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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge
Trial Court Case No. 2022-CP-42-01677

Appellate Case No. 2023-001360

Taylor Chasey Robertson,

Appellant,

v.

South Carolina Department of Public Safety, South Carolina Highway Patrol, and Trooper Patrick J. Goshorn,

Respondents.

APPELLANT'S PETITION FOR REHEARING

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Appellant, Taylor Chasey Robertson, hereby submits this **Petition for Rehearing**.

> Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing . . . shall state with particularity the points supposed to have been overlooked or misapprehended by the court.

Rule 221 (a), SCACR.

This Court issued an opinion in this matter February 4, 2026, *Taylor Chasey Robertson v. South Carolina Department of Public Safety, South Carolina Highway Patrol, and Trooper Patrick J. Goshorn*, Appellate Case Number 2023-001360, Unpublished Opinion No. 2026-UP-047 (filed February 4, 2026) (herein: "Opinion"). Appellants' Petition for Rehearing is based upon four grounds: (1) this Court did not analyze the case under the standard of substantial compliance as to the rules of service; (2) this Court's failure to analyze this case under the standard for substantial compliance contradicts the previous Courts' approach to rules of service cases over the past thirty years; (3) this Court's own analysis to support its finding includes a quote that is derived from cases involving substantial compliance, and (4) this Court overlooks both the lower court's and Respondents' conflation of Rules 4(d)(3) and 4(d)(5) without legal or logical justification.

I. DESPITE ACKNOWLEDGING THAT THE APPELLANT'S PRIMARY ARGUMENT IS THAT SHE "SUFFICIENTLY COMPLIED" WITH THE RULES OF SERVICE, THIS COURT APPEARS TO HAVE MADE ITS DECISION BASED ON AN ANALYSIS UNDER AN "EXACTING COMPLIANCE" STANDARD.

Appellant respectfully suggests that this Court did not analyze this case based upon Appellant's argued issue, as acknowledged by the Court, and instead oversimplified the case, analyzing it under a strict reading of the statute. As the Court stated in its Opinion, Appellant

"argues the circuit court erred in [] dismissing her claims against SCDPS and SCHP for improper service of process because she **sufficiently complied** with the rules on service when she served the complaint on an agency sharing an address with SCDPS[.]" (emphasis added).

To be clear, Appellant acknowledges that the process server served the summons and complaint on an individual that, unbeknownst at the time to both Appellant and the process server, worked for a different state agency—the SCDMV— and was situated at an unmarked desk in the lobby area in the building that the SCDMV shared with the SCDPS, in a location of the lobby closest to the SCDPS entrance. The fact that an employee of the SCDMV was served is not in dispute. However, whether or not an employee of the SCDPS was directly served with service of process is not the issue to be decided.

This Court acknowledged and was asked to determine whether or not Appellant *sufficiently complied* with the South Carolina Rules of Civil Procedure, Rule 4(d)(5). The degree of "compliance" is very much a nuanced one, and Appellant fears that the Court has overlooked this distinction. Appellant concedes that there was not *exacting* compliance with the Rule, but contends that she did *sufficiently* comply in order to adequately effect service. In its Opinion, this Court did not address any aspect of sufficient compliance (other than it being the primary issue posed by the Appellant) and effectively ignored every argument made by the appellant as to the same. Further, there is nothing in the Opinion to suggest that this Court inquired as to whether the Appellant/Plaintiff sufficiently complied with the rules such that the court has personal jurisdiction of the Respondent/Defendant and the same has notice of the proceedings.

It appears that this Court construed SCRCP Rule 4(d)(5) narrowly and strictly, i.e., as though "exacting compliance" was the standard. While this is proper for some rules (depending

on the rule itself and corresponding caselaw), interpreting a subsection of Rule 4(d) in this manner is wholly inconsistent with service of process jurisprudence in this state, especially over the last thirty-plus years.

II. BY APPARENTLY ANALYZING THIS CASE UNDER AN "EXACTING COMPLIANCE" STANDARD, THIS COURT OVERLOOKED AND EFFECTIVELY IGNORED THE MANNER IN WHICH SOUTH CAROLINA APPELLATE COURTS HAVE ANALYZED SERVICE OF PROCESS CASES IN THE LAST THIRTY-PLUS YEARS.

