

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

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Appellate Case No. 2019-001603  
Case No. 2019-CP-40-01615

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T.D., by and through his guardians, A.D. and J.D.,

Appellants,

v.

Richland County School District Two,

Respondent.

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**RESPONDENT'S RETURN TO  
APPELLANTS' AMENDED MOTION TO TRANSPORT**

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Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondent hereby responds to Appellants' Amended Motion to Transport as follows:

Through their motion, Appellants seek to transport all audio recordings of the student's disciplinary and appeal proceedings before the School District's Hearing Officer and the School Board which were submitted to the lower court in connection with Appellants' appeal although written transcripts of these audio recordings, prepared by a third party, Creel Court Reporting, Inc., are now included in the Record on Appeal before this Court. (R. pp. 212-308). Appellants contend their request should be granted on the grounds that: (1) the audio files were the most complete record of proceedings before the lower administrative tribunal, and were the only record before the circuit court; (2) the standard of review compels this Court to consider the audio files; and (3)

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refusing to order the transport of the audio recordings would be highly prejudicial to the Appellants, who have relied on evidence contained exclusively in the audio files to support their claims.

By order dated April 22, 2020, this Court granted Respondent's motion to supplement the Record on Appeal to include written transcripts of the audio recordings at issue prepared by a third party, Creel Court Reporting, Inc. Although Respondent has previously deferred to the audio recordings in their entirety as being the best source of information when responding to certain allegations raised in Appellants' Summons and Complaint, it is important to note that Respondent's responsive pleading was filed in April 18, 2019, when those recordings were the only format of the proceedings available and prior to the written transcriptions prepared by Creel Court Reporting, Inc. (R. 84-87; 91).

Further, while Appellants contend they have relied heavily on the audio files during proceedings before the School Board and Circuit Court, of the approximately 90 pages of transcribed recordings prepared by Creel Court Reporting, Inc., Appellants have identified only two discrepancies:

- The student's brother, who testified during the disciplinary hearing, is quoted in the transcript prepared by Creel Court Reporting Inc, as asking, "I thought there was another charge on this?," while the recording reflects the student's brother asking, "I thought there was no charges?" (R. p. 257, lines 18-19; Appellants' Reply Brief, p. 9, note 7).
- Appellants' personal transcription of certain portions of a communication between the Hearing Officer and an administrator during the hearing, in the presence of all parties, that is faintly audible on the audio recording file, but not picked up or properly transcribed by Creel Court Reporting, Inc. (Appellants' Reply Brief p. 9).

Within their amended motion to transport, Appellants have not demonstrated any other testimony or statements that they have relied upon, other than the tone of the hearing officer, that would be exclusively contained in the audio recordings. Further, Appellants cited to the correct testimony of the brother and referenced its version of the inaudible communication between the

Hearing Officer and administrator throughout the proceedings before the Circuit Court within Appellants' Supplemental Reply Brief, essentially making this information part of the record for consideration before the lower court and now this Court. (R. pp. 163-164, 168-169).

In any event, while Respondent objects to the Appellants' characterization of the basis and necessity to support their amended motion to transport, Respondent has no objection to the transport of the audio recordings, and to the extent the Court believes any noted discrepancies between the transcripts prepared by Creel Court Reporting, Inc. and the audio recordings are material, Respondent reserves the right to seek leave to move to supplement the Record on Appeal to allow Creel Court Reporting, Inc., or another audio transcription service or audio forensic expert, to correct any deficiencies or attempt to decode inaudible information.

Respectfully submitted,

By: s/ Jasmine Rogers Drain  
Jasmine Rogers Drain  
Vernie L. Williams  
Halligan, Mahoney, Williams, Smith, Fawley  
& Reagle, P.A.  
P.O. Box 11367  
Columbia, South Carolina 29211  
(803) 254-4035  
jdrain@hmwlegal.com  
vwilliams@hmwlegal.com

Attorneys for Respondent

October 30, 2020

Columbia, South Carolina

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**PROOF OF SERVICE**

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I certify that I have served, on October 30, 2020, a copy of Respondent's Return to Appellants' Amended Motion to Transport, in accordance with Order of the Supreme Court dated March 20, 2020, amended May 29, 2020, by sending a copy electronically to [Mathison.Michael@richlandcountysc.gov](mailto:Mathison.Michael@richlandcountysc.gov).

HALLIGAN MAHONEY WILLIAMS SMITH  
FAWLEY & REAGLE, PA

s/ Jasmine Rogers Drain

Jasmine Rogers Drain, S.C. Bar No. 76156

[jdrain@hmwlegal.com](mailto:jdrain@hmwlegal.com)

Vernie L. Williams, S.C. Bar No. 9511

[vwilliams@hmwlegal.com](mailto:vwilliams@hmwlegal.com)

1301 Gervais Street, Suite 1400

P.O. Box 11367

Columbia, SC 29211

(803) 254-4035

*Attorneys for Respondent*