

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
In the Court of Common Pleas

Courtney Clyburn Pope, Circuit Court Judge
Civil Action No.: 2021-CP-02-02457

Appellate Case No.: 2022-000685

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SC Court of Appeals

Glen Fleming,Respondent,

v.

Vance Mack Fleming...Appellant.

APPELLANT'S FINAL REPLY BRIEF

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August 4, 2023

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ARGUMENTS

I) THE RESPONDENT’S ARGUMENT SHOULD NOT BE CONSIDERED BECAUSE RESPONDENT’S INITIAL BRIEF DOES NOT MEET THE REQUIREMENTS OF SOUTH CAROLINA APPELLATE COURT RULES.

Pursuant to Rule 208(b)(2), SCACR, Appellant Vance Mack Fleming, respectfully moves this Court for an Order to strike the Initial Brief of Respondent, Glen Fleming or alternatively, to disregard the issues, argument, and authorities raised in the Respondent’s Initial Brief in violation of the appellate court rules and decisional law.

The Respondent’s Initial Brief is required to comply with the South Carolina Appellate Court Rules. Rule 208(b)(2), SCACR, provides that:

“The brief of respondent shall conform to the requirements of Rule 208(b)(1)(A)-(F), except that a statement of the issues, of the case, or of the standard of review need not be made unless the respondent is dissatisfied with the statement of the issues, of the case, or of the standard of review by appellant. If a respondent does not include his own statement of the case, he shall be bound by the matters stated or alleged in appellant's statement of the case. If a respondent does include his own statement of the case, he shall be bound by the matters stated or alleged in his statement of the case.

Rule 208(b)(2), SCACR. The requirements of Rule 208(b)(1)(E), SCACR, require that the Respondent’s argument “be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority.”

“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). See also *State v. Burton*, 356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9 n. 5 (2003) (“A *pro se* litigant who knowingly

elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”); *State v. Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) (stating that established rules of procedure are not to be discarded on appeal merely because a party appeared *pro se*), overruled on other grounds by *Stevenson v. State*, 335 S.C. 193, 516 S.E.2d 434 (1999).

In *HHHunt Corp. v. Town of Lexington*, the Court held that conclusory arguments and arguments not supported by authorities are deemed abandoned. *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 635-36, 699 S.E.2d 699, 705 (Ct.App. 2010); *State v. Colf*, 332 S.C. 313, 322, 504 S.E.2d 360, 364 (Ct.App. 1998); *see also Emerson*, 395 S.C. at 488 n.6, 719 S.E.2d at 654 n.6. Short, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not presented for review. *Glasscock, Inc. v. U.S. Fidelity and Guar. Co.*, 348 S.C. 76, 557 S.E.2d 689 (Ct. App. 2001). In *Englert, Inc. v. Netherlands, Ins. Co.*, the court has stated that a "one-sentence" argument is too conclusory to present any issue on appeal. *Englert, Inc. v. Netherlands Ins. Co.*, 315 S.C. 300, 433 S.E.2d 871 (Ct. App. 1993).

The respondent argues that he is the sole owner and has shown the Court that he is the sole owner, but the Respondent’s argument is not supported by citation to the record, nor is it accurate. (R.PP. 338-345).

In this case, the Respondent’s Initial Brief does not meet the requirements of the South Carolina Appellate Court Rules. While the Respondent submitted its brief *pro se*, the Respondent still assumed full responsibility to comply with the substantive and procedural requirements and the Respondent’s failure to comply should not be discarded merely because he is not represented by counsel. *State v. Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958).

The Respondent did not comply with the requirements Rule 208(b)(2), SCACR and 208(b)(1)(D). Respondent's argument section of the Initial Brief includes a heading with only two short sentences and without any supporting authority. (R.PP. 338-345). Respondent's Initial Brief consisted of only conclusory arguments on page "5", which state "that either the Court vacate the Appellant from the premises owned by the Respondent or the matter be remanded to the Magistrate's Court." (R.PP. 338-345). The Respondent's Initial Brief did not provide any supporting evidence for its argument. The Respondent's argument was also improper and insufficient by failing to discuss, reference, or cite authority as seen on Page 5 of Respondent's Initial Brief. (R.PP. 338-345). Thus the Respondent's Initial Brief does not comply with the legal requirements. Therefore, the Court should Strike the Respondent's Initial Brief and disregard all arguments and authorities that are not properly raised under the rules and case law governing appellate practice.

CONCLUSION

For the preceding reasons, Appellant respectfully asks this Court to reverse the trial court's decision and Appellant be allowed to pursue whatever remedies available to him in Circuit Court or Probate Court.

Respectfully submitted,

By: _____



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