

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM THE FIFTH JUDICIAL CIRCUIT, RICHLAND COUNTY
Court of Common Pleas**

Jocelyn Newman, Circuit Court Judge

**Case No. 2023-CP-40-02377
Appellate Case No. 2024-000922**

ANTHONY ROBERT TAYLOR, APPELLANT,

V.

**THE STATE OF SOUTH CAROLINA OFFICE OF ATTORNEY GENERAL ALAN
WILSON, HONORABLE FRANK R. ADDY, JR. AND ATTORNEY JACQUELINE
MARIE PAVLICEK, RESPONDENTS**

**MOTION TO DISMISS APPEAL AS TO RESPONDENTS THE STATE OF SOUTH
CAROLINA OFFICE OF ATTORNEY GENERAL ALAN WILSON AND THE
HONORABLE FRANK R. ADDY, JR.**

Respondents The State of South Carolina Office of Attorney General Alan Wilson (“AG”) and the Honorable Frank R. Addy, Jr. (“Addy”), by and through their undersigned counsel, hereby move to dismiss this appeal of appellant Anthony Robert Taylor.

These respondents move pursuant to Rule 240 and ask the Court to dismiss this action because the Appellant failed to perfect his appeal against these respondents pursuant to Rule 203(b)(1) SCACR. The Court’s records and the attached affidavit of Counsel reflect that the Appellant neither served either of these respondents nor their counsel within thirty days of receipt

of the written order or judgment nor did the Appellant file a proof of service with this Court documenting service of his notice of appeal on these respondents.

BACKGROUND

Taylor commenced his action by way of filing and serving a Summons and Complaint against Defendants AG and Pavlicek on May 8, 2023. While he named the Honorable Frank R. Addy, Jr. as a defendant in this action, he never perfected service on Judge Addy and Judge Addy never filed any responsive Pleading. On May 26, 2023, The State of South Carolina, Office of Attorney General Alan Wilson moved pursuant to Rules 12(b)(1), 12(b)(6) and 12(c), SCRPC for an order dismissing Taylor's action and seeking sanctions against Taylor for his continued frivolous filings against the AG and members of the Judiciary.

The Honorable Jocelyn Newman heard arguments on the Motions on February 24, 2024. On *May 16, 2024*, Judge Newman issued her Order finding the following:

A general review of Plaintiff's current and past complaints against various governmental entities, including two (2) prior cases against Defendant and the Office of the Attorney General, sound in a recovery for property seized in 1993 and 1996 as well as some form of reparations. This case seems to add a claim that the Court improperly dismissed his prior claims, which could only be resolved through the direct appeal process. Nevertheless, Plaintiff presents a rambling series of alleged indignations which he believes entitle him to some form of relief. Sections of his prayer for relief are instructive.

We seek an immediate compensation for 152 years or, war of 1871, White Supremacy under democracy against the God-image, the God-like, the dark, the light skinned/complexion and the 1/8% that Democracy labels the 'inferior one's. We seek the return of all personal properties unlawfully confiscated under indictment number 92-GS-40-1613 violation, false imprisonment \$5,000,000 (five million) U.S. dollars per day, per occurrence, per officer, official, agent, or

representative involved, plus 18% annual interest.

Plaintiff also seeks millions of dollars for alleged injuries emanating from his 1996 arrest (96-GS- 40-10975) and his 2020 arrest. Plaintiff's prayer for relief provides the clearest evidence of his claims. A review of his prior suits and the similar prayers for relief contained in those demonstrates that all Plaintiff is truly doing is attempting to re-litigate matters that have been previously decided with finality.

This Court finds that Plaintiff's complaint and this matter should be dismissed as his claims are not made in a time, place, or manner that allows recovery. His complaint even afforded the most liberal review considering his pro se status does not and cannot as a matter of law set forth a cause of action against either Attorney General Wilson or Judge Addy upon which relief can be granted. Therefore, for the reasons outlined below this Court finds that Defendant's motion should be granted, and this matter dismissed with prejudice.

Order pp.2-3.

Judge Newman went on to explain her Order and found that Taylor's claim was barred on several legal theories. After making her findings of fact and conclusions of law, she issued the following Order:

1. *Defendant's motion to dismiss is granted; and,*
2. *Plaintiff's complaint against Defendant is dismissed with prejudice; and,*
3. *Plaintiff's complaint is deemed to be frivolous; and,*
4. *Plaintiff is enjoined from filing any action in any Circuit Court of South Carolina unless it is accompanied by a properly notarized affidavit by an attorney licensed to practice law in the State of South Carolina that he or she in good faith believes that the matter(s) raised in the action is/are nonfrivolous and proper for a Circuit Court to consider.*
5. *Based upon this Court's analysis of Plaintiff's claims herein, which are*

incorporated herein by reference and which this Court finds is equally applicable to the claims against Defendant Honorable Frank R. Addy, Jr., although he has not been served in this matter, Plaintiff's complaint against him is dismissed with prejudice as well.

Order p. 10.

On May 30, 2024, Taylor filed a notice of appeal of the case number with the Court of Appeals and with the Clerk of Court for Richland County. In his filing, he did not list Counsel for either the AG or Judge Addy, and he did not serve counsel for either the AG or Judge Addy with the Notice of Appeal. Notably, Taylor acknowledged receiving written notice of the Order on May 24, 2024. Even allowing additional time for mailing, service should have been perfected by June 28, 2024. The only proof of service that Mr. Taylor filed with the Court reflects service on counsel for Ms. Pavlicek but not for either of the movants here. There is no evidence that a timely notice was served on either of the movants here.

