

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

RECEIVED
NOV 30 2016
SC Court of Appeals

Biafra Monique Curtis,

Appellant

V.

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al., **Respondent(s)**

**RESPONSE TO MOTION TO EXCLUDE MATTER FROM RECORD ON APPEAL
AND REQUEST TO IMPLEMENT RULE 19**

YOU WILL PLEASE TAKE NOTICE, APPELLANT, moves the court for an Order objecting to striking any portions of the Record on Appeal and it's supporting documents. Contrary to the Respondent(s) by and through their undersigned attorneys statements requesting matter to be stricken from the Record on Appeal, the original Complaint in this matter was submitted to the lower courts along with documents supporting each element made in the Complaint. It is the portions of the Complaint's most vital elements which must remain as the focal point.

These items were included in the Appellant's Initial Brief as well as in the Designation of Matter which was submitted within the required time frame for this appeal, therefore the accompanying documents referenced in said Complaint, more specifically and also listed in the Designation of Matter should be included in the Record on Appeal. Please reference these documents to confirm the truth of this writer's statements. I beg of you to refer to the following documents which have been previously submitted to the court for verification:

1. The Original Civil Action Cover Sheet (requesting a jury trial)
2. The Original Complaint (Page 19, as referenced in the Original Designation of Matter as well as the Appellant's Initial Reply Brief)
3. The Original Designation of Matter and the documents referenced within:
 - a. Original Complaint pg. 19
 - b. Phelps Letter June 05, 2015 and Ganjesani Letter June 10, 2015
 - c. Transcript of Proceedings
 - d. Defendants Attorneys "Response & Objection" dated December 21, 2015
 - e. Final Order from hearing held May 18, 2016, dated & signed May 16, 2016
4. The Initial Reply Brief
5. The Original Designation of Matter
6. The Transcripts from the hearing as they were presented from the court reporter
7. The Respondent(s) Motion for Reform and request to strike matter from the Record on Appeal

The respondent(s) attorney's statements that the exhibits are unnumbered and not were included within the Designation of Matter contradict the argument of their Motion because in the initial items of their motion, they actually refer to the specific page numbers and the proper titles of the documents themselves. How could they do this if they were not appropriately numbered and titled?

With respect to the Respondent(s) Attorney's Motion to have matter stricken from the record, please find an item by item response below:

1.

a. Pages 2-3 Notices for Scheduling for Hearing to be held on May 18, 2016 (These pages accompany the Order signed and dated with the date of "May 16, 2016", by Judge L. Casey Manning) a serve to validate the validity of the Appeal and must be included.

b. Page 19 of the Original Complaint:

(1) SLED Letter from Captn John T. Bishop pg. 19 (The top of this page references the SLED letter from Captain John T. Bishop, which the Respondent(s) Attorney is asking for it not to be included, but you can see for yourself that it is there and was referred to in the Complaint and this page was included in the Original Designation of Matter so it must be included).

(2) OPR Letter from Chief KD Phelps pg. 19 (This page references the OPR letter from Chief K.D. Phelps, which the Respondent(s) Attorney is asking for it not to be included, but you can see for yourself that it is there and was referred to in the Complaint and this page was included in the Original Designation of Matter so it must be included).

c. The (4) Revised Accident Reports were indeed submitted to the lower court, referred to in detail in the Original Complaint and were overlooked by the lower court. They are essential elements which the Respondent(s) Attorney herself eluded to the discrepancies or in her words "dispute about what happened" (see court transcript, page 6, lines 7-9).

d. The (5) Witness Statements were indeed submitted to the lower court, referred to in detail in the Original Complaint and were overlooked by the lower court as well. They

are essential elements which the Respondent(s) Attorney herself eluded to not being aware of what happened (See Transcript page 6, lines 10-25)

2. The Record on Appeal produced to Respondents on November 21, 2016 is not deficient as the as stated by the Respondent(s) Attorney as it does include Exhibits which were numbered, Identified by Title, Name and included in the Index as such. The Attorney states that these items were not included in the Designation of Matter (Please see Designation of Matter). Exhibit "1" is the Transcript as prepared by the Court reporter, was paginated by her and this can easily be confirmed as it is already of record in this court.

