RECEIVED
Jun 16 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
H. Steven DeBerry, Circuit Court Judge

Civil Case No. 2022-CP260-5492
Appellate Case No. 2023-001580

Rose Bernard, Appellant
v.
Lucas Green; Aperture Investigations, Respondent

MOTION for LEAVE OF COURT
TO
ADD COURT RULING and AMEND MOTION

I guess I forgot that this Appellate Court probably would not have my case memorized and I forgot to add the Ruling from which I am asking Reconsideration. I also wanted to add a paragraph from my original appeal that I also forgot to add to my final Motion copy that had already been sent in on Friday, June 13, 2025.

I would like to add the following sentences to the end of paragraph 10 of my Motion for Reconsideration:

I filed my Motion in person and inquired with the Clerks about the default request and they informed me that the Default Request was not assigned to anyone yet. I asked if they would give my Motion to the same judge that will get the Default Request.

Respectfully,

Date: June. 16, 2025

/s/ Rose Bernard
Rose Bernard; Pro Se Appellant
843-443-5825
830 Bay St., Apt. 2, Myrtle Beach, SC 29577

RECEIVED
Jun 16 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
H. Steven DeBerry, Circuit Court Judge

Civil Case No. 2022-CP260-5492
Appellate Case No. 2023-001580

Rose Bernard, Appellant

v.

Lucas Green; Aperture Investigations, Respondent

AMENDED MOTION TO RECONSIDER
AFFIRMED RULING

DUE PROCESS / EQUAL PROTECTION OF THE 14TH AMENDMENT

1) I know of no law nor precedent stating my rights for reconsideration and the only concept that has come to my attention is that the right to ask reconsideration is solely dependent on this Court's discretion.

2) This court has ruled that a pro se person is responsible to know procedure rules equivalent to that of an attorney (generally). This precedent was based on effort to understand what procedure rules mean in a court of law. It doesn't require the pro se person to know the laws, but only to make an effort to understand and apply applicable procedure and be responsible to those applications. Pro Se people make mistakes the same as any attorney (or client), who may ask for leniency from a court

based on applicable procedure. Pro Se people should not be held to a higher standard than that of an attorney.

3) This Court ruled on my Appeal stating that I have not reserved my motion for appeal purposes. Hence, jurisdiction is an issue. I will attempt to address this concept in the following paragraphs.

RESPONDING TWICE TO COUNTERCLAIM and surrounding concepts

4) At the Jan. 23rd, 2023 ADR hearing, Respondent said many things about what I didn't do which included that I didn't send proper Notice of my Complaint to his client when Mr. Green and Aperture are one and the same who happen to share the same address, in this instance. He mentioned to the presiding, honorable Judge DeBerry that I didn't respond to his counterclaim. In turn, Judge DeBerry instructed me to respond to the counterclaim.

5) Since this was not a topic that was on motion to be heard on that day, my thoughts went to thinking about why I was instructed to respond. As I had thought; among other things, the judge read my ADR motion and didn't think my comment was sufficient. Hence, on Feb.1, 2023, I filed another response that was titled. The judge knew he never asked me whether I responded to the counterclaim or not.

6) After receiving Notice of the default judgement request, some of my initial thoughts were that I was tricked by both the attorney on file for Respondent and the judge for purposes of validation that I had not responded initially to the counterclaim. There was no way for me to tell with certainty why the topic was even brought up at the ADR hearing, had it been a certain right for the defendant.

I WAS EXPECTING A HEARING / RULTE 55 VAGUENESS

7) Plain concepts should be utilized in the legal community as opposed to legal jargon or slang that a pro se person could not interpret immediately. I couldn't find case law directly addressing this matter but there are case laws about ambiguous language and that plain language is favored in SC Courts. For example, a recent blog states:

> "Clear Language Wins the Day: Court Rules Ambiguity Favors Policyholders
> By: adminOn: 03/13/2025 19:49:16In: Blog Posts
> May 13, 2025 by Chip Merlin, Merlin Law Group

Clear language in insurance policies matters. When insurers draft ambiguous provisions, courts are required to interpret them in favor of policyholders. A recent Fourth Circuit ruling in favor of JW Aluminum proves just that. The case centered on a $35 million loss, with insurers attempting to cap coverage at $10 million under a vague “Molten Material” provision. But the court saw through the ambiguity, reinforcing a fundamental rule: Unclear policy language works against the insurer—not the policyholder." (htps://www.gapia.org/blog_home.asp?Display=57)

8) There are two parts to Rule 55 for entry of default judgement. the first; Rule 55 (b)(1), is solely for monetary damages of certainty and the second part; Rule 55 (b)(2), is for everything else.

