

THE STATE OF SOUTH CAROLINA
in the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable D. Craig Brown

Case No.: 2019-CP-10-0113

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APR 01 2020

SC Court of Appeals

Dana Mazyck, Guardian Ad Litem for Tyler M., a Minor Child under the age of
Fourteen (14).....Appellant,

v.

Charleston County School DistrictRespondent.

RESPONDENT’S REPLY TO APPELLANT’S MOTION TO STRIKE THREE OF
RESPONDENT’S DESIGNATION OF MATTER TO BE INCLUDED ON THE RECORD ON
APPEAL AND MOTION TO SUPPLEMENT THE RECORD ON APPEAL PURSUANT TO
RULE 212, SCACR

Charleston County School District (hereinafter “Respondent”), by and through its undersigned counsel, hereby issues its Reply to the Motion To Strike Three of Respondent’s Designation of Matter To Be Included On The Record on Appeal and to Stay Deadlines Until the Court Rules of the Motion of Dana Mazyck, Guardian Ad Litem for Tyler M., a Minor Child under the age of Fourteen (14) (hereinafter “Appellant”).

Additionally, and in the alternative, Respondent hereby moves for an Order of this Court authorizing Respondent to supplement the Record on Appeal to the include the designations at issue pursuant to Rule 212(b), SCACR.

The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal. Rule

209(b), SCACR. The Record shall not, however, include matters which was not presented to the lower court or tribunal. Without the consent of the other party, a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so. Rule 212(b), SCACR.

As Appellant noted, this appeal stems from the dismissal of C/A No.: 2019-CP-10-0113 by operation of the doctrines of *res judicata* and collateral estoppel in light of the dismissal of 2017-CP-10-1970 1970 (hereinafter "Mazyck I"), which involved the same parties and facts. Respondent has designated three pleadings from Mazyck I which Appellant raised during arguments on Respondent's appealed-from Motion to Dismiss in the underlying action:

1. Summons and Complaint filed April 21, 2017;
2. Charleston County School District's Answer and Motions to Dismiss filed May 23, 2017; and
3. Charleston County School District's Memorandum in Support of Motion to Dismiss filed April 13, 2018.

Appellant, herself, presented these pleadings to the Court during arguments on the appealed-from Motion to Dismiss. As to Appellant's Summons and Complaint in Mazyck I, Appellant called the trial court's attention to the same on several occasions during oral argument. See (Transcript at ¶¶ 9:2-3 and 10:10-11). Additionally, the trial court itself referred to this same pleading. See (Transcript at ¶ 12:18-22). Further, Appellant raised Respondent's Answer and Motions to Dismiss in Mazyck I to the trial court during oral arguments. See (Transcript at ¶¶ 9:3-5; 9:12-25; 10:1-3; and 10:15-17). Finally, as to Respondent's Supporting Memorandum in Mazyck I, Appellant, again, raised the Memorandum and its supporting exhibits in her argument to the lower court. See (Transcript 14:2 -17).

In light of the fact that Appellant raised the complained-of pleadings in Mazyck I to the lower court, Respondent's Motion to Strike these pleadings from Mazyck I should be denied. In the alternative, especially in light of the intertwined nature of Mazyck I and the instant matter, this

Court should grant Respondent's Motion to Supplement the record to include the above-referenced, filed pleadings in Mazyck I.

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ATTORNEYS FOR RESPONDENT

April 1, 2020
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
in the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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PROOF OF SERVICE

The undersigned certifies that a copy of the *Respondent's Reply To Appellant's Motion To Strike Three Of Respondent's Designation Of Matter To Be Included On The Record On Appeal And Motion To Supplement The Record On Appeal Pursuant To Rule 212, SCACR* has been served upon counsel for Appellant by mailing a copy of the same, postage prepaid, in the United States Mail, addressed as shown below, this 1 day of April, 2020.

Kathleen Chewing Barnes
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Hampton, SC 29924

Tiffany R. Spann-Wilder
P.O. Box 70488
North Charleston, SC 29415

[signature page to follow]

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April 1, 2020

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SC Court of Appeals

Via facsimile only (803-734-1839)
The Honorable Jenny A. Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Dana Mazyck, Guardian Ad Litem for Tyler M., a Minor Child under the age of 14, vs.
Charleston County School District
Case #: 2019-CP-10-0113
Appellate Case #: 2019-001235
Claim #: GL020756
AR & S #: 20180.64

Ms. Kitchings:

Enclosed please find the original and two (2) copies of the Respondent's Reply to Appellant's Motion to Strike Three of Respondent's Designation of Matter to be Included on the Record on Appeal and Motion to Supplement the Record on Appeal Pursuant to Rule 212, SCACR in the above referenced matter. By copy of this correspondence, I have provided same to counsel for the Appellants.

Please do not hesitate to contact me should you have any questions or if I may be of additional assistance. (843-723-0185).

Sincerely yours,

Kathryn L. Lawrimore

Kathryn L. Lawrimore

/kl

Enclosures

Cc: Kathleen C. Barnes, Esq. (via electronic correspondence only)
Tiffany R. Spann-Wilder, Esq. (via electronic correspondence only)