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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Cherokee County
Court of Common Pleas

J. Mark Hayes Jr., Circuit Court Judge

RECEIVED

JUL 26 2017

Docket No.: 2015-CP-11-0828

SC Court of Appeals

Appellate Case No. 2017-001466

Sharon Brown, Appellant,

vs.

Cherokee County
School District, Respondent.

**Motion to disregard needing permission to order transcript outside of filing deadlines
set by Rule 207 of the South Carolina Appellate Court Rules**

The appellant requests that this Court disregard its letter dated July 17, 2017 that states that the time for ordering the transcript has expired. Appellant ordered the transcript on August 31, 2016 and is in possession of the transcript of the hearing held before Judge J. Mark Hayes Jr. on June 20, 2016.

Judge Hayes' last order in the above case is dated June 12, 2017. Judge Hayes did not hold a hearing on Appellant's Motion for Reconsideration. Instead he issued an Order dated June 12, 2017 on the Appellant's Motion for Reconsideration. Therefore, there is no transcript to order pertaining to Judge Hayes' last order dated June 12, 2017.

Further, Appellant notified this Court on August 31, 2016 that she was notifying the court reporter to procure the transcript of the hearing held on June 20, 2016 before Judge Hayes. Additionally, Appellant has previously notified S.C. Court Administration and all parties involved.

Appellant has attached to this Motion the following: (1.) Notice of Appeal to this Court dated August 31, 2016, wherein the court was notified that the Appellant was requesting a transcript of the hearing held before Judge J. Mark Hayes Jr, on June 20, 2016 (2.) Certificate of

Service/ with a Copy of the request for transcript from Court Reporter sent to S.C. Court Administration, mailed September 1, 2016 (3.) Letter from Court Reporter, Susan W. Hudgins, dated September 6, 2016 (4.) Letter from Attorney Smith to Court Reporter Susan W. Hudgins, dated September 16, 2016 (money order sent to court reporter) (5.) A Copy of the Money Order Receipt for Susan Hudgins (6.) Certificate of Mailings notifying: S.C. Court of Appeals, Andrea E. White, and S.C Court Administration of the money order that was mailed to Court Reporter Susan W. Hudgins.



FLETCHER N. SMITH JR.

P.O. Box 10496, F.S.

Greenville, South Carolina 29603

(864)-232-6541

(864)232-6756 Fax

fnsmith@bellsouth.net

ATTORNEY FOR APPELLANT

July 24, 2017

OTHER COUNSEL OF RECORD

Andrea White

White & Story

3614 Landmark Drive, Suite FF

P.O.Box 7036

Columbia, S.C. 29204

ATTORNEY FOR RESPONDENT

5

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Cherokee County
Court of Common Pleas

J. Mark Hayes Jr., Circuit Court Judge

Docket No.: 2015-CP-11-0828

Sharon Brown, Appellant.

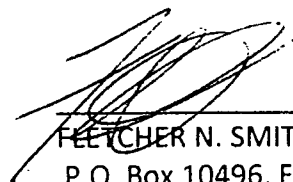
vs.

Cherokee County
School District One, Respondent.

NOTICE OF APPEAL

Sharon Brown appeals the order of the Honorable J. Mark Hayes dated July 25, 2016. Appellant received written notice of entry of this order on August 3, 2016.

August 31, 2016


FLETCHER N. SMITH JR.
P.O. Box 10496, F.S.
Greenville, South Carolina 29603
(864)-232-6541
(864)232-6756 Fax
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ATTORNEY FOR APPELLANT

OTHER COUNSEL OF RECORD

Andrea White
P.O. Box 1486
Columbia, S.C. 29202
(803)790-0603
awhite@dwtlawfirm.com

ATTORNEY FOR RESPONDENT

6
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)
)
Sharon Brown)
)
Appellant,)
)
v.)
)
Cherokee County School Board)
)
Respondent,)
)
_____)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-11-0828

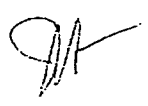
ORDER

2016 AUG - 1 A 11:32
CLERK OF COURT
CHEROKEE COUNTY, S.C.

This is an appeal of the Cherokee County School Board's decision to uphold the School District Superintendent's decision to dismiss Appellant, Sharon Brown, a Cherokee County school teacher.

