

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable L. Casey Manning  
Circuit Court Judge

**RECEIVED**

Case No. 2017-CP-40-1699  
Appellate Case No. 2018-1291

OCT 01 2018  
SC Court of Appeals

The City of Columbia,

*Appellant,*

v.

Shasha Rawlinson,

*Respondent.*

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**SUPPLEMENT TO RESPONDENT'S MOTION TO DISMISS APPEAL**

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Respondent respectfully supplements its Motion to Dismiss with 'Exhibit A' attached  
hereto.



Jerry L. Finney / SC Bar # 64297  
Finney Law Firm, Inc.  
2117 Park Street  
Columbia, SC 29201  
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Attorney for Respondent

September 27, 2018

# EXHIBIT A

State of South Carolina )  
County of Richland )

In The Court of Common Pleas  
Fifth Judicial Circuit  
2017-CP-40-1699

City of Columbia, )  
Plaintiff, )  
vs. )  
Shasha Rawlinson, )  
Defendant. )  
\_\_\_\_\_ )

Transcript of Record

April 13, 2018  
Columbia, South Carolina

B E F O R E:

The Honorable L. Casey Manning, Judge

A P P E A R A N C E S:

Jessica R. Mangum, Esquire  
Attorney for the Plaintiff

Jerry L. Finney, Esquire  
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM  
Circuit Court Reporter

I N D E X

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<u>Witness/Description</u>	<u>Page No.</u>
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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Ev.</u>
	No exhibits introduced.	

1 THE COURT: Third case on the docket is *City of*  
2 *Columbia vs. Rawlinson*, Jessica Mangum and Jerry Leo  
3 Finney. This is a case that's been around forever, right?

4 MS. MANGUM: Yes, Your Honor, and it's my  
5 understanding that the audio was not working the day of the  
6 jury trial, and the city was not able to file a return.

7 THE COURT: Relax. Let me go take a break.

8 MS. MANGUM: Okay.

9 THE COURT: I'll come back and listen to everything  
10 you've got to say.

11 (OFF THE RECORD.)

12 THE COURT: Before I left, Ms. Mangum, you were about  
13 to explain something about there's no record or something.  
14 I forget.

15 MS. MANGUM: Yes, Your Honor.

16 THE COURT: Why don't you go on ahead.

17 MS. MANGUM: Yes, Your Honor. This started out as a  
18 jury trial in municipal court.

19 THE COURT: What was the charge?

20 MS. MANGUM: Shoplifting.

21 THE COURT: Okay.

22 MS. MANGUM: This is Mr. Finney's appeal from the  
23 conviction after the conclusion of the jury trial, but it's  
24 my understanding that the audio was not working that day,  
25 which is the basis for the transcript and the return from

1 the city.

2 THE COURT: So there's no return, no transcript?

3 MS. MANGUM: The city, I believe the city filed a  
4 return but was not able to provide a transcript in this  
5 case for you to review in terms of the, the errors that Mr.  
6 Finney has cited.

7 THE COURT: And what do y'all want me to do?

8 MS. MANGUM: We would be glad to consent to a remand  
9 for a new trial. I'm not sure what else there is to do at  
10 this point.

11 THE COURT: All right, Mr. Finney.

12 MR. FINNEY: May it please the court, Your Honor? You  
13 have wisely zeroed in on their issue as why we are here.  
14 Your Honor, I filed this appeal. I'm doing this pro bono  
15 because I need to stop some bad behavior from continuing.

16 THE COURT: You need what?

17 MR. FINNEY: I need to stop some bad behavior from  
18 continuing. We tried this case and my client was convicted  
19 of shoplifting. She was sentenced to thirty days in jail  
20 by Judge Porter, a circuit -- I mean, a city court judge.  
21 Your Honor, I timely filed this appeal because I submitted  
22 at the trial of this case...

23 (A PAUSE.)

24 MR. FINNEY: Your Honor, may I approach?

25 THE COURT: Yes, sir. Ms. Mangum has a copy?

1 MR. FINNEY: Your Honor, she's, she's got copies of  
2 this. This is from the city court's file, the municipal  
3 court's file. They lost the transcript, Your Honor, but if  
4 you flip that document over on the back, you'll see that  
5 exhibit number. That's a copy of the actual exhibit that I  
6 made part of the record during the trial.

