

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No: 2018-001099

GAVIN V. JONES,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

RETURN TO PETITIONER'S MOTION FOR SANCTIONS AND TO STRIKE

On June 2, 2020, Respondent received from Petitioner a copy of a letter, dated May 27, 2020, and addressed to the Honorable Jenny Abbot Kitchings. Petitioner alleged therein that there was impropriety in Respondent's filing and serving its return to his motion to alter or amend the judgment in the court below, and in Respondent's moving to supplement the record on appeal before this Court. Petitioner requested that this Court sanction the South Carolina Attorney's General Office in the amount of \$300.00 and strike the appendix to the record on appeal. The undersigned interprets the letter as a motion for sanctions and a motion to strike.

In this return to Petitioner's motion, Respondent shows the following:

1. On January 14, 2020, Respondent filed with this Court a motion to supplement the record on appeal on the basis that Petitioner improperly excluded from the record on appeal Respondent's return to Petitioner's motion to alter or amend the judgment. Petitioner did

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Jun 12 2020
SC Court of Appeals

not file a return to the motion or raise any objection at the time.¹ This Court granted Respondent's motion to supplement the record on appeal in an order filed on January 23, 2020.

2. One of the documents included in Respondent's appendix to the record on appeal was Respondent's return to the motion to alter or amend the judgment filed by Petitioner in the lower court.

3. Petitioner now takes issue with the inclusion of Respondent's return to his motion or amend the judgment, alleging that it was not served upon him or was improperly filed in the lower court.

4. The cover letter to Respondent's return to Petitioner's alter or amend the judgment, which was filed with the return on May 3, 2018, indicates a copy of the letter and return was mailed to Petitioner on April 30, 2018.

5. The Honorable J. Cordell Maddox, Jr., denied Petitioner's motion to alter or amend the judgment in an order issued on April 26, 2018, and filed on May 2, 2018.

6. The undersigned submits Judge Maddox issued his order denying Petitioner's motion to alter or amend a few days before Respondent made its return to the motion, but the order was not filed or served upon the parties until after Respondent had already mailed its return to the Anderson County Clerk of Court for filing.

¹ Petitioner alleges the restrictions within SCDC because of COVID19 have hindered his ability to raise this issue before now; however, while admitting that the spread of the virus has presented the State with unique challenges, SCDC released its "COVID-19 Action Plan", on March 16, 2020, approximately two months after Respondent filed its motion to supplement the record on appeal. See SOUTH CAROLINA DEP'T OF CORR., South Carolina Department of Corrections (SCDC) COVID-19 Action Plan (2016), <http://public.doc.state.sc.us/agency-news-public/homeAction.do?method=view&id=464>.

7. The undersigned believes any confusion between the filing dates of Respondent's return to Petitioner's motion to alter or amend the judgment and Judge Maddox's order denying Petitioner's motion is the innocent consequence of multiple, related documents being mailed and filed by different people on different dates from different locations within the state.

8. Even if Petitioner takes issue with the filing of Respondent's return to his motion to alter or amend the judgment, he has shown no reason that it was not properly filed in the lower court and served upon him and that it should not be included now in the record before this Court.

9. Petitioner has failed to demonstrate that there has been any impropriety in the actions of Respondent or any of the employees at the South Carolina Attorney General's Office and his motion for sanctions should be denied.

WHEREFORE, Respondent prays that this Court will deny the motion for sanctions and to strike and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

TAYLOR ZANE SMITH
S.C. Bar. No. 103282
Assistant Attorney General

By: s/Taylor Zane Smith
Attorneys for Respondent
Post Office Box 11549
Columbia, South Carolina, 29211
(803) 734-3737

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STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

I, Jennifer Jennison, hereby certify that I have served the Return to Petitioner's Motion for Sanctions and to Strike on Petitioner by depositing a copy of same in the United States mail addressed to:

**Gavin V. Jones, #259726
Tyger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335-9308**

This 12th day of June, 2020.



Jennifer Jennison
Administrative Coordinator
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737



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Jun 12 2020

SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

June 12, 2020

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
By email to ctappfilings@sccourts.org

Re: Gavin V. Jones v. State of South Carolina
Appellate Case No. 2018-001099
Lower Court Case No. 2012-CP-04-0861

Dear Ms. Kitchings:

Attached is a copy of the **Return to Petitioner's Motion for Sanctions and to Strike** in the above-referenced case for filing in your office.

Sincerely,

s/Taylor Zane Smith
Taylor Z. Smith
Assistant Attorney General
SC Bar #103282

TZS/ch

cc: Gavin V. Jones, Pro Se Petitioner, by mail