

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas
Honorable W. Jeffrey Young, Circuit Court Judge

Appellate Case No: 2016-002221

RECEIVED

FEB 16 2017
SC Court of Appeals

R.R., by and through his Guardian ad Litem, Roketha Reid, Appellant,

v.

Williamsburg County School District, Superintendent Dr. Yvonne Jefferson-Barnes, Assistant Superintendent Dr. Bernice Davis-Cooper, Delaney K. Frierson, Senitta Swinton, Principal Dr. Janice Gamble, Rose Marie Moore, Williamsburg County School District Board of Trustees, Defendants,

Of which Williamsburg County School District is the Respondent.

**REPLY TO RESPONDENT'S RETURN TO
MOTION FOR RECONSIDERATION**

The Appellant, by and through his undersigned attorney, hereby Replies to the Respondent's Return to the Motion for Reconsideration as follows:

(1) A trial court judge's ruling on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. *Dunn v. Dunn*, 298 S.C. 499, 381 S.E.2d 734 (1989). The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion. *Id.* An abuse of discretion may be found where the appellant shows that "the conclusion reached by the lower court was without reasonable factual support, resulted in prejudice to the right of the appellant, and therefore, amounted to an error of law." *Id.* at 502, 735.

The transcript from the circuit court hearing is attached as Exhibit A and incorporated herein by reference. In the hearing, the trial judge focuses on whether the non-party student,

whose records have been requested, is accused of any wrong doing. [Trial Transcript, pp. 3-4]. This inquiry does not have a bearing on whether the requested documents are relevant and probative to the pleadings and the allegations of grade changing. Therefore, the trial court's determination was without reasonable factual support and results in prejudice to the Appellant by preventing Appellant from establishing the case of unlawful and improper grade changing. As a result, the trial court's order should be reviewable by this honorable court.

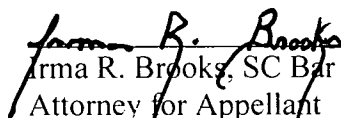
(2) The trial court abuse its discretion by not conducting a proper inquiry into the nature of the documents requested or the provisions of the Family Educational Rights and Privacy Acts, 20 U.S.C. Sec. 1232g, and the impact of this statute on the release of the requested documents. In fact, the trial court judge was dismissive and disrespectful at the beginning and end of the hearing. [Trial Transcript, pp. 2 and 4]. There was not inquiry conducted as to the relevancy and probative value of the requested documents, or the prejudicial effect of releasing the requested documents. As such, the trial judge abused his discretion in the conduct of this hearing.

(3) "By its nature, the question of whether an order is immediately appealable is determined on a case-by-case basis." *Morrow v. Fundamental Ling-Term Care Holdings, LLC*, 412 S.C. 534, 538, 773 S.E.2d 144, 146 (2015). Further, the determination of whether a trial court's order is immediately appealable is governed by statute. *Hagood v. Sommerville*, 362 S.C. 191, 194, 607 S.E.2d 707,708 (2005). Further, Section 14-4-330 provides that appellate courts have jurisdiction to immediately review "(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action[.]" S.C.Code Ann. (1976 & Supp. 2014).

This action involves the alleged unlawful and improper grade changing that resulted in harm to the Appellant. For the circuit court to deny the release of specific grade information of the student requested impacts the specific pleading(s) dealing with unlawful and improper grade changing, the essential cause of action in this case. In addition, if the specific grade information is not made available of the requested student, the Appellant is prevented from establishing the case and continuing this action. There is no substitute of the specific grade information sought to be released and no other way to establish the case for unlawful and improper grade changing. Therefore, despite the fact that this case deals with discovery, the circuit court's order is immediately appealable.

Therefore, based on the above arguments, Appellant respectfully requests this honorable court to RECONSIDER THE APPEAL of this matter and conduct a review of the circuit court's order and render a decision accordingly.

Respectfully submitted,


Arma R. Brooks, SC Bar No. 8507
Attorney for Appellant
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February 11, 2017

EXHIBIT A

State of South Carolina)
)
County of Williamsburg)
)

Raheem Reid,)
Plaintiff)
vs.) Motions Hearing
) 2012-CP-45-00592

Williamsburg County School District,
Defendants

September 8, 2016
Kingstree, South Carolina

Before the Honorable W. Jeffrey Young, Judge.

A P P E A R A N C E S:

Ms. Irma R. Brooks,
Attorney for Plaintiff

Mr. Steve Wukela, Jr.
Attorney for Defendants

Margaret T. Sullivan,
Court Reporter

1 THE COURT: The next one is going to
2 Raheem Reid vs. Williamsburg County School District.

3 MR. WUKELA: May it please the court.

4 THE COURT: Yes, sir.

5 MR. WUKELA: Steven Wukela from Florence
6 here, representing Cambridge Gamble. Your Honor,
7 this is a case brought by a student, Raheem Reid, of
8 the Williamsburg County School District against the
9 school district. Making allegations that I think in
10 effect at some point his grades were changed, or
11 other student's grades were changed that prevented
12 him from having the No. 1 ranking in the school.
13 And that he was damaged in some way as a result of
14 that.

