

RECEIVED

SFP 05 2019

SC Court of Appeals

Donald E. Baldauf Jr.


Case No. 2019-000490

Rule 208, Appellants Brief

- Appellant was told, on record, by the Judge that he would give him time to gather all of the evidence and would have his court administrator/clerk send him the information on where to mail the evidence. The appellant never received said information.
- Prior to the next scheduled court date, the appellant filed a motion for a continuance because he wanted to seek counsel given the lack of time needed to study the laws for said case due to all of his family and health priorities. The appellant was never notified of whether his motion was granted nor denied. The case was tried on the originally scheduled court date and
- Attorney representing SCDSS misled the court in the most recent civil proceedings, when he stated, on record, "they were unaware if she (Lexi Baldauf) was a mental health patient or not" and the evidence proving that perjury/fraud was committed under oath.
- The TORT act does not protect anyone who commits perjury/fraud under oath.
- The case worker for Lexi Baldauf, Riley Czekalski, knew the family and because of circumstances not related to the case would be considered a conflict of interest as Lexi Baldauf's case worker, she failed to mention this to the court in turn committed perjury/fraud by not disclosing this pertinent information to the court.
- The transcript the Appellant ordered was first e-mailed to the e-mail address he provided but asked that it be sent by certified mail. Within ten days of the receipt of the Notice of Dismissal of his civil case he requested a copy of the transcript so he could file for appeal. The appellant applied for appeal on 04/01/2019, requested the transcript on 04/09/2019 and received the transcript 06/21/2019.
- Overall the appellants constitutional rights were violated and he deserves to have his case heard by a jury of his peers, as he has never had that chance. The first hearing ever held concerning this case was held without notifying the appellant until eight days after the hearing had been decided.
- Lexington Medical Center public safety officer, Donald Rentiers placed Lexi Baldauf in protective custody after Dr. cleared and ready for release from the hospital.

Rule 209, Designation of Matter along with Rule 240, Motion to File Late, were both filed at same time as this brief. Thank you for your consideration in this matter.

Cordially,



Donald E. Baldauf Jr.

09/04/2019

CC: Evan Markus Gessner, Esquire,

BCC: South Carolina Office of the Court Administration, 1220.Senate St. Suite 201, Columbia, SC 29201

Donald E. Baldauf Jr.

09/04/2019

Case No. 2019-000490

Rule 208, Appellant Declaration of Matter

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SEP 05 2019

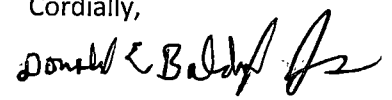
SC Court of Appeals

This Designation of Matter includes:

- Notice of Appeal in a Civil Case
- Letter from SC Court of Appeals stating past due on requesting transcript in timely manner
- Letter showing transcript requested by appellant in time
- Affidavit of Service of Probable Cause Hearing served eight days AFTER hearing took place
- Affidavit of Emergency Protective Custody
- SCDSS Intake Report
- SCDSS case diction naming Donald Rentiers as PSO out ruling Dr. decision to release Lexi Buldauf
- Lexington Medical Center Incident Report
- SC Court of Appeals letter advising acceptance and case number

I apologize for these documents not being submitted in a timely manner and once again thank you for your consideration in this matter.

Cordially,

A handwritten signature in black ink, appearing to read "Donald E. Baldauf Jr.", written in a cursive style.

Donald E. Baldauf Jr.

09/04/2019

CASE 2017CP3201935

RECEIVED

Transcript Request Form

JUL 26 2019

SC Court of Appeals

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and mailing it to the Court Reporter and to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information

Full Name <i>Donald Edward Baldauf</i>		Phone Number <i>803 429 4958</i>	Email Address <i>decorbydawn@gmail.com</i>	
Mailing Address <i>1964 Blue Ridge Terrace</i>		City <i>W. Columbia</i>	State <i>SC</i>	Zip Code <i>29170</i>

