





Selected docket entries for case 20–20566

Generated: 12/05/2020 13:02:10

Filed	Document Description	Page	Docket Text
10/28/2020	 Notice of Appeal	2	PRIVATE CIVIL DIVERSITY CASE docketed. NOA filed by Appellant Ms. Candace Louise Curtis [20–20566] (CAG)
11/05/2020	 DKT–2 Letter	4	INITIAL CASE CHECK by Attorney Advisor complete, Action: Case OK to Process. [9436707–2] Initial AA Check Due satisfied.. Transcript order due on 11/20/2020 for Appellant Candace Louise Curtis [20–20566] (JMW)
11/09/2020	 Transcript order received	8	TRANSCRIPT ORDER received from Appellant Ms. Candace Louise Curtis. DETAILS: Transcript Order: Court Reporter: Katherine Lee Metzger, Proceeding Type and Date: Motion Hearing 09/10/2020. Transcript Order ddl satisfied. Ct. Reporter Acknowledgment due on 11/19/2020 for Katherine Metzger, Court Reporter. [20–20566] (JMW)
11/30/2020			TRANSCRIPT FILED IN DISTRICT COURT Transcript Order: Court Reporter: Katherine Lee Metzger, Dt. Filed in Dist. Ct: 09/12/2020 Ct. Reporter Acknowledgment deadline canceled [20–20566] (ABT)
11/30/2020			ELECTRONIC RECORD ON APPEAL REQUESTED from District Court for 4:12–CV–592. Electronic ROA due on 12/15/2020. [20–20566] (ABT)
12/04/2020			ELECTRONIC RECORD ON APPEAL FILED. Admitted Exhibits on File in District Court? No. Video/Audio Exhibits on File in District Court? No. Electronic ROA deadline satisfied. [20–20566] (DLJ)
12/04/2020	 BR–1 Letter	10	BRIEFING NOTICE ISSUED. A/Pet's Brief Due on 01/13/2021, for Appellant Candace Louise Curtis. [20–20566] (DLJ)

UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF TEXAS, HOUSTON DIVISION

Candace Louise Curtis	§	No. 4:12-cv-592
Plaintiff	§	
	§	
v	§	
	§	
Anita Kay Brunsting	§	
Amy Ruth Brunsting	§	
Defendants	§	

Notice of Appeal

Parties are hereby noticed that the above named Plaintiff, Candace Louise Curtis, will appeal to the United States Court of Appeal for the Fifth Circuit, the September 23, 2020 District Court Order [Dkt 139] denying Rule 60 Motion [Dkt 128] to vacate a remand order [Dkt 112] void as a matter of law.

Candice Schwager

Candice Lee Schwager
16807 Pinemoor Way
Houston , Texas 77058
Tel: 867-7173
candiceschwager@icloud

PROOF OF SERVICE

The undersigned hereby certifies that a true and correct copy of this instrument was electronically filed with the United States District Court for the Southern District of Texas to be served via electronic means by the clerk through the ECF system as follows:

Respectfully submitted
Candace Louise Curtis
Added: 02/27/2012
(Plaintiff)

represented by

Candice Lee Schwager
Schwager Law Firm 2210
Village Dale Ave Houston,
TX 77059 United States 832-
315-8489 713-456-2453 (fax)
schwagerlawfirm@live.com
Assigned: 07/17/2020 LEAD
ATTORNEY ATTORNEY TO
BE NOTICED

Anita Kay Brunsting
Added: 02/27/2012
(Defendant)

represented by

Stephen A Mendel The
Mendel Law Firm L.P. 1155
Dairy Ashford Ste 104
Houston, TX 77079 281-759-
3213 281-759-3214 (fax)
steve@mendellawfirm.com
Assigned: 08/13/2020
ATTORNEY TO BE
NOTICED

Amy Ruth Brunsting
Added: 02/27/2012
(Defendant)

represented by

Stephen A Mendel The
Mendel Law Firm L.P. 1155
Dairy Ashford Ste 104
Houston, TX 77079 281-759-
3213 281-759-3214 (fax)
steve@mendellawfirm.com
Assigned: 08/13/2020
ATTORNEY TO BE
NOTICED

Candice Schwager

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

November 05, 2020

Ms. Candice Schwager
Schwager Firm
2210 Village Dale Avenue
Houston, TX 77059

No. 20-20566 Candace Curtis v. Anita Brunsting, et al
USDC No. 4:12-CV-592

Dear Ms. Schwager,

We have docketed the appeal and ask you to use the case number above in future inquiries.