DISCUSSION

“The right of appeal arises from and is controlled by statutory law.” *Ex Parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006). Ordinarily, the statute that governs appealability is S.C. Code Ann. § 14-3-330.

The notice of appeal in a case appealed from the Court of Common Pleas must be served **on all respondents** within thirty days after receipt of written notice of the entry of the order or judgment Rule 203(b)(1) SCACR. [emphasis added]. The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to “rescue” the delinquent party by extending or ignoring the deadline for service of the notice. *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985). *See also Stroup v. Duke Power Co.*, 216 S.C. 79, 56 S.C.2d 745 (1949) ([S]tatutes should be construed liberally in favor of the right of appeal but “there is a limit beyond which the most

liberal construction cannot go.”); *Wade v. Gore* 154 S.C. 262, 151 S.E. 470 (1930); and *Renneker v. Warren* 20 S.C. 581 (1884) The time prescribed by statute within which notice of appeal must be given cannot be enlarged or extended by the courts, *Palmer v. Simons* 107 S.C. 93, 92 S.E. 23 (1916).

Notably, no case law supports a deviation from the applicable statute or rule governing the time required to serve the notice of appeal on all respondents. For that reason, Appellant has failed to perfect the appeal and it should be dismissed as to all respondents. However, under no circumstance should Respondents AG and Addy be subject to this appeal as they have not been served with any notice whatsoever of the Appellant’s appeal.

The appellant has failed to serve a Notice of Appeal on two of the three respondents in this matter, and at the very least, his appeal should be dismissed as it relates to those respondents if not in toto.

CONCLUSION

For foregoing reasons Respondents respectfully request that this Court dismiss this appeal as it relates to respondents AG and Addy.

Respectfully submitted,

MONTGOMERY WILLARD, LLC



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**ATTORNEYS FOR RESPONDENTS
THE STATE OF SOUTH CAROLINA OFFICE
OF ATTORNEY GENERAL ALAN WILSON
AND THE HONORABLE FRANK R. ADDY,
JR**

July 3, 2024
Columbia, South Carolina

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM THE FIFTH JUDICIAL CIRCUIT, RICHLAND COUNTY
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Jocelyn Newman, Circuit Court Judge

**Case No. 2023-CP-40-02377
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MARIE PAVLICEK, RESPONDENTS**


AFFIDAVIT OF MICHAEL H. MONTGOMERY

Personally appeared before me, Michael H. Montgomery, who first being duly sworn, states and affirms as follows:

1. I am an attorney, licensed to practice law in South Carolina since 1986.
2. I am retained counsel for Respondents, The State of South Carolina Office of Attorney General Alan Wilson and the Honorable Frank R. Addy, Jr.
3. I have been involved as Counsel in this matter since May, 2023.

4. Neither I nor either of my clients have been served with a copy of the Notice of Appeal filed in this case as of July 3, 2024. July 3, 2024 is 40 days after the Appellant acknowledged receipt of notice of the Order in this matter.

FURTHER AFFIANT SAYETH NOT


Michael H. Montgomery, SC Bar No. 4034

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 3rd DAY OF JULY, 2024



Tracey D. Smith
Notary Public for South Carolina
My Commission Expires 10/9/2024

RECEIVED

Jul 03 2024

SC Court of Appeals

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MARIE PAVLICEK, RESPONDENTS**

CERTIFICATE OF SERVICE

I, Michael H. Montgomery, hereby certify that on July 3, 2024, a copy of the Motion to Dismiss filed on behalf of the STATE OF SOUTH CAROLINA OFFICE OF ATTORNEY GENERAL ALAN WILSON and THE HONORABLE FRANK D. ADDY, JR. was mailed via FIRST CLASS MAIL by depositing a copy of the same in the United States Mail, Postage prepaid TO: Appellant Anthony R. Taylor at 1449 Lilly Avenue, Columbia, SC 29204 and to Respondent Jacqueline Pavlick c/o Attorney William M. Hemlepp, Jr. PO Box 667 Columbia, South Carolina 29202.

July 3, 2024


Michael H. Montgomery, SC Bar No. 4034

MONTGOMERY WILLARD, LLC
ATTORNEYS AND COUNSELORS AT LAW
1002 CALHOUN STREET
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RECEIVED

Jul 03 2024

SC Court of Appeals

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CERTIFIED CIVIL MEDIATOR

July 3, 2024

VIA ELECTRONIC MAIL ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Anthony Robert Taylor, Appellant v. The State of South Carolina Office of
Attorney General Alan Wilson, Honorable Frank R. Addy, Jr., and Attorney Jacqueline Marie
Pavlicek, Respondents.

Appellate Case No. 2024-000922

Our File No. 2206499

Dear Ms. Kitchings,

I have enclosed for filing a Motion to Dismiss the above-referenced appeal pursuant to
Rule 240 and Rule 203 SCACR, including a Memorandum in Support thereof, an Affidavit in
Support of the Motion, and Proof of Service.

We will mail the motion filing fee of \$50.00 under separate cover by U.S. Mail. Kindly
advise if you require anything else to complete our timely filing in this matter.

Thank you for your attention to this matter.

Sincerely,

MONTGOMERY WILLARD, LLC



Michael H. Montgomery

The Honorable Jenny Abbott Kitchings
July 3, 2024
Page 2

cc: W. M. Hemlepp via e-mail William.hemlepp@columbiasc.gov and First Class Mail
Anthony Robert Taylor (via First Class Mail)