

STATE OF SOUTH CAROLINA
In the Court of Appeals

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MAR 13 2015

SC Court of Appeals

Appeal from the Administrative Law Court
Deborah Durden, Administrative Law Judge
15-ALC-15-0003
Appellate Case No.: 2015-000478

BERNARD BAGLEY,APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE
AND PARDON SERVICES,.....RESPONDENT

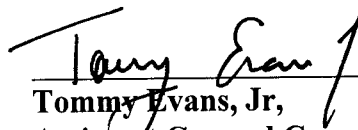
**MOTION OBJECTING TO APPELLANT'S
DESIGNATION OF MATTER**

Comes now, Tommy Evans, Jr., Legal Counsel for the South Carolina Department of Probation, Parole and Pardon Services (the Department), and respectfully objects to Appellant's request to include a transcript of his parole hearing dated January 14, 2015. No written transcripts exist because, all parole hearings are recorded on audio tape. If the Appellant wishes to include an audio tape within the record it is his responsibility. He must request a copy; pay the proper amount associated with copying; and, include it within the record. The party filing the notice of appeal shall be responsible for ordering the transcript and shall file a copy of the request for a transcript with the notice of appeal. Rule 35 SCRALC.

Furthermore, Appellant requests inclusion of the Parole Examiner's recommendation, prior supervision history, statements of opposition and COMPAS Assessment from his hearing on January 14, 2015. Respondent objects to these inclusions as all information contained in a parolee or probationer's file is privileged and is exempt from disclosure. See S.C. Code Ann. § 30-4-40(a)(4) (1991) (allowing

exemption of matters specifically exempted from disclosure by statute or law). Pursuant to statute, all information and data obtained in the discharge of his official duty by a South Carolina probation agent is privileged information and may not be disclosed directly or indirectly to anyone other than the judge or others entitled to receive reports, unless ordered by the court or the director. S.C. Code Ann. § 24-21-290 (Supp. 2008). See also State v. Hook, 356 S.C. 421, 590 S.E.2d 25 (2003). Investigating parole cases referred by the director, keeping detailed records of his or her work, making reports in writing, and performing other duties as the director may require are part of the official duties of a probation agent. S.C. Code Ann. § 24-21-280 (Supp. 2007).

Respectfully submitted,



Tommy Evans, Jr,
Assistant General Counsel
South Carolina Department of Probation,
Parole and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250

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CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Administrative Assistant to counsel for Respondent, certify that I have served the within Motion Objecting to Appellant's Designation of Matter dated March 11, 2015, on Appellant this 11th day of March, 2015, by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Bernard Bagley, #175851
Kershaw Correctional Institution-HD133
4848 Goldmine Highway
Kershaw, S.C. 29067



Dawn Nichols
Executive Administrative Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
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Director

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March 11, 2015

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

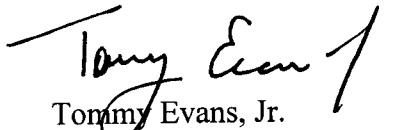
Re: **Bernard Bagley v SCDPPPS**

Dear Ms. Kitchings:

Please find enclosed a *Motion Objecting to Appellant's Designation of Matter* dated March 11, 2015, along with proof of service in the above referenced case.

Thank you for your cooperation in this matter.

Sincerely,


Tommy Evans, Jr.
Assistant General Counsel
TE:dn

Enclosures

cc: Bernard Bagley