Filings in this court are governed strictly by the Federal Rules of **Appellate** Procedure. We cannot accept motions submitted under the Federal Rules of **Civil** Procedure. We can address only those documents the court directs you to file, or proper motions filed in support of the appeal. See **FED. R. APP. P.** and **5TH CIR. R.** 27 for guidance. Documents not authorized by these rules will not be acknowledged or acted upon.

You must complete a transcript order form, which can be obtained from the court's website www.ca5.uscourts.gov. If you are required to electronically file, you must, file the form via the 5th Circuit's Electronic Document Filing System even if the form was filed with the district court, and make financial arrangements with the court reporter. See also **5TH CIR. R.** 30.1.2 and **5TH CIR. R.** 31.1 to determine if you have to file electronically. When completed, this meets your obligation to order the necessary portions of the court reporter's transcript, see **FED. R. APP. P.** 10(b). (If you are pro se and unable to afford payment, you must file a motion with the district court requesting transcript at government expense, and notify this court.) We will coordinate the transcript deadlines with the court reporter. The court reporter should contact you directly if an extension of time to file the transcript is granted. Failure to complete the transcript order form and make financial arrangements with the court reporter within 15 days will result in dismissal of the appeal in accordance with the rules.

We will provide you information about the briefing schedule of this appeal at a later date. If a transcript is unnecessary, please complete the section on the transcript order form to

indicate such and we will start the briefing schedule. **5TH CIR. R. 31.4** and the Internal Operating Procedures following rules 27 and 31 state that except in the most extraordinary circumstances, the maximum extension for filing briefs is 30 days in criminal cases and 40 days in civil cases.

All counsel who desire to appear in this case must electronically file a "Form for Appearance of Counsel" naming all parties represented within 14 days from this date, see **FED. R. APP. P. 12(b)** and **5TH CIR. R. 12**. This form is available on our website www.ca5.uscourts.gov. Failure to electronically file this form will result in removing your name from our docket. Pro se parties are not required to file appearance forms.

ATTENTION ATTORNEYS: Attorneys are required to be a member of the Fifth Circuit Bar and to register for Electronic Case Filing. The "Application and Oath for Admission" form can be printed or downloaded from the Fifth Circuit's website, www.ca5.uscourts.gov. Information on Electronic Case Filing is available at www.ca5.uscourts.gov/cmecf/.

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at <http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm>. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

We recommend that you visit the Fifth Circuit's website, www.ca5.uscourts.gov and review material that will assist you during the appeal process. We especially call to your attention the Practitioner's Guide and the 5th Circuit Appeal Flow Chart, located in the Forms, Fees, and Guides tab.

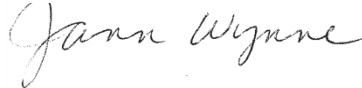
ATTENTION: If you are filing Pro Se (without a lawyer) you can request to receive correspondence from the court and other parties by email and can also request to file pleadings through the court's electronic filing systems. Details explaining how you can request this are available on the Fifth Circuit website at <http://www.ca5.uscourts.gov/docs/default-source/forms/pro-se-filer-instructions>. This is not available for any pro se serving in confinement.

Sealing Documents on Appeal: Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our

court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to justify a request to file under seal, just as it is their obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script that reads "Jann Wynne".

By: _____

Jann M. Wynne, Deputy Clerk
504-310-7688

cc: Mr. David J. Bradley, Clerk
Mr. George William Vie III

Provided below is the court's official caption. Please review the parties listed and advise the court immediately of any discrepancies. If you are required to file an appearance form, a complete list of the parties should be listed on the form exactly as they are listed on the caption.

Case No. 20-20566

Candace Louise Curtis,

Plaintiff - Appellant

v.

