

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H Dukes, III, Maser in Equity and Special Circuit Court Judge

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JUL 27 2016

SC Court of Appeals

Case No. 2015-CP-07-1343
Appellate Case No. 2016-000955

John Alden Bauer, III,

Appellant,

v.

Beaufort County School District,

Respondent.

**RESPONDENT'S REPLY TO APPELLANT'S RETURN TO RESPONDENT'S MOTION
TO DISMISS OR, IN THE ALTERNATIVE, TO STRIKE APPELLANT'S
DESIGNATION OF MATTER AND INITIAL BRIEF, TO REQUIRE AN AMENDED
BRIEF THAT COMPLIES WITH THE RULES, AND FOR AN EXTENSION OF TIME
TO FILE RESPONDENT'S DESIGNATION OF MATTER AND INITIAL BRIEF**

Pursuant to Rule 240(f), Respondent Beaufort County School District hereby submits its Reply to Appellant's Return to the District's Motion to Dismiss the Appeal or, in the Alternative, to Strike Appellant's Designation of Matter and Initial Brief for failure to comply with the appellate court rules. The gravamen of Respondent's motion is that Appellant's Designation of Matter impermissibly includes materials not in evidence at any of the proceedings below and his brief cites those materials in support of arguments, some of which also were not presented during the teacher dismissal hearing before the Respondent's school board, the decision of which is challenged in this appeal.

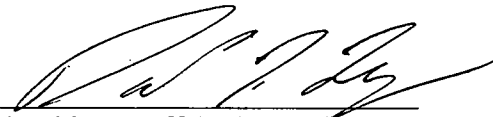
Contrary to Appellant's assertion that Respondent's motion is vague, the Motion explicitly seeks to exclude the following documents on the grounds that they are not contained in the record below: all exhibits listed under the heading "Depositions"; all exhibits listed under the heading "Law and Cases"; and all exhibits listed under the heading "Stand Alone Documents" to the extent these documents are not also included in the exhibits contained in the record before the school board. Appellant's Designation and Initial Brief may refer only to those exhibits entered into the record below. Accordingly, Appellant's submissions should refer to any such exhibits as they were enumerated in the school board's hearing transcript (*see* Exhibit A) so that Respondent and this Court can be assured of their propriety in this appeal.¹

In his Return, Appellant does not attempt to defend the propriety of the exhibits he cites or the unpreserved arguments he makes. To the extent Appellant responds at all to Respondent's motion, he does so generally by claiming that Respondent's objections to the improper documents and citations thereto are "pretentious technicalities." (Return, at p. 2). As noted in Respondent's motion, our Supreme Court has stated "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State." *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794 (1992). Appellant has repeatedly flouted court orders and the rules of court during the appeals process, and his Return essentially admits that his actions in this litigation are less a result of his inexperience as a *pro se* litigant and more a function of his continued intention to ignore the rules of court.

¹ The Circuit Court, sitting in its appellate capacity pursuant to S.C. Code § 59-25-480, held four hearings in this matter. Appellant did not proffer any documents at any of the hearings. *See* Exhibit B. Therefore, the only documents that may be properly considered in this appeal are those that were entered into evidence during Appellant's teacher dismissal hearing before the school board.

For the reasons stated herein and more thoroughly explained in Respondent's motion, Respondent requests that the Court dismiss Appellant's appeal for his willful failure to follow the Court's rules. In the alternative, the Court should strike Appellant's Designation of Matter and Initial Brief and require that he serve and file amended versions of each document, since it is undisputed that they contain matters not presented in the proceedings below.

Respectfully Submitted,



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Telephone: 843-322-2414

Attorneys for Respondent Beaufort County
School District

July 27, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY
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Marvin H. Dukes, III, Master In Equity and Special Circuit Court Judge

Case No. 2015-CP-07-1343
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John Alden Bauer, III,

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v.

Beaufort County School District

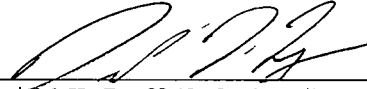
Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Reply to Appellant's Return to Respondent's Motion to Dismiss, or, in the Alternative, to Strike Appellant's Designation of Matter and Initial Brief, to Require an Amended Brief that Complies with the Rules, and For an Extension of Time to File Respondent's Designation of Matter and Initial Brief, by depositing a copy of it in the United States Mail, postage prepaid, on July 22, 2016, addressed to *pro se* Appellant John Alden Bauer, III, 5 Gumtree Road E-11, Hilton Head Island, South Carolina, 29926.

