

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

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DEC 08 2017

SC Court of Appeals

Docket No.: 2015-CP-11-0828

Appellate Case No. 2017-001466

Sharon Brown, Appellant,

vs.

Cherokee County
School District, Respondent.

**APPELLANT'S MOTION FOR BACKPAY AND REINSTATEMENT TO HER TEACHING POSITION
WITH CHEROKEE COUNTY SCHOOL DISTRICT**

Respondent District has no clock copy or any document that it can show this Court or Appellant were it timely FILED with the Cherokee County Court of Common Pleas Clerk of Court's Office the transcript of the teacher dismissal hearing held on October 7, 2015 before the Cherokee County School District Board of Trustees as mandated by S.C. Teacher Employment and Dismissal Law, section 59-25-480. I have attached a copy of what the respondent district filed with Cherokee County Court of Common Pleas Clerk of Court Office on December 3, 2015. Documents filed are dated December 1, 2017 (Exhibit A). You will

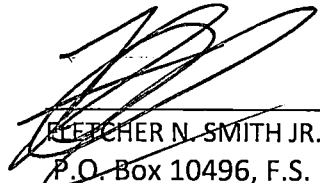
notice that Attorney White's paralegal mailed Cherokee County Court of Common Pleas Clerk of Court an *Answer and Return of Respondent Cherokee County School District* and a *Certificate of Service dated December 1, 2015* and these items were Filed with Cherokee County Court of Common Pleas Clerk's Office on December 3, 2015. Respondent claims that she mailed the teacher dismissal hearing transcript document on December 1, 2015. The Cherokee County Court of Common Pleas Clerk of Court's Record of items filed with their Court (previously submitted to this Court) proves that respondent did not file the teacher dismissal hearing transcript as MANDATED by S.C. Law, section 59-25-480. I am resubmitting this record, Exhibit B.

Consequently, the APPELLANT requests that she be immediately reinstated to her teaching position with Cherokee County School District with back pay, court costs, and any other additional relief that the Court deems appropriate.

This case before the Court is a teacher termination case and as such the standard of judicial review is whether the school board's decision to discharge teacher is supported by substantial evidence. See Kizer v. Dorchester Vocational Edu. Bd. Trustees 287 S.C. 545, 340 S.E.2d 144. Substantial evidence, is evidence which considering the record as a whole, would allow reasonable minds to reach conclusion that school board reached or must have reached to justify its action. See Laws vs. Richland School District No. 1, 270 S.C. 492, 243 S.E.2d 192 (1978).

Given that no teacher dismissal hearing transcript was ever filed by the Cherokee County District School District Board of Trustees at the Cherokee County Court of Common Pleas Clerk of Court's Office, Judge Hayes (Circuit Court Judge) could not have possibly had

substantial evidence on the record to support his decision to rule in favor of Cherokee County School District's discharge of Appellant as a teacher. Therefore, Appellant should be immediately reinstated to her teacher position and not have to wait more time on an appeal that Cherokee County School District has no chance of winning.



FLETCHER N. SMITH JR.

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December __, 2017

ATTORNEY FOR APPELLANT

EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Sharon Brown,

Appellant,

v.

Cherokee County School District,

Respondent.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

C.A. No.: 2015-CP-11-0828

ANSWER AND RETURN OF
RESPONDENT CHEROKEE COUNTY
SCHOOL DISTRICT

Respondent, Cherokee County School District ("the District"), responding to the Amended Appeal Brief of Appellant, Sharon Brown ("Brown"), would respectfully show unto the Court as follows:

The District denies each and every ground that Brown asserts in support of her appeal to this Court of her termination by the District. The District further asserts that there is substantial evidence on the record to support the District's decision to terminate Brown.

WHEREFORE, the District prays that this Court uphold the District's decision and dismiss this appeal.

Respectfully Submitted,

DUFF, WHITE & TURNER, LLC

By: 

Andrea E. White

Joseph P. Bias

P.O. Box 1486

Columbia, SC 29202

Telephone: 803.790.0660

Facsimile: 803.790.0660

Attorneys for Respondent

BRANDY W. MCBEE
CHEROKEE COUNTY, SC

2015 DEC - 3 A 11: 33

FILED IN THE OFFICE
CLERK OF COURT

December 1, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE VIA U.S. MAIL

The undersigned of Duff, White & Turner, LLC, hereby certifies that she has served the following counsel of record with the foregoing **ANSWER AND RETURN OF RESPONDENT CHEROKEE COUNTY SCHOOL DISTRICT**, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 1ST day of DECEMBER 2015:

Fletcher N. Smith, Jr., Esq.
Attorney at Law
P. O. Box 10496, F.S.
Greenville, SC 29603



Elizabeth M. Brown, Paralegal
DUFF, WHITE & TURNER, LLC
P.O. Box 1486
Columbia, SC 29202

FILED IN THE OFFICE
CLERK OF COURT
2015 DEC - 3 A 11: 33
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