The substantive statutes applicable to this case are the Teacher Employment and Dismissal provisions of S.C. Code Ann. §§ 59-25-410 to -530. This Court's standard of review is limited to determining whether the Board's decision is supported by substantial evidence in the record. S.C. Code Ann. § 1-23-380; *Felder v. Charleston County School Dist.*, 327 S.C. 21, 489 S.E.2d 191 (1997); *Lark v. Bi-Lo*, 276 S.C. 130, 276 S.E.2d 305 (1981); *Hall v. Board of Trustee of Sumter County School District No. 2*, 330 S.C. 402, 499 S.E.2d 216 (Ct. App. 1998).

The School Board concluded that sufficient reasons existed for Appellant's termination. They concluded she engaged in conduct which evidenced a manifestation of an unfitness for teaching as she was dishonest in answering the superintendent's questions during an investigation into an incident involving an elementary student, she was insubordinate regarding a



directive to not have any discussions with school personnel about her suspension during the investigative process, and she had inappropriate interactions with a student.

After reviewing the transcript of the School Board's hearing and the exhibits presented as part of the hearing's record, reviewing the pleadings and briefs in the Clerk of Court's file, considering the arguments presented by counsel, and applying the required standard of review, the School Board's decision is affirmed.

While there is very little evidence that Appellant "violently" grabbed the student or that she verbally "assaulted" the student, as was first reported to have been observed by a fellow teacher. There is substantial evidence in the record to support the School Board's decision that Appellant was told not to have any discussions about her suspension with school personnel during the investigation into the alleged assault. There is also substantial evidence in the record that after Appellant was told not to discuss the investigation, Appellant tried to influence another school employee who was a potential witness in the investigation. There is also substantial evidence that Appellant was dishonest in her responses about the conversation with this witness.

Furthermore, if Appellant had actually performed the violent grabbing of the student by his lower jaw and throat and forcing the student against the wall while verbally assaulting him, school policy would have required intervention by other government entities like the Sheriff's Department and/or the Department of Social Services. It is significant that school authorities interviewed the student in question and his mother. The student and his mother indicated that such a violent incident did not happen, nor did they indicate that the alleged verbal assault occurred.

Notwithstanding, the School Board's decision that the teacher had inappropriate interaction with the student was based on the Superintendent's investigation that the teacher had used more

A handwritten signature, possibly reading "R.A.", is located at the bottom center of the page. It consists of a stylized capital letter 'R' followed by a capital letter 'A'.

force than necessary when interacting with the student. Thus, applying the substantial evidence standard of review to the record, the School Board's decision that inappropriate interaction with the student occurred is supported.

Had the dismissal been based solely on the inappropriate interaction with the student, this Court may have agreed with the assertion that S.C. Code Ann. § 59-25-440 required the district to take reasonable efforts to correct Appellant's conduct. However, with the Board's finding of evidence that manifested an unfitness for teaching, which included dishonesty combined with the superintendent's "lost [sic] of all confidence" in Appellant's credibility, and rendered Appellant an ineffective and untrustworthy employee, S.C. Code Ann. § 59-25-430 does not require any affirmative remediation efforts by the district. *See Lark v. Bilo*, 276 S.C. 130, 276 S.E.2d 305 (1981) (cautioning that the court shall not substitute its judgment for that of the agency as to the weight of the evidence on the questions of fact).

Therefore, Appellant's appeal of the School Board's decision is DENIED and the appeal is DISMISSED.

IT IS SO ORDERED.

July 25, 2016
Spartanburg, South Carolina


The Honorable J. Mark Hayes, II
Presiding Judge, Seventh Judicial Circuit

FILED TO THE CLERK
OF THE SEVENTH JUDICIAL CIRCUIT
25th AUG - 1 A 11:32
CLERK OF COURT
CLERK COURT, SC

6
FLETCHER N. SMITH, LLC
ATTORNEY AT LAW

P.O. BOX 10496, F.S. GREENVILLE, SOUTH CAROLINA 29603
112 WAKEFIELD STREET GREENVILLE, SOUTH CAROLINA 29601
(864) 232-6541 FAX (864) 232-6756

August 31, 2016

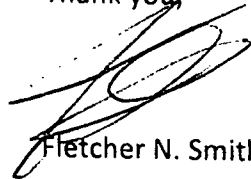
Susan W. Huggins, Court Reporter
Post Office Box 273
Moore, S.C. 29369

Re: Sharon A. Brown, Appellant vs. Cherokee County School District One, Respondent.
Docket No. 2015-CP-11-0828

Dear Ms. Huggins,

I am writing to request a transcript of the hearing, in the above case, held before Judge
J. Mark Hayes, II on June 20, 2016. At your earliest opportunity, please forward me the cost.