Transcript Information

Docket Number	Case Caption (i.e. State v. John Doe or Smith v. Smith)			
Date(s) of Proceeding <i>2/19/19</i>	Circuit <input checked="" type="checkbox"/>	Family <input type="checkbox"/>	County <i>Lexington</i>	
Presiding Judge <i>R Keith Kelly</i>	Expedited Yes <input type="checkbox"/> No <input type="checkbox"/>			
Court Reporter(s) <i>Steven E LeBlanc</i>	Opposing Counsel			

Requestor's Signature: *Donald Edward Baldauf* Date: *3/6/19*
 (Typed name will serve as signature)

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only

Full Name	Date Received	Email Address	
Notice of Estimate to Requestor Party Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment	State		Zip Code

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SEP 05 2019

SC Court of Appeals

Steven E. LeBlanc, R.P.R.
Circuit Court Reporter
Eleventh Judicial Circuit
P.O. Box 184
Lexington, South Carolina 29071
sleblanc@sccourts.org

March 7, 2019

Donald Edward Baldauf
1964 Blue Ridge Terrace
West Columbia, SC 29170
decorbydawn@gmail.com

In Re: Donald Edward Baldauf, Jr., vs. SC Department of
Social Services.
Obtaining transcript.

Dear Mr. Baldauf:

In reply to your email dated 3/7/2019, a transcript request, In Re: Donald Edward Baldauf, Jr., vs. SC Department of Social Services, case number 2017-CP-32-01935, a motion held before the Honorable Judge Keith Kelly, on February 19, 2019 at the Lexington County Courthouse, Lexington, South Carolina.

Transcript cost is \$4.25 per page. I am estimating the transcript will be 15 pages in length. If you would like to receive this transcript, I will need to receive \$63.75 to cover the cost of the transcript. Upon receipt of payment in the amount of \$63.75 payable to me and delivered to the address listed above the transcript will be prepared and forwarded to you. If I have overestimated the amount due, you will receive a refund of unused funds along with the transcript of record.

I am given sixty (60) days in which to prepare the record. Extensions of time may be granted if necessary. My sixty (60) days will not commence until receipt of payment in the amount of \$63.75. Court reporters are not required by State or Federal law to provide free transcripts. If you do not wish to order this transcript, no further contact is necessary.

Sincerely,

Steve LeBlanc

cc: South Carolina Court Administration

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Evan Markus Gessner, Esquire

FORM 1
NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case NO. 2017CP3201935

Evan Gessner
P O Box 489
Lexington, SC 29071-0489

Respondent

v.

Donald Edward Baldauf Jr.

Appellant

NOTICE OF APPEAL

Donald Edward Baldauf Jr. appeals the order [judgement] of the Honorable R. Keith Kelly dated February 19, 2019. Appellant received written notice of entry of this order [judgement] on February 26, 2019.

March 21, 2019



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 17, 2019

Donald Edward Baldauf, Jr.
1964 Blue Ridge Terrace
West Columbia SC 29172

Re: Donald Baldauf v. SCDSS
Appellate Case No. 2019-000490

Dear Mr. Baldauf:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the SCACR.

Be sure to copy the Court, the Office of Court Administration and opposing counsel with all correspondence concerning the transcript. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1220 Senate Street, Suite 201,
Columbia, SC 29201

Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Evan Markus Gessner, Esquire

Steven E. LeBlanc, R.P.R.
Circuit Court Reporter
Eleventh Judicial Circuit
P.O. Box 184
Lexington, South Carolina 29071
sleblanc@sccourts.org

March 7, 2019

Donald Edward Baldauf
1964 Blue Ridge Terrace
West Columbia, SC 29170
decorbydawn@gmail.com

In Re: Donald Edward Baldauf, Jr., vs. SC Department of
Social Services.
Obtaining transcript.

Dear Mr. Baldauf:

In reply to your email dated 3/7/2019, a transcript request, In Re: Donald Edward Baldauf, Jr., vs. SC Department of Social Services, case number 2017-CP-32-01935, a motion held before the Honorable Judge Keith Kelly, on February 19, 2019 at the Lexington County Courthouse, Lexington, South Carolina.

