

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

---

Appellate Case No. 2017-001466

---

Sharon Brown, . . . . . Appellant,

vs.

Cherokee County  
School District, . . . . . Respondent.

---

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

---

Appellant mailed this Court her *Motion for Backpay and Reinstatement to her teaching position with Cherokee County School District* on December 6, 2017. This Court filed *Appellant's Motion for Backpay and Reinstatement* on December 8, 2017, prior to this Court issuing an order dated December 14, 2017 allowing Appellant to include the Transcript of the Teacher Dismissal Hearing held on October 7, 2015 before the Cherokee County School District Board of Trustees as part of the record on appeal.

Appellant notified this Court, prior to its December 14, 2017 Order, with both *Appellant's Response to Respondent's Untimely Return to Appellant's Motion to Amend*

RECEIVED  
JAN 02 2018  
SC Court of Appeals

*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 AND Appellant's Motion for Backpay and Reinstatement to Teaching Position* that she no longer wished to have the transcript of the teacher dismissal hearing added to the record on appeal in this Court since it was not a part of the lower Court (Cherokee County Court of Common Pleas) and that she be reinstated to her teaching position with Cherokee County School District with backpay and benefits. Appellant at the time of her initial request to add the *Teacher Dismissal Hearing Transcript* did not know for sure whether the Respondent could produce a filed copy of the transcript of the teacher dismissal hearing transcript, although Cherokee County Court of Common Pleas Clerk of Court's Office had already informed the appellant that NO TRANSCRIPT OF THE TEACHER DISMISSAL HEARING WAS EVER FILED IN THEIR COURT. After viewing Respondent's Untimely Response 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*, Appellant no longer wished to add the transcript of the teacher dismissal hearing transcript.

Appellant strongly believes that her *Motion for Backpay and Reinstatement* is not moot as claimed by the Respondent District because of this Court's order dated December 14, 2017, granting the appellant's request to add the transcript to the record on appeal.

Respondent was given an opportunity to prove the Cherokee County Court of Common Pleas Clerk of Court Office wrong, which it failed to do, concerning the failure to file a teacher dismissal hearing transcript in this case. The 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 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. Respondent's attorney has a business letter that it is showing this Court which is dated December 1, 2015 that does not prove that the transcript was mailed to or filed with Cherokee County Court of Common Pleas Clerk of Court's Office. The Respondent DEFAULTED in this case by failing to file a transcript of the teacher dismissal hearing as mandated by section 59-29-480 of S.C. Teacher Employment and Dismissal Act.

The observance of the procedural requirements of the Employment and Dismissal Act is **mandatory** and not a matter of discretion. See Sharon Brown vs. William B. James, Superintendent for Cherokee County School District, (S.C. Ct. of Appeals. (Emphasis add.) 2010; Opinion No. 4674). The fact that no transcript of the teacher dismissal hearing was ever filed with the Cherokee County Court of Common Pleas Clerk of Court Office rests with the Respondent District's failure to follow procedure as prescribed in the S.C. Teacher Employment and Dismissal Act, and not in any failure of Brown to do anything. Therefore, the argument by Respondent district that "assuming 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" should fail. This would be an unfair remedy for Appellant who has been unemployed and unable to find a teaching job in S.C. for over two years, despite having several advanced degrees in the field of education.

Further, Appellant asserts that without the transcript setting forth sufficient facts for either the lower court or the Appellate Court there is a lack of substantial evidence in the record to support the Respondent's discharge of Appellant as a teacher when the lower court ruled in favor of the Respondent district without the Respondent district apparently ever having filed a

transcript of the teacher dismissal hearing with the Cherokee County Court of Common Pleas Clerk's Office. As a result of error of lower court in regard to this case, the appellant request that the Court of Appeals render a judgment that is fair under the circumstances and consider this matter de novo without consideration of the absent transcript below. Appellant respects the Circuit Court Judge but in the interest of fairness and judicial economy the Appellant requests that the Court of Appeal render an unbiased decision on this matter. *See Kizer vs. Dorchester*, 297 S.C. 545 (1986), 340 S.E.2d

Further, the Respondent district continues to undermine S.C. Teacher Employment and Dismissal Act. The Respondent District was called out in 2010 for not following the S.C. Teacher Employment and Dismissal Act in regard to the Appellant by this Court. Taking someone's livelihood is a serious matter and the Respondent district continually engages in deceitful and unjust conduct.

Given that there is no record below that a teacher dismissal hearing transcript was ever filed by the Cherokee County School District Board of Trustees at the Cherokee County Court of Common Pleas Clerk of Court's Office, the test for substantial evidence is lacking necessitating a reversal of the court below. Therefore, appellant request that the court reinstate her to teaching position with backpay and benefits and any other remedy that the Court deems appropriate.

Respectfully Submitted,



---

FLETCHER N. SMITH JR.

P.O. Box 10496, F.S.  
Greenville, South Carolina 29603  
(864)-232-6541  
(864)232-6756 Fax  
fnsmith@bellsouth.net

December 27, 2017

**ATTORNEY FOR APPELLANT**

RECEIVED  
JAN 02 2018  
SC Court of Appeals

---

**CERTIFICATE OF SERVICE**

---

I, Fletcher Smith, hereby certify that I have this 27 day December 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): *APPELLANT'S REPLY TO RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR BACKPAY AND REINSTATEMENT TO HER TEACHING POSITON WITH CHEROKEE COUNTY SCHOOL DISTRICT*

**PARTY SERVED:**

Ms. Andrea E. White, Esq.  
Ms. Brittany M. Lozanne, Esq.  
White & Story, LLC  
P.O. Box 7036  
Columbia, S.C. 29202

  
\_\_\_\_\_  
Fletcher N. Smith, Jr.

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

December 27, 2017

The Honorable Jenny Abbot Kitchings  
Clerk of Court  
Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RECEIVED  
JAN 02 2018  
SC Court of Appeals

Re: Sharon A. Brown, Appellant vs. Cherokee County School District One, Respondent.  
Docket No. 2015-CP-11-0828  
Appellate Case No. 2017-001466

Dear Clerk of Court,

Enclosed you will find fifteen (15) copies of the Supplemental Record on Appeal in the above captioned case. Also, enclosed you will find a Certificate of Service.

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

Sincerely,

  
Fletcher N. Smith, Jr.

FNS

Enclosure(s)

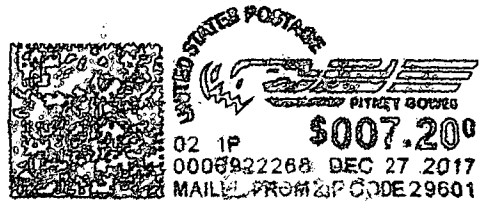
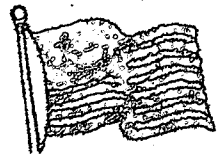
cc: Ms. Andrea E. White, Esquire  
Ms. Brittany M. Lozanne, Esquire  
White & Story, LLC

FIRST CLASS

FIRST CLASS

FIRST CLASS

FIRST CLASS



# First Class Mail



**FLETCHER N. SMITH, LLC**  
ATTORNEY AT LAW

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

**RECEIVED**  
JAN 02 2018  
SC Court of Appeals

The Honorable Jenny Abbot Kitchings  
Clerk of Court  
Court of Appeals  
PO Box 11629  
Columbia, SC 29211

FIRST CLASS  
FIRST CLASS  
FIRST CLASS  
FIRST CLASS