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Feb 24 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

The Honorable Carmen T. Mullen, Circuit Court Judge

Case No. 2017-CP-27-0386
Appellate Case No. 2018-002186

First Team Hyundai, LLC d/b/a Hilton Head HyundaiRespondent

v.

Greg S. HackneyAppellant

RESPONDENT’S MOTION TO DISMISS

Introduction

Respondent, First Team Hyundai d/b/a Hilton Head Hyundai, respectfully requests the appeal be dismissed in accordance with Rule 260(a), SCACR.

This Appeal was filed by Appellant on December 12, 2018, over three years ago.¹ Appellant has since filed 19 motions for extensions and multiple motions regarding the Record on Appeal.

Appellant filed his first Record on Appeal on February 18, 2020. The Record omitted properly designated matter and included matter that was not before the lower court. At the hearing on the summary judgment motion, the lower court requested Appellant confirm that the

¹ A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with the substantive procedural requirements of the law. *State v. Burton*, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9, n.5 (2003).

court had everything that had been submitted. The lower court then stated that the evidence given to it by Appellant was the evidence submitted by Appellant on his behalf and would be designated as “Defense’s 1.” (Transcript, p. 52, ll. 1-14). The Jasper Clerk of Court’s file reflects the evidence submitted to the lower court and does not include the “Victimization Document,” “Wal-Mart” video, nor any documents Appellant claims are missing from the Clerk’s file.

Respondent filed a Motion for correction of the Record on March 2, 2020. This Court’s May 22, 2020, Order (one year and nine months ago) required Appellant to serve an amended Record on Appeal that must: (1) include all documents designated by both parties; and (2) omit all documents not presented to the lower court.

On June 20, 2020, Appellant again requested documents to be included in the Record that were not before the lower court.² On September 23, 2020, this Court once again issued its Order requiring Appellant to comply with its May 22, 2020, Order.

Appellant filed yet another Motion on October 20, 2020, requesting these documents be incorporated that were not before the lower court. Appellant served a second deficient “Provisional and Contested” Record on Appeal on October 23, 2020. Appellant’s Motion was denied on January 11, 2021, and the Provisional and Contested Record was stricken. This was the third time Appellant was told not to include the material.

² Appellant has failed to establish that the filing in the Jasper County Clerk’s Office is not an accurate reflection of the Exhibit he handed to the lower court. Appellant itemized the page numbered exhibits in the Clerk’s file in his June 20, 2020, Motion. The itemization reflects that the Clerk’s file contains a 38 page Response plus exhibits with the last numbered page being 183. Upon the lower court’s receiving this submission, it would be reasonable, without counting the pages presented, for the lower court to assume it had received 220 pages.

Appellant filed a third deficient Record on May 13, 2021, and a fourth deficient Record on August 9, 2021. Instead of following this Court's clear Orders, Appellant again seeks to include documents that were not before the lower court in his February 14, 2022 Motion.

This Court has Ruled Three Separate Times

Rule 210(c), SCACR, clearly states the order and manner in which the documents in the Record are to be incorporated.

210(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. **The Record shall not, however, include matter which was not presented to the lower court or tribunal...**
(emphasis added)

This Court ruled on May 22, 2020, September 23, 2020, and again on January 11, 2021, that the Record not include matter not presented to the lower court.

Appellant has since filed two Motions for extension, and now has filed yet another Motion, once again requesting to incorporate documents that were not before the lower court. Since this Court has previously ruled, three times, this request is made in bad faith.

The "Wal-Mart Video" was not Included in the Designation of Matter

Rule 210(c), SCACR, provides that the Record on Appeal shall include all matter designated to be included by any party under Rule 209. The "Wal-Mart video" was not designated by the Appellant in his December 19, 2019, Designation of Matter. Therefore, the video is not properly included in the Record on Appeal for this reason as well.


Conclusion

Appellant, for the fourth time, fails to timely comply with the requirements of the Court's Rules and Orders. There is no basis for such defiance, and Respondent respectfully requests the

ending of this costly appeal that is now over three years old.

Respectfully submitted,

February 24, 2022



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In the Court of Common Pleas for the
State of South Carolina, County of Jasper

Case No.: 2017CP270386

First Team Hyundai, LLC d/b/a
Hilton Head Hyundai

Plaintiff(s),

vs.

Transcript of Record

Greg S. Hackney,

Defendant(s).

October 31, 2018

Ridgeland, South Carolina

BEFORE:

The Honorable Carmen Mullen

1 THE COURT: I want to make sure that we've got as
2 part of the Court's record everything that's submitted.
3 So I need from you everything you submitted,
4 Mr. Martin, and I'm going to go ahead, Mr. Hackney, you
5 said this was for me. So I'm going to make this your
6 defense exhibit. Okay? And we're not going to talk
7 about whether or not it is timeliness or other things.
8 This is just what you submitted on your behalf.

9 MR. HACKNEY: Yes, ma'am.

10 THE COURT: So I want to make that a defense
11 exhibit. So I'm going to nominate you, this is
12 Defense's 1.

13 And is it okay if I keep that?

14 MR. HACKNEY: That's for you.

15 THE COURT: Okay. Mr. Martin, I need everything
16 that you submitted. Did you bring an extra copy or --
17 do you want us just to print it in order to --
18 Margaret, how is the easiest way to do that?

19 THE CLERK: I can do it.

20 THE COURT: So if you don't have copies, you did
21 say you had copies of case law to give me; is that
22 correct?

23 MR. MARTIN: I do. Yes.

24 THE COURT: So I'd appreciate copies of his.

25 MR. MARTIN: And the police reports, too. I have

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Case No. 2017-CP-27-0386
Appellate Case No. 2018-002186

First Team Hyundai, LLC d/b/a Hilton Head Hyundai Respondent

v.

Greg S. Hackney Appellant

PROOF OF SERVICE

I, Peggy McComb, Legal Assistant to attorneys for Respondent, First Team Hyundai, LLC d/b/a Hilton Head Hyundai, certify that I have served a copy of Respondent’s Motion to Dismiss via email floridaexperiment@icloud.com and by depositing a copy in the U.S. Mail, sufficient first class postage prepaid, on February 24, 2022, addressed to **Greg S. Hackney, 6125 Roswell Road, #145, Sandy Springs, GA, 30328.**

February 24, 2022



Peggy McComb, Legal Assistant to
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February 24, 2022

Via email ctappfilings@sccourts.org and U.S. Mail
The Hon. Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: *First Team Hyundai, LLC dba Hilton Head Hyundai v. Greg S. Hackney*
C.A. No. 2017-CP-27-0386
Appellate Case No. 2018-002186

Dear Ms. Kitchings:

Enclosed please find Respondent's Motion to Dismiss and Proof of Service. The filing fee for this Motion is being mailed to the Court today.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Laura W.H. Teer

LWHT/pm
Enclosures

cc: Greg Hackney