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Dec 20 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2024-001184
Case No. 2023-CP-23-2900

Otis Owens,..... Appellant,

v.

Sheriff Michael Hunt, in his official capacity, Deputy Matthew Gibson,
Certain Underwriters at Lloyd's, London subscribing to Policy No.
PK1022716, Brit Global Specialty USA d/b/a Brit Global RiverStone
Insurance Limited, Riverstone International, and Robbie Vaughn..... Respondent.

**RESPONDENTS HUNT AND GIBSON’S RETURN
IN OPPOSITION TO MOTION TO REINSTATE APPEAL**

The Appellant Otis Owens has filed a Motion to Reinstate Appeal. The Respondents Michael Hunt and Matthew Gibson oppose the motion.

By way of background, the Appellant filed his Notice of Appeal on July 19, 2024. Rule 207(a)(1), SCACR, using the mandatory language “must,” states as follows: “In appeals from the court of common pleas ..., the transcript must be ordered within ten (10) days after the date of service of the notice of appeal.” Rule 207(a)(1), SCACR. The Appellant’s Notice of Appeal was served on July 22, 2024. Thus, the Appellant had until August 1, 2024, to timely order the

motion hearing transcript. However, the Appellant did not order the transcript until more than a month later on September 10, 2024. The Plaintiff never sought any extension of that deadline.

Thereafter, the Appellant never notified the Court nor the Respondents' counsel of the date that the transcript was actually received. That date, of course, triggers the thirty-day deadline for the Appellant to file his initial brief. Accordingly, the Clerk of Court issued her November 14, 2024 letter requesting the Appellant to "advise the Court of the status of the transcript within ten (10) days of this letter, or your appeal will be dismissed."

On November 22, 2024, Candie Edwards, a paralegal with the law firm representing the Appellant, sent an email to the Clerk of Court of Appeals, which copied the undersigned counsel for Sheriff Hunt and Gibson, but did not copy William Silverman, who represents the other Respondents. That email dated November 22, 2024, states:

Pursuant to Section (b)(2) of the Supreme Court's Order RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as Amended May 6, 2022), please find enclosed for filing the **Court Requested Transcripts and the Proof of Service** in the above referenced matter. In accordance with Section (d)(1) of this same Order, by copy of this email, counsel for the respondent is being served.

That email, while sent within ten days of the November 14, 2014 letter, was not responsive to that letter. That email, which was not sent by the Appellant's counsel but rather a paralegal, attempted to file the actual transcript of the motion hearing, but identified the wrong case for that filing. That email, however, did not give the status of the transcript as requested, and at that point, the transcript had obviously been received by the Appellant's counsel and was in his possession. Yet, the Appellant never advised the Court *as to the date that the transcript had been received*. Without that information, the Court cannot determine when the Appellant's initial brief was due to be filed. In other words, neither the Court, nor the Respondents, were

able to determine whether the Appellant’s initial brief was overdue at that point. In addition to failing to provide the date of receipt of the transcript, there was no attempt by the Appellant to serve the initial brief or to advise the Court and the Respondents as to the actual deadline for the initial brief.

In sum, while the Appellants’ counsel’s paralegal attempted to forward the transcript itself on November 22, 2024, the Appellant never advised the Court, as requested, as to the status of the transcript and, if received, the date that the transcript was received. The Appellant has now filed a “motion to reopen appeal”; however, it is important to recognize that the Appellant *has still not provided the requested information to this Court* – that being the date that the transcript was received from the court reporter. The current motion does not provide that requested information. And, without that date, the Court and the Respondents cannot determine when the thirty days for filing the initial brief began to run or, more importantly, whether that initial brief was due to be filed prior to the Order that administratively dismissed the appeal on December 5, 2024. The record already shows that the Appellant failed to timely request the transcript (which request was due by August 1, 2024). The record also does not show that the Appellant’s deadline for filing his initial brief had not already expired by December 5, 2024, and hence the administrative dismissal should stand. The transcript does not include a preparation or certification date¹ nor the service date on the Appellant’s counsel. Likewise, the Appellant has presented no evidence as to the date the transcript was received from the court reporter, such as the transmittal email from the court reporter. Because the Appellant has still not provided the Court with the information requested in the November 14, 2024 letter to show that he did not

¹ The court reporter’s signature on the “Certificate of Transcriber” is not dated.

miss the deadline for filing his initial brief, the Respondents Hunt and Gibson oppose the Appellant's motion.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

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Counsel for Respondents Hunt and Gibson

December 20, 2024

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PK1022716, Brit Global Specialty USA d/b/a Brit Global RiverStone
Insurance Limited, Riverstone International, and Robbie Vaughn..... Respondent.

CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court’s Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Respondents Hunt and Gibson, does hereby certify that service of the **Respondents Hunt and Gibson’s Return in Opposition to Motion to Reinstate Appeal** in the above-captioned matter was made upon all counsel of record by email only this the 20th day of December 2024, as follows:

Joshua T. Hawkins, Esquire
Helena L. Jedziniak, Esquire
Hawkins & Jedziniak, LLC
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William W. Silverman, Esquire
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s/ Andrew F. Lindemann



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**Also Admitted in North Carolina*

December 20, 2024

Via Email Only

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Otis Owens v. Sheriff Michael Hunt, in his official capacity, Deputy Matthew Gibson, Certain Underwriters at Lloyd's, London subscribing to Policy No. PK1022716, Brit Global Specialty USA d/b/a Brit Global, RiverStone Insurance Limited, RiverStone International, and Robbie Vaughn
Appellate Case Number: 2024-001184
Civil Action Number: 2023-CP-23-2900
Our File Number: 333.20693

Dear Ms. Kitchings:

Pursuant to Section (b)(2) of the Supreme Court's Order Re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), please find enclosed for filing the **Respondents Hunt and Gibson's Return in Opposition to Motion to Reinstate Appeal** with regard to the above referenced matter.

By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order. If you have any questions, please advise.

Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

A handwritten signature in blue ink, appearing to read 'A. Lindemann', is written over a light blue horizontal line.

Andrew F. Lindemann

AFL/jmb
Enclosure

cc: Joshua T. Hawkins, Esquire (*w/ Enclosure, Via Email Only*)
Helena L. Jedziniak, Esquire (*w/ Enclosure, Via Email Only*)
William W. Silverman, Esquire (*w/ Enclosure, Via Email Only*)
William H. Davidson, II, Esquire (*w/ Enclosure, Via Email Only*)