Thank you,



Fletcher N. Smith Jr., Esquire

Enclosure(s)

Cc: South Carolina Court of Appeals

Ms. Andrea E. White, Esquire
Duff, White & Turner, LLC

CERTIFICATE OF SERVICE

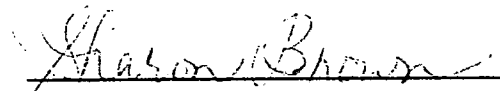
I, Sharon Brown, hereby certify that I have this 31st day of August, 2016, served a copy of the herein below listed document to the addresses listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

PLEADING(S): NOTICE OF APPEAL AND LETTER TO COURT REPORTER (Susan Hudgins)

PARTY SERVED:

The Cherokee County Clerk of Court
P.O. Box 2289
Gaffney, S.C. 29342

Ms. Andrea E. White, Esq.
Duff, White & Turner, LLC
P.O. Box 1486
Columbia, S.C. 29202


SHARON BROWN
Appellant

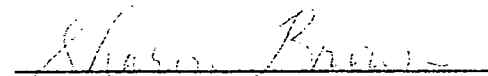
CERTIFICATE OF SERVICE

I, Sharon Brown, hereby certify that I have this 1st day of September, 2016, served a copy of the herein below listed document to the address listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

PLEADING(S): LETTER TO COURT REPORTER (Susan Hudgins)

PARTY SERVED:

South Carolina Court Administration
1220 Senate Street, Suite 200
Columbia, S.C. 29201


SHARON BROWN
Appellant

Re: S.C. Court of Appeals
Sharon A. Brown, Appellant vs. Cherokee County School District, Respondent
Docket No. 2015-CP-11-0828

Enclosure(s):

Cc: South Carolina Court of Appeals
Clerk of Court

Ms. Andrea E. White, Esquire
Duff, White & Turner, LLC

FLETCHER N. SMITH, LLC
ATTORNEY AT LAW

P.O. BOX 10496, F.S. GREENVILLE, SOUTH CAROLINA 29603
112 WAKEFIELD STREET GREENVILLE, SOUTH CAROLINA 29601
(864) 232-6541 FAX (864) 232-6756

August 31, 2016

South Carolina Court of Appeals
ATTN: Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

Re: Sharon A. Brown, Appellant vs. Cherokee County School District One, Respondent.
Docket No. 2015-CP-11-0828

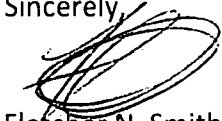
Dear Clerk of Court,

Enclosed you will find one (1) original and three (3) copies of a NOTICE OF APPEAL/CERTIFICATE OF SERVICE to be executed with your court. Also, enclosed you will find our check in the amount of \$100.00 for filing fees.

Additionally, you will find a letter to Ms. Susan Huggins (court reporter) requesting a transcript of the hearing held before Judge J. Mark Hayes, II on June 20, 2016.

Please return the clocked copies in the self addressed stamped envelope provided. If you have any questions, please contact my office.

Sincerely,



Fletcher N. Smith Jr., Esquire

Enclosure(s)

Cc: The Cherokee County Clerk of Court

Ms. Andrea E. White, Esquire
Duff, White & Turner, LLC

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER
P.O. BOX 273
MOORE, S.C. 29369

September 8, 2016

Fletcher N. Smith, LLC
Attorney at Law
PO Box 10496
Greenville, SC 29603

RE: Sharon A. Brown v. Cherokee County School District One
2015-CP-11-00828

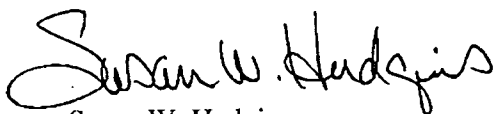
Dear Mr. Smith:

I am in receipt of your letter requesting the above-mentioned transcript. I have reviewed my records and estimate that the transcript will be approximately 65 pages. Based on the current rate of \$3.25 per page, the cost will be \$211.25. Under our rules, I have 60 days in which to complete the transcript.

Upon receipt of a certified check or money order (no personal checks) for \$211.25, the 60 days begin. If I have underestimated the number of pages, you will be notified prior to the delivery of the transcript of the balance due. If I have overestimated the number of pages, you will be refunded the overpayment.

