

RECEIVED

Aug 27 2024

SC Court of Appeals

IN THE COURT OF APPEALS OF SOUTH CAROLINA

Barbara Shurtleff, Appellant

v.

Gatway Mortgage Group, LLC, Respondent

Chad Wilson Burgess, Esquire, Atty for Plaintiff

Appellate Case No. 2024-001276

NOTICE OF MOTION TO RECONSIDER

TO: Chad Wilson Burgess, Esquire

PLEASE TAKE NOTICE that the undersigned will move before this Honorable Court, at a time and place to be set by the Court, for an order reconsidering the dismissal of the appeal in the above-referenced case.

MOTION

The Appellant, Barbara Shurtleff, respectfully moves this Court to reconsider its decision to dismiss the appeal received on August 23, 2024. This motion is grounded in the concept of Appellate Resuscitation and supported by the following facts:

- Lack of Opportunity to be Heard: The Appellant was not afforded the opportunity to present her case before the default judgment was granted. It was understood that the court would reconvene following a period designated for settlement discussions, which did not occur.
- Procedural Oversight: The default judgment was entered without a scheduled court hearing, which was anticipated based on prior communications and the expectations set during the settlement discussions.
- Appellate Resuscitation: The principle of Appellate Resuscitation offers the Appellant the chance to have her case reinstated on appeal from a summary judgment.

WHEREFORE, the Appellant respectfully requests that this Court grant the motion to reconsider the dismissal of the appeal and provide such other relief as the Court deems just and proper.

Dated: August 27th, 2024

Respectfully submitted,

Barbara Shurtleff

61 Estate Row

Stafford, VA 22554

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shurtleffb@gmail.com

AFFIDAVIT OF SERVICE

I, Barbara Shurtleff, hereby certify that I have served a copy of the Motion to Reconsider on the Respondent, Chad Wilson Burgess, Esquire, by mailing it via first-class mail, postage prepaid, to the following address:

Brock & Scott, PLLC

3800 Fernandina Road, Suite 110

Columbia, SC 29210

Dated: August 27th, 2024

The South Carolina Court of Appeals

Gateway Mortgage Group, LLC, Respondent,


v.

Barbara A. Shurtleff, Appellant.

Appellate Case No. 2024-001276

ORDER

This appeal arises out of an order of the circuit court granting Respondent's motion for default judgment. Because a defaulting party may not appeal from a default judgment, we dismiss the notice of appeal filed by TW Telecom Holdings, Inc. *See Winesett v. Winesett*, 287 S.C. 332, 334, 338 S.E.2d 340, 341 (1985) (explaining a direct appeal does not lie from a default judgment; instead, the proper procedure for challenging a default judgment is to move the trial court to set aside the judgment pursuant to Rule 60(b), SCRCP). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

 _____, J.
FOR THE COURT

Columbia, South Carolina

cc:
Barbara A. Shurtleff
Chad Wilson Burgess, Esquire

FILED
Aug 12 2024
