

The South Carolina Court of Appeals

Roosevelt Simmons, Appellant,

v.

Mase and Company, LLC, J. Al Cannon, Jr., Charleston
County Sheriff's Office, Charleston County Revenue
Collections Department, and Harry Long, Respondents.

Appellate Case No. 2014-002575

ORDER

Respondents have filed a motion to seal the appellate record, arguing a federal trial court previously "allowed the parties to designate certain materials as confidential" and to file documents that reference the confidential materials under seal

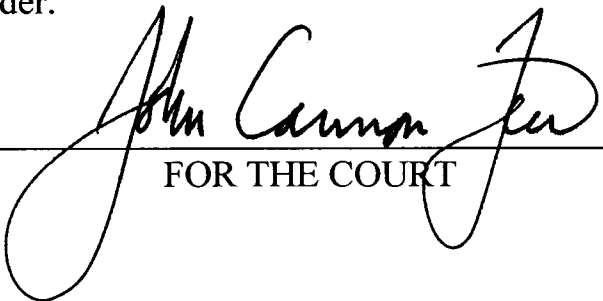
Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have the power to control our own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). Rule 41.1(b), SCRCPP, requires a motion to seal to identify, with specificity, the documents or portions of documents for which sealing is considered necessary, to contain a non-confidential description of the documents, and to be accompanied by a separately sealed attachment labeled "Confidential Information to be submitted to Court in Connection with the Motion to Seal." The Rule also requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection, and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the parties upon expectations of confidentiality of the proceeding;
- (4) the public or professional significance of the proceeding;
- (5) the perceived harm to the parties from

disclosure; (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

Id. The court may also consider the public interest in the proceeding; the private or public status of the litigants and case generally; whether release would enhance the public's understanding of an important historical event; whether the public already has access to information contained in the records; whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 12, 630 S.E.2d at 470 (2006).

Respondents' motion does not specifically address each of the factors listed above or comply with the requirements provided in Rule 41.1(b), SCRCPP. Accordingly, the motion to seal is denied without prejudice to Respondents' right to provide the court with an amended motion that includes the information required by Rule 41.1(b) and *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). The appellate court deadlines shall remain stayed for fifteen days after the date of this order in order for Respondents to serve and file an amended motion. Otherwise, the record on appeal shall be served and a proof of service filed within forty-five days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:
Edward A. Bertele, Esquire
Wendy Raina Johnson Keefer, Esquire
Christopher Thomas Dorsel, Esquire

FILED
12/22/15