7 THE COURT: You mean the Walmart thing here?

8 MR. FINNEY: Well, all of that.

9 THE COURT: You've got to tell me what you're pointing  
10 at because I don't know.

11 MR. FINNEY: Yes. I, I served a Rule 5 and *Brady*  
12 motion.

13 THE COURT: I see a *Brady* motion, yes, sir.

14 MR. FINNEY: Yes, sir, on the city before trial. They  
15 gave me nothing.

16 THE COURT: Okay.

17 MR. FINNEY: When we started the trial, I made a  
18 timely motion to dismiss the case; that was denied. I made  
19 a motion to suppress any evidence that they could bring ---

20 THE COURT: And that was denied.

21 MR. FINNEY: That was denied.

22 THE COURT: Okay.

23 MR. FINNEY: I made a motion for a continuance.

24 THE COURT: That was denied.

25 MR. FINNEY: That was denied and, and, Your Honor, if

1 you will look at the notice of intent to appeal that I  
2 filed here, it lays out that I preserved all of those  
3 motions on the record at the trial.

4 THE COURT: Yes, sir.

5 MR. FINNEY: And I put them in my notice of appeal.

6 THE COURT: Okay.

7 MR. FINNEY: In a timely fashion.

8 THE COURT: So, your position is the case should be  
9 dismissed, I guess.

10 MR. FINNEY: Exactly, Your Honor.

11 THE COURT: Because they violated *Brady* and everything  
12 else.

13 MR. FINNEY: My ---

14 THE COURT: I'm just guessing. I could be wrong.

15 MR. FINNEY: You're a wise man. My position, Your  
16 Honor, is, is that to give them a retrial and a do-order --  
17 a do-over is bad behavior continuing. My position is the  
18 judge committed an error, that that error was predicated on  
19 a abuse of discretion, and I've got plenty of law that I  
20 can provide you here today that shows that that was ---

21 THE COURT: You're going to have to show it to me at  
22 some point in time. Not right now. Continue arguing, Mr.  
23 Finney.

24 MR. FINNEY: All right.

25 THE COURT: I'll get it later.

1 MR. FINNEY: That, that error was an egregious error.  
2 It was predicated on an abuse of discretion. Judge Porter  
3 could have continued the case, knowing that I have an  
4 ethical duty to show my client evidence in a case. She  
5 didn't. She denied that. She could have dismissed the  
6 case. She denied that.

7 THE COURT: She could have continued the case.

8 MR. FINNEY: She could have continued the case. She  
9 could have suppressed the evidence and allowed them to  
10 proceed without it. That was denied, and so that's an  
11 abuse of discretion that is predicated on that error of  
12 law. I've got case law to show you that when a judge  
13 abuses their discretion and it's predicated -- excuse me,  
14 when a judge commits an error and it's predicated on an  
15 abuse of discretion ---

16 THE COURT: What case are you relying on? Something  
17 by Justice Finney?

18 MR. FINNEY: No, sir.

19 THE COURT: I'll let you make your argument. I'll  
20 give Ms. Mangum a chance to respond.

21 MR. FINNEY: Thank you. I'm relying on a case out of  
22 the Court of Appeals, *Graham vs. Babb*. I will cite for the  
23 record that in that case ---

24 THE COURT: The was the Ralph King Anderson one. Go  
25 ahead.

1 MR. FINNEY: I don't know who wrote this opinion. It  
2 looks like it's from 2010.

3 THE COURT: Okay.

4 MR. FINNEY: It says when a party fails to comply with  
5 a discovery order, the trial court has the discretion to  
6 impose any sanction it deems just, including dismissal of  
7 the action. It goes on to say that where the state's  
8 evidence, you know, if it, if it was excluded, if she  
9 excluded it, the case should have been dismissed.

10 An abuse of discretion occurs when the decision of the  
11 trial court is based upon an error of law or upon factual  
12 findings that are without evidentiary support. That's  
13 *State vs. Hewins*, H-e-w-i-n-s. Clearly in this case when  
14 she denied all of my motions for the discovery that I made  
15 part of the record, that was an error. It was an abuse of  
16 discretion. Case should be dismissed, and these -- Rule 5  
17 itself, Your Honor, Rule 5 itself says, the South Carolina  
18 Rules of Criminal Procedure, Rule 5 provides for disclosure  
19 in criminal cases. The rule provides that where a party  
20 fails to comply with discovery under the rule, the court  
21 may order such party to permit discovery or inspection,  
22 grant a continuance, or prohibit a party from the  
23 introduction of that evidence. That's the rule. That's a  
24 clear abuse of her discretion. Committed an error.

