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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes, III, Master in Equity and Special Circuit Court Judge

Case No.: 2015-CP-07-1343  
APPELLATE CASE NO. 2016-000955

**RECEIVED**  
AUG 27 2018  
SC Court of Appeals

John Alden Bauer, III

Appellant

v

Beaufort County  
School District

Respondent

**MOTION FOR CLARIFICATION  
OF THE COURT'S OPINION**

From the Opinion:

“As to Bauer’s remaining arguments: Lee Cty. Sch. Dist. Bd. of Trs. v. MLD Charter Sch. Acad. Planning Comm., 371 S.C. 561, 566, 641 S.E.2d 24, 27 (2007) (**holding that issues “not raised to and ruled on by the administrative agency” are not preserved for appellate review.**)”

**CLARIFICATION REQUEST 1**

Termination prior to a hearing violates law. **The issue was raised with and ruled on by the Beaufort County School Board**, with the ruling being in the Order of the Board on page 2, paragraph 3 (R. p 44). The issue was raised repeatedly by Appellant at the appeal hearing. (S.R. 471, lines 12-17; S.R 470, lines 2-4; S.R. 650, lines 13-16; S.R. 665, line 15) Termination prior to a hearing violates case law Brown v. James. Opinion 4674. THE STATE OF SOUTH CAROLINA, In The Court of Appeals, and it violates The Teacher Employment and Dismissal Act, (“TEDA”) Title 59-25-460 and 470. (R.P. 275-276)

The only exception to the above is for unfitness, such as, “*incompetent, to give instruction*” or “*conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics.*” (R. p 274, TEDA Title 59-25-430). No such accusation existed. Appellant had been terminated under TEDA Title 59-25-440, i.e., “Improvement Plan” (S.R. 543, lines 6-10). The witness in this citation was Alice Walton, Head of Human Resources, and was the person who executed the termination.

**CLARIFICATION REQUEST 2**

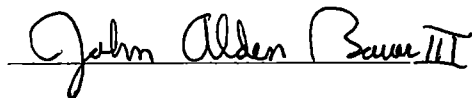
The Beaufort County School Board never issued the mandated Notice of Charges or “Cause of Dismissal” as required in TEDA 59-25-460 (R.P. 275). **The issue was raised with and ruled on by the Beaufort County School Board.** There was complete confusion at the appeal hearing as to Charges that were not defined until the third day of the appeal hearing (S.R.

650, lines 16-17). The Board's Order (R. p 44) only cites an email that the superintendent had testified did not contain the charges (S.R. 650, lines 12-15). In any case the Charges are required to come from the School Board (TEDA 59-25-460, R.P. 275).

### **CLARIFICATION REQUEST 3**

The constitutional question was not addressed. The Beaufort County School District and the Beaufort County School Board are "*legally one in the same*" (according to David Duff, District Counsel in this case, and the District and the Board were combined and equated in the Order of the Court of Common Pleas on September 3, 2015 (written by Duff), (R. p 14, paragraph 3) The District and the Board functioned as both Prosecution and Jury. How does that not violate the SC Constitution, Article 1, Section 22? Justice is not served when prosecution and jury collaborate, and when counsel for the prosecution attends the deliberations of the jury. (S.R. 131, lines 1-2). It was learned after the hearing that the very same General Counsel for the District, who attended the deliberations, was not licensed to practice law in South Carolina.

Respectfully Submitted,



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August 27, 2018

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Appellant

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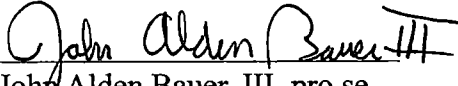
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I certify that I have served the MOTION FOR CLARIFICATION OF THE COURT'S OPINION on the Beaufort County School District by depositing a copy of it in the United States Mail, postage prepaid, on August 27, 2018 addressed to the attorney of record, David T. Duff, of Duff and Childs, 3700 Forest Dr., Suite 404, Columbia, SC 29204.

  
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