Anita Kay Brunsting; Amy Ruth Brunsting,

Defendants - Appellees

TRANSCRIPT ORDER FORM (DKT-13) - READ INSTRUCTIONS ON LAST PAGE BEFORE COMPLETING

District Court Southern District of Texas District Court Docket No. 4:12-cv-592
 Short Case Title Candace Louise Curtis v Anita Kay Brunsting

ONLY ONE COURT REPORTER PER FORM Court Reporter Katherine Metzger

Date Notice of Appeal Filed in the District Court October 23, 2020 Court of Appeals No. _____

PART I. (To be completed by party ordering transcript. Do not complete this form unless financial arrangements have been made, see instructions on page 2.)

A. Complete the Following:

No hearings Transcript is unnecessary for appeal purposes Transcript is already on file in the Clerk's Office
OR

Check all of the following that apply, include date of the proceeding.

This is to order a transcript of the following proceedings: Bail Hearing _____ Voir Dire _____
 Opening Statement of Plaintiff _____ Opening Statement of Defendant _____
 Closing Argument of Plaintiff _____ Closing Argument of Defendant: _____
 Opinion of court _____ Jury Instructions _____ Sentencing _____

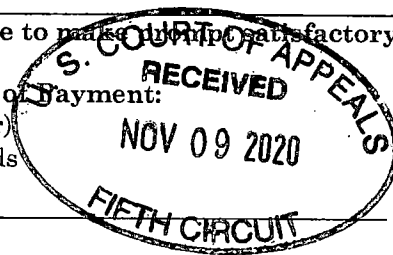
Other proceedings not listed above:

Hearing Date(s)	Proceeding	Judge/Magistrate
09/10/2020	Rule 60 Motion Hearing	Honorable Kenneth Hoyt

Failure to specify in adequate detail those proceedings to be transcribed, or failure to make appropriate satisfactory financial arrangements for transcript, are grounds for DISMISSAL OF APPEAL.

B. This is to certify satisfactory financial arrangements have been made. Method of Payment:

Private Funds; Criminal Justice Act Funds (Enter Authorization-24 via eVoucher)
 Other IFP Funds; Advance Payment Waived by Reporter; U.S. Government Funds
 Other _____



Signature _____ Date Transcript Ordered 11/04/2020

Print Name Candace L. Curtis Phone 925-759-9020

Counsel for pro se

Address 218 Landana St., American Canyon, CA 94503

Email of Attorney: occurtis@sbcglobal.net

PART II. COURT REPORTER ACKNOWLEDGMENT (To be completed by the court reporter and filed with the Court of Appeals within 10 days after receipt. Read instructions on page 2 before completing.)

Date Transcript Order Received	Date Satisfactory Arrangements for Payment were Made	Estimated Completion Date	Estimated Number of Pages

Payment arrangements have NOT been made or are incomplete.

Reason: Deposit not received Unable to contact ordering party Awaiting creation of CJA 24 eVoucher
 Other (Specify) _____

Date _____ Signature of Reporter _____ Tel. _____

Email of Reporter _____

Part III. NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN THE DISTRICT COURT (To be completed by court reporter on date of filing transcript in the District Court. This completed form is to be filed with the Court of Appeals.)

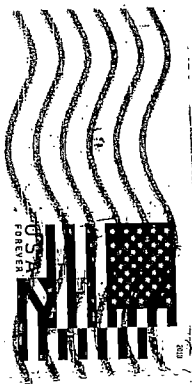
This is to certify that the transcript has been completed and filed at the District Court today.

Actual Number of Pages _____ Actual Number of Volumes _____

Date _____ Signature of Reporter _____

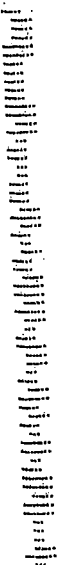
GANDACE L. CURTIS
218 LANDANA ST.
AMERICAN CANYON CA 94503

OAKLAND CA 945
5 NOV 2020 PM 7 L



LYLE W. CAYCE
U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT
600 S. MAESTRI PLACE, SUITE 115
NEW ORLEANS, LA 70130

70130-344040



United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

December 04, 2020

Ms. Candice Schwager
Schwager Firm
2210 Village Dale Avenue
Houston, TX 77059

No. 20-20566 Candace Curtis v. Anita Brunsting, et al
USDC No. 4:12-CV-592

Dear Ms. Schwager,

We have docketed the appeal as shown above, and ask you to use the case number for future inquiries. You can obtain a copy of our briefing checklist on the Fifth Circuit's website "<http://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/rules/brchecklist>".

