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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED

MAR 06 2017

SC Court of Appeals

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No. 2016—001239

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.....Respondents

MOTION TO REFORM THE RECORD ON APPEAL AND FOR AN EXTENSION OF TIME TO FILE FINAL BRIEFS UNTIL THE RECORD ON APPEAL CAN BE REFORMED

YOU WILL PLEASE TAKE NOTICE, RESPONDENTS, by and through their undersigned attorneys, hereby move the Court for an Order seeking to reform the Record on Appeal to comply with Rule 210, SCACR. This motion also seeks a stay of the twenty-day time to serve final briefs, under Rule 211(a), as the serious defects within the Record on Appeal will complicate the process of replacing references in the briefing to correspond to the Record.

✓

Rule 210(c), SCACR prohibits the inclusion within the Record on Appeal of matter that was not presented to the lower court, not included on the Designation of Matter, not relevant to this appeal, and not submitted in the proper format.

This motion is based on the February 27, 2017 proposed Record on Appeal submitted by Appellant.

REGARDING THE RECORD ON APPEAL:

Appellant was Ordered to reform the Record on Appeal to conform with Rule 210, SCACR. Appellant has failed to do so, as the February 27, 2017 Record on Appeal contains a number of items that are improper, specifically:

1. Matter is included within the proposed Record that was not previously listed on a Designation of Matter. Appellant included a new Designation of Matter, dated February 27, 2017 within her submission. This is improper.

2. All those unnumbered "Exhibits" attached to the back of the numbered Record on Appeal, including mental health and medical records for Appellant were not produced to the lower court. These documents were not produced to counsel for Respondents prior to the delivery of the proposed Record on Appeal. Specifically, an outpatient therapist provided a February 17, 2017 letter, did not exist at the time of the hearing and appealed order on this matter, and must be excluded. The Clinical Assessment, dated February 24, 2014 and the attached medical treatment information was not produced below, and is being served on

counsel for the Respondents for the first time within the proposed Record on Appeal.

3. Records from the Clerk of Court's Office in Richland County were not offered to the lower court as evidence. These records are attached to the Record on Appeal as Exhibits (1, 2, 3 and 4). A newly produced letter from Richard County Chief Deputy Clerk, dated February 22, 2017, was not in existence at the hearing on this matter, and must be excluded.

4. It appears that the Summons, Complaint and Answer have been jumbled together in the Record on Appeal, within the section beginning on ROA 7 and ending on ROA 32. Several pages of the Answer are included, interspersed among the pages of the Complaint, and other matter submitted by Appellant. The Answer, in its entirety, was designated within Respondents September 2, 2016 Designation of Matter, and should be included within the Record.

5. The Transcript of May 18th, 2016 was designated by Respondents within their September 2, 2016 Designation of Matter, and should be included in its entirety. Pages 3, 4, 7, and 16 were excluded, without justification.

6. Respondents' Initial Brief, without proper references to the ROA, should not be included within the ROA. These pages, ROA pages 84-97, should be excluded.

7. Pages 98-104 contain what appear to be proposed Jury Charges. As this case was dismissed at summary judgment, no jury charges were submitted to the lower court. These Jury Charges are included in the Record on Appeal for the

first time within the February 27, 2017 proposed Record on Appeal. These should be excluded.

RELIEF SOUGHT

Respondents request that the appeal be dismissed, in its entirety, by separate motion, filed with the Court this day, as Appellant has failed to comply with the South Carolina Rules of Appellate Procedure and has failed to comply with the January 26, 2017 Order of this Court. Appellant has had numerous opportunities to perfect her appeal, and has declined to do so. Rather than narrowing the issues that need to be address, Appellant is enlarging the volume of matter she is attempting to improperly force into the Record on Appeal.

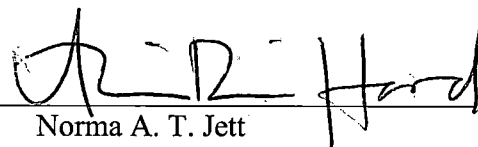
However, if the appeal moves forward, the Record on Appeal must be reformed to comply with the South Carolina Rules of Appellate Procedure. The Record on Appeal must be prepared and served properly before final briefs can be prepared.

This motion seeks an extension of time to file the Final Brief of Respondent, until such time as the Record on Appeal can be reformed to address the deficiencies described above.

Respectfully submitted,

March 2, 2017

By:



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1916-1991

March 2, 2017

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

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SC Court of Appeals

Re: *Biafra Monique Curtis v. SCDPS, et al.*
Appellate Case Number: 2016-001239

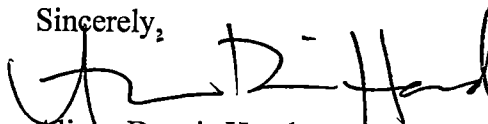
Dear Ms. Kitchings:

Please find enclosed an original and six copies, as well as a check for the filing fee, for **Motion to dismiss the Appeal, Based on Appellant's Failure to comply with the January 26, 2017 Order and Motion to Reform the Record on Appeal and For an Extension of Time to File Final Briefs Until the Record on Appeal can be Reformed.**

By copy of this letter, I am serving a copy of these items on Appellant as shown below, and by the attached certificate of service. Please file the original and return a clocked copy to me in the enclosed envelope.

Thank you for your assistance.

Sincerely,



Alison Dennis Hood

ADH
Enclosures

cc: Biafra Monique Curtis
Appellant
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Hilton Head Island, SC 29925

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