

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

Case No. 2015-CP-11-0828  
Appellate Case No. 2017-001466

RECEIVED  
DEC 20 2017  
SC Court of Appeals

Sharon Brown,

Appellant,

v.

Cherokee County School District,

Respondent.

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

Pursuant to Rule 240(e), S.C. Ct. App., Respondent, Cherokee County School District (hereinafter "the District"), submits this Return to Appellant Sharon Brown's (hereinafter "Appellant") Motion to For Back Pay and Reinstatement to Her Teaching Position with the District.

On October 30, 2017, Appellant filed a Motion seeking to amend Appellant's Designation of Matter in this case to include the Transcript of the teacher dismissal hearing held on October 7, 2015, before the District's Board of Trustees (hereinafter "the Transcript"). In response to that Motion, the District agreed that the Transcript should be included in the Designation of Matter. By Order dated December 14, 2017, the Court of Appeals granted Appellant's Motion to Amend

the Designation of Matter to include the Transcript of the teacher dismissal hearing held on October 7, 2015.

Appellant now moves this Court for relief contrary to her prior request, arguing that she is entitled to reinstatement and back pay based on her contention that the District did not timely file the Transcript in accordance with S.C Code Ann. § 59-25-480. As explained below, Appellant's argument is not only moot in light of the Court's December 14, 2017, Order, but her request for reinstatement and back pay would not be a proper remedy in any case.

Initially, as explained in the Return filed by the District on November 2017, counsel for the District's business records reflect that a certified copy of the Transcript was timely mailed to the Cherokee County Clerk of Court on December 1, 2015. (Exhibit A) In his Order dated August 1, 2016, Circuit Court Judge Mark Hayes specifically refers to the Transcript, stating that he made his decision "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." (Exhibit B) Notwithstanding that the Cherokee County Clerk of Court's records do not reflect that the Transcript was received in that office, Judge Hayes' Order establishes that he reviewed the Transcript before he entered his Order upholding the District's Board of Trustees' decision terminating Appellant.

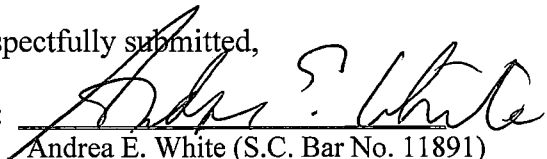
Next, assuming *arguendo* that there is a question related to the filing of the Transcript with the Circuit Court, the appropriate remedy would be for this Court to remand the matter back to the Circuit Court for reconsideration. Appellant's Motion for reinstatement and back pay is not contemplated by the S.C. Teacher Employment and Dismissal Act, and would, in fact, contravene the legal precedent interpreting the Act, which holds that a school board's decision terminating a teacher may only be overturned if the board did not have substantial evidence before it to support

such a decision. *See Laws v. Richland Co. Sch. Dist. No. 1*, 270 S.C. 492, 495, 243 S.E.2d 192, 193 (1978); *Kizer v. Dorchester Cty. Vocational Educ. Bd. of Trustees*, 287 S.C. 545, 548, 340 S.E.2d 144 (1986); *Hendrickson v. Spartanburg Co. Sch. Dist. Five*, 307 S.C. 108, 110, 413 S.E.2d 871, 873 (Ct. App. 1992); *Felder v. Charleston County Sch. Dist.*, 327 S.C. 21, 25, 489 S.E.2d 191, 193 (1997).

Based on the above, the District requests that the Court deny the relief sought by Appellant.

Respectfully submitted,

BY:



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*Attorneys for Defendant*

December 20, 2017  
Columbia, SC

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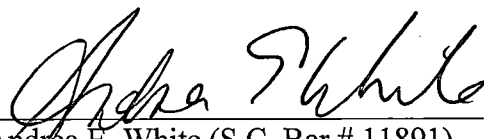
Cherokee County School District,

Respondent.

**PROOF OF SERVICE**

I certify that I have served Respondent Cherokee County School District's *Respondent's Return to Appellant's Motion for Backpay and Reinstatement to Her Teaching Position with Cherokee County School District*, by depositing a copy in the United States Mail, postage prepaid, on December 20, 2017, addressed to her attorney of record, Fletcher N. Smith, Esquire, Law Firm of Fletcher N. Smith, Jr., LLC, 112 Wakefield Street, Greenville, SC 29601.

December 20, 2017



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December 20, 2017

**VIA HAND-DELIVERY**

The Honorable Jenny Abbot Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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

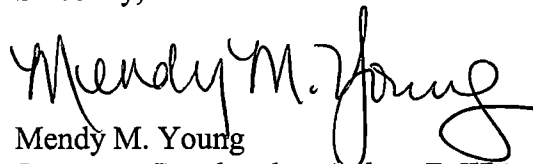
Dear Ms. Kitchings:

Enclosed for filing please find an original and (6) six copies of *Respondent's Return to Appellant's Motion for Backpay and Reinstatement to Her Teaching Position with Cherokee County School District and Proof of Service*, regarding the above-referenced matter. If this meets with your approval, please return one (1) clocked copy to our law clerk. Should you have any questions please feel free to contact our office.

Thank you for your assistance in this matter.

With kind regards, I remain

Sincerely,

  
Mendy M. Young  
Litigation Paralegal to Andrea E. White  
& Brittany M. Lozanne

/mmy  
Enclosures

cc: The Honorable Mark J. Hayes, II (w/enclosures)  
The Honorable Brandy W. McBee (w/enclosures)  
Fletcher N. Smith, Esquire (w/enclosures)