

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Benjamin Culbertson  
Circuit Court Judge

Case No.: 2024-CP-40-03048

James Earl Jordan ..... Respondent,

v.

Derrick Williams and Genell Williams ..... Appellants.

**Motion to Dismiss Appeal**

Respondent James Earl Jordan moves to dismiss the appeal of Appellants Derrick Williams and Genell Williams. As set forth below, this motion should be granted and the appeal should be dismissed because Appellants failed to timely file the notice of appeal with the Richland County Clerk of Court pursuant to Rule 203 of the South Carolina Appellate Court Rules.

**Procedural History**

Respondent filed an action to vacate against Appellants in May 2023 in the Hopkins Magistrate Court. The parties appeared at a Virtual Bench Trial on October 25, 2023. At the trial, the parties negotiated a settlement agreement wherein Appellants would vacate the property within ninety (90) days and remove the mobile home by January 15, 2024. The parties also

agreed that Appellants would pay \$150 per month while remaining on the Property. The agreement between the parties was noted on the record in the Hopkins Magistrate Court. Appellants did pay Respondent \$150 per month for three (3) months, but did not adhere to the agreement to vacate and continued to live in their mobile home on the Property. Respondent filed an action in the Court of Common Pleas on May 16, 2024 to enforce the agreement as stated on the record in the Magistrate Court and to compel Appellants to vacate the Property and remove the mobile home.

A hearing was held on September 5, 2024 on Plaintiff's Motion for Preliminary Injunction. The Court of Common Pleas subsequently granted Plaintiff's Motion and the Order granting such motion was filed with the Court of Common Pleas on September 18, 2024. The Order required Defendants to vacate the property and remove the mobile home within five (5) days of service of the Order on their counsel; however, Defendants still have not vacated the property or removed the mobile home. Plaintiff filed for a Writ of Assistance with the Court of Common Pleas on October 7, 2024. Defendants/Appellants filed a Notice of Appeal only with the Court of Appeals on October 18, 2024, and have failed to file the Notice of Appeal with the lower court, as required by Rule 203, SCACR.

### **Argument**

Rule 203 of the South Carolina Appellate Court Rules sets forth service and notice requirements for a party intending to appeal. Specifically, Rule 203(d)(1)(A) provides that the notice of appeal from the Circuit Court, Family Court, and Probate Court, in specific cases set forth in subsections (i)-(vi), shall be filed with the clerk of the lower court and with the Clerk of the Supreme Court. In all other cases, including the present litigation, this Rule maintains that the notice of appeal must be filed with the clerk of the lower court and with the Clerk of the Court of

Appeals within ten (10) days after the notice of appeal is served. *Id.* If the notice of appeal is not timely filed, then the appeal shall be dismissed. Rule 203(d), SCACR.

Appellants filed a Notice of Appeal with the South Carolina Court of Appeals on October 18, 2024, and served the Notice of Appeal on Respondent on October 18, 2024. Pursuant to Rule 203 of the South Carolina Appellate Court Rules, Appellants had ten (10) days from the date of service to file the Notice of Appeal with the clerk of the lower court. However, Appellants failed to timely file with the Richland County Clerk of Court. Therefore, the appeal should be dismissed.

MOORE BRADLEY MYERS LAW FIRM, P.A.

By: *s/William H. Edwards*

William H. Edwards, SC Bar No. 71199

1700 Sunset Boulevard

West Columbia, SC 29169

Phone: 803-796-9160

Email: will@mbmlawsc.com

*Attorney for Respondent*

West Columbia, South Carolina

November 4, 2024

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SC Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
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**Proof of Service**

I, Madison B. Kelly, a law clerk with the Moore Bradley Myers Law Firm, P.A., certify that I have served the Motion to Dismiss Appeal on Derrick Williams and Genell Williams by transmitting a copy of the same via email addressed to their attorney of record, G. Robin Alley, on November 4, 2024.

  
Madison B. Kelly

November 4, 2024

## Madison B. Kelly

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**From:** Madison B. Kelly  
**Sent:** Monday, November 4, 2024 9:53 AM  
**To:** 'gra@isaacsandalley.com'  
**Cc:** 'dawna@isaacsandalley.com'; Will Edwards  
**Subject:** Respondent's Motion to Dismiss Appeal; Jordan v. Williams; Case No.: 2024-CP-40-03048  
**Attachments:** Motion to Dismiss Appeal.pdf

Good morning:

Please find attached Respondent's Motion to Dismiss Appeal in the above-referenced matter. This Motion and the Proof of Service will be filed with the Court of Appeals shortly.

Thank you,

Madison B. Kelly  
Law Clerk



1700 Sunset Boulevard  
West Columbia, South Carolina 29169  
803-796-9160 – office  
803-791-8410 – fax  
madison@mbmlawsc.com