

RECEIVED

Oct 08 2024

SC Court of Appeals

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

---

Appeal from the Court of Common Pleas  
For Charleston County  
Honorable Mikell R. Scarborough, Master-In-Equity  
Civil Action No.: 2022-CP-10-03492  
**Appellate Case No.: 2023-001086**

---

*Ex parte:* DeWayne Alphonza Sykes,

Appellant,

*In re:*

PVOne REO, LLC,

Respondent.

v.

The Estate of Mary A. White; Heirs-at-Law of Mary A. White; unknown Heirs-at-Law or devisees of Mary A. White, Deceased; their Heirs, Personal Representatives, Administrators, Successors, and Assigns, and all other persons entitled to claim through them; all unknown owners, unknown heirs or unknown devisees of any deceased person, or by any such designation; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina PIN 466-03-00-154, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154,

Defendants.

---

**REPLY TO MR. SYKES' RESPONSE TO  
MOTION TO DISMISS APPEAL  
and to STRIKE APPELLANT'S  
FINAL BRIEF and RECORD ON APPEAL**

---

Stephen P. Groves, Sr., Esquire  
S.C. Bar No.: 007854  
*BUTLER SNOW LLP*  
25 Calhoun Street, Suite 250  
Charleston, South Carolina 29401  
Telephone: 843.277.3704  
Telecopier: 843.277.3701  
E-Mail: [Stephen.Groves@butlersnow.com](mailto:Stephen.Groves@butlersnow.com)

John J. Dodds, III, Esquire  
S.C. Bar No.: 001707  
*CISA & DODDS*  
858 Lowcountry Boulevard, Suite 101  
Mount Pleasant, South Carolina 29464  
Telephone: 843.881.6530  
E-Mail: [john@cisadodds.com](mailto:john@cisadodds.com)

*Attorneys for the Respondent,  
PVOne REO, LLC*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

COMES NOW the Respondent, PVOne REO, LLC (“PVOne REO”), pursuant to Rule 240(f), SCACR, and responds to the *Appellant[s] Opposition to Respondent[s] Motion to Dismiss Appeal and Strike Appellant’s Final Brief and Record on Appeal* (the “Sykes’ Response”) filed by the Appellant, DeWayne Alphonza Sykes (“Mr. Sykes”).<sup>1</sup> In the *Motion to Dismiss/Strike*, PVOne, asked this Court of Appeals to dismiss Mr. Sykes’ appeal due to his abject failure to comply with the mandatory requirements of Rules 209, 210, 211, 262, and 267, SCACR. Additionally, PVOne REO also asked this Court of Appeals to strike Mr. Sykes’ “*Final Brief of Appellant*” (the “*Final Brief*”), as well as Mr. Sykes’ “*Record on Appeal*”. PVOne REO asserted Mr. Sykes had continually, failed to both comply with:

- a. **Orders and/or directives issued by this Court of Appeals<sup>2</sup> and**
- b. **the recognized and established appellate rules and procedures of South Carolina’s appellate court system.**

## **ARGUMENT AND CITATION OF AUTHORITY**

Even though a “*pro se* litigant is not held to the same high standards as a member of the [South Carolina] Bar”,<sup>3</sup> they “must meet certain standards, including “respect for court orders without which effective judicial administration would be impossible.”<sup>4</sup> “[W]hile

---

<sup>1</sup> PVOne REO received the Sykes Response via the U.S. Mail on 7 October 2024. This Court of Appeals should ignore the Sykes Response as it was not timely served (Rule 240(e), SCACR) and Mr. Sykes did not request an extension of time. (Rules 240, 263(b), SCACR).

<sup>2</sup> See Order of the South Carolina Court of Appeals dated 15 August 2024 (the “2024.08.15 COA Order”); Order of the South Carolina Court of Appeals dated 18 April 2024 (the “2024.04.18 COA Order”).

<sup>3</sup> Pack v. South Carolina Wildlife and Marine Resources Dept., 92 F.R.D. 22, 25 (D.S.C., filed 6 Oct. 1981) (*citing Cruz v. Beto*, 405 U.S. 319, (1972); Haines v. Kerner, 404 U.S. 519 (1972)).

