

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM WILLIAMSBURG COUNTY  
Court of Common Pleas

Ralph F. Cothran, Jr., Circuit Court Judge

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Appellate Case No. 2012-212819  
Case No. 2011-CP-45-648

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Marion L. Driggers,

Appellant,

v.

Daniel Shearouse, Honorable Jean Toal,  
Honorable Costa Pleicones, Honorable  
Donald Beatty, and Honorable John  
Kittredge,

Respondents.

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**MOTION TO REQUIRE APPELLANT TO SUPPLEMENT  
AND CORRECT THE RECORD ON APPEAL**

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Elizabeth Van Doren Gray, S.C. Bar No. 2434  
Tina Cundari, S.C. Bar No. 71951  
SOWELL GRAY STEPP & LAFFITTE LLC  
1310 Gadsden Street  
Columbia, South Carolina 29201  
(803) 929-1400  
egray@sowellgray.com  
tcundari@sowellgray.com  
**Attorneys for Respondents**

Marion L. Driggers  
3497 Hebron Road  
Lake City, SC 29560  
843-598-0735  
**Pro Se Appellant**

**RECEIVED**

MAR 08 2013

**SC Court of Appeals**

Respondents move the Court for an order requiring Appellant to supplement and correct the Record on Appeal pursuant to Rules 210(c) and (g), 212(b), and 267(d), SCACR. The Record on Appeal does not comply with the Rules and omits a document designated by Respondents in the Designation of Matter. The document omitted from the Record on Appeal is the motion to dismiss filed by Respondents in the trial court on February 1, 2012. A copy of the motion is attached as Exhibit A. Respondents listed the motion in the Designation of Matter filed with this Court on January 18, 2013, because the motion is relevant to the appeal. The motion should be made a part of the Record on Appeal and not a part of a separate Appendix. This can be done when Appellant corrects the Record on Appeal as set forth below.

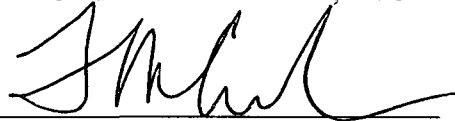
The Record on Appeal needs to be corrected. The matters contained in the Record do not appear in the proper sequence as set forth in Rule 210(c), SCACR, and contain handwritten notes that need to be removed. The Record is not bound as required under Rule 267(d), SCACR. Additionally, Appellant did not certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material as required under Rule 210(g), SCACR.

For these reasons, Respondents ask the Court to grant this motion requiring Appellant to correct and supplement the Record on Appeal.

*[Signature page follows]*

SOWELL GRAY STEPP & LAFFITTE, LLC

By:



Elizabeth Van Doren Gray, S.C. Bar No. 2434

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1310 Gadsden Street

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Attorneys for Respondents

Columbia, South Carolina  
March 8, 2013



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF WILLIAMSBURG ) IN THE THIRD JUDICIAL CIRCUIT

Marion L. Driggers,

Civil Action No.: 2011-CP-45-648

Plaintiff,

v.

**MOTION TO DISMISS**

Daniel Shearouse, Honorable Jean Toal,  
Honorable Costa Pleicones, Honorable  
Donald Beatty, Honorable John  
Kittredge,

Defendants.

**FILED**

**02 FEB 2012 PM01:24**

**Williamsburg County  
Clerk of Court  
Kingstree SC**

Defendants move to dismiss the complaint pursuant to Rules 12(b)(1), 12(b)(3), and 12(b)(6) of the South Carolina Rules of Civil Procedure for the following reasons:

1. The complaint should be dismissed as to the individual justices of the Supreme Court of South Carolina because the complaint does not allege any facts showing that the individual members of the Supreme Court did anything wrong.

2. The complaint should be dismissed as moot because the Clerk of Court of the Supreme Court of South Carolina has given Plaintiff all information available regarding the denial of Plaintiff's petition for writ of certiorari. To the extent that Plaintiff seeks information beyond what has already been provided, the information is confidential and protected from disclosure because it relates to the deliberative process of the Supreme Court.

