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Oct 23 2024

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 Judge

Case No. 2022-CP-10-03492
Appellate Case No.: 2023-001086

PVONE REO LLC

Respondent,

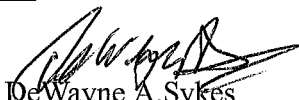
v.

Mary A. White et al,

Appellant.

APPELLANT'S PETITION FOR REHEARING

October 24, 2024


DeWayne A. Sykes
1953 Jacksonville road
N. Charleston, South Carolina 29405
(843) 345-9870
Appellant

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

Pursuant to South Carolina Appellate Court Rule 240 and Rule 221, *DeWayne Sykes*, Pro se, respectfully petitions this Court for a rehearing of its decision dated **October 16, 2024**, granting Respondent PVone REO LLC's motion to dismiss due to Appellant's alleged failure to file a compliant Record on Appeal. Appellant respectfully submits that the Court misapprehended or overlooked material facts and legal principles, and that the Court's order is vague and lacks sufficient specificity regarding the deficiencies in the Record on Appeal. The grounds for rehearing are set forth with particularity below.

GROUND FOR REHEARING

- 1. The Court's Dismissal Based on Non-Compliant Record on Appeal Is Based on a Misunderstanding of the Facts:** The Court dismissed Appellant's appeal on the grounds that a compliant Record on Appeal had not been filed. However, Appellant asserts that all relevant documents were, in fact, submitted in compliance with Rule 209, SCACR. The exhibits were properly designated and transmitted to the Master in Equity's office via registered mail, providing verifiable proof of submission. The Court appears to have overlooked these facts when granting Respondent's motion to dismiss, thus leading to an unjust result.
- 2. The Court's October 16, 2024, Order Lacks Specificity and Is Vague:** The Court's order dismissing the appeal fails to clearly identify the specific deficiencies in the Record on Appeal that purportedly render it non-compliant. Without sufficient clarity in the order, Appellant has been left without guidance on how to correct the Record. Such vagueness impairs Appellant's ability to respond effectively and violates fundamental principles of due process, which require parties to be informed of the grounds for dismissal with particularity. Appellant respectfully requests that this Court clarify the order or, alternatively, permit Appellant to amend the Record upon receiving detailed instructions on what corrections are necessary.
- 3. The Court Should Have Permitted Appellant to Amend or Correct the Record on Appeal:** Even assuming arguendo that the Record on Appeal was incomplete or non-compliant, the dismissal of the appeal was premature. Under South Carolina Appellate Court Rules, the Court should have granted Appellant the opportunity to correct any deficiencies. Procedural errors in compiling the Record are not uncommon and should not result in the immediate dismissal of a case where an opportunity to amend would ensure the case is heard on its merits. The Court's failure to allow for such an amendment is inconsistent with Rule 240, SCACR, and the principles of fairness and judicial economy.
- 4. Efforts to Obtain the Supersedeas Bond Hearing Transcript Were Ignored:** Appellant made diligent efforts to obtain the transcript of the Supersedeas Bond hearing, which was essential for completing the Record on Appeal. Multiple requests were

submitted to the lower court's office via email, but no response was received. This procedural irregularity, which was not within the control of the Appellant, further contributed to the alleged deficiencies in the Record. Dismissing the appeal under such circumstances unjustly penalizes Appellant for external factors and warrants reconsideration by the Court.

5. **The Court's Reliance on Rule 210(c) Was Misapplied Given Appellant's Compliance Efforts:** The Court's dismissal under Rule 210(c), SCACR, appears to have been based on a misunderstanding of the factual record. Appellant complied with Rule 209 in designating and submitting all relevant materials to the Master in Equity's office. Any perceived deficiencies were either caused by the lower court's failure to provide requested documents or by misunderstandings that should have been remedied through an opportunity to amend the Record rather than by dismissal.

LEGAL ARGUMENTS AND AUTHORITIES

1. **Rule 240, SCACR - Right to Amend:**

Appellant should have been permitted to amend or correct the Record on Appeal in accordance with Rule 240, SCACR. Dismissing the appeal without offering such an opportunity disregards the preference for deciding cases on their merits rather than procedural technicalities. Judicial economy is best served when parties are allowed to cure deficiencies, especially when the failure to do so is not deliberate.
2. **Due Process and Judicial Fairness:**

The Court's vague order has prejudiced Appellant by failing to provide sufficient notice of the Record's purported deficiencies. Due process requires clear and specific findings before imposing such a severe consequence as dismissal. The lack of particularity in the October 16, 2024, order constitutes a denial of due process, warranting rehearing and clarification.
3. **Equitable Considerations:**

Appellant has made diligent efforts to comply with the procedural rules governing appeals. The issues surrounding the missing Supersedeas Bond hearing transcript were outside of Appellant's control, and Appellant should not be penalized for these procedural obstacles. Granting the Petition for Rehearing would serve the interests of justice and provide Appellant with the opportunity to perfect the Record on Appeal in accordance with the Court's specific guidance.