<sup>4</sup> Whittemore v. Astrue, 2011 WL 6819098, at \*1 (D.S.C., filed 28 Oct. 2011) (*citing Ballard v. Carlson*, 882 F.2d 93, 96 (4th Cir. 1989)).

th[is] [C]ourt [of Appeals] should afford a pro se litigant every reasonable opportunity to construct and present a potentially meritorious claim, th[is] [C]ourt [of Appeals] cannot act as counsel for the pro se litigant or excuse a failure to comply with the rules of this [C]ourt [of Appeals].”<sup>5</sup> “A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”<sup>6</sup> The “South Carolina Appellate Court Rules [we]re not mere technicalities but provide[d] the parties and [our appellate] [c]ourt[s] with an orderly mechanism through which to guide appeals in this State.”<sup>7</sup> “It is incumbent upon [the parties] to provide material that complies with the Rules and facilitates appellate review.”<sup>8</sup> ‘Pro se litigants have a duty to remain up-to-date on the progress of their case and comply with court orders.’<sup>9</sup>

**A. Mr. Sykes Record On Appeal Failed To Comply With Both The 2024.08.15 COA Order And The Appellate Rules**

In the *Motion to Dismiss/Strike*, PVOne REO directed this Court of Appeals’ attention to Mr. Sykes’ failure to comply with both the letter, as well as the spirit, of the 2024.08.15 COA Order which specifically directed Mr. Sykes to:

---

<sup>5</sup> Thompke v. City of Myrtle Beach, South Carolina, 2005 WL 8162877, at \*2 (D.S.C., filed 1 Dec. 2005). See generally Barnett v. Hargett, 174 F.3d 1128, 1133 (10th Cir. 1999); Small v. Endicott, 998 F.2d 411, 417-418 (7th Cir. 1993); Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985), *certiorari denied*, 475 U.S. 1088 (1986).

<sup>6</sup> Wilmington Savings Fund Society FSB as Trustee of Stanwich Mortgage Loan Trust C v. Bruce, 2024 WL 180964, at \*2 (S.C.App., filed 17 Jan. 2024) (*quoting State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003)).

<sup>7</sup> Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992).

<sup>8</sup> *Id.*

<sup>9</sup> Cohen v. Cohen, 438 S.C. 9, 19, 881 S.E.2d 650, 655-656 (Ct.App. 2022) (*citing Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct.App. 2001) (“[A] party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.” (Alteration in original) (*quoting Goodson v. Amer. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988))).

- (a) file the *Record on Appeal* within 30 days of 15 August 2024;
- (b) make sure the *Record on Appeal* “include[d] all matter designated to be included by any party under Rule 209[, SCACR:]” and
- (c) make sure the *Record on Appeal* “compl[ied] with the requirements of Rule 267[, SCACR].<sup>10</sup>

Most importantly, this Court of Appeals directed Mr. Sykes to ensure that “[t]he **Record [on Appeal] shall not . . . include matter which was not presented to the lower court or tribunal.**”<sup>11</sup>

### 1. **Mr. Sykes’ Record on Appeal**

Even though Mr. Sykes seemingly filed the *Record on Appeal* with this Court of Appeals in a timely fashion,<sup>12</sup> that is the sole directive from this either Court of Appeals or the appellate court rules to which Mr. Sykes complied. The *Record on Appeal* and the *Final Brief* fail to comply with Rules 209, 210, 211, 262, and 267, SCACR, in the following specifications:

- |                             |   |
|-----------------------------|---|
| Rule 209(b), <u>SCACR</u> : | Including documentation in the <i>Designation of Matter</i> which is not relevant to the appeal.                  |
| Rule 209(c), <u>SCACR</u> : | Improper certification stating <i>Designation of Matter</i> contains no matter which is irrelevant to the appeal. |
| Rule 210(c), <u>SCACR</u> : | <i>Record on Appeal</i> contains documentation which neither party designated for inclusion.                      |
| Rule 210(c), <u>SCACR</u> : | <i>Record on Appeal</i> contains documentation not presented to the lower court.                                  |
| Rule 210(c), <u>SCACR</u> : | <i>Record on Appeal</i> contains documentation not relevant to the appeal.  |

---

<sup>10</sup> 2024.08.15 COA Order, p.2.

<sup>11</sup> *Id.* (Emphasis added). This Court of Appeals noted Mr. Sykes’ “**[f]ailure to comply with this order may result in dismissal of this appeal.**” *Id.* (Emphasis added).