July 27, 2016

SEE SIGNATURE NEXT PAGE



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School District

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

 ORIGINAL

JEFFREY C. MOSS, Ed.D.,)
)
Petitioner,)
-versus-)
)
JOHN ALDEN BAUER, III,)
)
Respondent.)
_____)

S.C. Code of Laws 59-25-470
Hearing

Hearing before the Beaufort County
School District Board of Trustees held April 30th
through May 2nd, 2015, at the Main Offices of the
Beaufort County School District, 2900 Mink Point
Boulevard, Beaufort, South Carolina, commencing
at approximately 4:35 p.m.

Bettye Anderson & Associates

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6020 Dowlingwood Drive
Beaufort, South Carolina 29902
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APPEARANCES

Board of Trustees: Bill Evans, Chair
Laura Bush, Secretary
Evva Anderson
Jim Beckert
Earl Campbell
Joseph Dunkle
JoAnn Orischak
Bill Payne
Michael Rivers

Board Counsel: David T. Duff, Esquire

For the Petitioner: Shirley M. Fawley, Esquire
Vernie L. Williams, Esquire
CHILDS & HALLIGAN, P.A.
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Columbia, South Carolina 29211

For the Respondent: John Alden Bauer, III
Pro Se Respondent

Also present: John Alden Bauer, Jr.
(Referred to herein as
"MR. JOHN BAUER")

Reported by: Matthew Hazen Anderson
Notary Public/Court Reporter

oOo

Bettye Anderson & Associates
Beaufort, South Carolina

Appearances

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Beaufort, South Carolina

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** REPORTER'S NOTE **
All exhibits marked prior to going on the record.

REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
1	Documentation regarding 11/1/13 incident
2	Photographs of gym
3	Acknowledgment of receipt of documentation regarding 11/1/13 incident
4	IS-2, teacher expectations and accountability policy
5	HRS-4, staff conduct policy
6	SS-1, student goals and objectives policy
7	Email from Brockway to Walton 2/5/14
8	Email from Brockway to McAden 2/13/14
9	Email chain between Clendaniel and Bauer dated 1/28/14
10	Note from Clendaniel 2/4/14
11	Emails from Brammer to Bauer 2/5/14
12	Email from Clendaniel to McAden and Brockway dated 2/5/14
13	Email from Clendaniel to Bauer 2/5/14
14	Outlook invitation from Clendaniel to Bauer 2/5/14

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REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
15	Notes from Clendaniel following 2/5/14 conference with Bauer
16	Memo from Clendaniel to Bauer dated 2/5/14 with Bauer acknowledgment of receipt
17	Letter from McAden to Bauer 12/10/13
18	Email from McAden to Walton 2/6/14
19	Email from McAden to Walton 2/6/14 and 3/19/14
20	Email from McAden to Bauer 3/17/14
21	Email from McAden to Bauer 6/9/14
22	Master Scheduled 2013-14
23	Letter from Moss to Bauer 2/2/14 with contract
24	Email from Moss to Bauer and Walton 4/28/14 at 6:45 p.m.
25	Email from Moss to Bauer 4/28/14 at 8:24 p.m.
26	Email from Bauer to Moss 4/28/14 at 8:31 p.m.
27	Email from Moss to Bauer 4/28/14 at 8:48 p.m.
28	Letter from McMaster to Walton 5/21/14
29	Email from Moss to Bauer 5/22/14 at 9:07 a.m.
30	Email from Moss to Bauer 5/22/14 at 3:07 p.m.
31	Email from Bauer to Moss 5/22/14 at 4:35 p.m.
32	Email from Moss to Bauer 5/22/14 at 4:54 p.m.

REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
33	Email from Bauer to Moss 5/25/14
34	Email from Bauer to McAden 5/27/14
35	Email from Moss to Bauer 5/28/14 at 5:29 p.m.
36	Email from Bauer to Moss 5/28/14 at 6:47 p.m.
37	Email from Moss to Bauer 5/28/14
38	Email from Bauer to Moss 5/28/14 at 7:22 p.m.
39	Email from Bauer to Moss 5/28/14 at 7:36 p.m.
40	Email from Moss to Bauer 5/29/14
41	Letter from Moss to Bauer 6/6/14

<u>Number</u>	<u>Walton De Bene Esse</u>
1	IS-2, teacher expectations and accountability policy
2	Roll book
3	Letter from Walton to Bauer 2/7/14
4	Email from Walton to Bauer 3/25/14
5	Email from Walton to Bauer 4/1/14
6	Letters from Dr. Rosenbaum-Bloom to Bauer 3/27 and 3/28 of 2014

