

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Porter Bankhead, Barbara Simplice, Sarah
Dennis,

PLAINTIFFS,

vs.

Alicia Taylor, Frank Christopher Taylor,
Stephen Anthony Taylor, Marcus Bankhead,
Robert Erwin Bankhead, Florence Bankhead,
Sandra McKinney Spears, Sharon McKinney
Threadcraft, Kevin McKinney, Kimberly
McKinney McElhaney,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO. 2021-CP46-01165

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

RECEIVED

May 12 2023

SC Court of Appeals

This matter came before me for a hearing on October 13, 2022 upon motion by Plaintiff, Porter Bankhead, asking this Court to reconsider the August 19, 2022 order dismissing this action without prejudice. Present at the hearing: Porter Bankhead (“Plaintiff”) and Defendant Florence Bankhead.

Plaintiff’s Motion for Reconsideration is known under the South Carolina Rules of Civil Procedure (“SCRCP”) as a Rule 59(e) motion. One scenario in which a party may consider filing a Rule 59(e) motion is when he believes the court has misunderstood or failed to fully consider argument or issue, and that party wishes for the court to reconsider or rule on it. *See Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

By order on May 16, 2022, Plaintiffs were ordered to file proof of service of the Amended Summons and Complaint upon all Defendants by no later than August 1, 2022. No proof of service was filed by that date and an order of dismissal was filed on August 19, 2022. Plaintiff now argues that his affidavit, along with the exhibits attached with his motion, demonstrate that proper service of the Amended Summons and Complaint has been made upon all Defendants. I disagree.

Plaintiff’s affidavit avers that he sent the Amended Summons to the Defendants, by certified mail, return receipt. This is not sufficient service according to the Rule 4, SCRCP. Plaintiff should

have also served the Amended Complaint together with the Amended Summons, requested that delivery be restricted to the addressee, and included a return receipt showing the Defendant's signature. *See* Rule 4(d), 4(d)(8), and 4(g) SCRCP.

Plaintiff also argued that he mailed proof of service to the York County Clerk of Court, which they rejected. Thereafter, the Clerk returned those exhibits by mail to an incorrect address, and Plaintiff was unable to retrieve those exhibits. Nonetheless, Plaintiff provided copies of records from the United States Postal Service. Upon review of the records presented, none show that service was made in accordance with Rule 4, SCRCP. Thus, I find no basis for reconsideration or amendment of the ruling rendered in the August 19, 2022 order.

THEREFORE, IT IS ORDERED that Plaintiff's Motion for Reconsideration be denied.

JUDGE'S SIGNATURE PAGE TO FOLLOW



York Common Pleas

Case Caption: Porter Bankhead VS Alicia Taylor , defendant, et al

Case Number: 2021CP4601165

Type: Master/Order/Other

So Ordered

s/ Teasa K. Weaver 3084