

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LAURENS COUNTY  
Court of Common Pleas

Eugene C. Griffith Jr., Circuit Court Judge

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Case No. 2016-001618

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Rodrick Tucker and Shakeyra Gilbert,

Appellants,

v.

South Carolina Department of Social  
Services,

Respondent.

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REPLY BRIEF

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Rodrick Tucker  
206 Oak Street  
Clinton, South Carolina 29325  
(864) 869-8825  
Appellant

Shakeyra Gilbert  
350 Norris Street, Apt 246D  
Spartanburg, South Carolina 29306  
(864) 402-9838  
Appellant

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OCT 11 2016

SC Court of Appeals

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### Reply to Respondents Argument 1 (D)

SC DSS'S ARGUMENT THAT A FAMILY COURT FOUND THAT IT MADE A "PRIMA FACIE" SHOWING OF PROBABLE CAUSE FAILS TO ADDRESS THE VERY REASON DSS WAS ABLE TO MAKE THAT SHOWING, THROUGH UNTRUE STATEMENTS, OMISSIONS AND MISCHARACTERIZATIONS OF A FLAWED INVESTIGATION PRIOR TO THE INITIATION OF ANY LEGAL PROCEEDINGS. DSS'S CLAIM THAT IT HAS NO ALLEGED OR OTHER DUTY TO APPELLANTS IS ALSO FLAWED.

In its Brief, DSS claims that the Appellants have not alleged a duty owed to them. This is untrue as Appellants allege in their Amended Complaint that, DSS is required to conduct a thorough investigation before removing children from their parents, and DSS did not do so in this case (R. p. 67, line 76). This duty is evidenced by SC Code 20-7-650(C), Within twenty-four hours of receiving a report of suspected child abuse or neglect, DSS must begin a thorough investigation. The Appellants allege that DSS failed to conduct even a minimal investigation yet along a thorough one (R. p. 67, line 78). This duty is owed not only to the minor child but to the parents and subjects of DSS investigations. DSS errs in asserting that the duty to investigate allegations of child abuse is owed only to minor children.

DSS also claims that the Tucker and Dandy affidavits (R. pp. 150-152) do not provide evidence of negligence. However, both affidavits directly contradict everything DSS stated as reason for seeking the removal of the minor child. These affidavits allege that DSS made false representations of its observations, which is not only negligent but also fraudulent.

Once again DSS relies on its assertions that the Family Court found probable cause to

remove the minor child. This is undisputed, however, DSS fails to recognize that fact that any untrue representations and omissions made to the Family Court ex parte or during a probable cause hearing could not be directly challenged at those hearing because such hearings are one sided. Lastly, for arguments sake, even though a family court found probable cause based on DSS's affidavits, DSS was still negligent for providing false affidavits to the Court.

### CONCLUSION

The Appellants, Shakeyra Gilbert and Rodrick Tucker, reiterate their arguments as set forth in their Brief of Appellants that the Circuit Court erred in granting summary judgment to DSS.

September 23, 2016

Respectfully submitted,

Rodrick Tucker

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206 Oak Street

Clinton, South Carolina 29325

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Appellant

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Spartanburg, South Carolina 29306

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CERTIFICATE

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

September 23, 2016

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