

APPELLANT'S MOTION TO REINSTATE APPEAL SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master in Equity

Case No. 2017-CP-10-5427

FAMILY SERVICES, INC., AS
CONSERVATOR FOR MURIEL W.
CLARKIN V. PATRICIA CLARKIN
SMITH AND WELLS FARGO
BANK, NA.,

Respondent(s),

v.

PATRICIA CLARKIN SMITH AND
WELLS FARGO BANK, NA.,
DEFENDANTS, OF WHOM
PATRICIA CLARKIN SMITH IS
THE APPELLANT,

Appellant(s).

APPELLANT'S MOTION TO REINSTATE APPEAL

Dickson Davis Law Firm, LLC
Deborah D. Davis, Esq.
SC Bar No.: 102942
620 Rutherford Street
Greenville, SC 29609
(864) 729-3428 t

ATTORNEY FOR APPELLANT(S)

APPELLANT'S MOTION TO REINSTATE APPEAL

Appellants hereby submit this motion and petition to reinstate appeal in response to the Court's Order entered and dated on July 25, 2023 ("Order"), dismissing Appellant's appeal pursuant to: (1) Rule 59(e) of the South Carolina Rules of Civil Procedure for the Court's reconsideration to alter or amend the Court's Order; (2) Rule 221(c) of the South Carolina Appellate Court Rules for a petition when the Court dismisses Appellant's Appeal; and, (3) Rule 260(a) of the South Carolina Appellate Court Rules for a petition to reinstate Appellant's appeal by leave of the Court upon good cause shown herein. This motion for reinstatement is divided into the section(s) as set forth below. Each section provides multiple grounds for reconsideration of the Court's Order to reinstate the appeal by Appellants making a show of good cause. Rule 260(a), SCACR. Appellant shows the following:

FACTS

1.

Appellant is a pro se party. Appellant has retained the services of the undersigned counsel as of the date said motion and petition for reinstatement of this Appeal has been submitted before the Court. This motion is filed as an emergency motion by undersigned counsel under the circumstances in consideration of the undersigned's schedule for other court appearances and case load. Appellant's counsel must, essentially, go back and evaluate this appeal from the very beginning to ensure all required documentation and filings before the Court are properly filed before the Court as is required by the South Carolina Appellate Court Rules. Additionally, Appellant's counsel must re-review the record and transcript(s) of the lower court to raise only issues preserved for appeal in the interests of accuracy and judicial economy.

2.

Appellant suffered medical issues and multiple hospitalizations and surgeries pursuant to the understanding of the undersigned counsel during the time of litigation between the parties. However, said

medical issue(s) and condition(s) has impacted Appellant's cognitive ability to articulate clearly. Appellant's ability to articulate clearly has notably deteriorated pursuant to the undersigned's discussion with Appellant's power of attorney. Thus, Appellant requires legal counsel to attempt concise articulation of the issues presented, if properly presented before this Court, and evaluation of this appeal by legal counsel trained in the law in comparison to a pro se party's filings.

3.

For said reasons, the undersigned counsel is presenting circumstances warranting just cause for reinstating this Appeal for further evaluation, discussion with the opposing party, and determination of necessary issues concerning this Appeal in accordance with the South Carolina Appellate Court Rules.

RECITATION OF THE LAW

4.

Under Rule 221(c) of the South Carolina Appellate Court Rules, Appellant may petition the Court when the Court dismisses Appellant's appeal due to failure to rectify deficiencies in Appellant's filings not in compliance with the South Carolina Appellate Court Rules:

The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal. Rule 221(c), SCACR.

5.

Additionally, under Rule 260(a) of the South Carolina Appellate Court Rules, Appellant may petition the Court when the Court dismisses Appellant's appeal due to a showing of good cause under the circumstances:

(a) Involuntary Dismissal and Reinstatement. Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded). Rule 260(a), SCACR.

ARGUMENT

6.

As provided by the South Carolina Appellate Court Rules, Appellant requests leave of the Court to reinstate Appellant’s appeal; upon providing good cause shown due to Appellant’s deterioration in medical issue(s) and condition(s) preventing Appellant’s cognitive ability to competently proceed with self-representation; Appellant has provided notice to all parties; and, Appellant has mailed the fee required for this motion and petition to reinstate Appellant’s appeal.

7.

At this stage, and for the purposes of judicial economy, the presentation of this appeal needs to be handled by an attorney trained in the law to rectify any issues with any filing(s). Appellant’s cognitive abilities require the undersigned counsel to coordinate with Appellant’s power of attorney to decipher, consolidate, and evaluate the legal issues at hand. Here, just cause exists without question for an attorney to “clean up” this appeal on Appellant’s behalf.

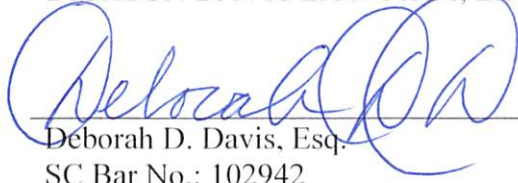
CONCLUSION

Appellant seeks the Court to grant this motion and petition and reinstate this appeal for the abovementioned reasons. Appellant seeks relief from the Court for the undersigned counsel to assist with proper evaluation of this appeal and judicial economy moving forward. Additionally, Appellant seeks a motion for an extension of time to review the case in lower court, obtain all necessary transcripts for the record, ensure all fillings in the record have been provided, amend Appellant’s initial brief and corollary designation of matters, and so forth.

