

The South Carolina Court of Appeals

John R. Rakowsky, Respondent,

v.

Law Offices of Adrian L. Falgione, LLC, James Spencer,
Estate of Doris Holt, Nick Williamson, on behalf of RSC,
Irene Santacroce, Rodney Keith Lail, Marguerite
Stephens and Ricky Stephens, Michael Hartness, Horry
County, S.C., Eugene Chewing, and Glenn W. Harrison,
Defendants,

Of whom James Spencer, Irene Santacroce, Rodney
Keith Lail and the Estate of Doris Holt are the
Appellants.

Appellate Case No. 2014-002029

ORDER

On March 7, 2016, Respondent filed a motion to dismiss this appeal due to an insufficient record on appeal. Among the deficiencies, Respondent alleged the record failed to include the following items listed in his designation of matter: "Item 1, Form 4 Order of December 17, 2013 by Judge Barber," and "Item 5, Form 4 Order of Judge Early dated September 10, 2014." In their return to the motion, Appellants asserted they unsuccessfully attempted to locate the excluded documents and Respondent refused to produce such documents to them for inclusion in the record. On March 31, 2016, Appellants also filed a "Motion for Assistance from the Court to Finalize the Joint Appendix," asking this court to order Respondent to answer their email communications and either produce any excluded documents in his possession or submit a supplemental record to this court. In a May 26, 2016 order, this court noted Respondent's reply to the motion to dismiss included all but one of the excluded documents as exhibits. Accordingly, the court ordered Respondent to produce the remaining excluded

document, ordered Appellant to serve and file an amended record, and held the motion to dismiss in abeyance.

After the amended record was filed, Respondent submitted a letter renewing his motion to dismiss. In the letter, Respondent acknowledged Item 1 from his designation of matter was actually signed by Judge Manning, not Judge Barber. Respondent maintained the record excluded "Form 4 Order of Judge Early dated September 10, 2014," and alleged additional items were excluded, including "Form 4 Order recorded December 30, 2014 re: Final Order Granting Interpleader." Respondent alleged further deficiencies, including that numerous pages in the record were illegible.¹ After additional filings by all parties, Respondent submitted a letter to this court on August 18, 2016, responding to prior letters by Appellant Spencer. In his letter, Respondent acknowledged his designation of matter erroneously stated Judge Early's September 2014 order was dated September 10, when in fact the order was dated September 18. Respondent submitted the order as an exhibit, along with several pages he asserted were missing from other items included in the record. On August 24, 2016, Appellant Spencer submitted a letter to this court in which he asserted the Form 4 order dated December 30, 2014, designated by Respondent, could not exist because the case was disposed of by the circuit court on December 23, 2014. Our review of the Richland County 5th Judicial Circuit Public Index confirms that on December 23, 2014, the circuit court entered a final order and disposed of the case. The index does not list any subsequent orders issued by the circuit court. On August 30, 2016, Appellants filed an amended record that included the missing pages Respondent included as exhibits in his August 18 letter.

Given the circumstances surrounding the purported deficiencies in the record, we find it appropriate for Respondent to submit a supplemental record that includes any remaining documents he believes are missing from the current record. Respondent shall serve and file the supplemental record within twenty days of entry of this order. Upon the service and filing of the supplemental record, or the expiration of twenty days, this appeal will proceed and the timelines for filing final briefs will begin to run. Respondent's motion to dismiss is denied.


FOR THE COURT

¹ We have reviewed these pages in the current record, and although they suffer from defects apparently resulting from repeated copying, we believe they are sufficient for this court to review in its consideration of this appeal.

FILED

August 31, 2016

Columbia, South Carolina

cc: Irene Santacroce
Rodney Keith Lail
James B. Spencer
Michael Gordon Sribnick, Esquire
Desa Ballard, Esquire