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SEP 08 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

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The Honorable Michael G. Nettles

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Trial Case No. 2019-CP-21-03521  
Appellate Case No. 2020-000479

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Edward Spears.....Appellant,

v.

Michael S. Hopewell.....Respondent.

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**MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION TO ORDER  
APPELLANT TO FILE A PROPER AMENDED RECORD ON APPEAL**

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The Respondent, through his undersigned attorney, hereby moves the South Carolina Court of Appeals to dismiss the appeal or, in the alternative, to, once again, order the Appellant to file a proper, bound copy of the Record on Appeal.

By its Order of March 24, 2021, the court ordered the Appellant to serve and file a Supplemental Record on Appeal that included the Amended Complaint filed on November 21, 2019 in the underlying case that was originally filed in Magistrate's Court.

Thereafter, on April 14, 2021, counsel for the Respondent received, from Appellant, a copy of a document entitled "Record of Appeals (Amended)" that appeared

to comply with the court's order in that it included, as page 30 thereto, a copy of the Amended Complaint referenced above.

From reviewing the court's file on the S.C. Judicial Department website, it appears that a similar document entitled "Record of Appeals (Amended)" was received and filed by the court on May 13, 2021; however, counsel for the Respondent did not receive another copy at that time. This filing did contain, at what is marked page 30, a copy of the Amended Complaint dated November 21, 2019 in the underlying Magistrate's Court case.

On July 27, 2021, the court sent a letter to the Appellant requiring him to file bound copies of the Record on Appeal and the Appellant's Final Brief.

From reviewing the court's file on the S.C. Judicial Department website, it does not appear that those documents were filed as requested by the court, however, on August 12, 2021, the Respondent received, in the mail, a stapled (rather than bound) copy of a document entitled "Record of Appeals (Amended)" which contained 28 numbered pages but did not contain the Amended Complaint dated November 21, 2019 in the underlying Magistrate's Court case. As mentioned above, it does not appear that this document was received or filed by the court.

The Respondent is concerned that different documents with the same name are being filed and served in this case, and it does not appear that either the court or Respondent has ever received a final, bound copy of a Record on Appeal containing all of the necessary documents.

CONCLUSION

Because the Final bound Record on Appeal containing the proper documents has never been filed, notwithstanding letters from the court and an order from the court directing the Appellant to do so, the Respondent requests that the appeal be dismissed. In the alternative, if the appeal is not to be dismissed, the Respondent requests that the court, once again, order the Appellant to file and serve a proper, bound Final Record on Appeal.

Respectfully submitted,



September 3, 2021

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Michael C. Abbott  
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Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**SC Court of Appeals**

Edward Spears.....Appellant,

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Michael S. Hopewell.....Respondent.

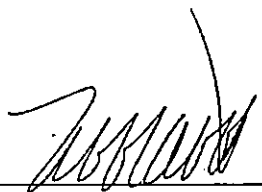
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**PROOF OF SERVICE**

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I certify that I have served the Motion to Dismiss on Edward Spears, pro se Appellant, by depositing a copy of same in the United States Mail, postage prepaid, on September 3, 2021, addressed to 503 Roughfork Street, Florence, SC 29501.

September 3, 2021

  
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September 3, 2021

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

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**SC Court of Appeals**

Re: Edward Spears  
vs. Michael S. Hopewell  
Appellate Case #2020-000479  
Our File #2016008

Dear Ms. Kitchings:

Please find enclosed the following documents regarding the above referenced matter:

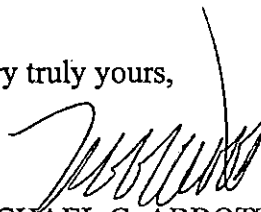
1. One original and seven (7) copies of the Motion to Dismiss;
2. Original and one (1) copy of Proof of Service; and
3. Our firm's check in the amount of \$50.00 to cover the filing fee.

I would appreciate you filing the original Proof of Service and Motion to Dismiss stamping as received the copy of same and returning a filed copy of each to me in the enclosed self-addressed, stamped envelope.

If you have any questions or concerns, please do not hesitate to let me know.

With kind regards, we are

Very truly yours,

  
MICHAEL C. ABBOTT

MCA/kch  
Enclosures  
cc: Mr. Edward Spears

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