

RECEIVED

Jun 19 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable George M. McFaddin, Jr.

Case No. 2023-000781

Alan G. Nix,

Appellant,

v.

Churchill Park and Churchill Park Homeowners' Association, Inc.,

Respondents.

RESPONDENT'S MOTION TO DISMISS APPEAL

The Respondent, Churchill Park, pursuant to Rule 260(a), SCACR, respectfully moves the Court for an order dismissing the appeal filed by the Appellant for failure to timely file and serve his initial brief as required by Rule 208(a)(1), SCACR. In support of the motion, the Respondent shows the following unto the court:

Appellant initiated suit against Respondents in the Richland County Court of Common Pleas on or about November 16, 2020. After a hearing held November 2, 2022, The Honorable George M.

McFaddin, Jr. entered an order dismissing Appellant's claims against Respondents. Appellant filed a Motion to Reconsider pursuant to Rule 59(e), SCRCF. On March 9, 2023 the trial court denied Appellant's motion without a hearing. Respondent served his Notice of Appeal May 3, 2023.

Attached as Exhibit A of Appellant's Notice of Appeal is the transcript for the only hearing in this matter.¹ Pursuant to Rule 208(a)(1), SCACR Appellant's deadline to file and serve his initial brief was June 2, 2023. To date Appellant has not filed any brief in this matter or requested any extension of time related to briefing.

For these reasons, the Respondent respectfully requests that Appellant's appeal be dismissed with prejudice and for such other and further relief as the court deems just and appropriate.

s/ Stephanie Trotter Kellahan
Stephanie Trotter Kellahan (SC Bar 77680)
V. Morgan Bryant (SC Bar 103318)
McCabe Trotter & Beverly, PC
4500 Fort Jackson Blvd., Suite 250
Columbia, SC 29209
Office: (803) 724-5000
Fax: (803) 724-5001
Email: stephanie.kellahan@mccabetrotter.com
Morgan.bryant@mccabetrotter.com
ATTORNEYS FOR CHURCHILL PARK

¹ Appellant recently served correspondence upon SC Court Administration regarding a transcript for common pleas case 2017-CP-10-04031. Because this case is an appeal of common pleas case 2020-CP-40-06054, this correspondence does not stay Appellant's time under Rule 208(a)(1), SCACR. Additionally, this court previously dismissed Appellant's appeal number 2020-001304 for failure to order the transcript for the same proceeding noted in Appellant's recent correspondence to SC Court Administration.

RECEIVED

Jun 19 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable George M. McFaddin, Jr.

Case No. 2023-000781

Alan G. Nix, **Appellant**,

v.

Churchill Park and Churchill Park Homeowners' Association, Inc., **Respondent**.

PROOF OF SERVICE

I certify that I have caused to be served Appellant, Alan G. Nix, Respondent's Motion to Dismiss Appeal on June 19, 2023 by mailing it to Appellants address of record noted below:

Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466

/s/ Stephanie Kellahan
Stephanie Kellahan (SC Bar No. 77680)
McCabe, Trotter & Beverly, P.C.
4500 Fort Jackson Blvd., Ste 250
Columbia, South Carolina, 29209
Phone: (803)-724-5000
Email: stephanie.kellahan@mccabetrotter.com
Attorney for Churchill Park

June 19, 2023
Columbia, SC