

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable Edgar W. Dickson

Appellate Case No. 2019-001921

RECEIVED

Nov 16 2020

SC Court of Appeals

Tekayah Hamilton, individually and as parent and guardian ad litem for Robert Lee M. Jr., a minor child under the age of 18,.....Respondent,

v.

Regional Medical Center,.....Appellant.

RESPONDENT’S REPLY TO THE RETURN TO THE MOTION TO DISMISS
APPEAL

Respondent Tekayah Hamilton, individually and as parent and guardian ad litem for Robert Lee M. Jr., a minor child under the age of 18 (“Respondent”) submits this reply to Appellant’s return to the motion to dismiss.

The return confirms what Respondent represented and argued in her motion to dismiss. Appellant did not copy opposing counsel, the Court, or Court Administration on its email communications with the court reporter. In response to the motion to dismiss, Appellant did not submit to the Court any documentation of communication with the court reporter.

Since filing the appeal *a year ago* and discovering missing transcript pages *eleven months ago*, Appellant has communicated with the court reporter twice.

Appellant emailed the court reporter once (although no one else knows the content or date of that communication) some time before January 14, 2020.

Appellant stated for the first time in its return that, during a conference with Judge Dickson and counsel, Judge Dickson's secretary called the court reporter who said she would try to find the tapes and complete the transcript. (Return p. 5). Appellant does not provide a date or documentation for the conference.

Aside from these communications, Appellant does not state any efforts in eleven months to get the missing transcript pages.

Appellant violated Rule 207(a)(1), SCACR, by failing to copy counsel, the Court, and Court Administration with its communications with the court reporter.

Appellant violated Rule 208, SCACR, by failing to file a brief or otherwise seek an extension of time to file one within the March 9, 2020 deadline stated in the order holding the appeal in abeyance. Appellant argues that the Court "intended" to set new briefing deadlines once it received the full transcript. (Return p. 7). That is not stated in any Court order or letter. The Court's order holding the appeal in abeyance expired by its own terms on March 9, 2020.

Appellant's argument that, without the full transcript, the timeline to file a brief never began to run is equally without merit. (Return p. 8). If a deadline did not already exist, there would have been no need to move for an abeyance and no need for the Court to enter the order.

Respondent is a real person with a life that is greatly affected by this appeal. The appellate process is long enough for litigants without waiting indefinitely for missing transcript pages. While Respondent is sympathetic to Appellant's desire for the missing transcript pages to complete its brief, at some point the appeal must be dismissed or otherwise meaningfully be made to move forward with or without the missing transcript pages. Respondent requests the Court dismiss the appeal. Rule 260(a), SCACR.

November 16, 2020

Respectfully submitted,

s/Kathleen C. Barnes
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PROOF OF SERVICE

The undersigned certifies that a copy of Respondent's Reply to the Return to the Motion to Dismiss Appeal has been served upon counsel for Appellant via electronic mail at the email address stated in the Attorney Information System as set forth below on November 16, 2020.

MICHAEL C. TANNER, LLC
Michael C. Tanner
michaelctannerllc@bellsouth.net

November 16, 2020

s/Kathleen C. Barnes
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Kathleen C. Barnes
Admitted: Georgia | South Carolina

November 16, 2020

Via E-Mail

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

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SC Court of Appeals

Re: *Tekayah Hamilton, individually and as parent and guardian ad litem for Robert Lee M. Jr., a minor child under the age of 18 v. Regional Medical Center*
Appellate Case No. 2019-001921

Dear Mrs. Kitchings:

Attached for electronic filing and service pursuant to section (c)(6) of Supreme Court Order 2020-05-29-02 *RE: Operation of the Appellate Courts During the Coronavirus Emergency*, please find Respondent's Reply to the Return to the Motion to Dismiss Appeal, and proof of electronic service. Please file the reply and return one file-stamped copy to me via email. By electronic copy of this letter, I am serving all counsel of record with a copy of the same.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,



Kathleen C. Barnes

Enclosures

cc: Michael C. Tanner (via email only)
Jonathan F. Krell (via email only)
David R. Williams (via email only)
Virginia W. Williams (via email only)