

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Knox McMahon, Circuit Court Judge

Case No.: 2018-000887

RECEIVED
FEB 26 2019
SC Court of Appeals

Erick George Johnson,

Appellant,

vs.

Abigail Marie Williams,

Respondent.

MOTION TO STRIKE RETURN

Respondent respectfully responds to the Motion To Strike, filed by the Appellant on February 19, 2019 and urges the Court to deny the Appellant's Motion.

Respondent filed a Designation of Matter to be Included in the Record on Appeal with clear identification as stated in the South Carolina Appellate Court Rules. Furthermore, Rule 209 (b) states, "A party shall not include any matter in his Designation which is not relevant to the appeal"; the argument and references in Magistrate court are extremely relevant and almost vital to understanding the full matter at hand. When the Respondent identified additional documents that needed to be included in the Record on Appeal; Appellant did not object to the documents and therefore was in agreement regarding the documents being included in the Record of Appeal. Appellant sent a letter to the Respondent stating "None of these documents were included in the Circuit Court record and include matters which occurred after the appeal was filed. If you want

them included in the Record on Appeal, please provide copies to me...". Respondent replied to Appellant immediately upon receiving his letter and left a voicemail and mailed the documents to Appellant as requested. Appellant's response demonstrates that he was in agreement that the documents should be included in the Record on Appeal.

The Affidavit and Complaint (Claim and Delivery) dated April 27, 2018 (R. P. 70) is a direct response to the Order of Honorable Judge Knox McMahon dated April 26, 2018. (R. PP. 1-7) Appellant waited until the case was dismissed in the Circuit Court to approach the Magistrate Court. The Magistrate Court Verbal Deposition was confirmed after the honorable Judge Matthew A. Johnson reviewed the Final Order and Agreement dated June 14, 2017 (R. PP. 8-28). The Magistrate Summons dated April 30, 2018 (R. p. 72) and the Claim and Delivery Disposition dated May 29, 2018 (R. p. 73); both directly correlate with the matter at hand. Appellant alleged that some of the Magistrate Court proceedings did not occur until after the Notice of Appeal was filed in this case; as you can see the initial filing of the Claim and Delivery, and the Summons that resulted, both took place prior to the filing of the Notice of Appeal. The Disposition that resulted from the Claim and Delivery is still relevant since it demonstrates the outcome of the initial motion filed by the Appellant in Magistrate Court prior to the Notice of Appeal being filed. So, the above listed documents are therefore relevant and need to be included on the Record on Appeal.

Additionally, Respondent would like to bring to the Court's attention that one of the specific items the Appellant alleged was not presented to the Circuit Court was indeed referenced on the Answer filed on June 6, 2017 (R. pp. 42-49) Williams v. Johnson, 2016-CV-1091082; Notice to Quit Premises filed September 6, 2016 (R. p. 67) and is fully relevant and proper to be included in the Record on Appeal, and to be referenced in the Respondent's Brief.


The Request for Hearing (Eviction) dated October 10, 2016 (R. p. 68) and the Motion to Dismiss dated October 10, 2016 (R. p. 69) are both included under Williams v. Johnson, 2016-CV-1091082; and are therefore fully relevant and proper to be included in the Record on Appeal, and to be referenced in the Respondent's Brief.

Respondent respectfully moves this Court to reject the Appellant's Motion to Strike and retain all documents on the Record of Appeal and leave all references to the documents in the Respondent's brief intact.

West Columbia, South Carolina

February 26, 2019

Respectfully submitted,


Abigail M. Eiler (Williams)
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RESPONDENT

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CERTIFICATE OF SERVICE

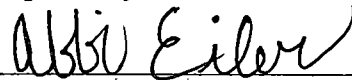
I, Abigail Marie Eiler, Respondent, certify that I have served a copy of the Motion To Strike
Return to the Clerk of Court by delivering a copy to the address that follows:

1220 Senate Street,
Columbia, SC 29201

West Columbia, South Carolina

February 26, 2019

Respectfully submitted,


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RESPONDENT