

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM WILLIAMSBURG COUNTY
COURT OF COMMON PLEAS

RECEIVED
JUL 18 2016
SC Court of Appeals

The Honorable Maite Murphy, Circuit Court Judge

Case No. 2015-000546

Lauren
Goodman,.....Respondent.

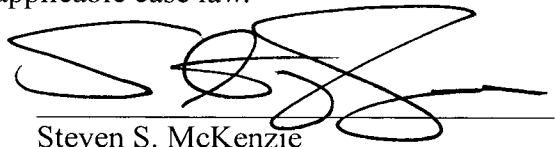
v.s

Willie Marion
BrownAppellant.

MOTION TO DISMISS

Pursuant to South Carolina Appellate Court Rule 240, the Respondent hereby moves before this Honorable Court for an Order dismissing the appeal of the Appellant. Said Motion is based upon this Court's ruling in State v. Brown, 16-UP-298; S.C. Ct. App. Dated June 15, 2016 , the argument in the Memorandum in Support of Respondent's Motion to Dismiss, the Record on Appeal, Briefs of Appellant and Respondent and applicable case law.

July 12, 2016



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MEMORANDUM IN SUPPORT OF MOTION
TO DISMISS

FACTUAL BACKGROUND

This case is a civil action which was filed by Respondent Lauren Goodman (“Goodman”) on July 28, 2014. In her Complaint, Goodman alleges that Appellant Willie Marion Brown (“Brown”) committed certain sexual acts against Goodman between April 20, 2002 and January 26, 2006, while Goodman was a minor. (R. p. 11, ¶¶ 8-10). Goodman claims she was injured as a result of these alleged acts, and she seeks an unspecified amount of actual and punitive damages. (R. p. 12, ¶¶ 15, 19; R. p. 13, ¶ 23; R. p. 14, ¶¶ 28, 31, 33).

By way of background, on October 25, 2012, Brown was indicted on two counts of first degree criminal sexual conduct with Goodman and one count of committing a lewd act on Goodman. (R. p. 23). Brown pleaded not guilty, and a jury trial was held in the Williamsburg County Court of General Sessions beginning May 20, 2014. On May 23, 2014, the jury returned a

verdict finding Brown guilty on each charge. (R. p. 57, line 20 – p. 58, line 6). The trial court sentenced Brown thirty- five years imprisonment for the CSC counts and fifteen years for the lewd act count, with all sentences to run concurrently. (R. pp. 24-26). A judgment to this effect was entered on May 23, 2014.¹ Brown filed a notice of appeal of his conviction on August 1, 2014. (R. p. 59). Brown’s appeal was heard by this Court and decided on June 15, 2016. The Court of Appeals affirmed the ruling of the Court of General Sessions. (See State v. Brown, 16-UP-298 (S.C. Ct. App. dated June 15, 2016)). Brown did not file a Motion to Reconsider nor did Brown ask for Cert. to the South Carolina Supreme Court. As a result, Brown’s conviction has been upheld and Brown’s appellant remedies are exhausted. (See State v. Brown, 16-UP-298 (S.C. Ct. App. dated June 15, 2016)).

The pending civil action against Brown arises out of the same allegations of sexual assault that were presented in the criminal trial. (R. p. 11, ¶¶ 8-10). After the criminal appeal was filed, on October 8, 2014, Goodman filed a motion for summary judgment in the civil matter, arguing that pursuant to the doctrine of collateral estoppels, Brown’s convictions in the Related criminal matter were conclusive in the pending civil action because the underlying facts and issues of both matters were the same, the issues were actually litigated and determined by a valid and final judgment, and Brown had a full and fair opportunity to litigate these issues in the criminal matter. (R. pp. 29-30). Brown filed a response in opposition to the motion for summary judgment on October 23, 2014 at the Williamsburg County Courthouse in Kingstree, South Carolina. Thereafter, the trial court issued an Order granting Goodman’s motion for summary judgment, which was filed on December 17, 2014. (R. p. 2).

¹ Brown filed a motion for reconsideration of the sentence of June 2, 2014, and in a July 21, 2014 order, the trial court reduced Brown’s sentence to twenty-eight years imprisonment for The CSC counts and fifteen years for the lewd act count, with all sentences to run concurrently.

On January 12, 2015, Brown filed a timely motion for reconsideration pursuant to Rule 59(e), SCRCP. (R. pp. 36-42). On February 12, 2015 the trial court issued a Form 4 Order which denied Brown's motion for reconsideration. (R. p. 5). Brown received written notice of entry of this order on or about February 19, 2015. Subsequently, Brown served a timely notice of appeal from the denial of the motion for reconsideration on March 4, 2015. Brown's appeal in the civil matter is still pending.

Goodman now seeks an Order dismissing Brown's appeal because the subsequent ruling affirming the criminal conviction by the Court of appeals on June 15, 2016 in State v. Brown, 16-UP-298; S.C. Ct. App. Dated June 15, 2016 renders the appeal in this matter moot.

