

Case # 2016-000562

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY, SOUTH CAROLINA
COURT OF COMMON PLEAS

HON R. SCOTT SPROUSE, CIRCUIT JUDGE
Case # 2014-CP-04-01780

NANCY C. PEREZ

Petitioner

Vs

SOUTH CAROLINA

DEPARTMENT OF LABOR, LICENSING AND REGULATION –
BOARD OF NURSING

Respondent

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SC Court of Appeals

MOTION FOR REHEARING

Nancy C Perez, respectfully moves the court for rehearing. As grounds therefore she shows:

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

- 1- By Order dated March 23rd 2017 the Court of Appeals ruled that Ms. Perez is responsible for ordering the Court Reporter’s Transcript. On September 14, 2016 the Court previously ruled that the **referenced transcript was**

already on file at the court of appeals. By letter dated April 13th, 2016 the Appellees stated that they had a copy of the transcript.

- 2- The crux of the case on appeal is the fact that the **Defendants/Appellees have prevented Ms. Perez from earning a living** as a nurse, a profession she exercised for 18 years.

ARGUMENT

(a)

THE LAW MEANS WHAT THE LEGISLATURE INTENDED

- 3- The Law means what the legislature intended¹. The South Carolina Legislature has stated that testimony need not be transcribed unless a party has indicated that (1) it needs the transcript and (2) is willing to pay for the same.²

(b)

THE COURT REPORTER'S TRANSCRIPT IS UNNECESSARY WHEN THERE IS A WRITTEN COURT JUDGMENT

The trial court order that Ms. Perez is appealing is written, therefore the Court Reporter's transcript is unnecessary³.

©

¹ The State v King, 772 S.E.2d 189, 192 (S.C.App. 2015) citing *State v. Gaines*, , 667 S.E.2d 728, 733 (2008)

² SC Code Ann § 1-23 600©

³ Woodson v DLI Properties, LLC, et al, 753 S.E.2d 428 (S.C. 2014) citing *Ford v. State Ethics Comm'n*, , 545 S.E.2d 821, 823 (2001)

**THE COURT REPORTER'S TRANSCRIPT IS
REQUIRED WHEN A LITIGANT ESTABLISHES THAT IT IS
NECESSARY FOR "MEANINGFUL APPELLATE REVIEW"**

- 4- The Court of Appeals has previously ruled that a transcript is required when a litigant establishes that it is necessary for "meaningful appellate review"⁴ But before a litigant can establish meaningful appellate review he must identify a specific appellate claim that the appellate court would be unable to review effectively without the transcript.⁵
- 5- Ms. Perez has stated that she does not need the court reporter's transcript and she did not refer to the same in her original or reply briefs . The Appellees did not refer to the transcript in their Response brief . Actually Ms Perez' motions have been unopposed. The Appellees have failed or refused to claim that the trial court Order is, somehow , insufficient.
- 6- The Appellees have not claimed that the transcript is necessary for "meaningful appellate review" nor have they identified a specific appellate claim that the appellate court would be unable to review effectively without the transcript.

⁴ State v. Ladson, 644 S.E.2d 271, 373 S.C. 320 (S.C.App. 04/09/2007 citing In re D.W., 615 SE 2d 90, 94 (N.C. Ct. App. 2005)

⁵ State v. Asbury, 493 S.E.2d 349 (1997) ; State v. Ladson, 644 S.E.2d 271, 373 S.C. 320 (S.C.App. 04/09/2007) citing *Sweat v. Crawford*, 356 S.E.2d 147, 149 (Ct. App. 1987)

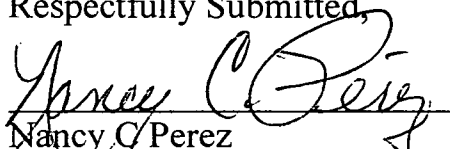
7- Ms Perez submits that the Appellees are demanding the transcript in order to arbitrarily increase the costs of litigation as a trial strategy since they have prevented Ms. Perez from becoming gainfully employed. The courts must prevent parties from arbitrarily increasing the costs of litigation⁶.

CONCLUSION

The general assembly intended that those who need and ordered the court reporter's transcript pay for it. The judgment being appealed is written.

There are two court reporter's transcripts on file : the Appellate Court has one and the Appellee has one. The Appellee has failed or refused to prove that an additional court reporter's transcript is necessary for "meaningful appellate review". The Appellees have failed or refused to demonstrate that forcing Ms. Perez to pay for an unnecessary transcript in order to force her to abandon the lawsuit for economic reasons is lawful.

Wherefore Ms. Perez respectfully submits that the Appeal ought to continue without a court's reporter's transcript.

Respectfully Submitted,

Nancy C Perez
713 E. Greenville St – D220
Anderson, SC 29621

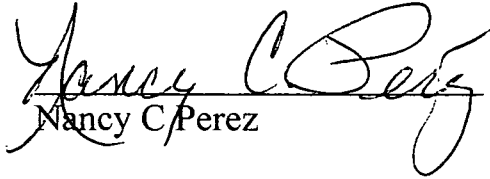
⁶ Spreeuw v. Barker, 682 S.E.2d 843, 385 S.C. 45 (S.C.App. 07/29/2009) citing Donahue v. Donahue, 384 S.E.2d 741, 748 (1989) ; Anderson v. Tolbert, 473 S.E.2d 456, 459 (Ct. App. 1996)

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing "Nancy C Perez" Motion For Rehearing " was delivered by mailing a copy thereof on this 27th day of March 2017 to:

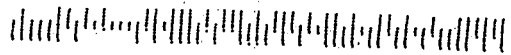
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Nancy C Perez

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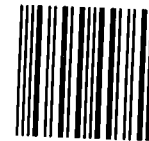
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Hon. Jenny Abbott Kitchings
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