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I am given sixty (60) days in which to prepare the record. Extensions of time may be granted if necessary. My sixty (60) days will not commence until receipt of payment in the amount of \$63.75. Court reporters are not required by State or Federal law to provide free transcripts. If you do not wish to order this transcript, no further contact is necessary.

Sincerely,

Steve LeBlanc

cc: South Carolina Court Administration

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case NO. 2017CP3201935

Evan Gessner
P O Box 489
Lexington, SC 29071-0489

Respondent

v.

Donald Edward Baldauf Jr.

Appellant

PROOF OF SERVICE

I certify that I have served the notice of appeal on Evan Gessner on March 8, 2019

April 1, 2019

Donald Baldauf
1964 Blue Ridge Terrace
W Columbia Sc 29170
803-429-4958

Donald E Baldauf

RECEIVED
APR 01 2019
SC Court of Appeals



Affidavit of Emergency Protective Custody
The State of South Carolina
The County of Lexington

Officer taking Custody: Donald Bentiers, LMC - Public Safety

Date Custody Taken: 6/18/2015

Location of Custody Taken: Lexington Medical Center - Emergency Room

Child(ren) Taken into Custody:
Lexi M. Baldaut

Reason for Removal:

The above child has been shown to be suicidal and at this time her aunt (Debra Hunter) who had her placed with her under a safety plan, now refuses to take her back. The child is in immediate peril and needs to be taken into custody to be placed in a safe home.

The said officer has probable cause to believe that by reason of abuse or neglect there exists an imminent danger to the child's life or physical safety.

Secondly, parents, guardians or others exercising temporary or permanent control over the child are unavailable or (DO/DO NOT) consent to the child's removal from their custody.

Third, there is not time to apply for a Court Order pursuant to section 20-7-440.

Thereby under South Carolina Code of Law 20-7-610, the above child(ren) have been taken into Emergency Protective Custody by the following officer.

Name: Cpl. Donald R. Bentiers

Signature: [Signature]

Reporter

Intake ID - 0001522907

Reporter Name: Kendra Myers-therapist for [redacted] Reporter Type: Mental Health Personnel

Address: Lexington County MH, SC Call Reporter Back? Yes Confidentiality? Yes

Phone: (803) 667-1363

Source:

[redacted] Fulmer MS

8th grade no special needs or disabilities

[redacted] was having issues in the home- family arguments w/Dad.

Dx. Depressive disorder and ADHD. Prescribed Prozac 10 mg by psychiatrist at Lexington MH

When Mom signed her up for services she used the last Baker. She lives primarily w/her Dad and the school uses [redacted] for her last name.

Dad: Donnie Baldauf (S [redacted] daughter Terrace W. Columbia, S [redacted])

Mom: Tammie Bowers [redacted] Columbia, SC 29170 [redacted]

[redacted] goes to stay w/her Mom on the weekends and maybe one day during the weekend

R/S she 1st had a concern w/Dad. Mom and [redacted] said that Dad was verbally abusive. Reporter had not seen this. They said he would put [redacted] down and make nasty comments to her. One time to the point that she cut herself. [redacted] was depressed about arguments w/Dad.

Dad is a good provider for [redacted] He makes sure she goes to school and has what she needs.

Baldauf DSS000416

SCDSS - 0416

Reporter

Intake ID - 0001525318

Reporter Name: Stephanie Burchett

Reporter Type: Hospital / Clinic

Address: LMC

Call Reporter Back? No

, SC

Confidentiality? No

Phone: (803) 791-2230

Source:

Collateral Contacts Suggested:

Donald Rentiers, LMC Public Safety - 791-2373

Did Reporter Request Feedback?