While the rules on service of process have been analyzed by the Court extensively over the years, an analysis of what constitutes proper service under Rule 4(d)(5) **is a matter of first impression**. In this vein,

> [T]he Court is free to decide the question with no particular deference to the lower court. The Court must decide the question based on its assessment of which answer and reasoning best comport with the law and public policies of this state and the Court's sense of law, justice, and right.

Mims Amusement Co. v. S.C. L. Enf't Div., 366 S.C. 141, 145, 621 S.E.2d 344, 346 (2005).

There's nothing just about taking an overly technical view of the service requirements of Rule 4, especially where the purported technical default caused no prejudice to the Defendant and the purposes of service were otherwise satisfied. SCRCP Rule 1 states that the Rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." And in fact, the South Carolina appellate court opinions have actually taken precisely that approach to issues related to service of process, eschewing technical "gotcha" gamesmanship in favor of focusing on the policies and purposes underlying the service requirements.

Perhaps the case most articulate on this point is the *Roche* case, decided in 1995. In that case, the Court stated,

> [South Carolina has] never required exacting compliance with the rules to effect service of process. Rather, we inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings.

Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209-10, 456 S.E.2d 897 (1995).

The *Roche* court was referring to this state's long history of not taking a narrow view of service of process rules, citing *Foster v. Crawford* (57 S.C. 551, 36 S.E. 5, (1900) (when officer's return defective as to time and place of service, it can be amended to state facts)) and *Saunders v. Bobo* (2 Bailey 492 (1831) (sheriff's incomplete return that was not sworn to may be amended)) as examples.

The statement that "[e]xacting compliance with the rules is not required to effect service of process" has been quoted repeatedly in numerous appellate cases in South Carolina since *Roche*. See, e.g., *Richardson v. P.V., Inc*., 682 S.E.2d 263, 383 S.C. 610 (S.C. 2009); *Bage, LLC v. Southeastern Roofing*, 646 S.E.2d 153, 373 S.C. 457 (S.C. App. 2007) (quoting the principles from *Roche* and stating that "the efficacy and rationale behind the requirement for service of process—that the defendant has notice of the proceedings—has luculently been met in this case."); *Moore*, 322 S.C. at 523, 473 S.E.2d at 66 ("Rather, inquiry must only be made as to whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant, and the defendant has notice of the proceedings.").

The purpose behind requiring service is a simple one. The requirements of service do "not arise from an arcane or highly technical application of the rules. Rather, [the service requirements] serve[] an essential function—ensuring that notice is properly received by all entitled to it." *McCall v. IKON*, 363 S.C. 646, 655, 611 S.E.2d 315, 319 (Ct. App. 2005). "A suit at law is not a children's game, but a serious effort on the part of adult human beings to

administer justice; and the purpose of process is to bring parties into court." Id. at 652, 611 S.E.2d at 318 (quoting *Griffin v. Capital Cash*, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992)).

By ignoring the manner in which this state has historically analyzed service of process cases, this Court is denying the Appellant the opportunity to seek justice. This is ironic, given the authority this Court cited in its Opinion, and what those cases stood for.

III. THIS COURT'S OWN ANALYSIS IRONICALLY SUPPORTS A REVIEW OF THESE FACTS UNDER A STANDARD OF "SUBSTANTIAL COMPLIANCE", RATHER THAN "EXACTING COMPLIANCE.

In its Opinion—specifically in its analysis of whether or not service was proper—this Court cites *McClurg*, stating "[I]n order to establish that service has been properly effected, the plaintiff need only show **compliance** with the civil rules on service of process." *McClurg v. Deaton*, 380 S.C. 563, 579, 671 S.E.2d 87, 96 (Ct. App. 2008) (emphasis added). In making that statement, the *McClurg* court cited *McCall v. IKON* and *Moore v. Simpson* as its authoritative basis. The irony Appellant alludes to is that both of these cases cited by *McClurg* refer back to *Roche*'s ubiquitous statement on substantial compliance, that is:

> Exacting compliance with the rules is not required to effect service of process. Rather, inquiry must be made as to whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings.

Moore v. Simpson, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (Ct. App. 1996); *McCall v. IKON*, 363 S.C. 646, 651, 611 S.E.2d 315, 317 (Ct. App. 2005).

