

STATE OF SOUTH CAROLINA,)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Ned Gregory,)
)
Plaintiff,)
)
vs.)
)
Howell Jackson Gregory,)
)
Defendant.)
_____)

Case No. 2002-CP-26-1706

ORDER

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CLERK OF COURT

Defendant's motion filed July 1, 2013 came before me for hearing on October 14, 2013. Ned Gregory and his attorney, Palmer Freeman, were present as was Defendant, who appeared *Pro Se*. For reasons stated below, the Court denies Defendant's latest motion.

BACKGROUND:

In 2006, Ned Gregory obtained judgment against Jack Gregory.

In 2012, Jack Gregory moved under Rule 60, SCRPC, to have the amount of the judgment reduced. The motion was denied.

On April 1, 2013, Jack Gregory filed a Rule 59(e), SCRPC motion. In this motion, he asked that I reconsider denial of his Rule 60 motion. A hearing was held on that motion on April 25, 2013. Defendant, as the moving party, was required to retain a court reporter. He employed Prestige Court Reporting, Inc. and a court reporter from that company attended and transcribed the hearing.

The Court ruled on Defendant's second motion on May 15, 2013. That order clarified the amount of the judgment and ordered the amount of the judgment be reduced from \$45,087.47 to \$37,490.44.

QHT

On July 1, 2013, Jack Gregory filed a second Rule 59(e), SCRCP motion. This motion was heard October 14, 2013. Defendant again retained the services of Prestige Court Reporting, Inc.

Before the October 14 hearing commenced, the Court asked Defendant if he had paid the court reporter for the April 25, 2013 hearing. Defendant replied he had not. He said he had made arrangements to pay and would do so shortly.

The Court then asked the amounts due Prestige Court Reporting for the April hearing and this hearing. The court reporter's charges for the April hearing were \$92.50 and the charges for the current hearing was \$75.00.

DECISION:

I. The Rule 59 Motion is Inappropriate.

The current motion again asks the Court to reduce the amount of the judgment against Defendant. This is the same relief sought in Defendant's first and second post trial motions.

A party may not file successive Rule 59 motions seeking review of a decision. *See, e.g., Quality Trailer Products v. CSL Equipment Co., 349 S.C. 216, 562 S.E.2d 615 (2002), Coward Hund Const. Co. v. Ball Corp., 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999).*

In *Elam v. S.C.D.O.T., 361 S.C. 9, 602 S.E.2d 772 (2004)*, the Supreme Court clearly stated the following rule:

A second motion for reconsideration under Rule 59(e) is appropriate only if it challenges something that was altered from the original judgment as a result of the original motion for reconsideration.

Id. at 775.

Defendant's most recent Rule 59 motion does not challenge the change to the judgment

made in the May 15, 2013 order. Indeed, that change was in Defendant's favor. Instead, Defendant's July 1, 2013 motion seeks, for a third time, a reduction of the 2006 judgment.

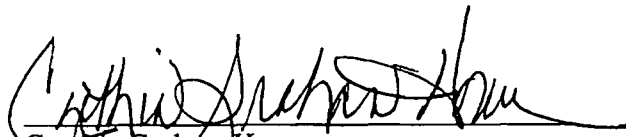
Under *Elam*, quoted above, this motion is inappropriate. Defendant should have appealed if he did not agree with the Court's last decision.

II. The Court Reporter's Fees Must Be Paid

Defendant must pay Prestige Court Reporting, Inc. \$167.50 within ten (10) days of this Order. Of this, \$92.50 is for the hearing on April 25, and \$75.00 is for the hearing on October 14, 2013.

If the court reporter is not paid within ten (10) days, Defendant ^{can} ~~is~~ ^{may be held} in contempt.

SO ORDERED:


Cynthia Graham Howe
Horry County Master-in-Equity

October 17, 2013.