In the event I need an extension of time to complete the transcript, I will request an extension from Court Administration. You will be notified if the extension is granted.

Sincerely,



Susan W. Hudgins
Circuit Court Reporter
At-Large

FLETCHER N. SMITH, LLC
ATTORNEY AT LAW

P.O. BOX 10496, F.S. GREENVILLE, SOUTH CAROLINA 29603
112 WAKEFIELD STREET GREENVILLE, SOUTH CAROLINA 29601
(864) 232-6541 FAX (864) 232-6756

September 16, 2016

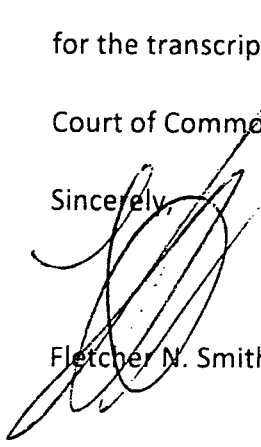
Ms. Susan W. Hudgins, Court Reporter
Post Office Box 273
Moore, S.C. 29369

Re: Sharon A. Brown, Appellant vs. Cherokee County School District One, Respondent.
Docket No. 2015-CP-11-0828
Appellate Case No. 2016-001833

Dear Ms. Hudgins,

Enclosed you will find a money order in the amount of \$211.25 for the estimated cost for the transcript of the hearing held before Judge Hayes on June 20, 2016 in Cherokee County Court of Common Pleas. Please contact me if you have any questions.

Sincerely,



Fletcher N. Smith Jr., Esquire

Enclosure(s)

Cc: South Carolina Court of Appeals

Ms. Andrea E. White, Esquire
Duff, White & Turner, LLC

Office of Court Administration



Sharon Brown vs. Cherokee County School District
CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT
FOR IMPORTANT CLAIM
INFORMATION

**NOT
NEGOTIABLE**

Pay to

Address

Susan W. Hudgins, Court Reporter
P.O. Box 273
Moore, S.C. 29369

KEEP THIS
RECEIPT FOR
YOUR RECORDS

Serial Number

24056701536

Year, Month, Day

2016-09-16

Post Office

29300

Amount \$211.25

Clerk

26

Sent money for transcript



Certificate Of M:

From

Fletcher N. Smith, Esquire
P.O. Box 10496, P.S.
Greenville, S.C. 29603

To

Susan W. Hudgins, Court R
P.O. Box 273
Moore, S.C. 29369

U.S. POSTAGE
PAID
SPARTANBURG, S
29306
SEP 16 '16
AMOUNT
\$1.30
R2303S101672



0000

PS Form 3817, Mar. 1989

Received From:
Fletcher N. Smith Jr.
P.O. Box 10496 FS
Greenville SC 29603

One piece of ordinary mail addressed to:
Fletcher N. Smith Jr.
P.O. Box 10496
Greenville SC 29603

U.S. POSTAL SERVICE
CERTIFICATE OF MAILING
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL. DOES NOT
PROVIDE FOR INSURANCE - POSTMASTER



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U.S. POSTAGE
PAID
SPARTANBURG, SC
29306
SEP 16, 16
AMOUNT
\$1.30
R2303S101672

Sent money for transcript

Sent money for transcript

U.S. POSTAL SERVICE
CERTIFICATE OF MAILING
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL. DOES NOT
PROVIDE FOR INSURANCE - POSTMASTER

Received From:
Fletcher N. Smith Jr., E.
P.O. Box 10496, F.S.
Greenville, S.C. 29603

One piece of ordinary mail addressed to:
S.C. Court of Appeals
Clerk of Ct.
P.O. Box 11629
Columbia, S.C. 29211

PS Form 3817, January 2001

Sent money for transcript

UNITED STATES
POSTAL SERVICE
Certificate of Mail

From: Fletcher N. Smith Jr.,
P.O. Box 10496, F.S.
Greenville, SC 29603

To: SC Court Admin
1220 Senate St, Suite 200
Columbia, SC 29201

PS Form 3817, April 2007 PSN 7530-02-000-9065

U.S. POSTAGE
PAID
SPARTANBURG, SC
29306
SEP 16, 16
AMOUNT
\$1.30
R2303S101672



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SPARTANBURG, SC
29306
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AMOUNT
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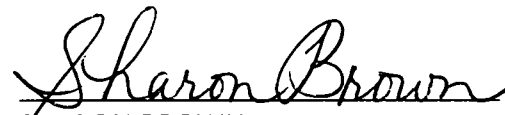
CERTIFICATE OF SERVICE

