

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAR 16 2017

SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable H.W. Funderburk, Jr. Administrative Law Judge
Case No.: 16-ALJ-15-00010

Appellate Case No.: 2016-002492

MELISSA BURRIS, #212040.....RESPONDENT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,..... APPELLANT

**MOTION OBJECTING TO RESPONDENT'S
DESIGNATION OF MATTER**

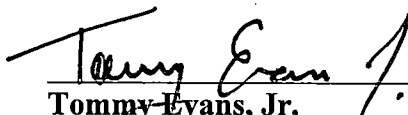
Comes now, Tommy Evans, Jr., Assistant General Counsel for the South Carolina Department of Probation, Parole and Pardon Services (the Department), and respectfully objects to Respondent's request to include a copy of the Respondent's psychological evaluation performed by Dr. Robin Moody.

Appellant objects to this inclusion as all information contained in a parolee or probationer's file is privileged and is exempt from disclosure. See S.C. Code Ann. § 30-4-40(a)(4) (1991) (allowing exemption of matters specifically exempted from disclosure by statute or law). Pursuant to statute, all information and data obtained in the discharge of his official duty by a South Carolina probation agent is privileged information and may not be disclosed directly or indirectly to anyone other than the judge or others entitled to receive reports, unless ordered by the court or the director. S.C. Code Ann. § 24-21-290 (Supp. 2008).

See also State v. Hook, 356 S.C. 421, 590 S.E.2d 25 (2003). Investigating parole cases referred by the director, keeping detailed records of his or her work, making reports in writing, and performing other duties as the director may require are part of the official duties of a probation agent. S.C. Code Ann. § 24-21-280 (Supp. 2007).

Furthermore, this report was not included in the lower court's record on appeal. Appellant filed a motion for an in camera review of this report and by order dated September 30, 2016, by the Honorable H.W. Funderburke, redacted copies of this report were sent to both the Judge and Respondent's attorney; however, it was not to be disclosed to the Respondent. Therefore, Appellate requests that the court deny Respondent's request for the inclusion of this report in the record on appeal.

Respectfully submitted,



Tommy Evans, Jr,
Assistant General Counsel
South Carolina Department of Probation,
Parole and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250

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S.C. DEPARTMENT OF PROBATION, PAROLE AND
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CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant to counsel for Appellant, certify that I have served the within Motion Objecting to Respondent's Designation of Matter dated March 14, 2017, on Respondent this 14th day of March, 2017, by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Tommy Thomas, Esquire
PO Box 88
Irmo, S.C. 29063



Dawn Nichols
Executive Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

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March 14, 2017

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

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Re: Melissa Burris v SCDPPPS

Dear Ms. Kitchings:

Please find enclosed a *Motion Objecting to Respondent's Designation of Matter* dated March 14, 2017, along with proof of service in the above referenced case.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tommy Evans, Jr." with a flourish at the end.

Tommy Evans, Jr.
Assistant General Counsel

TE:dn

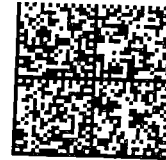
Enclosures

cc: Tommy Thomas, Esquire

State of South Carolina

Department of Probation, Parole, and Pardon Services

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