25 So, to give them a do-over, Your Honor, Your Honor --

1 I made some notes here. I mean, you're creating a  
2 situation if you give them a do-over and a retrial that,  
3 that, that, that's going to give problems with double  
4 jeopardy down the road because they -- well, they've tried  
5 -- we've tried the case. They've seen our strategy.  
6 Didn't give me discovery. It was properly served on them.  
7 In fact, Judge Porter made an order in court.

8           When I, when I, when I admitted that Rule 5 and *Brady*  
9 as part of the record, I asked Judge Porter to find that I  
10 had properly filed and served Rule 5. She did, but she  
11 articulated erroneously that I had a duty to inform the  
12 city that they hadn't given me evidence before trial.  
13 Well, that, if that's the case, then that's going to create  
14 PCR problems because I don't have a duty to inform the  
15 city. I did what I was supposed to do. I filed Rule 5 and  
16 *Brady*. They didn't give it to me. So, Your Honor I can go  
17 on and on but this, this creates double jeopardy issues.  
18 It creates PCR issues.

19           I'm asking you to vacate the conviction that was  
20 entered against my client. I'm asking you to order that  
21 there was error, that it was predicated on an abuse of  
22 discretion, and end this case.

23           THE COURT: All right. Thank you, Mr. Finney.

24           MR. FINNEY: Thank you, Your Honor.

25           THE COURT: Ms. Mangum.

1 MS. MANGUM: Yes, Your Honor. Just briefly.  
2 Municipal court appeals are governed by statute, and the  
3 statutes make it very clear that we're not here on the  
4 appellant level for a trial *de novo*, which is essentially  
5 what Mr. Finney would be asking you to do today. You'd  
6 have to take testimony because you don't have a record to  
7 rely on. I think that would be clearly inappropriate. So,  
8 I think the only remedy really before the court today is to  
9 remand.

10 THE COURT: Thank you both for your presentation.  
11 Submit the cases to me in the form of a memo. You submit a  
12 case supporting your position in the form of a memo, and  
13 I'll make an intelligent and fair decision on behalf of  
14 both parties.

15 MS. MANGUM: Thank you, Judge.

16 MR. FINNEY: Thank you, Your Honor.

17 THE COURT: Thank you.

18 --- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 13TH DAY OF APRIL, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/s/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

AUGUST 11TH, 2018

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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The Honorable L. Casey Manning  
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v.

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**PROOF OF SERVICE**

I, the undersigned employee of The Finney Law Firm, Inc., hereby certify that pursuant to Rules 240 and 262, *SCACR*, have served *Supplement to Respondent's Motion to Dismiss Appeal* in this matter on counsel for the Appellant by mailing a copy, United States Mail, postage prepaid, on September 28, 2018, to the following address:

Jessica Mangum, Esquire  
P.O. Box 667  
Columbia, SC 29202

  
Isabell S. Jackson, Paralegal

**THE FINNEY LAW FIRM, INC.**

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**IN MEMORIAM**

RETIRED CHIEF JUSTICE  
SOUTH CAROLINA SUPREME COURT  
ERNEST A. FINNEY, JR.  
1931-2017

September 28, 2018

Please Reply to Columbia Office

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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OCT 01 2018

**SC Court of Appeals**

RE: *The City of Columbia v. Shasha Rawlinson*  
App. Case #: 2018-001291

Dear Ms. Kitchings:

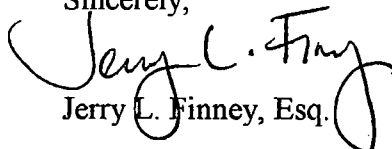
Enclosed are an original and seven (7) copies of *Supplement to Respondent's Motion to Dismiss Appeal* in the above-captioned matter along with the requisite *Proof of Service* thereof.

If you would kindly return one clocked copy in the self-addressed stamped envelope we would greatly appreciate it.

Thank you for your assistance in this matter. Please do not hesitate to contact me with any questions or concerns.

With kind regards, I remain

Sincerely,

  
Jerry L. Finney, Esq.

Enclosures as stated

cc: Jessica Mangum, Esquire

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