I, Sharon Brown, hereby certify that I have this 24th day of July, 2017, served a copy of the herein below listed document to the address listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

PLEADING(S): Letter to Ms. V. Claire Allen, Deputy Clerk and Motion to Disregard Needing to Order Transcript outside of Filing Deadlines Set by Rule 207 of the S.C. Appellate Court Rules

PARTY SERVED:

Ms. Andrea E. White, Esquire
White & Story, LLC
P.O. Box 7036
Columbia, S.C. 29204


SHARON BROWN
Appellant

RECEIVED

JUL 26 2017

SC Court of Appeals

5

FLETCHER N. SMITH, LLC

ATTORNEY AT LAW

P.O. BOX 10496, F.S. GREENVILLE, SOUTH CAROLINA 29603
112 WAKEFIELD STREET GREENVILLE, SOUTH CAROLINA 29601
(864) 232-6541 FAX (864) 232-6756



July 24, 2017

Ms. V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED

JUL 26 2017

SC Court of Appeals

Re: Sharon Brown vs. Cherokee County School District
Case No: 2015-CP-11-0828
Appellate Case No. 2017-001466

Dear Ms. Allen,

The transcript of the hearing held before Judge Hayes on June 20, 2016 was ordered on August 31, 2016. I previously notified this Court that I ordered the transcript, by letter dated August 31, 2016. I have attached supporting documentation with my motion. I received the transcript from the court reporter in November of 2016 concerning the hearing held in the above referenced case on June 20, 2016. The Motion for Reconsideration in the above case was ruled upon by Judge Hayes on June 12, 2017, without Judge Hayes holding a hearing. Therefore there is no transcript to be ordered pertaining to the Motion for Reconsideration.

I am resubmitting to this Court a letter showing that I ordered the transcript, on August 31, 2016, of the hearing held before Judge Hayes on June 20, 2016 directly from the court reporter, along with a motion requesting that the request from this Court that I request permission to order the transcript outside of the filing deadlines set be Rule 207 of the South Carolina Appellate Court Rules be disregarded.

I did not order a transcript within 10 days after the date of service of the notice of appeal filed on June 30, 2017 because I had already ordered and received the transcript of the hearing held before Judge Mark Hayes in 2016.

Perhaps I should have reminded/notified this Court when I filed the Notice of Appeal that I had already ordered and received the transcript.

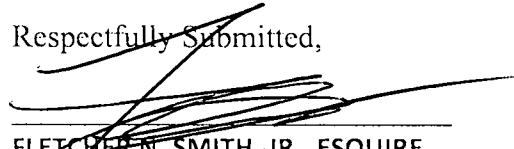
I have enclosed a check in the amount of \$25 for my motion to disregard needing permission to order transcript outside of filing deadlines. Additionally, I have an original and (6)

copies of the motion along with a Certificate of Service to be filed with the clerk of the appellate court. Please file, time stamp, and return copies of same in the self-addressed stamped envelope provided.

Additionally, I have attached supporting documentation with my Motion of submitting material to this Court, S. C. Court Administration, and other counsel of record pertaining to the ordering of the transcript of the June 20, 2016 hearing held before Judge Hayes.

July 24, 2017

Respectfully Submitted,



FLETCHER N. SMITH, JR., ESQUIRE

Attorney at Law

P.O. Box 10496, F.S. (Zip Code: 29603)

112 Wakefield Street

Greenville, S.C. 29601

(864)232-6541

UNITED STATES
POSTAL SERVICE.

Rate

P

US POSTAGE PAID
\$7.20

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Destination: 29211
1 Lb 14.00 Oz
Jul 24, 17
4536230270-14

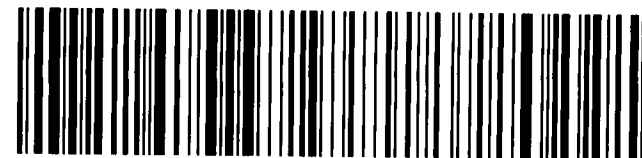
1024

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9505 5134 3508 7205 0762 52



FLETCHER N. SMITH, LLC
ATTORNEY AT LAW

P.O. BOX 10496, F.S.
GREENVILLE, SOUTH CAROLINA 29603

RECEIVED

JUL 26 2017

SC Court of Appeals

MS. V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

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