3. The Index names the documents included and lists the specific pages by which the documents are located accordingly.

4. According to the Attorney, the Record on Appeal contains "argumentative statements for the first time and a demand for a jury trial" please refer to the trial the hearing transcript to verify that there are inaccuracies in this statement as well. The demand for a jury trial was requested in the initial Civil Action Cover Sheet as well as in subsequent documents which have been submitted to the courts, yet the request has been ignored. This writer is baffled as to what statements the Attorney alleges to be argumentative and/or being made for the first time since the information contained therein is consistent with that made in the original complaint and subsequent documents.

Please note that the Complaint, which is listed in the Original Designation of Matter is accompanied by exhibits and documents which validate the truth of the statements made said complaint were indeed submitted to the lower court and it is the opinion of this writer that these

documents were overlooked which further establishes the systematic pattern of neglect and efforts to conceal the acts emissions that have represented the continued victimization of the appellant. These are all valid documents which have been repeatedly provided to both the courts and the respondent(s) attorneys on a number of occasions.

At this point, it seems to this writer that there is a possibility of attempts of fraud on the court or at least or evidence that the judicial process may have been polluted by way of fraudulent actions and omissions, as per; "McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v Holzer, 816 F.2d. 304, 307: ""**Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud or evidence that false representation does not constitute fraud. "Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." Barnsdall Refining Corn. v. Birnam Wood Oil Co. 92 F 26 817 or evidence that defendants attorney(s) are not guilty of Sham Pleading. "Those which are inherently false and must have been known by interposing party to be untrue." Pentecostal Holiness Church, Inc. v. Mauney, Fla App., 270 So.2d 762, 769. or evidence that defense attorney(s) did not promote the functions of Aider and Abettor. "One who advises, counsels, procures, or encourages another to commit a crime, himself being guilty of some overt act or advocacy or encouragement of his principal, actually or constructively present when crime is committed, and participating in commission thereof by some act, deed, word, or gesture, Turner v Commonwealth, 268 Ky. 311, 104 S.W. 2D 1085, and sharing the criminal intent of the principal."**

This writer is now concerned with Offenses Against Public Justice.

SECTION 16-9-10. Perjury and subornation of perjury.

(A)

(1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

(B)

(1) A person who violates the provisions of subsection (A)(1) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(2) A person who violates the provisions of subsection (A)(2) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not less than one hundred dollars, or both.

(C) A person may be convicted under this section if he induces, procures, or persuades another person to commit perjury or if he commits perjury by his own act, consent, or agreement.

HISTORY: 1962 Code Section 16-201; 1952 Code Section 16-201; 1942 Code Section 1397; 1932 Code Section 1397; Cr. C. '22 Section 332; Cr. C. '12 Section 340; Cr. C. '02 Section 253; G. S. 2531; R. S. 217; 1712 (2) 487; 1993 Act No. 184, Section 89.

SECTION 16-9-20. Subornation of perjury in civil actions.

(A) It is unlawful for a person to:

(1) wilfully induce, procure, or persuade another person by any means to commit perjury in initiating a civil action or proceeding; or

(2) wilfully induce, procure, or persuade another person to give false, misleading, or incomplete testimony while under oath in a civil action or proceeding.

(B) A person who violates the provision of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months and fined not less than two hundred dollars.

HISTORY: 1962 Code Section 16-202; 1952 Code Section 16-202; 1942 Code Section 1398; 1932 Code Section 1398; Cr. C. '22 Section 333; Cr. C. '12 Section 341; Cr. C. '02 Section 254; G. S. 2532; R. S. 218; 1712 (2) 487; 1993 Act No. 184, Section 90.

SECTION 16-9-30. False swearing before persons authorized to administer oaths.

It is unlawful for a person to wilfully and knowingly swear falsely in taking any oath required by law that is administered by a person directed or permitted by law to administer such oath.

A person who violates the provisions of this section is guilty of a felony and, upon conviction,

must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16-203; 1952 Code Section 16-203; 1942 Code Section 1400; 1932 Code Section 1400; Cr. C. '22 Section 335; Cr. C. '12 Section 343; Cr. C. '02 Section 256; G. S. 2534; R. S. 220; 1833 (2) 485; 1993 Act No. 184, Section 166.

My response to this motion is based on the fact that documents were indeed referred to during the final hearing regarding the information which had previously been submitted to the court and were repeatedly overlooked and ignored AND are apart of the official court transcripts, yet the Respondent(s) Attorney's are continuing to display a reckless and seemingly intentional continued pattern of victimization against the Appellant.

It's time for transparency to be brought forward and for actions and records to be examined.

