

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM MARION COUNTY
COURT OF COMMON PLEAS

D. Craig Brown, Circuit Court Judge

Case No. 2011-CP-33-598

75632
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MAR 31 2015
SC Court of Appeals

Ashlie Outing Appellant

v.

Velmetria Chante Weeks. Respondent,

PETITION FOR REHEARING

Appellant by and through her undersigned counsel and pursuant to the authority of SCACR 221(a), petition this Honorable Court for a rehearing of this appeal. The Appellant respectfully contends that the Court misapprehended and misapplied case are as follows:

1. The Court of Appeals Opinion rules that the burden is on the Appellant to provide a sufficient record so that this Court can make an intelligent review and the Court will not consider facts that do not appear in the Transcript of Record citing Price v. Pickens County, 308 S.C. 64, 67 416 S.E.2d 666-668 (Ct. App. 1992) and Windham v. Honeycutt, 290 S.C. 60, 64 348 S.E.2d 185 (Ct. App. 1986).

The Court of Appeals erred in the application of the above cited case law in affirming the Circuit Court's affirmation of the Magistrate's Court Decision citing A & I, Inc., v. Gore, 366

S.C. 233, 239 621 S.E.2d 383, 386 (Ct. App. 2005) because the intractable application of these principles in this case create an impossible burden for the Appellant. The Magistrate is charged with the responsibility of providing a return for the Appellate Court to review and Appellant has absolutely no control over its content. In the present case, the Appellant presented the entire existing record and the Return of the Magistrate's Court makes it patently obvious that the Magistrate improperly denied a directed verdict on the issue of negligence.

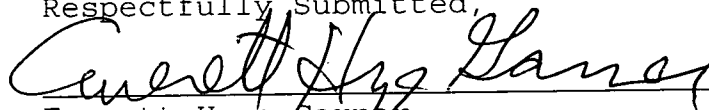
It would be manifestly and incontrovertibly unfair to hold any Appellant responsible for the dereliction of the Magistrate's Court in failing to provide a proper record for the Appellate Court to review. Although the magnitude of the present case is small, the effect on the Appellant is not and the Appellant should not be denied a meaningful review by the Court of Appeals because of procedural factors completely beyond her control.

CONCLUSION

The Court of Appeals opinion summarily denies Appellant the opportunity of a proper review of the inferior Court's proceedings and in doing so vitiates the purpose of the appeals process itself in contravention of Appellant's rights and the rights of others similarly situated. For the foregoing reasons,

the Court should rehear the matter and reverse the lower Court's ruling.

Respectfully Submitted,



Everett Hope Garner
Holler, Garner, Corbett, Ormond,
Plante & Dunn
P.O. Box 11006
Columbia, SC 29211
(803) 765-2968
Attorney for Appellant

Dated: March 27, 2015

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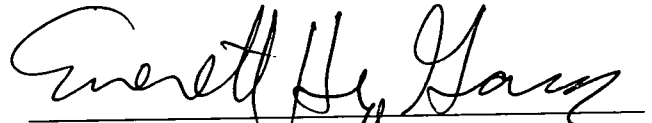
v.

Velmetria Chante Weeks. Respondent,

PROOF OF SERVICE

I certify that I have served the Appellant's Petition for Rehearing on Velmetria Chante Weeks by depositing a copy of it in the United States mail, postage prepaid, on March 27, 2015, addressed to her attorney of record, J. David Banner, Esquire, Post Office Drawer 1931, Florence, South Carolina 29503.

March 27, 2015



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Stanley G. Freeman
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Reply To
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March 27, 2015

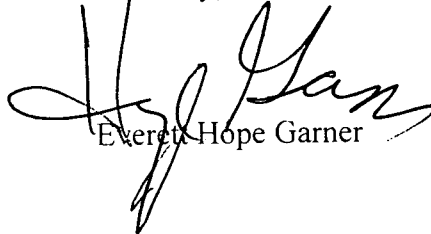
Ms. Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Ashlie Outing v. Velmetria Chante Weeks
Appellate Case No: 2013-001300

Dear Ms. Kitchings:

Enclosed is the original and six (6) copies of the Appellant's Petition for Rehearing in regard to the above referenced matter. By copy of this letter with enclosure I am serving same upon opposing counsel. If you have any questions, please do not hesitate to contact me.

Sincerely,



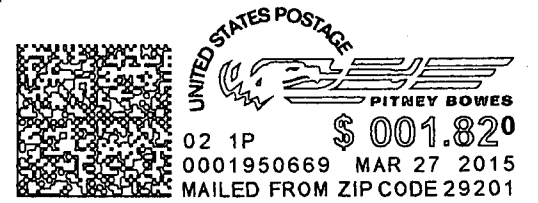
Everett Hope Garner

EHG/lmk
Enclosure
CC: J. David Banner, Esquire

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