RELIEF REQUESTED

For the reasons stated above, Appellant respectfully requests that this Honorable Court grant this Petition for Rehearing, vacate the dismissal order dated October 16, 2024, and reinstate the appeal. In the alternative, Appellant requests that this Court provide detailed instructions regarding the alleged deficiencies in the Record on Appeal and allow Appellant the opportunity to amend the Record to address those deficiencies.

CONCLUSION

Appellant respectfully submits that the Court's decision to dismiss the appeal on October 16, 2024, due to a non-compliant Record on Appeal was based on a misapprehension of the facts and procedural compliance. Moreover, the Court's order was vague and failed to provide specific guidance on how to remedy the alleged deficiencies. For these reasons, a rehearing is warranted, and Appellant should be permitted to amend the Record or have the appeal reinstated. Appellant further submits that granting this Petition for Rehearing is in the interest of justice.

Oct 24, 2024



DeWayne Sykes
1953 Jacksonville Road
North Charleston, South Carolina 29405
(843) 345-9870
In Propria Persona

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Case No. 2022-CP-10-03492
Appellate Case No.: 2023-001086

PVONE REO LLC

Respondent,

v.

Mary A. White et al,


Appellant.

PROOF OF SERVICE

I certify that I have served the Notice John Dodds III, Stephen Peterson Groves, Kelly Woody by depositing a copy of it in the United States Mail, Postage prepaid, on October 25, 2024, addressed to its attorney of record, 858 Low county Bld ste, 101, Mt, Pleasant, South Carolina 29464, 25 Calhoun street, Suite 250 Charleston, South Carolina 29401 , and P.O. Box 6432, Columbia SC 29260.

October 25, 2024

Sincerely,


DeWayne A. Sykes
1953 Jacksonville road
N. Charleston, South Carolina 29405
(843) 345-9870
Appellant

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Master In Equite
Attn: Mikell R. Scarborough
100 Broad St Ste 266
Charleston, SC 29401-2213



9590 9402 8025 2305 7832 23

2. Article Number (Transfer from service label)

RE 821 109 950 US

COMPLETE THIS SECTION ON DELIVERY

A. Signature
[Handwritten Signature]
 Agent
 Addressee

B. Received by (Printed Name) *L.D. Noles* C. Date of Delivery *4-19-23*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- Adult Signature
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 - Certified Mail®
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 - Collect on Delivery
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 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Sent from my Galaxy

----- Original message -----

From: sykesd2000 <sykesd2000@yahoo.com>

Date: 3/18/24 5:56 AM (GMT-05:00)

To: jBoehm@charlestoncounty.org

Subject: RE: Transcript hearing 3-04-2024 2022-CP-10-03492

Hello

I'm requesting a copy of the transcript for the hearing PVone reo llc v. Mary White 2022-CP-10-03492

Sent from my Galaxy

----- Original message -----

From: sykesd2000 <sykesd2000@yahoo.com>

Date: 7/29/23 12:18 PM (GMT-05:00)

To: "Josie A. Boehm"

<JBoehm@charlestoncountv.orgJBoehm@charlestoncountv.org

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SC Court of Appeals

**LETTER TO THE APPELLATE COURT CLERK
FILING THE NOTICE OF APPEAL**

October 24, 2024

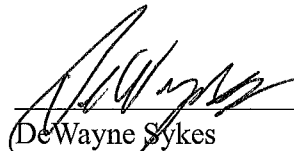
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: PVone REO LLC v. Mary A White et al, Case No. 2022-CP-10-03492

Dear Ms. Kitchings:

Enclosed for filing is an Appellant PETITION FOR REHEARING, Certificate of Service, Registered mail to Master in Equity, and email for request for transcript on the respondent.

- (1) Appellant PETITION FOR REHEARING
- (2) Certificate of Service
- (3) Registered Mail card to Master in Equity
- (4) Email for request for transcript



DeWayne Sykes
1953 Jacksonville Road
North Charleston, South Carolina 29405
(843) 345-9870
In Propria Persona

CC: John Dodds III

858 Low County Bld ste, 101, Mt, Pleasant, South Carolina 29464

Stephen Peterson Groves
25 Calhoun street, Suite 250 Charleston, South Carolina 29401

Kelly Woody
P.O. Box 6432, Columbia SC 29260