9) I received notice of the default judgement request by mail (Sat., 03/04/23[?]) and only had a couple of days to file Motion to Set Aside because the affidavit of default did not state specifically which part of Rule 55 Respondent was following but only that he was filing under Rule 55(R. p. 58, par4). I didn't have a copy of the proposed order.

10) So, while Rule 55(b)(1) for monetary awards, doesn't mention when to send Notice, Rule 55 (b)(2) for all else, states to send notice ..." written notice of the motion or application for judgment at least 3 days prior to the hearing on such application." Then Rule 55 (c) states a default request can be set aside before an entry is made. As a result, there wasn't much time to research or articulate because I didn't know what was going on or what to expect, other than a hearing date if application was made before judgment within the 3 day deadline. I filed my Motion in person and inquired with the Clerks about the default request and they informed me that the Default Request was not assigned to anyone yet. I asked if they would give my Motion to the same judge that will get the Default Request.

11) I filed my Motion to Set Aside on March 8 and Judgement against me was entered on March 9. I do not know if the defendant improperly sent notice because research on other issues concerning my right to be heard; as well as other responsibilities, took precedent over some of the defendant's actions. On page 2 of Form 4 for the default Order, the additional info confirms: "This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered" (R p. 13).

12) I couldn't tell what the default judgement was based on. What I had always thought was that I should have had a hearing based on Rule 55(b)(2) that mandates notice to be sent 3 days prior to a hearing date. This would be a mandatory right.

MOTION TO SET ASIDE begs explanation as well as proof

13) As mentioned above, I only had a couple days to file in order to meet the 3 day deadline of Rule 55(b)(2), which didn't provide much time for research or articulate in a more suitable manner and I was expecting a hearing date.

14) However, in my Motion to Set Aside, I did emphasize that I had responded to the counterclaim(R p. 53 par 2b), there was something very wrong about his answer / counterclaim (R. pgs. 53-54) and that some of "Defendants' paperwork / responses filed in the court were meant to be deceptive upon the Court." (R p. 54 par. 3c)

15) After a pro se person's complaint had been dismissed w/o allowing him an opportunity to speak / present evidence, The United States Supreme Court held in Haines v. Kerner, 404 U.S. 519 (1972):

"...allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient to call for the opportunity to offer supporting evidence. We cannot say with assurance that under the allegations of the pro se complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, it appears [404 U.S. 519, 521] "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45 -46 (1957). See Dioguardi v. Durning, 139 F.2d 774 (CA2 1944)."

16) I am a person who filed a complaint, filed a motion to be removed from ADR, responded to the judge when he asked me questions at the ADR hearing and followed his instruction to provide a response to the defendant even though I was never asked if I had or not. The topic wasn't even on motion to be heard in court that day. Clearly I made a mistake of some kind. But I wouldn't know why the topic was even brought up and I wouldn't know why one would not contemplate why I would just throw caution to the wind since I had arrived at the ADR hearing.

17) From the onset of speaking, I have been made to think and feel that my complaint about the opposition's counterclaim was a bad thing (putting it lightly). LIke it held neither water nor interest and was shunned by the legal community. This of course, influenced me to not be able to verbally express a complete complaint. The other day, as I was looking into information, I had posed a question to AI microsoft search engine.

"Reciting claims in [my] Complaint as a counterclaim could be considered professional misconduct if the lawyer intentionally violates legal obligations or professional standards." (Microsoft Bing answer [to my question] based on Office of Professional Responsibility (OPR) of the U.S. Department of Justice)

18) I am not responsible for other peoples' livelihoods, I shouldn't have to know the tricks of the trade and should not have to move with the same speed as attorneys, as well.

For the reasons stated above, Appellant, Rose Bernard, asks this Court to Reconsider the affirmed ruling and reverse the default judgement.

Respectfully,

Date: June. 16, 2025

/s/ Rose Bernard

Rose Bernard
843-443-5825
830 Bay St., Apt. 2, Myrtle Beach, SC 29577
Pro Se Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Rose Bernard, Appellant,

v.

Lucas Green; Aperture Investigations, Respondents.

