



The South Carolina Court of Appeals

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January 10, 2023

Carolyn Tolbert Smith
338 5th Avenue
Mount Pleasant SC 29464

Re: Keith Tolbert v. Carolyn Smith
Appellate Case No. 2022-001815

RECEIVED

FEB 22 2023

SC Court of Appeals

Keith L. Tolbert, Respondent,

v.

Carolyn Tolbert Smith, Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian, Defendants,

Of whom Carolyn Tolbert Smith is the Appellant,

and

Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian are the Respondents.

Motion To Return To The Motion

Comes now most humbly, in my strong defence against Respondents' Motion To Dismiss, Appellant, Carolyn Tolbert Smith, Outlining, stating the facts, issues and reasons that Respondents' motion to Dismiss with prejudice (Appellant's appeal), in Case No 2022-001815 is premature and without merit.

Respondents' attorney states the following:

• In Henning v Kaye the appellants' initial

brief failed to comply with Rule 207

• SCACR and that Designation of Matter

to be included in the Record on Appeal was

insufficient under Rule 208 SCACR.

The Supreme Court of South Carolina found:

Counsel is advised that the South Carolina

Appellate Court Rules are not mere techni-

calities but . . . It is incumbent on Counsel

to provide material that complies with the

Rules and facilitates appellate review.

Please be assured that Appellant respects

the Rules of the South Carolina Appellate Court. Be-

ing not Counsel and without Counsel appellant

struggles to get help in finding & learning the

Rules and complying unhesitatingly. Due to

my disadvantage, being temporarily no long-

er with counsel, I initially begged and pray-

ed the Court's indulgence in the matter

- Contrary to Respondents' attorneys' accusations which appellant stringently denies, Appellant filed in a timely manner my Motion For Extension Of Time, my Notice Of Appeal and my Appeal and did so based on my time of receiving notice, by U.S. Mail that arrived ~~off~~^{ten} later than the inside date of its existence ~~to~~^{the mailing}.
- Shows. Mail is late necessarily when one's mail reaches the wrong mail box. It happens no fault of the client or anyone but the postman.
- With regard to deficiencies in the initial brief, in the Designation of Matter, to be included in the Record on Appeal, the Supreme Court granted the appellant leave to cor-

rect the violations within a number of days

(15). Appellant, Carolyn T. Smith, requests

that the South Carolina Court of Appeals allow

me to correct the deficiencies named above

in a matter of days. The Supreme Court of

South Carolina ruled as follows and appellant

quotes; "Although this Court would be com-

pletely justified in dismissing this appeal

based on appellant's numerous violations

of the Rules, we decline to do so and

deny the motion to dismiss as to the Hen-

nings. Henning 307 S.C. 436, 437-438, 415

S.E. 2d at 704. The numerous violations in the

Henning v Kaye matter are non-specified as minor nor

major nor egregious; Neither can appellant's

Rule^{per} deficiencies be so described. In addition
appellant corrects deficiencies as required.

Thus far there have been two (2).

The South Carolina Supreme Court declined to
dismiss the appellant's appeal and denied the
Motion To Dismiss. I, appellant, Carolyn T. Smith
prays and begs the South Carolina Court of
Appeals, to decline in/^{per} appellant's present appeal.

Decline to dismiss appellant Carolyn T. Smith's
Appeal and deny the Motion to Dismiss.

Appellant's first response to Respondents'
Motion To Dismiss, appellant responded blind-
ly not having received Respondents' written

Motion with its specific claims. This second response allows appellant to address the visible specifics. The written motion with visible, specific claims has the date of completion as February 9, 2023. Appellant received the same on the 17th/18th of February 2023.

Appellant is still working to find counsel willing to take on the unfinished work of former counsel. Issues ^(a) Drastic Summary Judgment ⁺ more.

Exhibit-A

Exhibit-1

Exhibit-2

Exhibit-B

} Included herein.

- Other issues include the fact that I, appellant would have the South Carolina Court of Appeals recognize the fact that appellant, referencing case law shall in the Court of Appeals show proof of having satisfied Six (6), all six elements required to be entitled to Adverse Possession

- At the Circuit court level none of said elements not one was heard

The summary judgment matter was heard first and agreed upon as acceptable and correct.

