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Nov 08 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM ANDERSON
COURT OF COMMON PLEAS
R. SCOTT SPROUSE, CIRCUIT COURT JUDGE

Appellate Case No. 2022-001292

Frances K. Chestnut, Elizabeth Diane Keese, Sylvester
Keese, Arthur B. Keese and Mary K. Taylor,..... Respondents,

v.

Florence Keese, Marcy Keese, Margo Keese and
Marshall Keese, Petitioners.

**REPLY TO RESPONSE:
MOTION TO DISMISS**

Respondents Frances K. Chesnut, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese and Mary K. Taylor (referred to collectively as “Respondents”) reply to the Response of the Petitioners as follows, and renews their move to dismiss the pending Petition for Writ of Certiorari based on failure of Petitioners to comply with the mandatory service rules as set forth in Rule 242(c), SCACR.

It does not appear that Petitioners dispute their failure to properly serve the Petition for Writ of Certiorari on Respondents. While there is a presumption in Rule 6, SCRCPC as to proper service, that presumption only applies when service is made by United States mail or other authorized courier. Petitioners have made no effort to explain what “Express Mail” is, but whatever it is, it is not a service of the United States postal service. Had it been, Petitioners would

have had a tracking number which could be used to prove delivery, and no tracking numbers has been provided.

Moreover, the presumption of timely service has been rebutted by the affidavit attached to the Motion to Dismiss, and the Supplemental Affidavit filed herewith.

The Affidavit and enclosures enclosed with the Return, signed by Petitioners Margo Keese, do not dispute that the “Express Mail” service that was purportedly used to mail a copy of the Petition for Writ of Certiorari to counsel for respondents is not a recognized service of the United States Postal Service. Just because something was placed in a United States Postal Service drop box does not mean it was properly addressed, with sufficient U.S. postage affixed. If the parcel did not meet postal regulations, it was never processed. Petitioners do not provide a tracking number or any proof whatsoever that any proper method of service was used.

It does appear that the Anderson County Clerk of Court received a copy of the Petition on October 31, 2022 and the Court of Appeals received a copy of the Petition on October 31, 2022. **Exhibits 1 and 2.**

However, the Court of Appeals docket also shows that the Court of Appeals filed its order denying rehearing on August 18, 2022, so the filing of the Petition with the Supreme Court was timely, but service on the Clerk of Court for Anderson, and service on the Court of Appeals were not timely. The exhibits to the Return clearly show that the transmittal of a copy of the Petition to the Clerk of Court for Anderson County and to the Court of Appeals (both of which are dated October 29, 2022 – exhibits to Return) occurred far too late to be in compliance with the rules.

Most importantly, as indicated by the Affidavits of Patricia C. Milford and Kathy H. Lusk, attached hereto and incorporated herein, even today under signed counsel has not yet been served

with a copy of the Petition by Petitioners. So while they may have attempted to partially comply with filing requirements as to the Anderson County Clerk of Court and the South Carolina Court of Appeals, they have not timely served Respondent's counsel, nor can they.

The Petition for Writ of Certiorari should be dismissed.

Respectfully submitted,

JONES LAW FIRM, PA

s/ Carolyn Baird

Carolyn G. Baird (S.C. Bar No. 480)

Post Office Box 987

Anderson, South Carolina 29622

Telephone 864.224.3474

carolyn@jonesfirm.com

ATTORNEY FOR RESPONDENTS

November 8, 2022

THE STATE OF SOUTH CAROLINA
Supreme Court of South Carolina

RECEIVED

OCT 31 2022

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

SC Court of Appeals

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337



Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,
Margo Keese and Marshall Keese, pro se

Petitioners

Petition for a Writ of Certiorari

Margo Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382
(484) 716-5255
Pro Se

Marcy Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382
(215) 680-8366
Pro Se

Florence Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382
(215) 680-8366
Pro Se

Marshall Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382
(215) 680-8366
Pro Se

October 29, 2022

22 OCT 31 AM 11:53:57
Anderson, SC CDC, CP/ES

BY PRIORITY MAIL

The Honorable Richard A. Shirley
Clerk of Court for Anderson County
Post Office Box 8002
Anderson, SC 29622



RE: Frances K. Chestnut, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents, v. Florence Keese, Marcy Keese, Marshall Keese and Margo Keese, pro se, Appellants, Case No. 2019-CP-04-00337

Dear Mr. Shirley:

Attached is a copy of .appellants' Florence Keese, Marcy Keese, Marshall Keese and Margo Keese, *pro se*, Petition for a Writ of Habeas Certiorari to the Supreme Court of South Carolina.