Appellate Case No. 2023-001580

Appeal From Horry County
H. Steven DeBerry, IV, Circuit Court Judge,
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2025-UP-177
Submitted May 1, 2025 – Filed June 4, 2025

AFFIRMED

Rose Bernard, of Myrtle Beach, pro se.

Luther O. McCutchen, III, of McCutchen Vaught Geddie & Hucks, P.A., of Myrtle Beach, for Respondents.

PER CURIAM: Rose Bernard appeals an order entering default judgment against her in the amount of $1,812.00 and an order dismissing her motion to set aside the default judgment. On appeal, she argues the circuit court erred when it denied her motion to set aside the default judgment pursuant to Rules 55(c) and 60(b) of the

South Carolina Rules of Civil Procedure. We affirm pursuant to Rule 220(b), SCACR.

We hold Bernard's argument is not preserved for appellate review because she failed to make her argument with sufficient specificity before the circuit court. *See State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003) ("A party need not use the exact name of a legal doctrine in order to preserve it, *but it must be clear that the argument has been presented on that ground*." (emphasis added)); *Malloy v. Thompson*, 409 S.C. 557, 561, 762 S.E.2d 690, 692 (2014) ("The issue must be sufficiently clear to bring into focus the precise nature of the alleged error so that it can be reasonably understood by the judge."). In her motion to set aside Respondents' default judgment request and at the hearing, Bernard did not cite Rules 55(c) or 60(b) and did not specifically refer to "good cause" or any grounds within Rule 60(b) to support relief from default judgment.[1] *See* Rule 55(c), SCRCP ("For good cause shown the court may set aside an entry of default . . . ."); *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009) ("This standard requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice."); Rule 60(b), SCRCP ("On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application."); *cf. Sundown Operating Co.*, 383 S.C. at 608, 681 S.E.2d at 888 (stating "Rule 60(b) requires a more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or 'other

---

[1] Before the entry of default judgment, Bernard moved to set aside Respondents' default judgment request. At a hearing that occurred nearly six months after the entry of default judgment, Bernard orally moved to dismiss the default judgment. In her appellate brief, Bernard states her "Motion Dismiss/Set Aside Default, [which] was meant to be considered before the default judgment, was transitioned into becoming a motion for Rule 60(b) consideration." Thus, we address both of Bernard's motions as one.

misconduct of an adverse party'" to obtain relief from default judgment rather than to obtain relief from default under Rule 55(c)).

Further, we hold Bernard's argument is not preserved for appellate review because the circuit court did not rule on whether Bernard was entitled to relief under Rules 55(c) or 60(b). *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("[A]n issue . . . must have been raised to and ruled upon by the trial judge to be preserved for appellate review."). The circuit court dismissed Bernard's motion and, in its order, explained it dismissed her motion because it failed to comply with the South Carolina Rules of Civil Procedure. Thus, the circuit court did not reach the argument presented by Bernard on appeal. In addition, Bernard did not file a motion to reconsider pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure arguing she had moved to set aside the entry of default and default judgment pursuant to Rules 55(c) and 60(b) so the circuit court could rule on her argument. *See Doe v. Roe*, 369 S.C. 351, 376, 631 S.E.2d 317, 330 (Ct. App. 2006) ("An issue is not preserved where the trial court does not explicitly rule on an argument and the appellant does not make a Rule 59(e) motion to alter or amend the judgment.").

AFFIRMED.[2]

KONDUROS, MCDONALD, and VINSON, JJ., concur.

[2] We decide this case without oral argument pursuant to Rule 215, SCACR.

RECEIVED
Jun 16 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
H. Steven DeBerry, Circuit Court Judge

Civil Case No. 2022-CP260-5492
Appellate Case No. 2023-001580

Rose Bernard, Appellant

v.

Lucas Green; Aperture Investigations, Respondent

PROOF OF SERVICE

I confirm that I have served the Motion for Leave and Amended Motion to Reconsider in PDF format on Lucas Green; Aperture Investigations, by emailing a copy of the documents to his attorney of record, Luther O. McCutchen, thru his assistant; J. G. Reynolds at jgr@lawyersatthebeach.com, on Jun. 16, 2024.

Respectfully,

Date: June. 16, 2025

/s/ Rose Bernard
Rose Bernard; Pro Se Appellant
843-443-5825
830 Bay St., Apt. 2, Myrtle Beach, SC 29577