

RECEIVED

Mar 09 2022

SC Court of Appeals

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM DORCHESTER COUNTY
Deadra L. Jefferson, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge
Maite Murphy, Circuit Court Judge

Case No.: 2016-CP-18-01706
Appellate Case No.: 2018-002185

Molly M. Morphew, Appellant

v.

Stephen Dudek, Doreen Cross, David Collins,
Allison Williams, First Federal, Michael Scarafile,
Susan Nicholson, Carolina One Real Estate,
Carrie Boyer, and Woody Law Firm, Respondents

RESPONDENTS' MOTION TO DISMISS

Respondents Stephen Dudek, Doreen Cross, Allison Williams, First Federal, Michael Scarafile, Susan Nicholson, Carolina One Real Estate, Carrie Boyer, and Woody Law Firm (collectively "Respondents") respectfully move to dismiss this appeal on the grounds that Appellant has failed to comply with the requirements of Rule 210 of the South Carolina Appellate Court Rules, as well as a directive from the Court contained in correspondence dated January 14, 2022. The grounds for this motion are more fully set forth herein.

PROCEDURAL HISTORY

In 2012, Stephen Dudek and Doreen Cross entered into a real estate sales contract with the seller, a non-party to this lawsuit. Subsequently, Appellant entered into a back-up sales

contract regarding the same property with the same seller. Dudek's and Cross's contract was ultimately fulfilled and Appellant initiated litigation to enforce her contract over the primary contract. Appellant lost that litigation by decision of the Honorable James E. Chellis, Master-in-Equity, Dorchester County. Appellant appealed that decision in appellate case number 2014-002633 and this Court ultimately affirmed the decision of the Master-in-Equity ("underlying matter").

The instant case arises out of Appellant's allegations that both before and during trial of the underlying case, all of the Respondents perpetrated a fraud on both her and the court by making fraudulent misrepresentations and failing to disclose material facts. On November 14 and 15, 2018, the Honorable Maite Murphy entered orders granting summary judgment in favor of all Respondents and dismissing this case in full.

On December 12, 2018, Appellant filed a notice of appeal, identifying seven orders subject to the appeal. After many delays, on March 23, 2021, Appellant served Respondents with a Record on Appeal. However, this version of the Record on Appeal omitted a number of materials designated by Respondents. After Appellant filed a series of motions with the apparent aim to avoid including all matters designated by Respondents in the Record on Appeal, this issue was ultimately resolved by Respondents providing Appellant with copies of the disputed documents for inclusion in the record. The Court subsequently ordered Appellant to serve a Record on Appeal that complies with prior Orders of the Court and the South Carolina Appellate Court Rules by Orders issued on the following dates: August 16, 2021; November 5, 2021; and November 30, 2021.

Appellant served a second version of the Record on Appeal on January 3, 2022. However, this second version of the Record on Appeal was not redacted as required by S.C.

Code Ann. §30-2-330 and Order 2014-04-15-02, *Re: Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings* (Sup. Ct. April 15, 2014). Accordingly, by letter dated January 14, 2022, the Court advised Appellant that “she must serve an amended record on appeal that has been fully redacted within ten (10) days of the date of this letter.” Despite this clear directive, Appellant did not serve Respondents with a redacted record on appeal. Instead, by letter dated January 20, 2022, Appellant advised the Court that it is her position that service of a redacted record was not warranted and it is the clerk’s responsibility to redact filings. (Ex. A).¹ This letter further indicates that Appellant enclosed a copy of the fully redacted Record on Appeal for filing. In subsequent correspondence dated February 8, 2022, Appellant doubled-down on her position that she is not required to serve Respondents with the redacted Record on Appeal. To date, Appellant has not served a copy of the fully redacted Record on Appeal on Respondents.

ARGUMENT

Rule 260, SCACR states, “[w]henver it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Rule 260, SCACR. In addition, Rule 210, SCACR requires the appellant to serve all parties with a copy of the Record on Appeal which shall include all matter designated by any party.

Appellant has repeatedly failed to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court. This appeal has been pending since 2018 and Respondents still do not have a copy of the redacted Record on Appeal so they may proceed with final briefing. In her recent correspondence, Appellant has made it clear that she will not

¹ A copy of this correspondence as received by Respondents is attached. The version of this letter on file with the Court is dated January 22, 2022 and contains minor differences.

serve Respondents with a redacted version of the Record on Appeal although she has purportedly filed a redacted version with the Court. Under the South Carolina Appellate Court Rules, Respondents have a right to receive a verbatim copy of each and every filing Appellant makes with the Court. The central purpose of this requirement is to ensure that all parties are privy to the same information provided to the Court. Given the tortured history of this case, it is of paramount importance that Respondents receive copies of all filings made by Appellant. Without a copy of the fully redacted Record on Appeal, Respondents are unable to assess the sufficiency of Appellant's redactions and are unable to ensure that no additional changes have been made.