No

Baldauf DSS000415

SGS95 0415

HRC690-R01

South Carolina Department of Social Services

4/6/2016 11:29

Case Dictation
Case ID - 0001076759

Actions:

- Medical Contact
- Referred to Law Enforcement
- Telephone Contact

Recipients:

0001040704 - daughter

Action Date: 6/18/2015 Action Time: 9:30 PM Time Spent: 0.25
 Input Date: 10/28/2015 Input Time: 4:49 PM Worker: CZEKALSKI, RILEY

Service ID: 0001606868
 Program Service Type: Child Protective Services Assessment
 Authorization:
 Support Service ID:

Dictation:

PM 4:49:09 10/28/2015

CM received a phone call from paternal Aunt- Deborah Hunter who currently has both of the minor children. Deborah stated she called the police as CM instructed her to do so earlier when ^{daughter} refused to get back in the car with the Aunt over an argument involving a cell phone. Mrs. Hunter stated once the police arrived daughter began to "act out" even more and verbally threatened to harm herself. Police then called EMS to transport the minor child to Lexington Medical Center. CM later received a phone call from Mrs. Hunter around 9:15 pm. Mrs. Hunter stated the hospital contacted her to come pick up ^{daughter} as she was going to be discharged that night. Mrs. Hunter stated she can no longer care for ^{daughter} as she feels she would be putting SON in danger. Mrs. Hunter is also worried that ^{daughter} is going to harm herself if she comes home and she feels she can no longer provide the child with the mental health care that she needs. CM then received a phone call from the on call supervisor Kristie Bear. Mrs. Bear stated that the hospital notified DSS that Lexi was at the hospital and the Aunt was refusing to pick up the child, and the hospital is going to discharge the minor child. Mrs. Hunter could not identify another appropriate caregiver to care for ^{daughter} Lexington Medical Center Security Department then placed ^{daughter} into Emergency Protective Custody, CM Phillips responded to the hospital and brought the child back to the DSS office. SON remained in the care of Mrs. Hunter.

Actions:

- Guided Supervision Staffing
- Staffing With Supervisor

Recipients:

- 0001040702 - Baldauf Jr, Donald - redacted
- 0001040701 - Bowers, Tami - redacted
- 0001402303 - son
- 0001040704 - daughter

Action Date: 6/4/2015 Action Time: Time Spent: 0.25
 Input Date: 6/4/2015 Input Time: 9:46 AM Worker: MARTIN, BRANDI



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 26, 2019

Donald Edward Baldauf, Jr.
1964 Blue Ridge Terrace
West Columbia SC 29172

Re: Donald Baldauf v. SCDSS
Appellate Case No. 2019-000490

Dear Mr. Baldauf:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy

CLERK .

cc: Evan Markus Gessner, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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March 26, 2019

Donald Edward Baldauf, Jr.
1964 Blue Ridge Terrace
West Columbia SC 29172

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Appellate Case No. 2019-000490

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1 State of South Carolina)
 2 County of Lexington)
 3 Donald Edward Baldauf,)
 4 Junior,)
 5 Plaintiff,)
 6 vs.)
 7 Department of Social)
 8 Services, South Carolina,)
 9 Defendant.)

In the Court
 Of Common Pleas
 Case No.: 2017-CP-32-01935

Transcript of Record

February 19, 2019

Lexington, South Carolina

BEFORE:

The Honorable Keith Kelly, Judge

APPEARANCES:

Donald Edward Baldauf, Junior,
 Plaintiff appearing Pro se

Evan Markus Gessner, Esquire
 Attorney for the Defendant

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INDEX

PAGE

Motion

3

Certificate of Reporter

EXHIBITS

NO. DESCRIPTION

ID EVDS.

NONE

1 Thereupon, the following proceedings were had,

2 THE CLERK: The next up will be Donald Baldauf
3 versus Department of Social Services. The case number is
4 2017-CP-32-01935.

5 MR. GESSNER: Good morning, Your Honor.

6 THE COURT: Good morning. Let me write this down
7 real quick. Okay. Whose motion, Mr. Baldauf's?

8 MR. BALDAUF: I'm pro se.

9 THE COURT: Yes, sir. It's your motion?

10 MR. GESSNER: No, sir. It's my motion for summary
11 judgment, Your Honor. We have filed a memorandum in
12 support last week and I believe my paralegal sent a
13 courtesy copy either to you or to your law clerk. I'm
14 not entirely certain.