15 The way I was involved in this thing case,
16 Your Honor, is I represent Cambridge Gamble who
17 graduated No. 1 in the school. The plaintiff's have
18 served the Williamsburg County School District with
19 a subpoena requesting certain information to which
20 Mr. Gamble objects. And that's the basis of my
21 motion to quash. And if it please the court, I will
22 a little bit further in to that.

23 THE COURT: Is this is for real?

24 MR. WUKELA: Well, Your Honor, I got a --
25 I appeared here because my client's student's

1 records got subpoenaed, so that's how I got
2 involved.

3 THE COURT: Ms. Brooks.

4 MS. BROOKS: Yes, sir, Your Honor. May
5 it please the court, Your Honor, it's our position
6 that these records are relevant to the allegations
7 in lawsuit. The allegations being that certain
8 grades were changed or altered that prevented
9 Mr. Reid from graduating in the No. 1 position.
10 Based on the discovery and the evidence that we have
11 developed up this point, the student's grades that
12 were impacted are those of Cambridge Gamble. And
13 that's the purpose of our subpoena requesting these
14 records, because it would be relevant to the
15 evidence that we wish to establish in this
16 particular case.

17 Your Honor, also in looking at the
18 protection under the family education and privacy
19 rights, there's a question about whether these
20 records are protected and are disclosable. It would
21 be our position that if there is a subpoena
22 requesting that information, and these are records
23 maintained by the school district that they are
24 then---

25 THE COURT: Are you alleging Mr. Gamble

1 did anything wrong?

2 MS. BROOKS: No, sir, Your Honor. We're
3 alleging that it's his educational records though.
4 Because as a part of the lawsuit, we're looking at
5 all of the grades of, it came down to about four
6 students. We look to all of those students and
7 their grades and their individual classes. And what
8 we've discovered so far from different depositions
9 that we've taken, is that specific grades of
10 Cambridge Gamble were changed retroactively, that
11 then boosted his ranking to the No. 1 position. So
12 that what we're requesting is to look at his total
13 educational picture, which involved at the time,
14 he's a special education student and so he had an
15 individual education plan.

16 So the relevancy there with those records
17 is whether procedure was followed as far as the
18 grading.

19 THE COURT: And where is your client now?
20 I mean and he's has graduated and everything?

21 MS. BROOKS: Yes, Your Honor. He's in
22 college.

23 THE COURT: I'm going to deny it. Tell
24 him to put his big boy pants on, and move on. Life
25 ain't fair. Thank you.

1 MS. BROOKS: Thank you, Your Honor.

2 MR. WUKELA: Your Honor, should I prepare
3 an order?

4 THE COURT: Please prepare an order.

5 ---End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in Common Pleas/Nonjury Court on September 8, 2016, in Williamsburg County, Kingstree, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

11-3-16
DATE



COURT REPORTER
My Commission expires: 9/7/21

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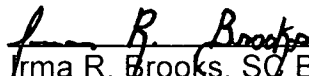
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Of which Williamsburg County School District is the Respondent.

PROOF OF SERVICE

I do hereby certify that I have this 11th day of February 2017, served a copy of the **REPLY TO RESPONDENT'S RETURN TO MOTION FOR RECONSIDERATION**, and a **PROOF OF SERVICE**, by depositing a copy of the same in the United States mail, with first class postage affixed thereto, addressed as follows:

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Attorney at Law
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February 11, 2017

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SC Court of Appeals

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

RE: Reid vs. Williamsburg County School District, et al.
Case No.: 2016-002221


Dear Ms. Kitchings:

Enclosed, please find for filing a **Reply to Respondent's Return to Motion for Reconsideration**, along with the appropriate copies, as well as the related Proof of Service.

If you need any additional information, please do not hesitate to contact me.

Thank you for your attention to this matter.

Sincerely,


Irma R. Brooks
Attorney for Appellant

THE BROOKS LAW OFFICE, LLC

Enclosures as stated above

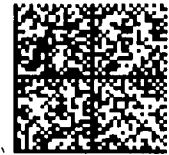
cc: Vernie L. Williams
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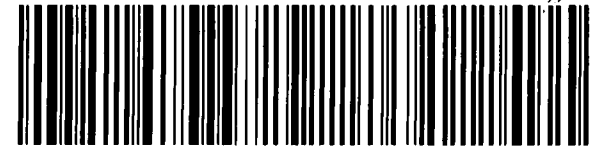
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