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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JUN 06 2018
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
In the Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

Case No. 2016-CP-23-02113

Appellate Case No. 2017-001147

Aminah A. Richburg,Appellant,

v.

E.A. "Rico" Williams, Director, District One S.C. Basketball Officials Association
and the South Carolina High School League, Respondents.

**RESPONDENTS' JOINT MOTION TO REQUIRE APPELLANT TO INCLUDE
RESPONDENTS' DESIGNATED MATTER IN THE RECORD ON APPEAL**

Pursuant to Rule 240 and Rule 210, SCACR, Respondents jointly seek an order from the Court requiring Appellant to include in the Record on Appeal all items identified in Respondents' Designation of Matter.¹

"The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267." Rule 210(c), SCACR. Indeed, the rule requires Appellant to "certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material." Rule 209(g), SCACR.

¹ Respondents have given a detailed background of this case in prior motions filed with the Court related to Appellant's failure to comply with the South Carolina Appellate Court Rules. For the sake of brevity, Respondents would incorporate the Background section from those motions as fully and effectually as if set forth herein verbatim.

“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). A party must “provide material that complies with the Rules and facilitates appellate review.” Id. “Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Rule 231(a), SCACR. Although Respondents do not seek a dismissal of the appeal, Rule 231(a) highlights the importance of the parties complying with the appellate court rules.

Respondents recently received a copy of the Court’s June 1, 2018 letter to Appellant notifying her of the deficiencies in the Record on Appeal she filed on May 23, 2018. One deficiency the Court noted was Appellant’s failure to file a proof of service. Perhaps this omission stems from the fact that she never served either Respondent with a copy of the Record on Appeal. Cf. Rule 262, SCACR. Indeed, Respondents’ first notice that the Record on Appeal was filed came when they received the deficiency letter from the Court. After looking at the case filings in C-Track, Respondents confirmed Appellant did apparently file the Record on Appeal.

Upon review of the Record on Appeal in C-Track, Respondents learned that Appellant did not include any of the items identified in their Designations of Matter. Interestingly, Respondents reminded Appellant of her obligation to include in the Record on Appeal all matter designated by the parties in a letter seeking clarification on documents she sought to include in the Record on Appeal that were not before the circuit court. See Ex. A. Yet she still did not include Respondents’ designated matter. Thus, in addition to requiring Appellant to correct the deficiencies noted in the June 1, 2018 letter, the Court should issue an order requiring Appellant to include “all matter designated . . . by any party” as required under the rules. Rule 210(c), SCACR.

Further, Respondents would note that they never received a copy of Appellant's request to reduce the number of records and briefs to be filed with the Court. Cf. Rule 262, SCACR. Although Respondents would not have opposed the request, Respondents are concerned that Appellant misrepresented to the Court that she served them with the motion when that never occurred. Accordingly, Respondents would respectfully request that the Court remind Appellant she has a duty to serve all counsel of record with any documents submitted to the Court.

Respectfully submitted,

SOWELL GRAY ROBINSON STEPP &
LAFFITTE, LLC

By: 

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June 6, 2018

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Attorney for Respondent E.A. "Rico" Williams

Greenville, South Carolina

June 6, 2018



SOWELL GRAY
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April 9, 2018

Ms. Aminah A. Richburg
217 Plum Creek Lane
Greenville, South Carolina 29607

RE: Aminah A. Richburg v. E.A. "Rico" Williams, Director, District One S.C. Basketball Officials Association, and the South Carolina High School League
Civil Action No.: 2016-CP-23-02113
Date of Loss: 2/2/16
IRF Claim No.: 74430
Our File No.: 5346/1536

Dear Aminah:

I hope you are doing well. I am writing to follow up on the letter Sarah Hurley sent you dated April 3, 2018, as I would like to address several matters prior to you incurring the expense of preparing the Record on Appeal.

First of all, I want to make sure I understand which document you are referring to by "Affidavit of Aminah A. Richburg dated December 21, 2016," in your amended Designation of Matter. I initially thought you were either referencing your deposition transcript, which was taken on December 21, 2016, or your signed errata sheet dated February 17, 2017. If you could please confirm that you were referencing your deposition transcript or your errata sheet, I would appreciate it. If you are referring to a completely different document, I would appreciate you sending me a copy prior to including it in the bound Record on Appeal.