15 THE COURT: My law clerk has that and has shared it
16 with me.

17 MR. GESSNER: Okay. If you're ready.

18 THE COURT: I'm ready.

19 MR. GESSNER: May it please the Court. This is a
20 pro se complaint brought against the Department of Social
21 Services and to give you the boiled down version of what
22 went on, Mr. Baldauf's daughter had presented at
23 Lexington Medical Center and she had been self harming.
24 She was cutting herself. Law enforcement took this young
25 girl into emergency protective custody. There was a

1 indication that Mr. Baldauf and his daughter were going
2 through some hard times and arguing. The daughter stated
3 that when she would argue with her father, she would cut
4 herself to relieve the tension or relieve the stress.

5 So DSS, when law enforcement takes a child into
6 protective custody, DSS must take that child which they
7 did, then went to Family Court and got a probable cause
8 order. The Family Court ruled that there was probable
9 cause for law enforcement to take custody of the child,
10 for DSS to assume physical and legal custody. The case
11 lasted over a year. I think it was about a year, almost
12 a year and a half. Mr. Baldauf's daughter was returned
13 to him by consent order and the case was closed again by
14 a consent order. Mr. Baldauf was represented by counsel
15 in the Family Court proceedings and he was present at all
16 necessary hearings and I have, I believe, four exhibits
17 to my memorandum which are copies of orders from the
18 Family Court. That case closed. There was no appeal
19 from any of those orders or the final decision of the
20 Family Court in that case, Your Honor. So I believe Mr.
21 Baldauf is now collaterally estopped.

22 Essentially his complaint alleges that DSS
23 improperly removed the child and interfered with the
24 custodial rights he has with his daughter. However, the
25 Family Court's already ruled that DSS had probable cause

1 to intervene. They ruled that at that time. Return of
2 the child to the home was against the best interest of
3 the child. Of course, when the Family Court makes that
4 ruling, DSS can't just give the child back whenever they
5 think it's a good idea. A Family Court judge must enter
6 an order returning physical and legal custody to the
7 biological parent. So that occurred I think it was in
8 November of 2016 maybe again by consent order.

9 So I think collateral estoppel prevents Mr.
10 Baldauf's lawsuit because as far as the courts in the
11 State of South Carolina are concerned everything about
12 the DSS investigation, the removal and the handling of
13 the child was done properly so there is no violation of
14 Mr. Baldauf's right. There is no tort. There is no
15 negligence. Everything was done in accordance with state
16 law.

17 I would also add that under the Tort Claims Act
18 there is a limitation on liability contained in sub
19 section 15-78-60-23 which states that a government entity
20 is not liable for any loss resulting from the institution
21 or prosecution of judicial proceedings which is what the
22 Family Court action was. So to the extent that Mr.
23 Baldauf may have been harmed by any of those proceedings,
24 DSS is immune so we would ask that, Your Honor, we
25 respectfully request that Your Honor grant our motion for

1 summary judgment and dismiss Mr. Baldauf's lawsuit.

2 Thank you.

3 THE COURT: Sir, do you have a lawyer?

4 MR. BALDAUF: No, sir. I don't.

5 THE COURT: Okay. Yes, sir.

6 MR. BALDAUF: I'm pro se, Donald Baldauf, and I
7 would like to know, be aware that this probable cause
8 hearing, did the judge know the child was a mental health
9 patient? And I do not know that. The child was a mental
10 health patient.

11 MR. GESSNER: It's been a while since I have looked
12 at the medical records, Your Honor.

13 MR. BALDAUF: The case manager did not bring it to
14 the judge's attention that she was a mental health
15 patient and that prior to this in January of 2015 she was
16 the primary caregiver, the doctor, she was taking
17 medication and he stopped it because it was making her
18 cut and making things worse. I have these medical
19 records here. And then when she went to the emergency
20 room, she was back up to probable cause hearing and she
21 stated to, the case manager worker stated that I punched
22 my daughter's mother in the eye which that's a false
23 allegation as well. So what -- She didn't bring it to
24 the judge's attention. She's a mental health patient.
25 And she didn't bring it to the attention that she was

1 already previously cutting when she knew in her file that
2 she was cutting.