3. The complaint should be dismissed for lack of subject matter jurisdiction because the circuit court lacks jurisdiction to review a denial of a petition for writ of certiorari by the Supreme Court or to review the conduct of the Clerk of the Supreme Court in performing the duties and functions of his office.

4. The complaint should be dismissed to the extent that Plaintiff seeks anything more than prospective, injunctive relief, because Defendants are immune from suit.

5. The complaint should be dismissed for improper venue because this lawsuit has been filed in the wrong county.

This motion is based upon the allegations in the complaint, the Affidavit of Daniel E. Shearouse and documents attached thereto, the law of this State, and any other material that may be served upon Plaintiff prior to a hearing. Because Defendants are presenting matters outside the pleading, Defendants will ask the circuit court to convert this motion to a motion for summary judgment pursuant to Rule 12(b), SCRPC, at least with respect the argument made in paragraph 2 above.

SOWELL GRAY STEPP & LAFFITTE LLC

By: 

Elizabeth Van Doren Gray  
Tina Cundari  
Bess J. DuRant  
1310 Gadsden Street  
Post Office Box 11449  
Columbia, South Carolina 29211  
(803) 929-1400

Attorneys for Defendants

Columbia, South Carolina  
February 1, 2012

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF WILLIAMSBURG ) IN THE THIRD JUDICIAL CIRCUIT

Marion L. Driggers, ) Civil Action No.: 2011-CP-45-648

Plaintiff,

v.

Daniel Shearouse, Honorable Jean Toal,  
Honorable Costa Pleicones, Honorable  
Donald Beatty, Honorable John  
Kittredge,

Defendants.

**CERTIFICATE OF SERVICE**

**FILED**

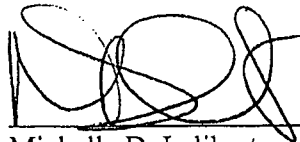
02 FEB 2012 PM01:24

**Williamsburg County  
Clerk of Court  
Kingstree SC**

I, the undersigned legal assistant of the law offices of Sowell Gray Stepp & Laffitte, LLC, attorneys for Defendants, do hereby certify that I have served all counsel in this action with a copy of the document specified below by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

**Document:** Defendants' Motion to Dismiss

**Counsel Served:** Marion L. Driggers  
3497 Hebron Road  
Lake City, South Carolina 29560  
*Pro Se Plaintiff*



Michelle D. Laliberte

February 1, 2012  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM WILLIAMSBURG COUNTY  
Court of Common Pleas

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Ralph F. Cothran, Jr., Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2012-212819  
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Marion L. Driggers,

Appellant,

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Daniel Shearouse, Honorable Jean Toal,  
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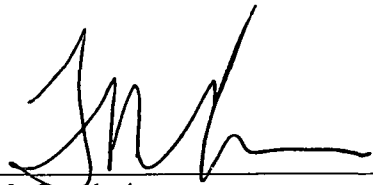
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**PROOF OF SERVICE**

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I, the undersigned attorney of the law firm of Sowell Gray Stepp & Laffitte, LLC, attorneys for Respondents, certify that I have served the Motion to Require Appellant to Supplement and Correct the Record on Appeal by placing a copy of same in the United States Mail, postage prepaid, on March 8, 2013, addressed to:

Marion L. Driggers  
3497 Hebron Road  
Lake City, South Carolina 29560

  
\_\_\_\_\_  
Tina M. Cundari

March 8, 2013

March 8, 2013

BY HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court for the South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: Marion L. Driggers v. Daniel E. Shearouse et al.  
Appellate Case No.: 2012-212819

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter are an original and seven copies of Respondents' Motion to Require Appellant to Supplement and Correct the Record on Appeal. Please file the original and return a filed/clocked copy to my office by our courier.

It is my understanding that a filing fee is not required because this motion is being made on behalf of members of the South Carolina Judicial Department. Please let me know if I am incorrect.

Thank you for your assistance, and please do not hesitate to contact me should you have any questions.

Sincerely,



Tina Cundari

TMC:kmw

Enclosures

cc: Mr. Marion L. Driggers  
The Honorable Daniel E. Shearouse (by email)

**RECEIVED**

MAR 08 2013

**SC Court of Appeals**