

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Robert E. Hood, Circuit Court Judge

Appellate Case No. 2019-001857
Civil Action No. 2017-CP-40-01752

RECEIVED
Aug 07 2020
SC Court of Appeals

Mitchell Shane Matthews, Appellant,

v.

John McGill, Director; Ms. Versie J. Bellamy, Deputy Director; Ms. Holly Scaturo, Program Director; Ms. Cynthia Helff, Program Manager; Ms. Kimberly Pohlchuck, Program Coordinator; Ms. Sheila Lindsay, Resident Advisor; P.S.O. Sgt. Gunther; and Any Other Known or Unknown Actors of the State, whom are involved, in their Personal and Professional Capacity Respondents.

MOTION TO DISMISS APPEAL

The Respondents John McGill, Versie J. Bellamy, Holly Scaturo, Cynthia Helff, Kimberly Pohlchuck, Sheila Lindsay, and P.S.O. Sgt. Gunther move this

Court pursuant to Rule 260(a), SCACR, to dismiss the Appellant's appeal based upon the Appellant's failure to timely procure and/or make payment arrangements to the court reporter for the hearing transcript needed for this appeal.

The grounds for this motion are set forth in more detail in the supporting memorandum filed herewith.

DAVIDSON, WREN & DEMASTERS, P.A.

BY:  _____

DAVID A. DEMASTERS
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Counsel for Respondents

Columbia, South Carolina

August 7, 2020

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**MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS APPEAL**

The Respondents John McGill, Versie J. Bellamy, Holly Scaturro, Cynthia Helff, Kimberly Pohlchuck, Sheila Lindsay, and P.S.O. Sgt. Gunther have filed a

motion pursuant to Rule 260(a), SCACR, to dismiss the Appellant's appeal based upon the Appellant's failure to timely procure the hearing transcript needed for this appeal.

Rule 207, SCACR, governs the ordering of transcripts required for an appeal. Rule 207(a) requires that in appeals from the Court of Common Pleas, "the transcript must be ordered within ten (10) days after the date of service of the notice of appeal." Rule 207(a), SCACR. Rule 207(a) further requires that the appellant "shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript." Rule 207(a), SCACR.

The Appellant filed his Notice of Appeal on November 5, 2019.¹ It has been approximately two hundred and seventy-six (276) days since the Appellant has filed his Notice of Appeal. At not time has the Appellant filed the transcript of the proceeding or even provided correspondence² with the Court Reporter regarding indicating that he has made satisfactory arrangements in obtaining the transcript. Most importantly, the Appellant has failed to provide any documentation that the

¹ Despite what the Appellant has filed with the Court, counsel for the Respondents has not received any correspondence and/or documentation from the Appellant, including his Notice of Appeal or Motion to Proceed in Forma Pauperis .

² Rule 207(a) requires that "copies of all correspondence with the court reporter" shall be "contemporaneously" sent to the Court, to Court Administration, and to all counsel of record. No correspondence from the Appellant to the court reporter making a payment arrangement for the transcript has been received by the Court or by Respondents' counsel.

transcript was ordered within ten (10) days after the date of the filing of the notice of appeal.

As a result of the Appellant's failure to comply with the applicable Rules of Appellate Procedure for the procurement of the transcript, including the requirement to make arrangements for payment with the court reporter and to actually pay for the transcript in a timely manner, the Respondents respectfully request that the Court dismiss this appeal.

Respectfully submitted,

DAVIDSON, WREN & DEMASTERS, P.A.

BY: 

DAVID A. DEMASTERS
1611 Devonshire Drive
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PROOF OF SERVICE

The undersigned employee of Davidson, Wren & DeMasters, P.A., attorneys for Respondents John McGill, Versie J. Bellamy, Holly Scaturro, Cynthia Helff, Kimberly Pohlchuck, Sheila Lindsay, and P.S.O. Sgt. Gunther, does hereby certify that service of the **Motion to Dismiss Appeal and Memorandum in Support of**

Motion to Dismiss Appeal in the above-captioned action was made upon all parties and counsel of record via email, and U.S. Mail as applicable, at the below listed addresses on this 7th day of August, 2020.

Mitchell Shane Matthews
Correct Care
1700 Saint Andrews Terrace, Building A
Columbia, South Carolina 29210-5412



s/ David A. DeMasters

DAVIDSON, WREN & DEMASTERS, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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Brandon M. Briggs
Jonathan M. Riddle

Of Counsel
Kenneth P. Woodington

August 7, 2020

Via U.S Mail and Email (ctappfilings@sccourts.org)

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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SC Court of Appeals

RE: Mitchell Shane Matthews v. John McGill, Director; Ms. Verste J. Bellamy, Deputy Director; Ms. Holly Scaturro, Program Director; Ms. Cynthia Helff, Program Manager; Ms. Kimberly Pohlchuk, Program Coordinator; Ms. Sheila Lindsay, Resident Advisor; P.S.O. Sgt. Gunther; and Any Other Known or Unknown Actors of the State, whom are involved, in their Personal and Professional Capacity
Civil Action Number: 2017-CP-40-01752
Appellate Case Number: 2019-001857
Claim Number: C3318
Date of Incident:
Our File Number: 103.10460

Dear Ms. Kitchings:

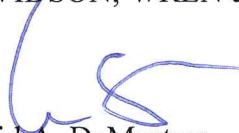
In accordance with Rule 211, SCACR, and sections (c)(6), (d), (f), and (g)(2) and of (3) of the Supreme Court's Order re Operations of the Appellate Courts dated May 29, 2020, please find attached PDF copies of the **Motion to Dismiss Appeal and Memorandum in Support of Motion to Dismiss Appeal** in the above referenced matter, and **Proof of Service** for same. Pursuant to the aforementioned Supreme Court Order, I do not plan to submit hard copies of these documents to the Court of Appeals unless the Court otherwise requests. I would kindly ask that you file the attached documents and please return an electronic version to us bearing the Court's file stamp thereon, if possible.

Enclosed herewith is the requisite filing fee in the amount of \$50.00, and by copy of this letter I am herewith advising and serving same U.S. Mail to the *pro se* Plaintiff of record.

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
August 7, 2020
Page 2

Very truly yours,

DAVIDSON, WREN & DEMASTERS, P.A.



David A. DeMasters

DAD/ldrt
Enclosure

cc: (with Enclosure)

Mitchell Shane Matthews
Correct Care
1700 Saint Andrews Terrace, Building A
Columbia, South Carolina 29210-5412