EXHIBIT B



Cherokee County Seventh Judicial Circuit Public Index





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Search

Sharon Brown VS Cherokee County School District					
Case Number:	2015CP1100828	Court Agency:	Common Pleas	Filed Date:	11/06/2015
Case Type:	Common Pleas	Case Sub Type:	Use AP Case Type 999	File Type:	Non-Jury
Status:	Ended	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Ended by Non Jury	Disposition Date:	08/01/2016	Disposition Judge:	Hayes, J. Mark II
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Brown, Sharon	Filing/Other	Filing		07/10/2017-11:36		
Brown, Sharon	Order/Other/Motion for Reconsideration Denied & Dismissed	Order		06/15/2017-11:19		
Brown, Sharon	Notice/Appeal	Filing		09/01/2016-14:29		
Brown, Sharon	Memo/Supplemental Memo in Support to Reconsider	Filing		08/30/2016-10:41		
Brown, Sharon	Memo/Memo in Support	Filing		08/18/2016-16:03		
Brown, Sharon	Motion/Reconsider	Motion		08/05/2016-16:57	06/15/2017-16:57	
Brown, Sharon	Order/Order	Order		08/01/2016-16:11	08/01/2016-16:11	
Brown, Sharon	Memo/Memo in Support of Second Amended Appeal Brief	Filing		06/17/2016-11:51	08/01/2016-11:51	
White, Andrea Eaton	6/20/2016_NJURY_Notice of Case Roster Publication Sent	Action		05/23/2016-08:57	08/01/2016-08:57	
Smith, Fletcher N. Jr.	6/20/2016_NJURY_Notice of Case Roster Publication Sent	Action		05/23/2016-08:57	08/01/2016-08:57	
Brown, Sharon	Order/Form 4	Order		01/25/2016-14:16	08/01/2016-14:16	
Brown, Sharon	Service/Certificate Of Mailing	Filing		01/25/2016-11:03	08/01/2016-11:03	
Brown, Sharon	Second Amended Appeal Brief	Filing		01/25/2016-11:02	08/01/2016-11:02	

Smith, Fletcher N. Jr.	1/25/2016_NJURY_Notice of Case Roster Publication Sent	Action	01/05/2016-11:24 08/01/2016-11:24
White, Andrea Eaton	1/25/2016_NJURY_Notice of Case Roster Publication Sent	Action	01/05/2016-11:24 08/01/2016-11:24
Brown, Sharon	1/25/2016_MOTION_Notice of Motions Roster Publication Sent	Action	12/28/2015-09:25 08/01/2016-09:25
White, Andrea Eaton	1/25/2016_MOTION_Notice of Motions Roster Publication Sent	Action	12/28/2015-09:25 08/01/2016-09:25
Smith, Fletcher N. Jr.	1/25/2016_MOTION_Notice of Motions Roster Publication Sent	Action	12/28/2015-09:25 08/01/2016-09:25
Cherokee County School District	Service/Certificate Of Service by Mail	Filing	12/03/2015-14:30 08/01/2016-14:30
Cherokee County School District	Answer/Answer	Filing	12/03/2015-14:30 08/01/2016-14:30
Brown, Sharon	Amended Appeal Brief	Filing	11/16/2015-16:02 08/01/2016-16:02 
Brown, Sharon	Appeal/Notice of Appeal (Workflow)	Action	11/16/2015-11:28 11/06/2015-11:28
Brown, Sharon	Certificate of Service	Filing	11/06/2015-11:37 08/01/2016-11:37  
Brown, Sharon	Notice to Appeal	Filing	11/06/2015-11:31 08/01/2016-11:31 

FLETCHER N. SMITH, LLC
ATTORNEY AT LAW



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December 06, 2017

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DEC 08 2017

SC Court of Appeals

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, Respondent.
Docket No. 2015-CP-11-0828
Appellate Case No. 2017-001466

Dear Clerk of Court,

Enclosed you will find one (1) original and six (6) copies of Appellant's Response to Respondent's Untimely Return to Appellant's Motion to Amend Appellant's Designation of Matters to Be Included In the Record On Appeal to Include The Transcript of the Teacher Dismissal Hearing Held on October 7, 2015. Additionally, you will find one (1) original and six (6) copies of Appellant's Motion For Backpay and Reinstatement to Her Teaching Position with Cherokee County School District. Also, you will find a Certificate of Service and a check for \$25 for the cost of Appellant's Motion for backpay and reinstatement to teaching position with Cherokee County School District.

Please file, time stamp, and return copies of same in the self-addressed stamped envelope provided.

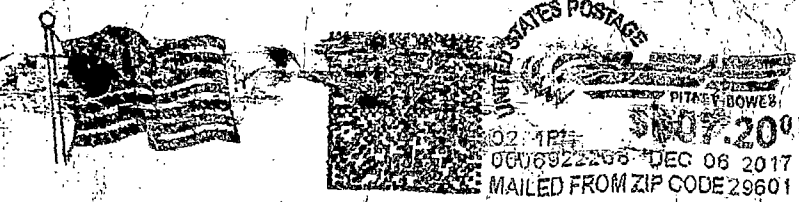
Sincerely,

A handwritten signature in black ink, appearing to read 'Fletcher N. Smith Jr.', written over a set of horizontal lines.

Fletcher N. Smith Jr., Esquire

Enclosure(s)

Cc: Ms. Andrea E. White, Esquire
Brittany M. Lozanne, Esquire
White & Story, LLC



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FLETCHER N. SMITH, LLC
ATTORNEY AT LAW

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GREENVILLE, SOUTH CAROLINA 29603

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211