Accordingly, this appeal should be dismissed based on the Appellant's failure to comply with the requirements of the South Carolina Appellate Court Rules and the directive contained in the Court's January 14 correspondence.

CONCLUSION

For the foregoing reasons, the Respondents respectfully request the Court dismiss this appeal. Alternatively, if the Court declines to dismiss this appeal, Respondents request Appellant be required to serve all Respondents with a fully redacted Record on Appeal mirroring that which she apparently filed with the Court.

(Signature Page to Follow)

COLLINS & LACY, P.C.

s/Amy L. Neuschafer
AMY L. NEUSCHAFER
aneuschafer@collinsandlacy.com
11945 Grandhaven Drive, Suite D
Murrells Inlet, South Carolina 29576
(843) 353-2350
(843) 353-2351 (f)

Attorneys for Respondents The Woody Law Firm and Carrie Boyer

Murrells Inlet, South Carolina
March 9, 2022

GALLIVAN, WHITE & BOYD, P.A.

s/Jordan M. Crapps
AMY L.B. HILL
ahill@gwblawfirm.com
JORDAN M. CRAPPS
jcrapps@gwblawfirm.com
P.O. Box 7368
Columbia, SC 29202
(803) 779-1833
(803) 779-1767 (f)

Attorneys for Respondents South State Bank f/k/a SCBT f/k/a SCBT, successor in interest to First Federal and Allison Williams

Columbia, South Carolina
March 9, 2022

WHITFIELD-CARGILE LAW, PLLC

s/Samuel M. Wheeler
SAMUEL M. WHEELER
sam@whitfieldcargilelaw.com
23 S. Broad Street, Suite 204
P.O. Box 1101
Brevard, North Carolina 28712
(828) 884-4529
(828) 884-4528 (f)

Attorneys for Respondents Stephen Dudek, Doreen Cross, Michael Scarafile, Susan Nicholson, and Carolina One Real Estate

Brevard, North Carolina
March 9, 2022

EXHIBIT A

January 20, 2022

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211

Re: Appellate Case No. 2018-002185
Molly M. Morphey v. Stephen Dudek, Doreen Cross, et al.

Dear Ms. Kitchings:

I'm in receipt of this Court's (responsive) letter dated January 14, 2022 (attached) and received on January 20, 2022, advising me to serve an amended record "fully redacted" within 10 days of their letter, but have not yet received Mr. Wheeler's "correspondence dated January 11, 2022" as referenced in your letter.

Based on this Court's letter addressing only Mr. Wheeler in the return address, I'm assuming Mr. Wheeler has made an allegation that the Record is not redacted or fully redacted and this Court has treated his letter as a motion to amend the Record.

Until I receive the alleged data for redaction in specificity (meaning, the specific pages containing personal information requiring redaction), producing and serving another Record is neither supported nor warranted. Notwithstanding the substantial and undue burden of cost, time and effort to print and mail *another* four (4), 1862-page Records without basis and without allowing a pro se party due process to respond to the opposing litigant's issue before advising said party they must perform an action.

Even so, it appears service of another Record is not required for redaction. In fact, pursuant Rule 41.2, redacting data in a document filed in the court neither requires an amended document nor the service of, *and* it's the *court clerk* that redacts or removes the data from the filing. Any individual can request the redaction, in writing to the clerk, when he or she *identifies the document and page number or numbers* that contains data to be redacted. Rule 41.2(e), Rule 41.2(e)(1).

If Mr. Wheeler has found data in the Record served that requires redacting, then I will be more than willing to remove that data in accordance with Rule 41.2(a). Mr. Wheeler will need to provide those specific page numbers and items.

It's been 17 days since the Record was served and the Record and all final briefs are due in three (3) days, or January 23, 2022. In accordance with this Court's letter, the only issue raised is to redact or remove personal data somewhere in the Record already served. Since redaction only removes certain personal information and does not in any way alter or change any other aspect of the Record, including the index, numbering, order of or the number of pages of

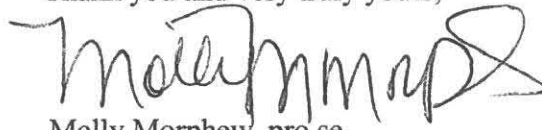
the Record, and according to Rule 41.2, requiring service of an amended record would be inappropriate and not required. Further, it appears redacting data from a document does not extend or automatically extend due dates, and in this case, the filing of the Record and all final briefs, nor is there a reason or legal standing to do so.

