

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

RECEIVED
JUN 30 2016
SC Court of Appeals

Appellate Case No. 2016-000211

Kim Murphy Appellant

v.


Richland-Lexington School District No. 5 by and through its Board of Trustees by
And through Counsel to the Board of Trustees, Respondent.

MOTION TO CONSOLIDATE APPEALS

Pursuant to Rule 214 and 240 of the South Carolina Appellate Court Rules, the Appellant, Kim Murphy, through her undersigned counsel, hereby moves this Court for an Order consolidating the present appeal with her additional appeal, bearing the Appeal Number 2016-001198. The grounds for this Motion, which are more fully discussed in the incorporated memorandum, are that each appeal consists of the same questions of fact and law.

Appellant respectfully requests this Honorable Court to consolidate the present appeal with appellate case 2016-001198. Appellant further requests that the current appellate deadlines be held in abeyance until this Court issues an Order on this motion. Alternatively, if this Court finds consolidation of the appeals is not necessary, Appellant respectfully requests a limited consolidation for purposes of briefing and oral argument.

J. LEWIS CROMER & ASSOCIATES, L.L.C.

BY: 

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June 30, 2016

Attorneys for Appellant

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PROOF OF SERVICE

This is to certify that the undersigned employee of J. Lewis Cromer & Associates, LLC, did cause to have served on June 30, 2016, a copy of the **MOTION TO CONSOLIDATE and MEMORANDUM IN SUPPORT** via First Class Mail, postage prepaid, to the following counsel of record, at the below indicated address:

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ATTORNEYS AND COUNSELORS AT LAW

J. Lewis Cromer
Julius W. Babb, IV · J. Paul Porter
Ryan K. Hicks · Shannon M. Polvi · Chelsea R. Rikard

June 30, 2016

Via Hand Delivery

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
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SC Court of Appeals

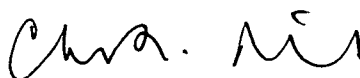
Re: *Murphy v Richland-Lexington School District 5 et al.*
Appellate Case No. 2016-000211

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of Appellants Motion to Consolidate Appeals and Memorandum of Law in Support. Also, enclosed are the Proofs of Service and our firm's check in the amount of \$25.00. Please file the originals and return the clocked copies to our administrative assistant.

Should you have any questions and/or concerns, please feel free to call us. Thank you in advance for your assistance in this matter.

Sincerely,



Chelsea R. Rikard

CC: John Reagle, Esq.
David Morrison, Esq.
Michael Montgomery, Esq.
Patrick Frawley, Esq.

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80086

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MEMORANDUM OF LAW IN SUPPORT
OF APPELLANT'S MOTION TO CONSOLIDATE

Appellant submits this Memorandum of Law in support of her Motion to Consolidate Appeals.

INTRODUCTION

This matter is before the Court on Appellant, Kim Murphy's Motion to Consolidate Appeals pursuant to the Rule 214 of the South Carolina Appellate Court Rules. (SCACR) Appellant filed the present appeal on February 5, 2016, appealing the determination by the Honorable Deandrea Gist Benjamin in which she upheld the Respondent, Richland-Lexington School District No. 5 Board of Trustees' decision to remove Appellant from her Trustee position.

Appellant filed her second appeal, captioned 2016-001198, on June 6, 2016. She appealed the Order by the Honorable Doyet A. Early, III granting summary judgement as to the Appellant's

claims for Defamation against Robert Gantt, and Civil Conspiracy against Gantt and Bobby Merle Bowers. For the reasons contained herein, Appellant requests this Court consolidate these appeals.

ARGUMENT

Appellant seeks consolidation because both appeals consist of similar questions of fact and law, and it will avoid confusion and promote judicial economy to consolidate the appeals. Rule 214 of the SCACR dictates that “where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal consolidated.” Alternatively, the appellate court may also consolidate for purposes of briefing, oral argument, and/or opinion purposes. *See, Limehouse v. Hulsey*, 404 S.C. 93, 744 S.E.2d 566 (2013).

Here, both appeals rest on the following common facts: In October 2013, Robert Gantt and Bobby Bowers met and discussed their concern that Appellant’s residence was located within Lexington County rather than Richland County. At the time, Appellant served on the Lexington Richland School District 5 Board of Trustees, which is a political body consisting of 4 representatives from Lexington County and 3 from Richland County. Gantt served as the Chairman of the Board of Trustees. Appellant and Gantt both represented Richland County. Bowers opined via a letter to Gantt, in January 2014, that Appellants residence was located in Lexington County, rather than Richland. Gantt then presented the letter to his fellow Board members, who voted to hold an evidentiary hearing. Formerly retired Judge G. Thomas Cooper presided as hearing officer over the hearing. Judge Cooper issued his Findings and Recommendations to the Board. Based on those findings, in March 2014, in a special called meeting, the Board voted to remove Appellant on the basis that she was unqualified to hold her elected position.

In both appeals the primary or dispositive legal issues are whether Appellant was properly a resident of Richland at the time of her election, and whether the Board of Trustees had the

authority to remove Appellant from her elected position in the middle of her term. The ancillary or dependent issues in each appeal include (1) whether Respondents Gantt and Bowers civilly conspired to have her so removed, and (2) whether Respondent Gantt defamed Appellant by making public statements concerning her residency and capacity to serve on the Board. The dependent issues listed above, constitute the causes of action brought by Appellant in her second action and against the Individuals, Gantt and Bowers. However, these questions can be resolved by a determination of the dispositive issues.

In *Limehouse*, the Court consolidated appeals for the purpose of briefing, oral argument, and/or an opinion, finding that the dispositive issue in each appeal were identical. *Id.* 404 S.C. at 96, 744 S.E.2d at 568. Similarly, the dispositive issues in the present appeals, being whether Appellant's residence truly lies within Richland County and whether the Board acted with proper authority, are identical; thus, consolidation is warranted.

CONCLUSION

Based on the foregoing, the Appellant respectfully requests this Court to grant her Motion and accordingly consolidate her appeals.

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