3 THE COURT: You're talking about she being the DSS
4 worker?

5 MR. BALDAUF: Yes. Yes, Your Honor.

6 THE COURT: Okay.

7 MR. BALDAUF: In her file she was aware and she went
8 into the probable cause hearing without me being served
9 and presented and my child was under mental health. She
10 should have had legal counsel and representation as well
11 as I should be able to be there and I didn't get to
12 receive that so that's what made this thing all a mess.

13 THE COURT: Okay. But I don't have anything to do
14 with the Family Court proceeding. That's already taken
15 place in another courtroom and another judge and another
16 day. He's moving for a summary judgment that -- You're
17 not a lawyer and I can't give you legal advice but he's
18 moving as a matter of law to dismiss this case based on
19 the fact that there's already been an adjudication if you
20 will, a order issued in the Family Court and the case is
21 ended and the child has been returned.

22 MR. BALDAUF: But, yeah, but see, there was false -
23 they erred to tell the judge the truth for the probable
24 cause hearing when there shouldn't have been a probable
25 cause hearing. The doctor released the child on the 18th

1 of June. The doctor released her so DSS shouldn't
2 intervene. The child should have been returned and they
3 said there wasn't another caregiver for the child and I
4 have a safety plan showing that there was. There was two
5 safety plans taken out. They could have called the other
6 caregiver under the safety plan and had her come get the
7 child and they didn't do that and they did it right here
8 under oath. So that's the situation that they failed.

9 THE COURT: Okay. All right, sir. Anything else,
10 sir?

11 MR. BALDAUF: Just I would like to be able to resume
12 this, to go forward.

13 THE COURT: Okay.

14 MR. BALDAUF: I have the evidence right here if you
15 would like to see it.

16 THE COURT: Well, I'm happy to look at anything that
17 you want to submit to the Court, sir. I'm happy to do
18 that, by a lawyer, pro se litigants, anyone. I'll be
19 happy to. If you want to leave that with the Clerk of
20 Court, I'm happy to read it.

21 MR. BALDAUF: Right.

22 THE COURT: Anything further from counsel?

23 MR. GESSNER: Yes, Your Honor. The records that Mr.
24 Baldauf is referring to I believe are his daughter's
25 primary care records; is that correct?

1 MR. BALDAUF: Yes.

2 MR. GESSNER: Which indicates that the cutting may
3 have been a sort of long standing issue unfortunately.
4 Based on the file and my discussions with my client I
5 don't know that DSS was fully aware of that. However,
6 again, based on the information at the time from the
7 hospital and from law enforcement that they felt that
8 this child was in danger so law enforcement removed the
9 child, not DSS. DSS cannot just take custody of a child.
10 It's only law enforcement or a judge that can do it. So
11 DSS really didn't have any say in that matter. But
12 again, they went in front of the Family Court and
13 multiple judges ruled that there was probable cause to
14 take custody of the child and that returning the child
15 was not in the best interest of the child at that time.

16 So again, there's been an adjudication. If there
17 was evidence that was not presented to the Family Court
18 at that time, then that case should have been appealed.
19 Mr. Baldauf's attorney should have made that argument to
20 the Family Court. I haven't seen, I may be mistaken, but
21 I have not seen any indication that the pediatrician
22 records were presented to the Family Court so we have a
23 valid judgment or multiple valid orders in this case that
24 clash against Mr. Baldauf's claims so I think under
25 collateral estoppel this case can't go forward, Your

1 Honor.

2 MR. BALDAUF: And there's no evidence in this
3 case.

4 THE COURT: Okay. Sir, I will be happy to review
5 anything that you submit if you will give it to the
6 clerk. You have to also provide a copy to the lawyer,
7 okay?

8 MR. GESSNER: Are those your only copies that you
9 have here today?

10 MR. BALDAUF: You have these, right?

11 MR. GESSNER: Yes. They're the ones you dropped off
12 at my office. I'm okay with that. I just don't want you
13 to leave your only copy in case you need them in the
14 future.

15 MR. BALDAUF: Right. Okay. Yes. That's the
16 situation. Well, you're right. Let me see. I guess I
17 would have to put it -- Do I do it now?