Attorney for appellant did not argue or disagree.

Appellant lived on the subject property twenty-eight years 8 years as primary care give nineteen exclusively.

Certificate of Service

The Clerk of The Court
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SC Court of Appeals

Dr. Betty Jean T. Jones
 1311 Delaware Ave. S.W.
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 Washington, DC 20024

Attorney A. Taylor Silver
 P. O. Box 1665
 Georgetown, SC 29442

Attorney William Kalivas
 7455 Cross Country Road
 Ste. 1

North Chase, SC 29418

Carolyn Tulber Smith

338 Fifth Avenue

Mt. Pleasant, SC 29464

Attorney Ashley Andrews
 544 Savannah Hwy.
 Chas., SC 29407

1-843-216-6960

Carolyn T. Smith, Pro Se

Pro Se

This 21st Day of
 February, 2023

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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FEB 22 2023

APPEAL FROM CHARLESTON COUNTY

SC Court of Appeals

Court of Common Pleas

Mikell R. Scarborough, Circuit Court Judge

Appellate Case No. 2022-001815

KEITH L. TOLBERT, RESPONDENT

v.

CAROLYN TOLBERT SMITH, CHARLES TOLBERT, BETTY JEAN TOLBERT JONES, SARA JO TOLBERT LATTEN, AND ESTATE OF CHARLA TOLBERT MCMILLIAN, DEFENDANTS,

OF WHOM CAROLYN TOLBERT SMITH IS THE APPELLANT,

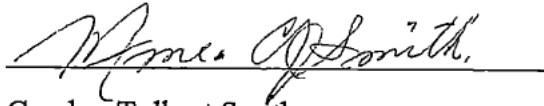
AND

CHARLES TOLBERT, BETTY JEAN TOLBERT JONES, SARA JO TOLBERT LATTEN, AND ESTATE OF CHARLA TOLBERT MCMILLIAN ARE THE RESPONDENTS.

PROOF OF SERVICE

*Per #7 Rule
Certificate
of
Service*

I certify that I have served the Notice of Appeal and Motion for Extension on Alwyn Taylor Silver, Esq., William K. Kalivas, Esq., Taylor Silver, Esq., Ashley G. Andrews, Esq., and Betty Jean Tolbert Jones by depositing a copy of the Notice of Appeal and Motion for Extension with sufficient postage to her attorney and all parties of record on January 2, 2023.

A handwritten signature in cursive script, appearing to read "Carolyn Tolbert Smith", is written over a horizontal line.

Carolyn Tolbert Smith
338 Fifth Ave.
Mt. Pleasant, South Carolina 29464
(843) 216-6960

DATED: February 3, 2023

Charleston, South Carolina

copy Please note: No one has signed anything here upon

Exhibit #3

MOTION AND ORDER FOR MALENA A. DINWOODIE, ESQUIRE
TO WITHDRAW AS COUNSEL FOR CAROLYN TOLBERT - SMITH
02/21/2023

ELECTRONICALLY FILED - 2023 Jan 10 1:17 PM - CHARLESTON - COMMON PLEAS - CASE#2021CP1004058

December ____, 2022 ?
Charleston, South Carolina

The Honorable Mikell R. Scarborough
Master-In-Equity, Charleston County

I MOVE:

Date: _____ ?

Malena A. Dinwoodie, Esq. (S.C. Bar 103978)
4000 Faber Place Drive, Suite 450
North Charleston, South Carolina 29405
MDinwoodie@finkellaw.com
Telephone: (843) 576-5460

I CONSENT:

Date: _____ ?

Carolyn Tolbert- Smith
338 5th Avenue
Mt. Pleasant, SC 29464
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Comes now to the attention of the Appellant
02/20/2023
Nothing here upon is dated.

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Corporal Willie L. Smith's
338 Fifth Avenue
Mt. Pleasant, SC 29464

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1220 Senate Street
Columbia, SC 29201

Attn: Ms. Kate Land - 2nd filing as Return to Motion