



The South Carolina Court of Appeals

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February 22, 2024

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

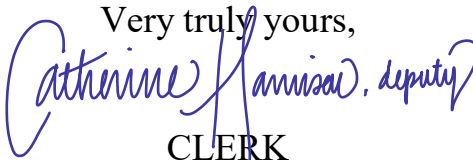
REMITTITUR

Re: Keith Tolbert v. Carolyn Smith
Lower Court Case No. 2021CP1004058
Appellate Case No. 2022-001815

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: Carolyn Tolbert Smith
Ashley G. Andrews, Esquire
Alwyn Taylor Silver, Esquire
William King Kalivas, Esquire
Betty Jean Tolbert Jones

The South Carolina Court of Appeals

Keith L. Tolbert, Respondent,

v.

Carolyn Tolbert Smith, Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian, Defendants.

Of whom Carolyn Tolbert Smith is the Appellant,

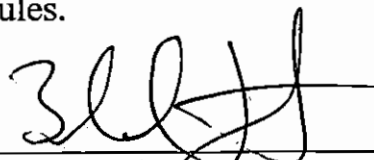
and

Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian are the Respondents.

Appellate Case No. 2022-001815

ORDER

On February 10, 2023, Respondents filed a motion to dismiss the notice of intent to appeal filed by Appellant as untimely because it was not served within thirty days of receipt of written notice of entry of the order or judgment. The motion is granted. *See* Rule 203(b)(1), SCACR; *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985) (“Service of notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.”). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



FOR THE COURT

FILED
Mar 22 2023

Columbia, South Carolina

cc:

Carolyn Tolbert Smith

Ashley G. Andrews, Esquire

Alwyn Taylor Silver, Esquire

William King Kalivas, Esquire

Betty Jean Tolbert Jones

The South Carolina Court of Appeals

Keith L. Tolbert, Respondent,

v.

Carolyn Tolbert Smith, Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian, Defendants.

Of whom Carolyn Tolbert Smith is the Appellant,

and

Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian are the Respondents.

Appellate Case No. 2022-001815

ORDER

On March 22, 2023, we dismissed this appeal because Appellant failed to serve the notice of appeal on Respondents within thirty days of receipt of written notice of entry of the order or judgment. *See* Rule 203(b)(1), SCACR; *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985) (“Service of notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.”). Subsequently, Appellant filed a petition to reinstate, which we construe as a petition to rehear the dismissal. After careful consideration of the petition for rehearing and the two supplements to the petition filed by Appellant, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Paul W. Thomas

J.

Stephen P. McDonald

J.

3L L J

J.

Columbia, South Carolina

cc:

Carolyn Tolbert Smith
Ashley G. Andrews, Esquire
Alwyn Taylor Silver, Esquire
William King Kalivas, Esquire
Betty Jean Tolbert Jones

FILED
Jun 15 2023