

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

RECEIVED
OCT 26 2015
SC Court of Appeals

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT’S MOTION FOR AN ORDER FROM THE COURT
HOLDING IN ABEYANCE ALL DEADLINES ASSOCIATED WITH
THE PARTIES’ FILING OF THEIR FINAL BRIEFS UNTIL
THE COURT RESOLVES THE PARTIES’ PENDING MOTIONS**

By a submission dated October 19, 2015, the Appellant, Billy Joe Cartrette [“Cartrette”], served a copy of the record on appeal upon the undersigned counsel for the Respondent, the South Carolina Department of Corrections [“the Department”].

The Department’s undersigned counsel received the record from Cartrette on October 22, 2015 via United States Mail. On Friday, October 23, 2015, the Department’s undersigned counsel confirmed via telephone that Cartrette had filed the record with the Clerk’s office. Thus, in conformity with the provisions of South Carolina Appellate Court Rule [“SCACR”] 211(a), the parties’ final briefs are due on or before November 11, 2015.

However, in light of the various motions filed by the parties have not yet been ruled upon by the Court, the Department, by and through its undersigned counsel, respectfully moves the

Court, pursuant to SCACR 240, to issue an order by which it holds in abeyance all deadlines associated with the parties' filing of their final briefs until the Court rules upon the parties' various pending motions.

Succinctly stated, the Department respectfully asks the Court to issue an order by which it directs the parties not to file their final briefs until it has ruled upon the parties' various pending motions.

There are three (3) motions filed by the parties for which the Court has not issued rulings, and all three (3) of the motions concern the contents of the record in this matter:

1. The Department's "Motion to Strike Items from the Appellants' Designation of Matter to be Included in the Record on Appeal," which the Department's undersigned counsel filed September 21, 2015.
2. Cartrette's "Motion to Remand to Trial Court under SCACR 240 and Whitehead v. State," which Cartrette dated September 27, 2015.
3. The Department's "Motion to Strike the Appellant's 'Designation of [Additional] Matter to be Included in the Record on Appeal,'" which the Department's undersigned counsel filed October 19, 2015.

Cartrette did not, as of the date of the Department's instant motion, file a return to the first of the three (3) above-listed motions.

Instead, Cartrette filed the second of the three (3) above-listed motions. The Department's undersigned counsel timely filed and served the Department's return to Cartrette's motion on October 19, 2015. Cartrette has not, as of the date of the Department's instant motion, filed a reply to the Department's return. Cartrette still has a short window of time, under the provisions of SCACR 240(f), within which to file and serve a reply to the Department's return or to seek an extension of time by which to file and serve such a reply.

As of the date of the Department's instant motion, Cartrette has not served the Department's undersigned counsel with a return to the third of the three (3) above-listed motions.

Cartrette still has a short window of time, under the provisions of SCACR 240(e), within which to file and serve a return to the Department's motion or to seek an extension of time by which to file and serve such a return. Should Cartrette file and serve a return to the third of the three (3) above-listed motions, the Department has the opportunity, under the provisions of SCACR 240(f), to timely file and serve a reply.

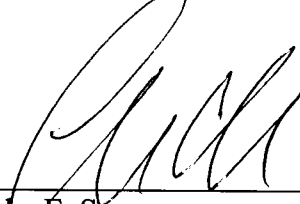
Despite the chronology detailed above, Cartrette still filed and served the record for the instant appeal. Moreover, as revealed by the index he provided with the record, Cartrette included in the record many if not all of the items the Department sought to exclude by its two (2) motions to strike.

Obviously, the Court may grant the Department's two (2) motions to strike in part or in their entirety. The Court may likewise grant, despite the arguments offered by the Department in its return, Cartrette's motion to remand. The Court's ruling in each of these three (3) motions may impact the contents of the record filed and served by Cartrette.

Cartrette may be required to compile, file and serve a new record, and, if so, the contents of the new record will have to conform to any and all rulings issued by the Court concerning the three (3) above-listed motions.

Therefore, the Department respectfully moves the Court to issue an order by which it holds in abeyance all deadlines associated with the parties' filing of their final briefs pursuant to SCACR 211(a) until the Court rules upon the parties' various pending motions. In other words, the Department respectfully asks the Court issue an order by which it directs the parties not to file their final briefs until it has ruled upon the parties' various pending motions.

RESPECTFULLY SUBMITTED,



October 26, 2015

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RCI, CA-52, POB 2039

Ridgeland, South Carolina 29936

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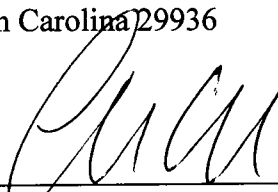
South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have served **THE RESPONDENT'S MOTION FOR AN ORDER FROM THE COURT HOLDING IN ABEYANCE ALL DEADLINES ASSOCIATED WITH THE PARTIES' FILING OF THEIR FINAL BRIEFS UNTIL THE COURT RESOLVES THE PARTIES' PENDING MOTIONS** on the above named *pro se* Appellant by mailing a copy to him, first class postage pre-paid, at the following address:

Billy Joe Cartrette, #122434
RCI, CA-52, POB 2039
Ridgeland, South Carolina 29936

October 26, 2015



Lake E. Summers