

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

The Honorable Edgar W. Dickson, Circuit Court Judge

Case No. 2018-CP-40-01318
Appellate Case No. 2020-000451

Rufus Rivers and Merle Rivers, pro se Appellants,

v.

James Smith, Jr.. Respondent.

MOTION TO CORRECT RECORD ON APPEAL

The Record on Appeal filed by Appellants on November 2, 2020, does not contain all of the items included in Respondent’s Designation of Matter to be Included in Record on Appeal nor does it contain all of the items included in Appellants’ Designation of Matter to be Included in the Record on Appeal. To correct these problems and others, Appellant, requests that he be permitted to file the Second Amended Record on Appeal attached hereto as Exhibit 1 and that such Second Amended Record on Appeal serve as the Record on Appeal in this matter.

On November 2, 2020, Appellants filed an Amended Record on Appeal. This was Appellants’ second attempt at preparing the Record on Appeal. The first Record on Appeal they submitted on October 19, 2020, was a five-page document that did not

contain copies of any of the documents designated for inclusion in the Record on Appeal by Appellants or Respondents nor did it even reference the documents designated by Respondent for inclusion in the Record on Appeal. Although Appellants' second attempt at the Record on Appeal does contain actual documents, it does not contain all of the items designated by Respondents or Appellants for inclusion in the Record on Appeal.

The documents identified in Respondent's Designation of Matter that Appellants did not include in the Record on Appeal are:

- Form 4 Order, dated May 21, 2019
- Writ of Ejectment, dated March 9, 2020
- Magistrate's Return of Civil Appeal, filed November 21, 2018
- Request for Hearing filed August 31, 2018
- Notice of Intent to Appeal to Circuit Court, filed October 17, 2018
- Appellants' Memorandum in Support of Appellant's Motion to Dismiss, filed June 14, 2019

The documents identified in Appellants' Designation of Matter that Appellants did not include in the Record on Appeal are:

- Application for Ejectment (Eviction), dated August 2, 2018
- Rule to Vacate or Show Cause (Eviction) filed August 8, 2018

The Second Amended Record on Appeal corrects two additional problems with Appellants' Amended Record on Appeal:

- The Summons and Complaint (with expedited request for relief), filed August 6, 2018, was missing the first page of Appellants' memorandum in support.
- The transcript from hearing held October 18, 2019, was missing pages 11, 13, 15 and 16.

Understanding that Appellants are pro se, counsel for Respondent believes it may be easier to simply prepare and file the Second Amended Record on Appeal although it is generally Appellants' responsibility to file a correct Record on Appeal. Respondent requests that the Court permit the filing of the proposed Second Amended Record on Appeal so as to alleviate any confusion regarding the Record on Appeal for the parties and the Court.

s/ Kathleen McDaniel
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January 15, 2021