I'm not being difficult or trying to cause any delay in this case, instead I'm trying to move this case along while preventing undue and unwarranted burden while preserving court processes and my due process. I'm only asking as a pro se party for the appropriate means and full disclosure to address any issue and its relevancy to the service or filing of the Record to prevent non-compliance or having to address, serve or file another "edition" of this massive Record now or in the future.

Regardless of Mr. Wheeler's failure to provide the specific page numbers of the Record in which he asks for redaction, I have taken the time to review the Record previously served and have done so in accordance with the redaction rules and guidelines pursuant Rule 41.2(a). The pages that contain additional redaction have been sent, along with a copy of this letter, to Mr. Wheeler.

Also, please find enclosed, an original of the fully redacted Record and an original of my final Briefs¹ to be recorded and filed. Also enclosed are copies to be kindly recorded and returned in the self-addressed, stamped envelope.

Thank you and very truly yours,



Molly Morphew, pro se

Cc: Samuel M. Wheeler, Esq.
Amy L. Neuschafer, Esq.
Steven L. Smith, Esq.
Amy B. Hill, Esq.
David A. Collins, pro se

¹ Supreme Court Order, August 25, 2021

RECEIVED

Mar 09 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Deadra L. Jefferson, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge
Maite Murphy, Circuit Court Judge

Appellate Case No. 2018-002185
Case No. 2016-CP-26-01706

Molly M. Morphew.....Appellant,

v.

Stephen Dudek, Doreen Cross, David Collins, Allison Williams, First Federal, Michael Scarafile,
Susan Nicholson, Carolina One Real Estate, Carrie Boyer, Woody Law Firm.....Respondents.

CERTIFICATE OF SERVICE

I certify that I have served Respondents' Motion to Dismiss by mailing and/or emailing a copy of same to all attorneys of record in the United States mail, with sufficient postage affixed thereto on the date indicated below.

Molly Morphew
121 Sterling Drive
Rincon, GA 31326
Mollymorphew1@gmail.com
Pro Se Appellant
VIA MAIL & EMAIL

David Collins, Esquire
394 Hoff Avenue
Charleston, SC 29407
Davidacollins43@gmail.com
Pro Se Respondent

Samuel M. Wheeler, Esq.
Whitfield-Cargile Law, PLLC
P.O. Box 1101
Brevard, NC 28712
sam@whitfieldcargilelaw.com
*Attorneys for Respondents Stephen Dudek,
Doreen Cross, Michael Scarafile, Susan Nicholson
and Carolina One Real Estate*

Amy L.B. Hill, Esq.
Jordan M. Crapps, Esq.
Gallivan, White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202
ahill@gwblawfirm.com
jcrapps@gwblawfirm.com
*Attorneys for Respondents South State Bank
f/k/a SCBT, successor in interest to First
Federal and Allison Williams*

COLLINS & LACY, P.C.

By: s/Amy L. Neuschafer
Amy L. Neuschafer, Esquire
SC Bar No.: 73922
aneuschafer@collinsandlacy.com
Robert M. Peele, III, Esquire
SC Bar No.: 77569
rpeele@collinsandlacy.com
Laura R. Baer, Esquire
SC Bar No.: 101076
lbaer@collinsandlacy.com
11945 Grandhaven Drive, Suite D
Murrells Inlet, SC 29576
843.353.2350 (p)
843.353.2351 (f)

***ATTORNEYS FOR RESPONDENTS
CARRIE BOYER AND WOODY
LAW FIRM***

CERTIFICATE OF SERVICE

Murrells Inlet, South Carolina
March 9, 2022



Amy L. Neuschafer | D: 843.353.2331 | E: aneuschafer@collinsandlacy.com

RECEIVED

Mar 09 2022

SC Court of Appeals

March 9, 2022

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

Re: Molly Morpew v. Stephen Dudek, Doreen Cross, David Collins, Allison Williams, First Federal, Michael Scarafile, Susan Nicholson, Carolina One Real Estate, Carrie Boyer, and Woody Law Firm
Appellate Case No. 2018-002185
C&L File No. 000890-01029

Dear Ms. Kitchings:

Enclosed is a check in the amount of \$50.00 for filing of Respondents' Motion to Dismiss and Proof of Service that was filed with the Court today.

With kind regards,

Sincerely,

A handwritten signature in blue ink that reads "Amy L. Neuschafer".

Amy L. Neuschafer

/aga

Enclosures

pc: Molly Morpew
Samuel M. Wheeler, Esquire
David Collins, Esquire
Amy L. B. Hill, Esquire
Jordan M. Crapps, Esquire