

RECEIVED

Mar 22 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2022-000017
Civil Action No. 2021-CP-22-00605

Joseph N. Grate,..... Appellant,

v.

Christopher Douglas Brown, Respondents.

RESPONDENT’S MOTION TO STRIKE

The Respondent, Christopher Douglas Brown, by and through his undersigned counsel and pursuant to Rules 209(b), 210(c), and 240, SCACR, moves to strike certain materials from the Appellant’s Designation of Matters to Be Included in the Record on Appeal (the “Appellant’s DOM”). This motion is made on the grounds that the Appellant’s DOM proposes for inclusion in the Record on Appeal materials which were not presented to the Circuit Court and, therefore, may not properly be included in the Record on Appeal.

Rule 210(c), SCACR, provides, in pertinent part: “The Record shall not . . . include matter which was not presented to the lower court or tribunal.” Rule 209(b), SCACR, provides, in pertinent part: “[T]he Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included

in the Record on Appeal [See Rule 210(c)]” (brackets in original). The Appellant’s DOM proposes to include in the Record on Appeal multiple items which were not presented to the Circuit Court.¹

- The action filed in Georgetown County Magistrate Court, March 9, 2021;
- The Judgment June 28, 2021;
- Judgement - Judge James K. McKenzie, granted, June 21, 2021; and
- Exhibits in evidence at the ---proceedings in Georgetown County Magistrate Court
Plaintiff Exhibit - 1 - 6
Defendant Exhibit - 1
Jury Questions

These materials may not be included in the Record on Appeal and must be stricken from the Appellant’s DOM.



Richard C. Thomas, S.C. Bar No. 5533
Matthew G. Gerrald, S.C. Bar No. 76236
Barnes, Alford, Stork & Johnson, LLP
1613 Main Street (29201)
Post Office Box 8448
Columbia, SC 29202
(803) 799-1111
Attorneys for the Respondent

March 22, 2022

¹ Indeed, the fact that there was no Magistrate’s Return or other materials for it to review was the basis for the Circuit Court’s dismissal of the appeal.

RECEIVED

Mar 22 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2022-000017
Civil Action No. 2021-CP-22-00605

Joseph N. Grate,..... Appellant,

v.

Christopher Douglas Brown, Respondents.

PROOF OF SERVICE

I, the undersigned, do hereby state that I have on March 22, 2022 served copies of **RESPONDENT'S MOTION TO STRIKE** and **RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF AND DESIGNATION OF MATTER** upon the Appellant, *pro se*, all other parties, by depositing copies of the documents in the United States Mail, first class, sufficient postage prepaid, with the return address(es) clearly noted, addressed as follows:

Joseph N. Grate
P.O. Box 1294
Pawley's Island, SC 29585



Matthew G. Gerrald, S.C. Bar No. 76236
Barnes, Alford, Stork & Johnson, LLP
1613 Main Street (29201)
Post Office Box 8448
Columbia, SC 29202
(803) 799-1111