18 THE COURT: No, sir. I'm gonna grant you leave of
19 the Court to submit that so if you want to have a copy
20 made somewhere, make two, please. Give him one and if
21 you will leave one with Madam Clerk, she will make sure
22 it gets to me and I'll read everything that you submit.

23 MR. BALDAUF: Okay. I'll do so.

24 THE COURT: Sir, do you have an e-mail address?

25 MR. BALDAUF: Not at this moment I don't. I do but

1 it's --

2 THE COURT: Let me ask you this: Do you have a
3 mailing, a P.O. Box or a physical address?

4 MR. BALDAUF: I have a physical address.

5 THE COURT: Does the clerk have that?

6 MR. BALDAUF: Yes. They do. I have been receiving
7 everything.

8 THE COURT: Okay. I generally use the e-mail but in
9 this case if you don't have an e-mail, then what will
10 happen is when my law clerk sends out instructions,
11 she will mail them. I'm gonna have her just mail you
12 snail mail because that's the way she's gonna have to
13 contact you. I never contact one side before I contact
14 the other. It goes at the same time, okay?

15 MR. BALDAUF: Yes, sir.

16 THE COURT: All right. So in this case she will be
17 sending out something, instructions in a hard copy, okay?

18 MR. BALDAUF: Thank you, Your Honor.

19 MR. GESSNER: Thank you, Your Honor.

20 THE COURT: Thank you, gentlemen. Good to see
21 you.

22 MR. BALDAUF: I do this as soon as possible,
23 correct?

24 THE COURT: Yes, sir. I'm here this week if you
25 would like to get it to me today, tomorrow or any time

1 this week.

2 MR. BALDAUF: I'll do it.

3 THE COURT: Thank you.

4 MR. GESSNER: Thank you, Your Honor.

5 THE COURT: Thank you.

6 WHEREUPON, THE HEARING WAS CONCLUDED.

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CERTIFICATE OF REPORTER

(STATE OF SOUTH CAROLINA)

(COUNTY OF LEXINGTON)

I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R., and Official Circuit Court Reporter for the Eleventh Judicial Circuit in and for the State of South Carolina, do hereby certify that I reported the proceedings in the before captioned case in the Court of Common Pleas in and for the State of South Carolina on the 19th day of February, 2019.

I FURTHER CERTIFY that the forgoing 12 pages constitute a true and accurate record of said proceedings.

I FURTHER CERTIFY that I am neither related, counsel to, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand at Lexington County, this 9th day of April, 2019.

By:s/ Steven E. LeBlanc

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 26, 2019

Donald Edward Baldauf, Jr.
1964 Blue Ridge Terrace
West Columbia SC 29172

Re: Donald Baldauf v. SCDSS
Appellate Case No. 2019-000490

Dear Mr. Baldauf:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The notice of appeal is not accompanied by the order(s) and/or judgment(s) challenged on appeal. Your notice of appeal describes an order dated February 19, 2019 and received by you on February 26, 2019. You must provide a copy of this order.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Evan Markus Gessner, Esquire

Case # - 2019-080490

Donald E. Balduf Jr.
9/3/2019

Rule 240 - Motion to file late

To Whom it May Concern,

I would like to file a motion to file late under Rule 240. I am having to file late because I am under Dr.'s care, and have been since July 29th, 2019 due to a major surgery I received to repair a previous hip replacement. Because of the recovery and rehabilitation process I was unable to complete my Rule 208- Initial Brief of Appellant, and Rule 209- Designation of Matter. I have included a copy of my Dr.'s release and proof of care. I would like to apologise and thank you for your consideration in this matter.

Cordially,
Donald E Balduf Jr.
Donald E. Balduf Jr.
9/3/2019

INCIDENT REPORT

2015-01694

INQ. ENTD.