I do hereby request that this Summons, Complaint, Answer, All Orders, Motions and specifically ALL exhibits and supporting documentation which has been submitted to the court by both sides be carefully reviewed. I hereby request that this review be used to support the initiation of action into the ACTS and Omissions of Attorney Norma Jett and Alison D. Hood for:

RULE 19

SCREENING AND INVESTIGATION

(a) Screening. Disciplinary counsel shall evaluate all information coming to disciplinary counsel's attention by complaint or from other sources that alleges lawyer misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings due to a physical or mental condition. If the information would not constitute misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if it were true, disciplinary counsel shall dismiss the complaint or, if appropriate, refer the matter to another agency. If the information raises allegations that would constitute lawyer misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if true, disciplinary counsel shall conduct an investigation.

(b) Investigation. Disciplinary counsel shall conduct all investigations. Disciplinary counsel may issue subpoenas pursuant to Rule 15(b), conduct interviews and examine evidence to determine

whether grounds exist to believe the allegations of complaints. Disciplinary counsel shall issue a notice of investigation to the lawyer with a copy of the complaint or information received requesting that the lawyer file a response to the allegations in the notice; provided, however, that disciplinary counsel may seek permission of the chair or vice-chair to dispense with the requirement to make this request or to dispense with the requirement to provide the lawyer with a copy of the complaint or information received. The lawyer shall file a written response within 15 days of notice to do so from disciplinary counsel. The written response must include the lawyer's verification that it is complete and accurate to the best of the lawyer's knowledge and belief.

(c) Requirements of Notice of Investigation.

(1) When issuing notice of investigation pursuant to Rule 19(b), disciplinary counsel shall give the following notice to the lawyer:

(A) a specific statement of the allegations being investigated and the rules or other ethical standards allegedly violated, with the provision that the investigation can be expanded if deemed appropriate by disciplinary counsel;

(B) the lawyer's duty to respond pursuant to Rule 19(b);

(C) the lawyer's opportunity to meet with disciplinary counsel pursuant to Rule 19(c)(3); and,

(D) the name of the complainant unless the investigative panel determines that there is good cause to withhold that information.

(2) The investigative panel may defer the giving of notice but, when notice is deferred, disciplinary counsel must give notice to the lawyer before making a recommendation as to a disposition.

(3) Before disciplinary counsel or the investigative panel determines its disposition of the complaint under Rule 19(d), either disciplinary counsel or the lawyer may request that the lawyer appear before disciplinary counsel to respond to questions. The appearance shall be on the record and the testimony shall be under oath or affirmation. If disciplinary counsel requests the lawyer's appearance, disciplinary counsel must give the lawyer 20 days' notice.

(4) Any person giving testimony pursuant to Rule 19 shall be entitled to obtain a transcript of his or her testimony from the transcribing court reporter upon paying the subscribed charges unless otherwise directed by an investigative panel for good cause shown.

(d) Disposition After Investigation.

(1) Upon completion of the investigation, if disciplinary counsel believes that no misconduct has been committed, and a written caution is not appropriate to conclude the matter, disciplinary counsel may dismiss the complaint.

(2) If disciplinary counsel believes that no misconduct has been committed, but a written caution or warning is appropriate to conclude the matter, disciplinary counsel may issue a letter of caution.

(3) If disciplinary counsel believes there is evidence supporting the allegations against a lawyer, disciplinary counsel may:

(A) propose an agreement for discipline by consent to the lawyer pursuant to Rule 21;

(B) recommend to an investigative panel that the matter be concluded with a letter of caution or a confidential admonition; or,

(C) recommend to an investigative panel that formal charges be filed.

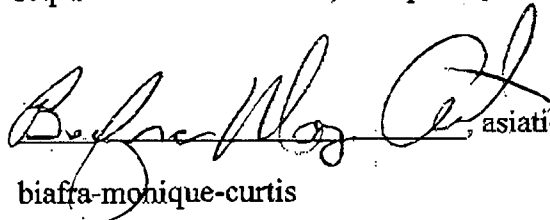
(4) The investigative panel may adopt, reject or modify the recommendations of disciplinary counsel.

(A) If the investigative panel finds no violation or a violation pursuant to Rule 7 for which the imposition of a sanction is not warranted, it may dismiss or issue a letter of caution.

