

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

ON CERTIORARI FROM THE COURT OF APPEALS
APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Cordell Maddox Jr., Presiding Judge

Case No. 2018-CP-04-01409
Appellate Case No. 2019-000754

RECEIVED
Apr 28 2020
SC Court of Appeals

Taranika Webb,..... Appellant,

v.

Fairview Gardens,..... Respondent.

**Respondent’s Motion to Strike and Supplement the Record on Appeal and
Hold Final Brief Deadline in Abeyance**

Respondent Fairview Gardens (“Respondent”) requests that the court strike the record on appeal filed by Appellant Taranika Webb (“Appellant”) and allow Respondent to file a supplemental record on appeal in this matter because Appellant failed to include material designated by Respondent in the record and also included material in the record not allowed by the South Carolina Appellate Court Rules. The supplemental record is attached to this motion as **Exhibit A** which includes all the items designated by both parties except for the materials which the rules bar from being included in the record. Respondent also requests that the court hold Respondent’s deadline to file its final brief in abeyance until the court rules on this motion.

Respondent filed its initial brief and designation of matter on January 2, 2020, in compliance with Rule 209 of the South Carolina Appellate Court Rules. (*See* Respondent’s Designation of Matter filed Jan. 2, 2020). The South Carolina Appellate Court Rules require Appellant to include all material designated by Respondent in the record. *See* Rule 210(c), SCACR

“The Record on Appeal shall include all matter designated to be included by any party under Rule 209”). Rather than abide by the rules, Appellant filed a record on appeal that does not include several items listed in Respondent’s designation.¹ (*Compare* Record on Appeal filed March 11, 2020 *with* Respondent’s Designation of Matter filed Jan. 2, 2020). Despite this failure, Appellant filed a certification to the Court that “the record on appeal contains all material proposed to be included by any of the parties and no other material”—which is not true. (*See* Certificate of Counsel filed March 11, 2020).

The record on appeal further fails to comply with the South Carolina Appellate Court Rules by including matters not presented to the lower court. *See* Rule 210(c), SCACR (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”). Specifically, the record contains a “Handbook/Lease” and a document Appellant labeled “The Reason for the Appeal”² that neither party introduced into evidence or presented to the lower court. (*See* Tr. p. 1-12; Suppl. R. pp. 20-31 attached as Exhibit A). Normally, Respondent would seek an order striking this portion of the record and require Appellant to file a new record on appeal

¹ Appellant has consistently failed to follow the South Carolina Appellate Court Rules throughout this appeal as evidenced by the numerous deficiency letters issued by the Court. Respondent will not list every failure to follow the rules on the part of Appellant, however, it is important to note several failures in regard to the record on appeal. Appellant failed to timely serve and file the record on appeal in accordance with Appellate Court Rule 210. The certificate of service indicates that Appellant served Respondent with the record on February 28, 2020. This is not correct—on March 27, 2020 Appellant emailed Respondent a copy of the record on appeal. Appellant also never served Respondent with her motion to allow a late filing of the record on appeal. Finally, the record is not arranged in the proper order and is not numbered consecutively as required by Rule 210(c).

² The document is labeled “The Reason for the Appeal” in the index to Appellant’s record, but titled “Record of Appeal.” The document contains additional arguments not presented in Appellant’s initial brief and was not presented to the court below. Accordingly, it is improper to include this document in the record on appeal.

containing the items designated by Respondent. However, because Appellant has exhibited a continuous pattern of disregarding the South Carolina Appellate Court Rules, the undersigned counsel believes it would be futile to confer with Appellant to resolve this issue or to request that Appellant file a new record. Accordingly, Respondent requests that the Court strike the record filed by Appellant and allow Respondent to serve and file the attached supplemental record on appeal which contains all the items designated by both parties except for the “Handbook/Lease” and “The Reason for the Appeal” which the rules bar from being included in the record.

The current deadline for the parties to file their final briefs is April 28, 2020. Respondent requests that the court hold the deadline to submit its final brief in abeyance and allow Respondent ten days from the court’s order ruling on this motion to file its final brief.

Respectfully Submitted,

By:  _____

George A. Reeves, III (SC Bar No. 73659)
greeves@fisherphillips.com
Phillips L. McWilliams (SC Bar No. 101809)
pmewilliams@fisherphillips.com
FISHER & PHILLIPS LLP
1320 Main Street, Suite 750
Columbia, South Carolina 29201
Phone: (803) 255-0000
Fax: (803) 255-0202

Attorneys for Respondent

Columbia, South Carolina
April 28, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

ON CERTIORARI FROM THE COURT OF APPEALS
APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Cordell Maddox Jr., Presiding Judge

Case No. 2018-CP-04-01409
Appellate Case No. 2019-000754

RECEIVED
Apr 28 2020
SC Court of Appeals

Taranika Webb,..... Appellant,

v.

Fairview Gardens,..... Respondent.

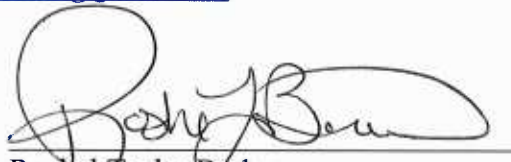
CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **Respondent's Motion to Strike and Supplement the Record on Appeal and Hold Final Brief Deadline in Abeyance** in the above-captioned case has been served upon pro se Appellant, via electronic mail and First Class U.S. Mail, postage prepaid, as follows:

Taranika Webb
PO Box 13133
Anderson, SC 29624

Taranika Webb
203 Miracle Mile Drive Apt 162
Anderson, SC 29621

subrina1heart@gmail.com



Roshel Tuska-Butler
Paralegal

Dated this 28th day of April, 2020



RECEIVED
Apr 28 2020
SC Court of Appeals

Columbia
1320 Main Street
Suite 750
Columbia, SC 29201

(803) 255-0000 Tel
(803) 255-0202 Fax

Writer's Direct Dial:
(803) 255-0000

Writer's E-mail:
pmcwilliams@fisherphillips.com

fisherphillips.com

April 28, 2020

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: ***Taranika Webb v. Fairview Gardens***
Civil Case No. 2018-CP-04-01409
Appellate Case No. 2019-000754
Our file: 30590.0008

Dear Ms. Kitchings:

Attached to the corresponding email to the court, is Respondent's Motion to Strike and Supplemental the Record on Appeal and Hold Final Brief Deadline in Abeyance in the above case with a Certificate of Service to Pro Se Appellant. Pursuant to guidance received from the court, a hard copy has been placed in the mail to Pro Se Appellant only, and not to the court.

In addition, the filing fee for the Motion to Strike in the amount of \$50.00 has been mailed to the court.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,

Phillips L. McWilliams
Attorney
For FISHER & PHILLIPS LLP

PLW:rtb

Enclosures

cc: Taranika Webb (appellant - pro se via electronic and US mail)