Secondly, I would respectfully ask you to remove several documents from the Designation of Matter you filed with the Court of Appeals, as they clearly could not have been presented to the trial court because they did not exist at the time of the summary judgment hearing. Those documents would include:

1. Appellate Email Declined Game Football, Arbiter September 14, 2017 (Designation of Matter No. 105)
2. Appellate Calendar of Football and Volleyball Games in Arbiter September 2017 (Designation of Matter No. 106)



3. Appellate harassment by the SCHSL September 14, 2017 (Designation of Matter No. 107)
4. Email Office of South Carolina State Senator C. Ross Turner September 15-21, 2017 (Designation of Matter No. 113)
5. Transcript of Court Proceeding dated September 20, 2016, Judge Couch (Designation of Matter No. 132)
6. Transcript of Court Proceeding dated November 2, 2016, Judge Verdin (Designation of Matter No. 133)

Additionally, I would respectfully ask that you provide me with a copy of the following documents referenced in your Designation of Matter: (1) Appellate SCHSL Arbiter Website/ Announcements Bob Wnukwoski (Designation No. 102); (2) Arbiter Appellate Game Schedule, Group, Date, Sport, Site, Home, Away, Fees (Designation No. 112); and (3) Emails Earl Richards to Appellate (Designation No. 123). If it is too burdensome for you to provide copies of these documents, it would be fine if you let me know the specific date or specific manner in which they were originally transmitted to me.

I assure you that I am only asking for clarification on these documents so that any disputes can be resolved before you prepare the Record on Appeal. As you are aware, the appellant is responsible for preparing the Record on Appeal in compliance with Rule 210 and Rule 267 of the South Carolina Appellate Court Rules. That means the appellant must take all documents designated by all parties to the appeal and arrange them as specified in Rule 210(c), SCACR. The appellant also must comply with Rule 267, SCACR, which requires the Record on Appeal be bound in volumes not exceeding 250 sheets apiece. Furthermore, in addition to serving Ms. Hurley and me with a bound copy of the Record on Appeal, Rule 210(b), SCACR, mandates that the appellant file fifteen (15) copies of the Record on Appeal with the Clerk of the Court of Appeals, with one copy remaining unbound.

As you may imagine, it can be costly and time-consuming to prepare the Record on Appeal. If we do not get clarification from you on some of the documents in question until after we receive the Record on Appeal, we may have no choice but to file a Motion to Strike those documents from the Record if they do not comply with Rule 210(c), which states that "The Record shall not, however, include matter which was not presented to the lower court or tribunal." If we are successful in getting those documents removed from the Record on Appeal, the Court of Appeals may require you to resubmit the Record a second time.

Therefore, if we have any additional disagreements about appropriate matter to be included in the Record on Appeal, my hope is that those disagreements can be resolved before you prepare eighteen



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copies of the Record on Appeal (fifteen for the Court and three for the parties). I would ask that you let me know by Friday, April 13, as to whether you will voluntarily remove numbers 105, 106, 107, 113, 132, and 133 from your Designation of Matter. I also look forward to hearing from you regarding the affidavit in question and the three other documents I mentioned above. If I do not hear from you by April 13th, I will have no choice but to file a Motion to Strike. If you have any additional questions or concerns, please do not hesitate to contact me.

With warmest regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Michael Montgomery'.

J. Michael Montgomery

cc: Sarah Day Hurley, Esquire

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The Honorable Perry H. Gravely, Circuit Court Judge

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Aminah A. Richburg Appellant,

v.

E.A. "Rico" Williams, Director, District One S.C. Basketball Officials
Associations and the South Carolina High School League. Respondents.

CERTIFICATE OF SERVICE

I, the undersigned legal assistant of the law offices of Sowell Gray Robinson Stepp & Laffitte, L.L.C., attorneys for Defendant, South Carolina High School League, do hereby certify that I have served Appellant and all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Respondents' Joint Motion to Require Appellant to Include
Respondents' Designated Matter in the Record on Appeal

Counsel Served:

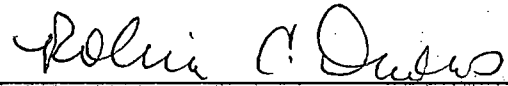
Ms. Aminah A. Richburg
217 Plum Creek Lane
Greenville, South Carolina 29607

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SC Court of Appeals

Sarah Day Hurley, Esquire
Turner Padgett Graham & Laney, P.A.
Post Office Box 1509
Greenville, South Carolina 29602



Robin C. Owens
Legal Assistant

Columbia, South Carolina

6/6 2018.



**SOWELL GRAY
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MICHAEL MONTGOMERY

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June 6, 2018

Via Hand Delivery

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

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Re: Aminah A. Richburg v. E.A. "Rico" Williams, Director, District
One SC Basketball Officials Associations, and the South
Carolina High School League
Appellate Case No. 2017-001147
Our File No. 5346/1536

Dear Ms. Kitchings:

Enclosed for filing are the original and seven copies of Respondents' Joint Motion to Require Appellant to Include Respondents' Designated Matter in the Record on Appeal with proof of service and filing fee in the above matter. Please return a filed copy to me via our courier.

By copy of this letter to *pro se* Appellant and counsel shown below, I am serving a copy of same upon them by mail. Thank you for your assistance.

Sincerely,


Michael Montgomery

JMM:rc
Enclosures

cc: Ms. Aminah A. Richburg
Sarah Day Hurley, Esquire
Vordman Carlisle Traywick, III, Esquire
Rebecca Laffitte, Esquire