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S.C. SUPREME COURT

**MOTION TO REINSTATE  
APPEAL OF CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY  
Mikell R. Scarborough, Masters-in-Equity

Appellate Case No. 2016-001201

Allen Livingston,

Respondent,

v.

Harold Simmon, Jr.,

Appellant.

Appellant Harold Simmons Jr., Pro Se requests that this Court reinstate the Appeal of this case entered on September 8, 2022. This case was closed without the opportunity to be heard to the Appellant. Therefore, the Appellant makes this motion pursuant to Rule 60(a)(b), SCRPC. **(a) Clerical Mistakes.** Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court. The ending of a term of court or departure from the circuit shall not operate to deprive the trial judge of jurisdiction to correct such mistakes. A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.

**(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.** On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: **(1)** mistake, inadvertence, surprise, or excusable neglect; **(2)** newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); **(3)** fraud, misrepresentation, or other misconduct of an adverse party; **(4)** the judgment is void; **(5)** the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

A. Appellant has suffered serious immediate family crisis issues and natural disaster issues. An immediate family member death occurred on July 2, 2022, Appellant mother was hospitalized on July 29, 2022, Appellant brother was hospitalized on August 8, 2022, Appellant was declared by his doctor to be totally disabled on August 4, 2022, Appellant was in a serious automobile accident on September 8, 2022, returned to Hospital on September 9, 2022, and was diagnosed as having COVID 19 on September 21, 2022. Appellant endured a hurricane natural

disaster on September 28, 2022 , and was declare disabled mentally from injuries on October 4, 2022.

- B. The Appellant was denied a jury trial in the lower courts and this was ignored by the appeals court and the case was never reviewed on the facts but only observed on the technicalities.
- C. The Appellant due process rights were violated numerous times by the lower courts and appeals court based on the ignoring of the facts and evidence that clear revealed fraudulent Judge Orders and defendant filing of fraudulent documents along with not addressing the frivolous actions of the defendant, and ignoring the counterclaim evidence by the lower court Judges, and the ignoring of the supreme court opinion towards the appeals court.
- D. The Appellant was treated bias by the entire court system and its process by the showing of favortism from the lower courts and appeal court systems.
- E. The Appeal Court continued to deny the Appellant the right to argue the case and present the facts and evidence by ordering a dismissal and remitur return and never addressing the evidence and facts. Yet would in return allow the defendant and its counsel to submit evidences and or filings way out of time frame compliance and never address the wrong things done but allowed it and made a false ruling against Appellant based on frivolous information and then when it was pointed out to the Appeal court, it was never corrected. Instead it was used agaistn the Appellant by ignoring and continuing the error as if it was correct.
- F. The Appellant reuests the court reinstate the dismissal of tthis case.

Respectfully Submitted,

September 15, 2000 Harold

Simmons, Jr.,  
3042 North  
Carolina Ave  
North Charleston, South Carolina  
294059  
843-480-8694  
Pro Se, Appellant

Other Counsel of Record:  
Allen Livingston  
6508 Savannah Hwy  
Ravenel, South Carolina 29470  
Pro Se, for Respondent

Court of Common Pleas case:2014-cp-100-1635  
Honorable Mikel R Scarborough S.C. Master-in-Equity  
100 Broad Street, suite 266  
Charleston, South Carolina 29401-2258,

South Carolina Court of Appeals  
1220 senate street Columbia,  
South Carolina 29201  
case:2016-001201

Supreme Court of South Carolina  
1231 Gervais Street Columbia,  
South Carolina 29201  
case 2021-001234 memorandum opinion No:2020-mo-008 .