

78202

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

DEC 18 2015

Doyet E. Early, III, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2015-002235

Gene F. Bunton, Sr.;
Randolph L. Bunton, Sr.; and
Mary Elizabeth B. Breland; Appellants,

v.

Lois Blackwelder Respondent.

MOTION TO REMAND FOR NEW TRIAL

Appellants, through their undersigned counsel, move this Court to remand to the lower court for a new trial based on the unavailability of the trial transcript. In support of the motion, Appellants will show:

1. A non-jury trial was conducted in this matter on May 26, 2015 before the Honorable Doyet Early. On September 22, 2015, Judge Early signed a written order ruling in favor of the defendant (respondent), which was previously submitted to this Court.

2. Appellants filed a timely notice of appeal in this case on October 28, 2015 and pursuant to Rule 207, SCACR, undersigned counsel requested the trial transcript on November 9, 2015.

3. On November 20, 2015, counsel received an email from the court reporter stating that no transcript exists because her laptop and backup external harddrive were stolen when her car was broken into. See Exhibit A attached.

4. In order to allow a meaningful review of this case, a new trial should be ordered. "A new trial is therefore appropriate if the appellant establishes that 'the incomplete nature of the transcript prevents the appellate court from conducting a meaningful appellate review.'" *State v. Ladson*, 644 S.E.2d 271, 274, 373 S.C. 320 (Ct. App. 2007) (internal citations omitted). In this case, no part of the transcript is available. In *Ladson*, this Court noted that "[i]f a transcript is altogether inaccurate and no adequate record of what transpired at trial can be reconstructed, the court must remand for a new trial."

5. In addition, in this case, there is confusion about the procedure followed, which would have been resolved through a review of the transcript. In his order, Judge Early stated that "the Court heard testimony on the issue and deciding that sufficient evidence to issue a final order had not been presented, ordered that the deposition [of a witness] be taken." Order, pp. 1-2. The Court did not reconvene after the deposition was taken.

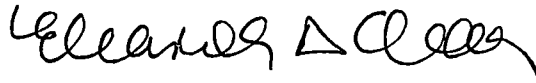
6. As indicated by the attached letter sent to Judge Early on September 2, 2015 by Appellants' counsel, Laurie C. Sanders, Jr., Appellants had not finished presenting their case when the trial was stopped. Exhibit B. Without the transcript, this issue cannot be resolved.

7. Therefore, based on the foregoing, Appellants respectfully request this Court remand for a new trial.

[Signature block on next page]

December 18, 2015

Respectfully submitted,



Eleanor Duffy Cleary #7068
Cleary Law LLC
1116 Blanding Street, Suite 2B
Columbia, South Carolina 29201
ellen@clearylalwllc.com
(803) 376-0075

Laurie C. Sanders, Jr.
Woodward and Butler, LLC
404 Hendersonville Hwy
Walterboro, SC 29488-4556
Attorneys for Appellant

Other Counsel of Record:
Benjamin Terrell Coppage
PO Box 1727
Beaufort SC 29901
Attorney for Respondent

Monday, November 23, 2015 at 10:27:44 AM Eastern Standard Time

Subject: Bunton and Breland vs. Blackwelder
Date: Friday, November 20, 2015 at 3:58:25 PM Eastern Standard Time
From: Creppon, Bethanie <bcreppon@sccourts.org>
To: ELEANOR CLEARY <ellen@clearylal.com>

Ms. Cleary,

I have received your request for transcript in the case of Gene F. Bunton, Sr.; Randolph L. Bunton, Sr.; and Mary Elizabeth B. Breland vs. Lois Blackwelder. I regret to inform you that I will be unable to provide the transcript to you. My car was broken into the evening of June 3, 2015, and all of my court reporting equipment, including my laptop and back-up external hard drive, was stolen. I have no transcripts for the dates of September 2014 through June 7, 2015.

I am very sorry for any inconvenience this terrible situation has caused.

Best,

Bethanie K. Creppon
Circuit Court Reporter to
The Honorable Doyet A. Early, III
PO Box 85411
Lexington, SC 29073
(803) 399-8167

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

The Law Office of Laurie C. Sanders, Jr. LLC

PO Box 449 - Edisto Island, SC 29438

Phone: 843-628-4541 - Fax: 843-628-3578

www.lauriesanderslaw.com

lols@att.net

RECEIVED

DEC 18 2015

SC Court of Appeals

September 2, 2015

The Hon. Doyet A. Early  
Post Office Box 90  
Bamberg, SC 29003

VIA EMAIL: [dearlylc@sccourts.org](mailto:dearlylc@sccourts.org)

RE: Gene F. Bunton, Sr. *et al.* v. Lois Blackwelder, 2014-CP-15-211.

Judge Early,

Per your request I am including a proposed order for the above referenced case. I must however call your attention to the fact that this trial has not concluded. As counsel for Plaintiffs in this matter I was in the process of calling my second witness, Mr. Randolph Bunton, Sr. to the witness stand when you ordered the trial held in abeyance pending the deposition of a Coastal Electric Cooperative employee.

As such, I have not presented all of my witnesses, and naturally opposing counsel has not had the opportunity to cross exam my remaining witness or witnesses. Likewise, neither I or opposing counsel have presented our closing arguments or any post-trial motions.

Please advise on how this issue can be resolved.

With Kind Regards,

Laurie C. Sanders, Jr.  
Attorney for Plaintiffs

CC: (cover letter only) Benjamin Coppage, Esq.  
Encl: Proposed Order



CLEARY LAW LLC  
1116 BLANDING STREET, SUITE 2B  
COLUMBIA, SOUTH CAROLINA 29201

**CLEARY LAW**  
UNRAVELING YOUR LEGAL ISSUES

PHONE: (803) 376-0075  
FAX: (866) 724-1965  
WWW.ELEANORCLEARYLAW.COM

December 18, 2015

**RECEIVED**

DEC 18 2015

SC Court of Appeals

The Honorable Jenny Abbot Kitchings  
Clerk of the South Carolina Court of Appeals  
Post Office Box 111629  
Columbia, South Carolina 29211

RE: Gene F. Bunton, Sr.; Randolph L. Bunton, Sr.; and Mary Elizabeth B. Breland; Appellants v. Lois Blackwelder, Respondent, Case No. 2015-002235

Dear Madame Clerk:

I am enclosing the original and six copies of the Motion for Remand in the above-captioned case, along with a \$25.00 check for the filing fee.

Please contact me if you have any questions.

Sincerely,

Eleanor Duffy Cleary #7068  
Cleary Law LLC  
1116 Blanding Street, Suite 2B  
Columbia, South Carolina 29201  
ellen@clearylawnllc.com  
(803) 376-0075  
Attorney for Appellant

cc:  
Benjamin Terrell Coppage  
PO Box 1727  
Beaufort SC 29901  
Attorney for Respondent