

THE STATE OF SOUTH CAROLINA

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Harold Wilson, Appellant,

v.

Cynthia Barnett, Respondent.

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MAY 22 2023

SC Court of Appeals

Appellate Case No. 2022-000261

The Honorable Michael S. Holt
Darlington County
Trial Court Case No. 2015CP1600622

MOTION TO DISMISS APPEAL OR THE ALTERNATIVE TO REQUIRE
APPELLANT TO COMPLY WITH RULE SCACR 210

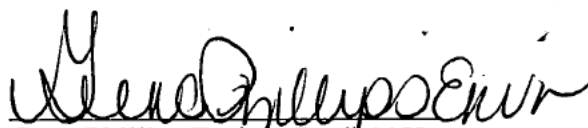
The Respondent, Cynthia Barnett by and through her undersigned attorney, hereby moves this Court for an Order dismissing the Appellant's appeal. This Motion is made on the grounds that the Appellant has failed to comply with Rule 210, SCACR. Rule 10 requires that the Record of Appeal include "all matter designated to be included by any party under Rule 209...". The Record of Appeal filed by the Respondent/Appellant Wilson was received on May 4, 2023. The Record of Appeal submitted by the Appellant does not comply with Rule 10 SCACR in that he fails to include all items on the Record of Appeal designated by the Respondent. In addition, it contains matters not before or presented to the Lower Court nor relevant to this appeal and Certificate of Appellant was included in the Record of Appeal served on counsel for the Appellant as required this rule.

Documents listed as Article Six and Article Seven and proposed to be placed in the Record on Appeal by the Appellant are things that were not before the Lower Court at the time of the hearing. In addition, they are irrelevant to the issue currently on appeal. The Order dated December 18, 2009 was issued more than five (5) years from the date of the Order initially appealed from. In addition, the 2012 Last Will and Testament of Dorothy Hatcher was not before the Court nor does it have any relevance to the dismissal of this matter for failure to prosecute.

In the alternative, the Respondent would request that this Court require the Appellant to properly prepare and file a Record on Appeal including all matters designated in Respondent's Initial Brief and removing those items not relevant to this appeal from the Record on Appeal and to require the Certification required by Rule 210(g), SCARC.

As a result of Appellant's failure to comply with Rule 210, SCARC, Respondent requests the Court dismiss this Appeal pursuant to Rule 260, SCARC. Rule 260, SCARC states "whenever it appears the Appellant or Petitioner has failed to comply with the requirements of these rules, the Court shall issue an Order of Dismissal which shall have the same force and effect as an Order of the Appellant Court".

Respectfully Submitted



Gena Phillips Ervin – Bar# 4453

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(843) 667-6613

ATTORNEY FOR RESPONDENT

CYNTHIA BARNETT

Florence, South Carolina

May 15, 2023

Other Parties of Record:

Harold Wilson, Pro Se Appellant

1549 Country Manor Rd.

Darlington, SC 29532

Louise Sweet

6857 North 19th Street

Philadelphia, PA 19126

Hubert Wilson

2916 Briar Park Road

Effingham, SC 29541

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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APPEAL FROM DARLINGTON COUNTY

Court of Common Pleas

MAY 22 2023

SC Court of Appeals

Michael S. Holt, Circuit Court Judge

CASE NO.: 2015-CP16-00622

CASE NO.: 2022-000261

Harold Wilson,.....Appellant.

Vs.

Cynthia Barnett, Louise Sweet, and Hubert Wilson,.....Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the Respondent's Motion to Dismiss Appeal or the Alternative to Require Appellant to Comply with Rule SCACR 210 has been served upon the following via First Class Mail postage prepaid this 16 day of May, 2023.

Harold Wilson, Pro Se Appellant
1549 Country Manor Rd.
Darlington, SC 29532

Louise Sweet
6857 North 19th Street
Philadelphia, PA 19126

Hubert Wilson
2916 Briar Park Road
Effingham, SC 29541



Gena Phillips Ervin
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(843) 667-6613
**ATTORNEY FOR RESPONDENT
CYNTHIA BARNETT**

SWORN to before me this 16 day of
May, 2023
Marilyn L. Day
Notary Public for South Carolina
My Commission Expires: 3-4-32

ORR & ERVIN, LLC
ATTORNEYS AND COUNSELORS AT LAW
504 SOUTH COIT STREET
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May 16, 2023

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

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SC Court of Appeals

RE: Harold Wilson vs. Cynthia Barnett
Case No.: 2022-000261
My File No.: 6141.002

Dear Ms. Kitchings:

Enclosed please find an original and two copies each of a Motion to Dismiss Appeal or the Alternative to Require Appellant to Comply with Rule SCACR 210 and Proof of Delivery of Service in the above mentioned matter. I am also enclosing a check in the amount of \$50.00 to cover filing the same. If you have any questions, please feel free to call.

With warmest personal regards, I am

Very truly yours,

ORR & ERVIN, LLC

BY:



GENA PHILLIPS ERVIN

GPE/mld
Enclosures
cc: Cynthia Barnett (w/o enclosures)

ORR & ERVIN, LLC
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FLORENCE, SOUTH CAROLINA 29503

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SC Court of Appeals

Jenny Abbott Kitchings, Clerk
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Columbia, SC 29211



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