**THE COURT OF APPEALS SHOULD DISMISS
THIS MATTER BECAUSE THE RULING IN STATE
V. BROWN, UP NO. 2016-UP-298 AFFIRMING
BROWN'S CONVICTION RENDERS THIS MATTER
MOOT.**

Brown was convicted in Williamsburg County Court of General Sessions of two counts of criminal sexual conduct with a minor and one count of lewd act on a minor. (R. pp. 24-26). Goodman was the sole victim and testified at trial to Brown's abuse of her. (R. p. 12 ¶¶ 15, 19; R. p. 13 ¶ 23; R. p.14, ¶¶ 28, 31, 33). Brown filed a notice of appeal of his conviction on August 1, 2014. This action against Brown arises out of the same allegations of sexual assault that were presented in the criminal. (R.p.11, ¶¶8-10). Brown argued in the Brief of Appellant the following: "Based upon persuasive authority, Brown posits that until his pending criminal appeal has been decided, there is no final judgment for which collateral estoppel would apply in this civil action." (Appellant's brief, p. 5).

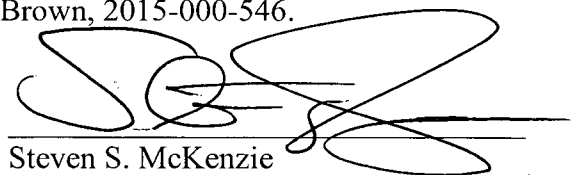
"A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy. This is true when some event occurs making it impossible for the

reviewing Court to grant effectual relief.” Mathis v. South Carolina State Highway Department, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). The decision by the Court of Appeals in the State v. Brown and Brown’s failure to request a rehearing by the Court of Appeals or to request Cert. to the South Carolina Supreme Court renders the appeal in this matter moot. Brown argued in his appeal to this Court in Goodman v. Brown that the issue of collateral estoppel was not ripe until Brown had exhausted his criminal appellate remedies. (See Brief of Appellant, pp. 3-6). Brown’s argument in this matter is one of whether or not the issue of collateral estoppel in regards to his conviction of sexual assault on Goodman is ripe for consideration. (See Brief of Appellant, pp. 3-6). The crux of Brown’s argument is that until Brown is conclusively found criminally liable in State v. Brown he cannot be held civilly liable in Goodman v. Brown. . (See Brief of Appellant, pp. 3-6). Brown’s argument is now moot in that Brown has now exhausted his appellate remedies in State v. Brown. Accordingly, the issues of the sexual assault by Brown has conclusively been proven and affirmed on appeal. As a result, Brown’s argument in Goodman v. Brown is now moot.

CONCLUSION

Based on the foregoing, the Respondent respectfully that this Court dismiss the appeal of the Appellant in Lauren Goodman v. Willie Marion Brown, 2015-000-546.

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Case No. 2014-CP-45-377

Lauren
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v.s

Willie Marion
BrownAppellant


CERTIFICATE OF SERVICE

I certify that I have served the Motion to Dismiss and supporting memorandum by depositing a copy of it in the United States Mail, postage prepaid, on July 15, 2016 addressed to:

William H. Waring, III / Lionel S. Lofton
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July 15, 2016



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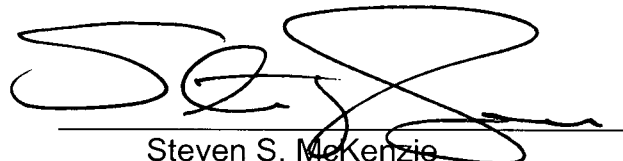
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In the Court of Appeals

PROOF OF SERVICE

I certify that I have served the Motion to Dismiss and supporting memorandum by depositing a copy of it in the United States Mail, postage prepaid, on July 15, 2016 addressed to PO Box 11629, Columbia, SC 29211.

July 15, 2016



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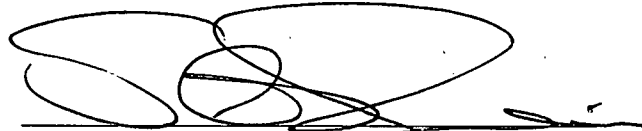
July 15, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Lauren Goodman, Respondent vs. Willie Marion Brown, Appellant
Case Number: 2015-000546

Dear Ms. Kitchings:

Enclosed for filing is an original and six (6) copies Motion to Dismiss and supporting memorandum. Also enclosed is our firm's check in the amount of Twenty-Five (\$ 25.00) Dollars and Proof of Service of the Motion to file Out of Time.

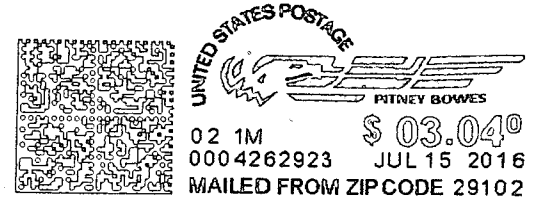
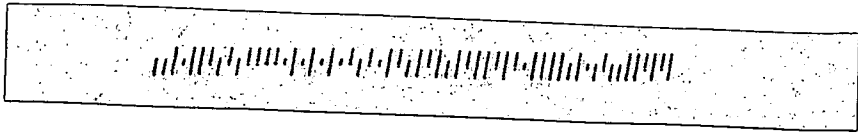


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