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JUL 25 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
The Honorable Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2014-002776

THE STATE,

Respondent,

v.

LOUSHONDA MYERS,

Appellant.

MOTION TO STRIKE

Appellant (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On August 28, 2014, Appellant was ordered by The Honorable Kristi L. Harrington not to file any documents on behalf of Dameon Myers with the Clerk of Court in Georgetown County. On September 17, 2016, Appellant was served with a Rule to Show Cause dated September 16, 2015 ordering her to appear before the Georgetown County Circuit Court on September 26, 2014. At the hearing on September 26, 2014, Judge Harrington found Appellant in direct criminal contempt of court. Judge Harrington sentenced Appellant to six months imprisonment, suspended on condition that Appellant not violate any further order of the Court. Appellant timely filed a notice of appeal and subsequently submitted a brief.

II.

Appellant filed and served her Initial Brief of Appellant and Designation of Matter on May 26, 2016. In her Designation of Matter, Appellant designated “Complaints to Judicial Commission” to be included in the Record on Appeal.

III.

Rule 210(c), SCACR, provides that the Record on Appeal “shall include all matter designated to be included by any party under Rule 209. . .” Critically, the rule further provides that the Record on Appeal “shall not, however, include matter **which was not presented to the lower court or tribunal.**” *Id.* (emphasis added).

IV.

Appellant designated “Complaints to Judicial Commission” for inclusion in the Record on Appeal. While Appellant did mention in passing that she filed ethics complaints against Judge Harrington and Allen Myrick at the contempt hearing, the written complaints themselves were not presented to the trial court. Therefore, pursuant to Rule 210(c), SCACR, it cannot be included as a part of the appellate record. See *State v. White*, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007) (“Morris’ statement was not presented to the lower court and cannot properly be included in the Record on Appeal.”). Appellant designated “Complaints to Judicial Commission” for inclusion in the Record on Appeal. While Appellant did mention the fact that she filed ethics complaints against Judge Harrington and Allen Myrick, the written complaints themselves were not presented to the trial court.

V.

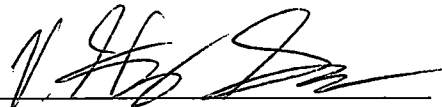
Based on the foregoing, the State respectfully asks this Court to strike the "Complaints to Judicial Commission" from Appellant's Designation of Matter and require Appellant to file the Record on Appeal without including the improperly-designated matter.

WHEREFORE, the State prays that this Court will strike the improper matter designated by Appellant in her Designation of Matter; require Appellant to file the Record on Appeal without including the improperly-designated matter; hold the time period for service and filing of the Record on Appeal in abeyance pending a ruling on this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

V. HENRY GUNTER, JR.
Assistant Attorney General
S.C. Bar No. 102259

By: 
V. Henry Gunter, Jr.

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
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July _____, 2016

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PROOF OF SERVICE

I, V. Henry Gunter Jr., certify that I have served the within Motion to Strike on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Loushonda Myers
27 Wateree Trail
Georgetown, SC 29440

I further certify that all parties required by Rule to be served have been served.
This 25th day of July, 2016.



V. Henry Gunter, Jr.
Assistant Attorney General

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ALAN WILSON
ATTORNEY GENERAL

July 25, 2016

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SC Court of Appeals

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

RE: State v. Loushonda Myers, Appellate Case No. 2014-002776

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to Strike, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

V. Henry Gunter, Jr.
Assistant Attorney General

VHG/am
Enclosures

cc: Loushonda Myers