counsel for petitioner files this brief Reply in response to Respondent’s Return to Petition for Writ of Certiorari to address and clarify several issues in Respondent’s Return.

**1. The Court Of Appeals Decision Nullifies A South Carolina Statute, State Department Of Education Policy, And The District’s Policy By Allowing The District To Violate The Law With Impunity And Without Judicial Review.**

The Appeals Court decision eliminates every Courts’ jurisdiction to review the application and violation of a state statute. The Appeals Court decision nullifies the Uniform Grading Policy, a South Carolina Statute, State Department of Education Policy, and the District’s own policy. Our students deserve better.

**2. In An Attempt To Overcome Petitioners’ Estoppel Claim, The District Has Mistakenly Misstated Facts Regarding The Timeline And Petitioners’ Six-Month Reliance On The Transferred Grades.**

At the time of L.P.’s transfer to Southside, his grades from Riverside were provided to Southside in an official Riverside transcript sent to Southside on August 1, 2012 as part of L.P.’s initial enrollment papers. The Riverside transcript is dated August 1, 2012. (App. 79) Southside correctly accepted these transferred grades and promptly issued L.P. his grades. In early August, L.P. enrolled, was given Junior class status based on the Riverside transcript and selected courses based on those transferred grades and what he still needed to take to complete high school. Later, on October 3, 2012, every Southside student was provided a *paper* or hard copy transcript that included grade-point averages and class rank. L.P. relied on

the initial August transfer of his grades and courses before enrolling in Southside and did not learn until six months later that his grades would be changed.

By the time L.P. learned of the changes to his grades, final grades for the Fall 2012 semester were issued in an official report card. L.P. was stuck because any transfer to any school during the second semester Junior year or Senior year would result in the changed grades being the ones provided to any subsequent school because the Southside transcript would now be L.P.'s official transcript for any transfer. Had the District not kept its intentions secret and informed Petitioners of its intentions in October, L.P. could have transferred to a new school using his Riverside transcript. Failure to provide L.P. notice caused L.P. to rely to his detriment on the initial transfer of his grades. He was stuck and harmed.

**3. The Standard Is Whether The District Violated The Law, Not Whether Such Violation Of The Law Amounted To Bad Faith, Corruption, Or Abuse Of Power; Nonetheless, Petitioner Met Both Standards.**

Violation of the law is the standard one must show for a Writ of Mandamus. Petitioner showed the violation and the Circuit Court held that the District violated the law. That is the standard.

While Petitioners were not required to show bad faith, corruption, or abuse of power, they did so. The Circuit Court expressed concern about the district's many months of secret machinations that kept Petitioners unawares of the behind the scenes attempts to change L.P.'s grades for months. The Court stated, "The Court is further concerned this improper change was made without notice to Plaintiff or an opportunity to be heard." (App. 6-7) The facts in this case are egregious. It is unclear what the District thinks it would have to have done to have its actions rise to the level of bad faith, corruption, or abuse of power.

Would it have had to wait until a week before graduation to change a student's grades?<sup>1</sup> Surely, the facts in this case demonstrate wanton disregard for L.P.'s rights. That is bad faith and abuse of power.

**4. Pursuant to SCAR Rule 220, Petitioners Asked the Court to Affirm the Circuit Court On Any Basis.**

Respondents misapprehend appellate procedure when they assert that Petitioners did not appeal the Circuit Court's decision. Petitioners were not required to appeal the decision because Petitioners prevailed. Moreover, pursuant to Rule 220(c), SCACR, the Court may affirm the Circuit Court decision on any ground appearing in the Record on Appeal; Petitioners requested that the Appeals Court affirm on any ground available to the Court. (App. 169-170) Petitioners are not aware of any South Carolina case law that prohibits South Carolina courts from enforcing the doctrine of estoppel against a school district that has engaged in the pattern of behavior seen in this case.

**5. This Case Is Not Moot.**

This case is not moot as to L.P. Apparently the Amici students have decided it is moot for them.<sup>2</sup> Student Amici and L.P. are in completely different circumstances. Student Amici's grades were not diminished because of this case. L.P.'s grades were diminished. L.P. needs his correct grades for many facets of his post-high school life, including without limitation, applications for employment, graduate or professional schools, transfer to a new college, scholarships, and other special programs. It is concerning that any school district

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<sup>1</sup> This is not a case in which a student complains of a grade a teacher gives him. This is a case in which School B changed the final grades given to a student by School A to diminish student's GPA and class rank – all based on an unofficial email inconsistent with the official transcript. School Districts are only permitted to rely upon official transcripts.

<sup>2</sup> Student Amici should simply withdraw from the case given that they have asserted they no longer have a stake in the outcome.

would take the position that one's grades are moot the day one graduates. This is certainly not the perspective South Carolina wants its students to adopt.

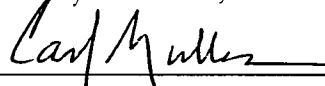
The case is also capable of repetition as to other students. Students continuously transfer into South Carolina public high schools from other states and private high schools. School Districts across South Carolina now believe they do not have to follow the law regarding transfer students. This case falls squarely within the well-settled doctrine that cases capable of repetition yet evading review are not moot.

### CONCLUSION

For the reasons stated, Petitioners ask the Court to grant the Petition for Writ of Certiorari.

January 29, 2015

Respectfully submitted,



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**PROOF OF SERVICE**

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I certify that I have filed Petitioner's Reply in Support of Petition for a Writ of Certiorari with the **South Carolina Court of Appeals, Jenny Abbott Kitchings, Clerk, P.O. Box 11629, Columbia, S.C. 29211** and I have served Petitioner's Reply in Support of Petition for a Writ of Certiorari by depositing a copy of it in the U.S. Mail, postage prepaid, on January 29, 2015, addressed to:

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January 29, 2015

**VIA FEDERAL EXPRESS**

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**RECEIVED RECEIVED**  
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~~S.C. Supreme Court S.C. Supreme Court~~

Re: Lee C. Palms and Nelle S. Palms, as Guardians ad Litem for  
L. P., a Minor, Petitioners vs.  
The School District of Greenville County, Respondents

Dear Ms. Allen:

Enclosed please find the original and 6 copies of Petitioner's Reply in Support of  
Petition for a Writ of Certioari.

Pursuant to Rule 242 of the South Carolina Rules of Court, by copy of this letter and  
via Proof of Service, I am also filing the Reply with the Clerk for the South Carolina Court  
of Appeals, as well as all counsel of record.

Very truly yours,



Donna P. Holtz  
Assistant to Carl F. Muller

\dph

c: South Carolina Court of Appeals  
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Enclosures