(B) If the investigative panel finds that there is reasonable cause to believe the lawyer committed misconduct for which the imposition of a sanction is warranted, it may accept an agreement for discipline by consent pursuant to Rule 21; it may execute a deferred discipline agreement; it may admonish the lawyer pursuant to the provisions of Rule 19(d)(5) or, it may direct disciplinary counsel to file formal charges.

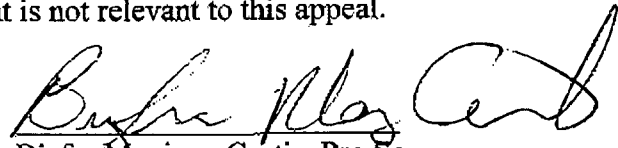
(C) If the investigative panel finds that the matter should not be dismissed, but it is either impossible or impractical to proceed with the matter because it appears that the lawyer is deceased, disappeared, incarcerated, physically or mentally incapacitated, disbarred, or suspended from the practice of law, or for other good cause, the panel may designate the matter closed but not dismissed. If the lawyer files a written objection with the Commission and serves a copy of that objection on disciplinary counsel within 10 days of service of notice that the matter was closed, but not dismissed, the matter shall be deemed re-opened and in the investigation phase. Any objection need not contain any grounds for objecting. Before a matter can be re-opened after being closed, but not dismissed, an investigative panel of the Commission must make a finding that there has been a change in the circumstances that were the basis for the matter to be closed, but not dismissed, or that there is other good cause for it to be re-opened. Before a motion can be considered by an investigative panel of the Commission to re-open a matter that has been previously closed, but not dismissed, disciplinary counsel shall serve a copy of the motion to do so containing the grounds to re-open on the lawyer and then the lawyer shall have 10 days to respond thereto. Disciplinary counsel shall notify both the lawyer and the complainant when a matter is closed, but not dismissed, and when the matter is re-opened. If the panel declines to re-open the matter, disciplinary counsel shall so advise the lawyer.

(5) When the investigative panel finds reasonable cause to conclude that the lawyer has committed misconduct, but finds that public discipline is not warranted, it may issue notice to the lawyer that it intends to impose a confidential admonition as a final disposition of the matter(s). Notice to the lawyer shall include a copy of the confidential admonition and shall be served on the lawyer in accordance with Rule 14(c). The notice of intent shall state the lawyer's right to object and that any such objection need not include any grounds therefor. The confidential admonition shall thereafter be imposed unless the lawyer both files with the Commission and serves on disciplinary counsel a written objection within 30 days of mailing of the notice. If the lawyer objects to the imposition of the confidential admonition in conformity with the requirements of this rule, disciplinary counsel shall file formal charges.

 asiatic woman
biafra-monique-curtis

I certify that this response to motion contains no matter that is not relevant to this appeal.

November 29, 2016


Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925

**FORM 7
PROOF OF SERVICE OF RESPONSE TO MOTION TO EXCLUDE MATTER TO BE
INCLUDED ON APPEAL AND REQUEST TO IMPLEMENT RULE 19**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No: 2016-001239

Biafra Monique Curtis,

Appellant

v.

RECEIVED

NOV 30 2016

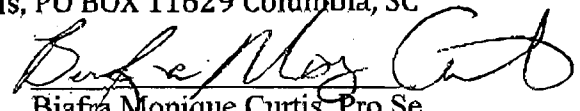
SC Court of Appeals

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al., Respondent(s)

PROOF OF SERVICE

I certify that I have served the Proof of Service of Response to Motion to Exclude Matter on Appeal and request to implement Rule 19 to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on November 29, 2016, addressed to: Honorable Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals, PO BOX 11629 Columbia, SC 29211 and by facsimile to 803-734-1839

November 29, 2016


Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925
843-684-3118

November 29, 2016

★

Attn: Jenny Abbott Kichings
Clerk of Court
South Carolina Court of Appeals
PO BOX 11629
Columbia, SC 29211

ALSO SENT BY FAX
FAX: 803-734-1839

12 PAGES INCLUDING COVER

RECEIVED

NOV 30 2016

SC Court of Appeals

RE: Curtis vs. South Carolina Department of Public Safety, et al
Case No. 2016-001239

Greetings,

Enclosed please find the Apellant's Response and Objection to the Respondent's Motion to Strike Information from Record for Appeal, Request for the court to Apply Rule 19 to Investigate Respondent's Attorneys and Proof of Service.

Thank you in advance.

Sincerely, I am,



Biafra Monique Curtis, Pro Se- Appellant
PO BOX 21294
Hilton Head Island, SC 29925