

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Jeremiah DiCapua,

Appellant,

v.

Thomas D. Guest, Jr.,

Respondent.

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JUN 10 2013

SC Court of Appeals

Appeal From Horry County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2013-UP-207
Submitted April 1, 2013 - Filed May 22, 2013

Appellate Case No. 2012-212110

PETITION FOR REHEARING

Appellant Jeremiah DiCapua petitions for rehearing pursuant to Rule 221(a), SCACR, whereas the Court may have overlooked or misapprehended certain of Appellant's arguments.

Further, Appellant respectfully petitions this Court pursuant to Rule 220(b), SCACR, to address in writing whereas the decision rendered by the Court did not address in writing any relevant points of Appellant's Argument on appeal that the decision of the Lower Court to Dismiss Appellant's Complaint against Respondent for failure to comply with S.C. Code Ann. §15-3-530 (2005) Statute of Limitations, was in error.

ISSUE

Appellant's Initial Brief that was presented to the Court encompassed a steady train of Appellant's Arguments numbered 1 through 6:

That... the Decision of the Lower Court to dismiss Appellant's Complaint against Respondent for failure to comply with South Carolina's Statute of Limitations was misplaced;

That... the Decision of the Lower Court to Dismiss Appellant's Complaint against Respondent for failure to comply with South Carolina's Statute of Limitations was adjudicated on a waived issue; thus barred from litigation as argued in Appellant's "Statement of Issues on Appeal". (Final Brief p. 4)

Appellant's Arguments relevant to this Petition for Rehearing are as follows:

STATEMENT OF ISSUES ON APPEAL

(APPELLANT'S Final Brief p. 4)

- (1) Did the Court error in granting relief to Respondent's Answer of "General Denial"? (Final Brief p. 8-9, ROA p. 35-36)
- (2) Did the trial court error in entertaining and granting relief on Respondent's "Motion to Dismiss"? (Final Brief p. 10-16, ROA p. 39-44)
- (3) Did the court error in entertaining and granting relief on Respondent's "Amended Answer"? (Final Brief p. 17-21, ROA p. 55-58)
- (4) Did the court error in entertaining and granting relief on Respondent's "Amended Motion to Dismiss"? (Final Brief p. 22-25, ROA p. 67-70)

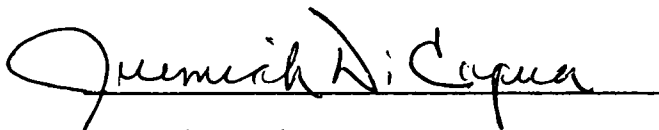
- (5) Did the court error in entertaining and granting relief on Respondent's "Amended Answer" that Appellant's claim was barred pursuant to South Carolina's Statute of Limitations, S.C. Code §15-3-530? (Final Brief p. 26-32, ROA p. 35-36, ROA p. 39-44, ROA p. 55-58, ROA p. 67-70)
- (6) Did the court error in entertaining and granting relief on Respondent's "Amended Motion to Dismiss", that Appellant's claim was barred pursuant to South Carolina's Statute of Limitations, S.C. Code §15-3-530? (Final Brief p. 33-38, ROA p. 35-36, ROA p. 39-44, ROA p. 55-58, ROA p. 67-70)

DISCUSSION

Pursuant to Rule 220(a), SCACR, Appellant respectfully petitions this Court for complete review of Appellant's above numbered Arguments 1 through 6, and thereafter, reversal of this Court's Opinion.

In the alternative, pursuant to Rule 220(b), SCACR, Appellant respectfully petitions this Court to address in writing every point necessary of the above numbered Arguments 1 through 6, to preserve Appellant's case.

Whereas on this 5th day of June, 2013, Appellant prays for relief pursuant to this Petition for Rehearing.



Jeremiah DiCapua
Appellant, Pro Se

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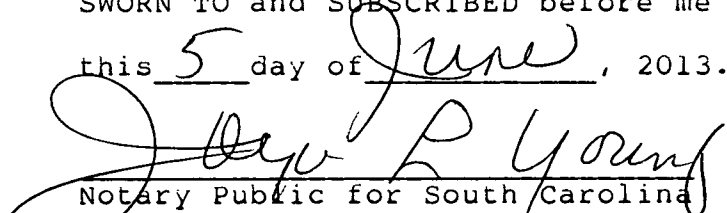
Appellate Case No. 2012-212110

CERTIFICATE OF SERVICE

Appellant Jeremiah DiCapua, hereby certifies that a True Copy of Appellant's Petition for Rehearing in the above-entitled case has been served upon the Attorney of Record for Respondent, David W. Overstreet and Douglas W. Mackelcan of Carlock, Copeland and Stair, LLP, 40 Calhoun Street, Suite 400, Charleston, SC 29409, by depositing same in the United States Postal Service provided here at McCormick Correctional Institution, on this 5th day of June, 2013.


Jeremiah DiCapua
Appellant, Pro Se

SWORN TO and SUBSCRIBED before me
this 5 day of June, 2013.


Notary Public for South Carolina

My Commission Expires 10/1/2012.

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June 5, 2013

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


RE: Jeremiah DiCapua v. Thomas Guest, Jr.
Appellate Case No. 2012-212110

Dear Madam Kitchings:

Enclosed for filing, please find 1 original and 6 copies of Appellant's Petition for Rehearing in the above titled case. Also enclosed please find 1 True Copy of Certificate of Service upon Respondents of Record.

I am also asking that you return to me a clock-stamped copy as provided which is attached to the stamped envelope provided.

Sincerely,



Jeremiah DiCapua #105096
McCormick Corr. Inst.
386 Redemption Way
McCormick, SC 29899
Appellant, Pro Se

cc:

Douglas W. Mackelcan, Esq.
David W. Overstreet, Esq.
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Charleston, SC 29401-3001
Attorneys of Record for Respondent

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