EVENT	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM <input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.
	1. NRP - EMERGENCY PROTECTIVE CUSTODY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	09		
	2.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) **2720 SUNSET BLVD., RA ROOM 8, WEST COLUMBIA SC** ZIP CODE **29169** WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.
06/18/2015	2303		06/19/2015	0108	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME
					06/18/2015	2301	2303	0108

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
PHILLIPS, QUINNTAVEA	#1 AQ #2 #3	J	S	O	U	B	F	23
							N	(803) 785-2919 H

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
1070 SOUTH LAKE DR	LEXINGTON	SC	29073	00

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
	#1 #2 #3	J	S	O	U			

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.

VISIBLE INJURY (VICT. 1) YES NO EXPLAIN --

VICTIM (NO. 1) USING: ALCOHOL: YES NO UNK. DRUGS: YES NO UNK.

TWO-MAN VEH. ONE-MAN VEH. DETECTIVE/SPLASMT. OTHER ALONE ASSISTED **J - This Jurisdiction S - State O - Out of State U - Unknown**

SUBJECT	SUBJECT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	JUVENILE OFFENDER	W	F	14	N		5-4	115	BRO	BRO
	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.

SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK.	ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE/TIME OF OFFENSE	DATE/TIME OF ARREST
DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE:	TOTAL # ARRESTED 0	06/18/2015	2303

Offenses:
EMERGENCY PROTECTIVE CUSTODY

On the above date and times, this Reporting Officer was dispatched to meet the complainant in Rapid Assessment Room 8 concerning the subject. The complainant is employed with the South Carolina Department of Social Services (DSS) as a DSS Caseworker and the subject is a juvenile assigned to her caseload. The complainant reported that the subject was at the hospital for an evaluation due to a recent suicide attempt by the subject. This Reporting Officer made contact with the medical staff and it was reported that the Emergency Room Physician, Dr. Platt had completed his examination of the subject and had decided to not commit the subject to the hospital and the subject was to be discharged. The complainant reported that the subject had been staying with her aunt, Debra Hunter under a recent safety plan but the aunt was now refusing to take the subject back due to the recent suicide attempt. Sgt. Greg Bowman contacted the aunt by telephone and she again verified that she would not take the subject back. It was also reported that no other family member or friend could or would take custody of the subject even on a temporary basis. The complainant now requested that the subject be taken into Emergency Protective Custody (EPC) so that DSS could place her into a temporary foster home until some more permanent arrangement could be made.

Due to the fact that the subject did not have any adult family members or friends to take custody of her, she did not have any approved residence and she had recently attempted suicide, it was believed that the subject was in imminent danger to her life and physical safety. Also, due to the time of night, the Family Court was closed so no order could be obtain at this time. This Reporting Officer took the subject into EPC and completed the Affidavit of EPC form. A copy was provided to the complainant and a copy attached to this report. The complainant then took physical custody of the subject and said she

		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY			JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
PROPERTY	TYPE (GROUP)						TOTAL VALUE
	Burned						
	Count/Forged						
	Dest./Damaged						
	Recovered						
	Seized						
Stolen							
Unknown							
ADMISS	SUBJECT IDENTIFIED	SUBJECT LOCATED	<input type="checkbox"/> ACTIVE <input checked="" type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18		
	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
CORPORAL D. RENTIERS		06/19/2015	31	CORPORAL D. RENTIERS		06/19/2015	30
				FOLLOW-UP INVESTIGATION OFFICER			
				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			

AGENCY I.D.
SC0321700

**LEXINGTON MEDICAL CENTER DPS
INCIDENT REPORT**

CASE NUMBER		NCIC	
2	0	1	5 - 01694
INQ.	ENTD.		

would transport the subject to the Lexington County DSS office where her office would work on getting the subject into a foster home. The complainant said she would contact this Reporting Officer and inform him of the date and time for the required Family Court hearing.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
P R O P E R T Y	TYPE (GROUP)						TOTAL VALUE
	Burned						
	Count./Forged						
	Dest./Damaged						
	Recovered						
	Seized						
A D M I N I S T	SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED	<input checked="" type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY						
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
	CORPORAL D. RENTIERS	06/19/2015	31	CORPORAL D. RENTIERS	06/19/2015	30	
				FOLLOW-UP INVESTIGATION OFFICER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			