<sup>12</sup> PVOne REO did not, however, receive copies of the Record on Appeal and the Final Brief until after filing the Motion to Dismiss/Strike.

- Rule 210(c), SCACR: Index to the *Record on Appeal* does not properly reflect the correct page numbers for the documentation included.
- Rule 210(e), SCACR: Index to the *Record on Appeal* does not properly reflect the correct page numbers for the documentation included.
- Rule 210(g), SCACR: Improper certification stating *Record on Appeal* contains all material proposed to be included by any of the parties as the *Record on Appeal* does not contain all of the designated documentation.
- Rule 210(g), SCACR: Improper certification stating *Record on Appeal* contains only designated documentation as the *Record on Appeal* contains material not designated by either party.
- Rule 211(a), SCACR: The *Final Brief of the Appellant* was not signed either electronically or otherwise to certify it complies with Rule 211(b), SCACR.
- Rule 211(b)(1), SCACR: The *Final Brief of the Appellant* does not contain specific references to the *Record on Appeal*.
- Rule 262(b), SCACR: *Proof of Service* is incorrect as to document served and date of service (indicates service of a “Notice” to opposing counsel on “May 14, 2024”).
- Rule 262(b), SCACR: There is no *Proof of Service* for the *Final Brief of the Appellant*.
- Rule 267(c), SCACR: *Final Brief of the Appellant* is not double spaced through.

In the *Motion to Dismiss/Strike*, PVO REO directed this Court of Appeals’ attentions to **some 77 or so pages** of documents Mr. Sykes included in the *Record on Appeal* even though **NONE** of the documentation was (A) referenced by either party in their respective Designations of Matter, (B) ruled on, present to, and/or considered by the Master-In-Equity, and/or (C) cited in Mr. Sykes’ *Final Brief*.<sup>13</sup> Furthermore, PVOne REO

---

<sup>13</sup> See *Motion to Dismiss/Strike*, pp.9-12.

pointed out Mr. Sykes has failed to include in the *Record on Appeal* significant documentation which both he and PVOne REO had specifically designated for inclusion in their respective *Designations of Matter*.<sup>14</sup>

## **2. Mr. Sykes' Final Brief of the Appellant**

Mr. Sykes' *Final Brief* violated Rule 211(b)(1), SCACR, as it failed to specifically reference any of the documentation contained in the *Record on Appeal*. Mr. Sykes' assertions cannot be determined to have merit as he has failed to point out any support in the Record on Appeal. Mr. Sykes' Final Brief is improper and should be stricken.

## **B. Mr. Sykes's Appeal Must Be Dismissed**

The *Sykes' Response* fails to directly respond to any of PVOne REO's assertions Mr. Sykes has violated the appellate court rules and ignored this Court of Appeals' directives<sup>15</sup>. Mr. Sykes says he "has acted in good faith throughout these proceedings and should not be penalized for technical mistakes."<sup>16</sup> Mr. Sykes conveniently, albeit incorrectly, downplays his "errors". His transgressions are significant and critical to the proper progress of an appellant matter. Notwithstanding Ms. Sykes' generally incoherent ramblings as to his alleged violated rights, nothing in the *Sykes Response* contradicts or contests PVOne REO's assertions. Simply stated Mr. Sykes has no credible retort.

Our appellate rules provide, in pertinent part, that "[w]henver it appears that an appellant . . . has failed to comply with the requirements of these [*South Carolina Appellate Court*] Rules, the **clerk shall issue an order of dismissal**, which shall have the same

---

<sup>14</sup> *Id.*, at pp.12-15.

<sup>15</sup> The first nine pages of the *Sykes Response* is simply a re-argument of his position on appeal and has no value as any type of rebuttal to PVOne REO's arguments. See *Sykes Response*, pp.1-9.

<sup>16</sup> *Id.*, p.10.

force and effect as an order of the appellate court.”<sup>17</sup> Enough of this is enough. Mr. Sykes has undisputedly violated both the letter and the spirit of a multitude of our appellate rules and procedures, as well as this Court of Appeals’ orders and directives. Mr. Sykes has not given any impression he intends to comply in any manner whatsoever. Given the egregious nature of Mr. Sykes’ several violations, even considering he is appearing *pro se*, this Court of Appeals should and, indeed, must dismiss his appeal in total.