Briefing Notice: The record is complete for purposes of the appeal, see **FED. R. APP. P.** 12. Appellant's brief and record excerpts are due within 40 days of the date shown above, see **FED. R. APP. P. & 5TH CIR. R.** 28, 30, 31, and 32. See also **5TH CIR. R.** 30.1.2 and **5TH CIR. R.** 31.1 to determine if you have to file electronic copies of the brief and record excerpts. [If required, electronic copies MUST be in Portable Document Format (PDF).]

Record Excerpts: **5TH CIR. R.** 30.1.7(c) provides that the electronic PDF version of the record excerpts should contain pages representing the "tabs" identified in the index of the document. However, we remind attorneys that the actual paper copies of record excerpts filed with the court must contain actual physical tabs that extend beyond the edge of the document, to facilitate easy identification and review of tabbed documents.

Brief Covers: THE CASE CAPTION(S) ON BRIEF COVERS MUST BE EXACTLY THE SAME AS THE CASE CAPTION(S) ON THE ENCLOSED TITLE CAPTION SHEET(S). YOU WILL HAVE TO CORRECT ANY MODIFICATIONS YOU MAKE TO THE CAPTION(S) BEFORE WE SUBMIT YOUR BRIEF TO THE COURT.

Policy on Extensions: The court grants extensions sparingly and under the criteria of **5TH CIR. R.** 31.4. If you request an extension, you must contact opposing counsel and tell us if the extension is opposed or not. **5TH CIR. R.** 31.4 and the Internal Operating Procedures following rules 27 and 31 state that except in the most extraordinary circumstances, the maximum extension for filing briefs is 30 days in criminal cases and 40 days in civil cases.

Reply Brief: We do not send cases to the court until all briefs are filed, except in criminal appeals. Reply briefs must be filed within the 21 day period of **FED. R. APP. P.** 31(a)(1). See **5TH CIR. R.** 31.1 to determine if you have to file electronic copies of the brief, and the format.

Dismissal of Appeals: The clerk may dismiss appeals without notice if you do not file a brief on time, or otherwise fail to comply with the rules.

Appearance Form: If you have not electronically filed a "Form for Appearance of Counsel," you must do so within 14 days of this date. You must name each party you represent, See **FED. R. APP. P.** and **5TH CIR. R.** 12. The form is available from the Fifth Circuit's website, www.ca5.uscourts.gov.

Brief Template: The clerk's office offers brief templates and the ability to check the brief for potential deficiencies prior to docketing to assist in the preparation of the brief. To access these options, log in to CM/ECF and from the Utilities menu, select 'Brief Template' (Counsel Only) or 'PDF Check Document'.

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at <http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm>. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

VIDEO/AUDIO EXHIBITS: If this record contains exhibits (e.g. Dash cam or Body cam videos) that must be submitted to the court's attention, you must provide them to the District Court in MP4 format for submission to our court.

Guidance Regarding Citations in Pleadings.

5TH CIR. R. 28.2.2 grants the Clerk the authority to create a standard format for citation to the electronic record on appeal. You must use the proper citation format when citing to the electronic record on appeal.

- A. In single record cases, use the short citation form, "ROA" followed by a period, followed by the page number. For example, "ROA.123."

- B. For multiple record cases, cite "ROA" followed by a period, followed by the Fifth Circuit appellate case number of the record referenced, followed by a period, followed by the page of the record. For example, "ROA.13-12345.123.".
- C. Please note each individual citation must end using a termination of a period (.) or semicolon (;).

Reminder as to Sealing Documents on Appeal: Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to justify a request to file under seal, just as it is their obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Dantrell L. Johnson, Deputy Clerk
504-310-7689

Enclosure(s)

cc w/encl:
Mr. George William Vie, III

Case No. 20-20566

Candace Louise Curtis,

Plaintiff - Appellant

v.

Anita Kay Brunsting; Amy Ruth Brunsting,

Defendants - Appellees