WHEREFORE, for all the reasons set forth above: this motion and petition be granted; this appeal is reinstated; upon reinstatement, the order dismissing this appeal is reversed; and, and such other and further relief as the Court deems just and proper.

Respectfully submitted this 9 day of August , 2023 .

DICKSON DAVIS LAW FIRM, LLC



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ATTORNEY FOR APPELLANT(S)

South Carolina

Date: August 9, 2023

**PROOF OF SERVICE OF APPELLANT'S MOTION TO REINSTATE
APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Aug 09 2023

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SC Court of Appeals

Mikell R. Scarborough, Master in Equity

Case No. 2017-CP-10-5427

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DEFENDANTS, OF WHOM
PATRICIA CLARKIN SMITH IS
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Appellant(s).

PROOF OF SERVICE

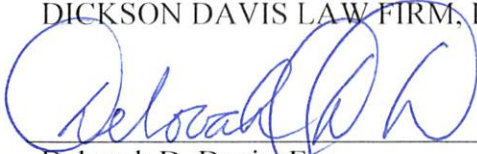
I certify that I have served the Appellants' Motion to Reinstate Appeal on Respondents **FAMILY SERVICES, INC., AS CONSERVATOR FOR MURIEL W. CLARKIN V. PATRICIA CLARKIN SMITH AND WELLS FARGO BANK, NA.**, by depositing a copy of it in the United States Mail, postage prepaid, in addition via AIS email to opposing counsel on August 9, 2023, addressed to the attorney(s) of record, to the following addresses:

Family Services, Inc.
c/o D. Conor Keys, Esq.
The Law Office David Conor Keys, LLC

Charleston, SC 29609
Attorney for Respondent(s)

Respectfully submitted this 9 day of August, 2023.

DICKSON DAVIS LAW FIRM, LLC



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ATTORNEY FOR APPELLANT(S)

Deborah Davis

From: Deborah Davis
Sent: Wednesday, August 9, 2023 2:06 PM
To: conor@dconorkeyslaw.com
Cc: Christy Owens
Subject: Petition for Reinstatement (Case 2021-000793) re: FAMILY SERVICES, INC. v. PATRICIA CLARKIN SMITH AND WELLS FARGO BANK, NA. (counsel for Appellant).
Attachments: 2023_08_09_signed_pet_reinstate.pdf; 2023_08_09_cover_letter_court_appeals.pdf; 2023_08_09_Mot_reinstate_app_SOP.pdf; 2023_08_09_check.pdf; 2023_08_09_Mot_reinstate_app_SOP.pdf

Hey Conor,

Please see the attached Petition to Reinstate the Appeal. I would also like to talk with you as well. It seems like there are a variety of cases concerning my client and your client. I was just retained as of today to dive into the deep end. I need to evaluate this case as to how best to proceed, if warranted, and clean up the plethora of filings and deficiencies accordingly.

I'll also talk with the clerk and case manager to see if we can get the caption correct flipping the parties as it should be. I'm sure you probably would agree with that minor request.

I look forward to talking with you.

Best Regards,



Deborah D. Davis, Esq.
Attorney at Law

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When you receive correspondence from the Dickson Davis Law Firm, LLC, or request work, review, or any of the above as part of your overall consultation, you understand and acknowledge that any consultation work done prior to the scheduled consultation meeting, executing the fee contract agreement, executing the engagement letter, or any of the above is subject to the firm's hourly billing for document review, correspondence with the prospective client (i.e., emails, phone calls, text messages), correspondence with other third parties with the prospective client's permission. Consultations are charged a flat fee. If your consultation exceeds one hour, then your consultation fee will include the flat fee for your initial consultation and the overage is billable on an hourly, prorated basis.

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DICKSON DAVIS LAW FIRM

NOTICE OF APPELLANT'S MOTION TO REINSTATE APPEAL

August 9, 2023

RECEIVED

Aug 09 2023

SC Court of Appeals

Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
P.O. Box 11629
Columbia, SC 29211

VIA EMAIL CTAPPFILINGS@SCCOURTS.ORG

Re : *Family Services, Inc., as Conservator for Muriel W. Clarkin v. Patricia Clarkin
Smith and Wells Fargo Bank, NA., Defendants, Of whom Patricia Clarkin Smith is
the Appellant*

Case No. : 2017-CP-10-05427

Appellate Case No. : 2021-000793

File Id. : 2023-06-002-PSC-002

Dear Clerk of Court:

Please see the enclosed Motion to Reinstate the Appeal for Appellant. Appellant has recently retained undersigned counsel for this matter, which needs a complete review from start to finish concerning rectifying the appeal as file and etc., including whether the appeal is proper as filed.

Please let me know what further you require from me at this time. Thank you for assistance with this matter.

Respectfully submitted this 9 day of August, 2023 .

Deborah D. Davis, Esq.
SC Bar No.: 102942

ATTORNEY FOR APPELLANT

cc: The Law Office David Conor Keys, LLC
D. Conor Keys, Esq.
P.O. Box 14225
Charleston, SC 29422
(843) 906-3998

ATTORNEYS FOR THE RESPONDENTS

/ddd