Respectfully,

s/ Margo Keese

Margo Keese
Pro Se

cc: Clerk of Court SC Supreme Court

Carolyn G. Baird, Esquire
Attorney for Respondent

IN THE STATE OF SOUTH CAROLINA
Supreme Court of South Carolina

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337



Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and
Marshall Keese, pro se, Petitioners.

AFFIDAVIT OF PATRICIA C. MILFORD

The deponent after first being duly sworn would state as follows:

I am an employee of the Jones Law Firm, PA. During the business week of September 12 through September 16 and September 19 through September 23, I made the daily mail runs to our Post Office Box 987, Anderson, South Carolina to deliver and pick up mail. We never received an Express Mail package from the Petitioners. We do occasionally receive mail at our street address of 415 North Main Street, Anderson, South Carolina, but no Express Mail package was received at the street address. Since September 23, 2022, I have made the daily mail runs on Thursday and Friday. As of November 4, 2022, I have not received an Express Mail package from the Petitioners.

A handwritten signature in blue ink, appearing to read "Patricia C. Milford".

Patricia C. Milford

Sworn to before me this 7th
Day of November, 2022.

A handwritten signature in blue ink, appearing to read "Stephen G. Betts".
Notary Public for South Carolina

Printed Name of Notary: Stephen G. Betts

My Commission Expires: 9/29/2027

IN THE STATE OF SOUTH CAROLINA
Supreme Court of South Carolina

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337



Frances K. Chestnut, Elizabeth Diane Keese,
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and
Marshall Keese, pro se, Petitioners.

AFFIDAVIT OF KATHY H. LUSK

The deponent after first being duly sworn would state as follows:

I am an employee of the Jones Law Firm, PA. I have made the daily mail runs on Monday, Tuesday and Wednesday since September 23, 2022 to present to our Post Office Box 987, Anderson, South Carolina. I have not received an Express Mail package from the Petitioners. We do occasionally receive mail at our street address of 415 North Main Street, Anderson, South Carolina, but no Express Mail package has been received to date.

Kathy H. Lusk

A handwritten signature in blue ink that reads "Kathy H. Lusk". The signature is written over a horizontal line.

Sworn to before me this 7th
Day of November, 2022.

Carolyn A. Baird
Notary Public for South Carolina
Printed Name of Notary: Carolyn G. Baird
My Commission Expires: 10-31-2026

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STATE OF SOUTH CAROLINA
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v.

Florence Keese, Marcy Keese, Margo Keese and
Marshall Keese, Petitioners.

PROOF OF SERVICE

I, Patti Milford, an employee with Jones Law Firm, do hereby certify that on November 8, 2022, I served a copy of the **Reply to Response: Motion to Dismiss** in the above-captioned case on the following individuals by U.S. Mail with sufficient first-class postage affixed, and addressed as follows:

**Honorable Jenny Kitchings
South Carolina Court of Appeals
ctappfilings@sccourts.org**

**Florence Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382**

**Marcy Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382**

**Margo Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382**

**Marshall Keese
1035 Ridgehaven Road
West Chester, Pennsylvania 19382**



Patti Milford, Paralegal

November 8, 2022
Anderson, South Carolina

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Nov 08 2022

SC Court of Appeals

**JONES LAW FIRM, P.A.
ATTORNEYS AT LAW**

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(864) 224-3474
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EDWARD A. SPITZ +
CAROLYN G. BAIRD **
SAMUEL F. ALBERGOTTI
STEPHEN G. POTTS
J. CLARK ANDERSON

OREN O. JONES
1925-2008
WILLIAM H. MOORHEAD-RETIRED
1984-2017

+ Certified Specialist in Taxation Law
** Also Admitted Kentucky

November 8, 2022

Via Email (supctfillings@sccourts.org)

Honorable Patricia Howard
Supreme Court Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: *Frances Chesnut v. Florence Keese*
Appellate Case No.: 2022-01292

Dear Ms. Howard:

Please find enclosed a Reply to Response: Motion to Dismiss.

By copy of this letter and as evidenced by the Proof of Service, these filings have been served upon pro se Petitioners. Thank you for your time in this matter. If you have any questions, please do not hesitate to contact our office.

With warm personal regards, I am,

Sincerely yours,

Carolyn Baird
carolyn@jonesfirm.com

Enclosures

cc: Via Electronic Mail
Court of Appeals
Via U.S. Mail
Florence Keese
Marcy Keese
Margo Keese
Marshall Keese