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Petitioner's Exhibits

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REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Walton De Bene Esse</u>
7	HRS-16, staff leaves and absences
8	Email from Bauer to Walton 4/24/14
9	Email string between Walton, Bauer, and Moss 4/28/14
10	Letter from Walton to Bauer 4/29/14
11	Email from Walton to Bauer 5/8/14
12	Letter from Walton to Bauer 5/29/14

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REPORTER'S INDEX TO RESPONDENT'S EXHIBITS

<u>Number</u>	<u>Description</u>
2	Clendaniel summary dated 2/4/14 with attached email
19 19-A	11/1/13 acknowledgment of receipt of document 11/1/13 Brockway documentation of incident
42-A	Printout of SC Code 59-25-430 to 59-25-530
45	Printout of McAden letter dated 12/10/13
47	Rosenbaum-Bloom's letter dated 3/28/14
49	Email from Bauer to Walton & Moss dated 4/30
51	HRS-16, Staff Leaves and Absences
59	Printout of Brown v. James decision
94	Timeline of events and emails between Walton and Bauer concerning Rosenbaum-Bloom
98	Letter from Walton to Bauer dated 5/29/14
118	Email from Thune to Bauer dated 12/12/14
121 121-P	Email from McAden to Bauer dated 2/4/14 Collection of emails between McAden and Bauer
148	Collection of testimonials
170	Email string ending 9/18/14 at 2:06 p.m. between Bauer and L. Arnold at Island Rec Center
225	Document entitled "Assumed Charges" with attached emails from Moss to Bauer

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Beaufort, South Carolina

Respondent's Exhibits

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REPORTER'S INDEX TO RESPONDENT'S EXHIBITS

<u>Number</u>	<u>Description</u>
262	Collection of emails concerning cameras
265	Collection of emails concerning the Bauer truck
266	Collection of emails concerning radio transmissions
267	Printout of gym work orders
269	String of correspondence between Bauer and Walton, ending 4/2/15, concerning benefits
272	Collection of emails concerning substitute teachers
275	Certified mail receipt of shipment to Walton postmarked 4/3/15
276	Printout of job posting for PE position entitled "Job Description"
S-1	Supplemental exhibit: email from Bauer to Clendaniel, Owen, and McAden 5/15/13

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Bettye Anderson & Associates

Beaufort, South Carolina

Respondent's Exhibits

(843)525-0791 (800)543-5506

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EXHIBIT B

Appearances

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Also Present:

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Appearances

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Pro Se

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Appearances

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State of South Carolina) Court of Common Pleas
County of Beaufort) 14th Judicial Circuit
No.: 2015-CP-07-1343

John Alden Bauer, III,)
Appellant,)
vs.)
Beaufort County School)
District,)
Respondent.)

HEARING

March 4, 2016

COPY

Hearing reported by Deborah S. Thomas,
Certified Verbatim Reporter and Notary Public in and
for the State of South Carolina; said hearing held
before the Honorable Marvin H. Dukes, III, Beaufort
County Master in Equity and Special Circuit Court
Judge in accordance with the South Carolina Rules of
Civil Procedure, at the Beaufort County Courthouse,
102 Ribaut Road, Room 212, Beaufort, South Carolina,
on March 4, 2016, at the hour of 9:01 a.m.

THOMAS REPORTING SERVICES
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Bluffton, South Carolina 29909
(803) 206-7390

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Appearances

Representing the Appellant:

JOHN ALDEN BAUER, III
Pro Se

Representing Defendant Beaufort County School
District:

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EXHIBIT INDEX

Exhibits: Marked at Page
(None were proffered.)

* * * * *

DUFF, WHITE & TURNER, L.L.C.

ATTORNEYS AND COUNSELORS AT LAW

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* CERTIFIED SPECIALIST IN EMPLOYMENT AND LABOR LAW
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July 27, 2016

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SC Court of Appeals

VIA HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

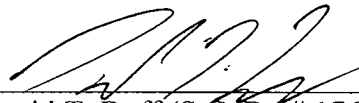
Re: John Alden Bauer, III, v. Beaufort County School District
C.A. No. 2015-CP-07-1343
Appellate Case No. 2016-000955

Dear Ms. Kitchings:

Enclosed for filing is the original and six copies of Respondent's Reply to Appellant's Return to Respondent's Motion to Dismiss, or, in the Alternative, to Strike Appellant's Designation of Matter and Initial Brief, to Require an Amended Brief that Complies with the Rules, and For an Extension of Time to File Respondent's Designation of Matter and Initial Brief along with Proof of Service for same.

Thank you for your assistance in this matter.

Sincerely,



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David N. Lyon (S.C. Bar # 100676)
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The Honorable Jenny Abbott Kitchings

July 27, 2016

Page 2

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District

Enclosures

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Appellant