### **III. CONCLUSION**

Based upon the arguments and citation of authority, the Respondent, PVOne REO, LLC, respectfully requests this Court of Appeals to dismiss Mr. Sykes’ appeal. Appearing *pro se* notwithstanding, Mr. Sykes continually violates our appellate rules and, moreover, declines to comply with this Court of Appeals’ orders and directives. This appeal should be dismissed.

Respectfully submitted:

*BUTLER SNOW LLP*

By: *Stephen P. Groves, Sr.*

Stephen P. Groves, Sr., Esquire  
S.C. Bar No.: 007854  
25 Calhoun Street, Suite 250  
Charleston, South Carolina 29401  
Telephone: 843.277.3704  
Telecopier: 843.277.3701  
E-Mail: Stephen.Groves@butlersnow.com

**ADDITIONAL APPELLATE COUNSEL  
NOTED ON THE FOLLOWING PAGE**

---

<sup>17</sup> Rule 260, SCACR (Emphasis added). See generally Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794.

John J. Dodds, III, Esquire  
S.C. Bar No.: 001707  
*CISA & DODDS*  
858 Lowcountry Boulevard, Suite 101  
Mount Pleasant, South Carolina 29464  
Telephone: 843.881.6530  
E-Mail: [john@cisadodds.com](mailto:john@cisadodds.com)

*Attorneys for the Respondent, PVOne REO, LLC*

Charleston, South Carolina

8 October 2024

90004700.v1

RECEIVED

Oct 08 2024

SC Court of Appeals

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

---

Appeal from the Court of Common Pleas  
For Charleston County  
Honorable Mikell R. Scarborough, Master-In-Equity  
Civil Action No.: 2022-CP-10-03492  
**Appellate Case No.: 2023-001086**

---

*Ex parte:* DeWayne Alphonza Sykes,

Appellant,

*In re:*

PVOne REO, LLC,

Respondent.

v.

The Estate of Mary A. White; Heirs-at-Law of Mary A. White; unknown Heirs-at-Law or devisees of Mary A. White, Deceased; their Heirs, Personal Representatives, Administrators, Successors, and Assigns, and all other persons entitled to claim through them; all unknown owners, unknown heirs or unknown devisees of any deceased person, or by any such designation; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina PIN 466-03-00-154, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154,

Defendants.

---

**PROOF OF SERVICE for  
REPLY TO MR. SYKES' RESPONSE TO  
MOTION TO DISMISS APPEAL  
and to STRIKE APPELLANT'S  
FINAL BRIEF and RECORD ON APPEAL**

---

Stephen P. Groves, Sr., Esquire  
S.C. Bar No.: 007854  
*BUTLER SNOW LLP*  
25 Calhoun Street, Suite 250  
Charleston, South Carolina 29401  
Telephone: 843.277.3704  
Telecopier: 843.277.3701  
E-Mail: [Stephen.Groves@butlersnow.com](mailto:Stephen.Groves@butlersnow.com)

John J. Dodds, III, Esquire  
S.C. Bar No.: 001707  
*CISA & DODDS*  
858 Lowcountry Boulevard, Suite 101  
Mount Pleasant, South Carolina 29464  
Telephone: 843.881.6530  
E-Mail: [john@cisadodds.com](mailto:john@cisadodds.com)

*Attorneys for the Respondent,  
PVOne REO, LLC*

I, Stephen P. Groves, Sr., Esquire, hereby certify that on 8 October 2024, I served a copy of the **Reply to Appellant[s] Opposition to Respondent[s] Motion to Dismiss Appeal and to Strike Appellant's Final Brief and Record on Appeal** submitted by the Respondent, PVOne REO, LLC, on the *pro se* Appellant, Mr. DeWayne A Sykes via electronic mail ([Mrsykes79@gmail.com](mailto:Mrsykes79@gmail.com)) and on 17 September, via regular U.S. Mail, and addressed as follows:

Mr. DeWayne A. Sykes  
1953 Jacksonville Road  
North Charleston, South Carolina 29405  
Telephone: 843.345.9870

*Appearing Pro Se*

Signed: **Stephen P. Groves, Sr.**  
Stephen P. Groves, Sr.

Charleston, South Carolina

8 October 2024

90008958.v1