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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2014-002532  
Case No. 2013-CP-36-00321

**RECEIVED**

OCT 24 2016

SC Court of Appeals

Anthony Derone Richardson,

Appellant,

v.

Jackie Swindler, Chief of Police,  
Newberry County Municipal Police,

Respondent.

**RESPONDENT'S FOURTH MOTION TO CORRECT THE RECORD ON APPEAL**

The Respondent Jackie Swindler respectfully moves this Court, pursuant to Rule 240(a), SCACR, for an Order requiring the Appellant to file and serve a corrected Record on Appeal that complies with the South Carolina Appellate Court Rules. Specifically, the Respondent respectfully requests that the Appellant correct the Record on Appeal to include in the Record on Appeal all documents designated by the parties in compliance with Rule 210(c), SCACR.

The Respondent's motion is addressed in greater detail in the supporting memorandum filed herewith. The Respondent requests that the Court hold all deadlines in abeyance until the issue regarding the Record on Appeal is resolved.

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ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina

October 20, 2016

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**RESPONDENT'S MEMORANDUM IN SUPPORT OF FOURTH MOTION TO  
CORRECT THE RECORD ON APPEAL**

The Respondent Jackie Swindler, through his undersigned attorneys, filed a motion pursuant to Rule 240(a), SCACR, to require the Appellant to correct the Record on Appeal on the grounds that it fails to comport with the requirements set forth in Rule 210, SCACR, and therefore, the Respondent cannot appropriately reference the Record on Appeal in his Final Brief in accordance with Rule 211(b)(1), SCACR.

The Appellant served his corrected Record on Appeal on or about October 12, 2016. The current Record on Appeal is incomplete, and therefore, it is impossible for the Respondent to

properly cite to the Record in his Final Brief. The relevant portion of Rule 210(c), SCACR, provides:

The record on Appeal shall include *all matter designated to be included by any party under Rule 209* and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and certificate by appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index.

Rule 210(c), SCACR (emphasis added). One of the bases for the Respondent's prior Motions to Correct the Record on Appeal was the Appellant's failure to include all matter designated by the Respondent to be included in the Record on Appeal. Although the current Record on Appeal includes some of the matter designated by the Respondent that was previously missing from the prior Records on Appeal, the current Record on Appeal does not contain all of the matter designated by the respondent, and therefore, it is incomplete.

In his Designation of Matter to be Included in the Record, the Respondent included, among other documents, the following: (1) the Defendant's *Amended* Memorandum In Support of Motion for Summary Judgment with Exhibits 1 through 7; (2) the Transcript of Deposition of Anthony Richardson taken on March 24, 2014;<sup>1</sup> and (6) the Answer filed on behalf of the Defendant. (See Respondent's Designation of Matter to be Included in the Record).

The Appellant did not include the Defendant's Answer or the Defendant's *Amended* Memorandum In Support of Motion for Summary Judgment in the Record on Appeal he recently served on October 12, 2016. Furthermore, he did not include a complete transcript of the deposition. Instead, he only included twenty-four pages of the seventy-eight paged transcript.

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<sup>1</sup> The Appellant's Index indicates that the Deposition Transcript appears at pages eleven through twenty-two and also at pages 101 through 163 in the record on Appeal. It does not appear at either of those locations in the Record on Appeal.

Moreover, he failed to include three pages from the deposition transcript that the Respondent specifically cited to in his Initial Brief. In particular, the Appellant failed to include in the Record on Appeal pages 35, 36 and 69 from the deposition transcript. His failure to include the foregoing pages makes it impossible to cite to those pages in the Final Brief. Rule 210(h) clearly states that: “[e]xcept as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.” Rule 210(h), SCACR. The foregoing documents are central to the issues on appeal and contain facts that require consideration by the Court in this matter. Accordingly, the Appellant should be required to correct the current Record on Appeal to include all the matter designated by the Respondent.

Respectfully submitted by,

MORRISON LAW FIRM, LLC

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ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina

October 20, 2016

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In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
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Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2014-002532  
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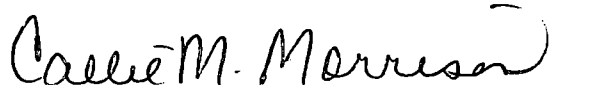
Jackie Swindler, Chief of Police,  
Newberry County Municipal Police,

Respondent.

**CERTIFICATE OF SERVICE**

The undersigned employee of Morrison Law Firm, LLC, attorney for the Respondent does hereby certify that service of the **Respondent's Fourth Motion to Correct the Record on Appeal and Memorandum in Support of Motion** in the above-captioned action was made upon the Appellate by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 20th day of October, 2016, addressed as follows:

Anthony D. Richardson  
Post Office Box 221  
Newberry, South Carolina 29108

  
Callie M. Morrison

Columbia, South Carolina

**Morrison Law Firm, LLC**  
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David L. Morrison\*  
Kassi B. Sandifer  
Robert G. Cooper\*\*  
J. Jordon Johnson

\*Licensed in SC & NC  
\*Certified Mediator  
\*\*Of Counsel

October 20, 2016

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

RE: Anthony Derone Richardson v. Jackie Swindler, Chief of Police, Newberry County  
Municipal Police  
Appellate Case #: 2014-002532  
C/A #: 13-CP-36-00321  
Our file: 210.0411

Dear Clerk Kitchings:

Enclosed are the original and one copy of the Respondent's Fourth Motion to Correct the Record on Appeal and Memorandum in Support of Motion in this matter. Also enclosed is a check in the amount of \$25 for the cost of filing. Please return a clocked-in copy to me in the self-addressed stamped envelope enclosed for your convenience. By copy of this letter, I am serving the Appellant with a copy of same.

Very truly yours,

MORRISON LAW FIRM, LLC

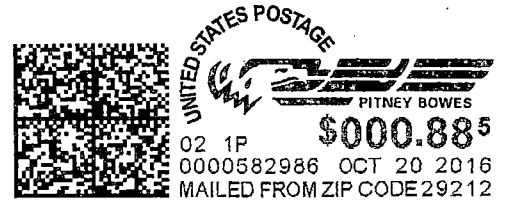


Kassi B. Sandifer

Enclosure

cc: Anthony D. Richardson

MORRISON LAW FIRM, LLC  
7453 Irmo Drive, Suite B  
Columbia, South Carolina 29212



Honorable Jenny Abbott Kitchings  
Clerk of Court, Court of Appeals  
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