

8/18/18

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge

RECEIVED
MAR 15 2018
SC Court of Appeals

Case No.: 2017-001930

Norris Earl. White, Jr., Appellant

v.

City of North Charleston, Respondent

**RESPONDENT'S MOTION TO DISMISS OR
TO CORRECT RECORD ON APPEAL**

COMES NOW the Respondent, City of North Charleston, and hereby asks the court to dismiss the appeal for excluding Respondent's properly designated material in the Record on Appeal. On March 2, 2018, counsel for Respondent received the Record on Appeal. The Record contained a SCAP Rule 210(g) certificate of counsel that "all documents proposed to be included by any of the parties" were contained therein. However, a review of the Record on Appeal shows that a document designated by Respondent was not included.

Respondent's SCAP Rule 209 Designation of Matter was filed on January 18, 2018. Included in the designation at #6, was the "Front of Ticket 16290 GQ issued to White for Disorderly

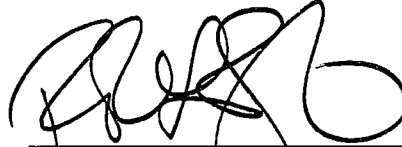
Conduct on December 28, 2013. This document is very important to the issues involved in this appeal and was not included in the Record. On March 2, 2018, counsel for Respondent sent a letter to counsel for Appellant notifying him of the deficiency and requesting that he make arrangements to have the document included in the Record on Appeal. After receiving no response, on March 13, 2018, the undersigned again e-mailed counsel for Appellant to inquire about the situation. Counsel for Appellant indicated that he purposefully excluded the designated document, as he did not believe it was necessary to prove any issue on appeal. He further advised that he did not intend to amend the record on appeal to include the document unless the undersigned convinced him that it was necessary. The appellant never filed any objections to the designations, and it is improper for appellant to exclude designations made by other parties without proper objection or notice.

The South Carolina Supreme Court has made it clear that a respondent “may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court.” *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 419, 526 S.E.2d 716, 723 (2000). “The appellate court may review respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment.” *Id.* at 420, 526 S.E.2d at 723; *see also* Rule 220(c), SCACR (“The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.”).

Based on the fact that the document was purposefully excluded from the Record on Appeal, while counsel certified to this court that all documents were included, Respondent respectfully requests this court to issue an order dismissing the appeal for failure to include necessary and designated documents. Should the Court determine that dismissal is not appropriate, Respondent asks that the Court order Respondent to submit a corrected Record on Appeal within a short time

period.

Further, Respondent asks that all remaining deadlines be stayed pending the outcome of this motion, as the ruling on this motion will affect the filing of the final briefs.

A handwritten signature in black ink, appearing to read 'R. Jackson', written over a horizontal line.

ROBIN L. JACKSON
SC BAR 16948
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422
843-556-4045
fax: 843-556-4046
Robin@SennLegal.com

Attorney for Respondent

March 13, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge

Case No.: 2017-001930

RECEIVED

MAR 15 2018

SC Court of Appeals

Norris Earl White, Jr., Appellant

v.

City of North Charleston, Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of Respondent's Motion to Dismiss Appeal has been served upon Counsel for the Appellant by mailing a copy properly addressed with sufficient postage affixed thereto this 13th day of March, 2018, to the following:

Milt Stratos II, Esquire
Joye Law Firm
P.O. Box 62888
North Charleston, SC 29419-2888



ROBIN L. JACKSON



Senn Legal

—LLC—

ATTORNEYS AT LAW

*Sandra J. Senn
Robin L. Jackson
Christopher T. Dorsel
Kevin M. DeAntonio*

*3 Wesley Drive
P.O. Box 12279
Charleston, SC 29422
(843) 556-4045
F: (843) 556-4046*

Robin@sennlegal.com

March 13, 2018

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
MAR 15 2018
SC Court of Appeals

RE: White v. North Charleston Police Department
Case No.: 2015-CP-10-6561

Dear Madame Clerk:

Enclosed for filing, please find the original and seven (7) copies of Respondent's Motion to Dismiss or to Correct Record on Appeal, Proof of Service, and our firm's check in the amount of \$25.00 for the motion filing fee with regard to the above referenced case. If you would please, kindly file the original and return a stamped copy to my office in the self-addressed stamped envelope provided here-in. By way of this correspondence, I am also serving opposing counsel of record with the same.

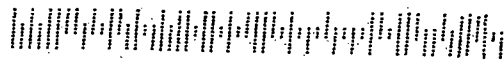
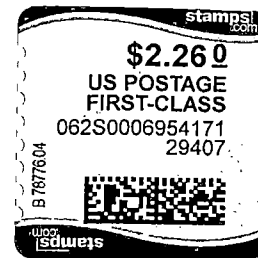
Thank you for your assistance in this matter. Should you have any question or concerns, please do not hesitate to contact my office.

With kindest regards, I am,

Sincerely,

Robin L. Jackson

RLJ/mbk
Enclosures
cc: Milt Stratos, II., Esquire



Robin-L. Jackson, Esquire
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422

RECEIVED
MAR 15 2018
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211