McClurg goes on to next say that "[w]hen these rules are followed, there is a presumption of proper service," citing the aforementioned *Roche* case. *McClurg* at 579. It is clear that the "compliance" contemplated by *McClurg* is not to be interpreted as "exacting", but

rather "substantial." Unfortunately, as noted previously, this Court has apparently overlooked this distinction and analyzed this case as though the Rules require exacting compliance. Accordingly, this Court has failed to acknowledge virtually every argument made by the Appellant in this case, including those involving misapplication of the Rules.

IV. THIS COURT APPARENTLY OVERLOOKS BOTH THE LOWER COURT'S AND RESPONDENTS' CONFLATION OF RULES 4(D)(3) AND 4(D)(5), WHICH WERE MADE WITHOUT LEGAL OR LOGICAL JUSTIFICATION.

The Order by the lower court dismissing this matter was very specific in its analysis of the rules of service as they pertain to state agencies. The Order states:

> Rule 4(d) provides that when a state agency is a defendant that service is made by delivering the Summons and Complaint to the officer or agency in keeping with Rule (d)(3), which provides that the Summons and Complaint be served to an officer, a managing or general agent, or an agent authorized by appointment of law to receive service of process.

Record on Appeal p. 8

Further, Respondents argue in their Final Brief:

> To personally serve SCDPS, Plaintiff was required to demonstrate that she delivered the Summons and Complaint to an employee of SCDPS who was authorized to accept such service on behalf of SCDPS.

Final Brief of Respondents, p. 12

Appellant addressed these in her Brief. There is absolutely nothing in any South Carolina case law, statutes, or the like that suggests that either statement is accurate, nor is any authority provided in order to support these claims. As for the lower court's statement, the only way 4(d)(3) would have any bearing on a State Agency would be if said agency was a corporation. This is directly addressed in the text of Rule 4(d)(5) itself (". . . If the agency is a corporation the

copy shall be delivered as provided in paragraph (3) of this subdivision of this rule."). Additionally, Respondents confirm in their brief that SCDPS is not a corporation (Final Brief of Respondents, p. 11)—then bafflingly argue on the next page that the manner in which a corporation is served is the manner in which the SCDPS must be served.

The differences between Rules 4(d)(3) and 4(d)(5) have been addressed extensively in Appellants' Final Brief, but the starkest, most glaring difference seems to have gotten lost in the noise. In regard to a corporation, a person can go to the SC Secretary of State's website and determine who the Registered Agent is—thus providing some clarity as to the identity of the person the Plaintiff should seek out for service. With a state agency, there is no way for a Plaintiff to identify a specific person that "can accept" service. Of course, as noted multiple times, the Rule doesn't specify any particular person or type of person to serve when serving a state agency—it simply says "delivered" to the agency. Further, and as previously noted in the Appellant's brief, it is important to reiterate that multiple subsections of 4(d) list specific qualifiers as to who specifically may accept service, while **the legislature did not add such language for Rule 4(d)(5)**.

So how should "delivered" be defined in this context? Should it be defined the way Respondents argue, that is, by demonstrating that she delivered the Summons and Complaint to an employee of SCDPS who was authorized to accept such service on behalf of SCDPS? Why not by simply delivering the summons and complaint to the address listed publicly by the agency? **There is no legal authority for either argument**, so why is one argument given priority over the other? The only correct answer here is that it should not. The alleged improper service should have been analyzed under 4(d)(5), in conjunction with the spirit of 4(d) generally, pursuant to South Carolina common law. *To wit*, as post-*Roche* caselaw has shown us, service in

this case should be evaluated under a substantial compliance standard and not a standard that requires exacting compliance. The summons and complaint was delivered to the address listed publicly by the SCDPS, and the Attorney General's office was also served with a copy of the summons and complaint. **Accordingly, personal jurisdiction was conferred to SCDPS and the agency had notice of the pleadings**. Accordingly, the following bears repeating (yet again):

> [South Carolina has] never required exacting compliance with the rules to effect service of process. Rather, we inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings.

Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209-10, 456 S.E.2d 897 (1995).

CONCLUSION

Of course, this entire exercise goes right to the heart of whether or not an abuse of discretion occurred at the trial court level. "An abuse of discretion occurs when the judge issuing the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support." *Sundown Operating Co. v. Intedge Indus., Inc*., 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009). The supposition that 4(d)(5) must "keep with" Rule 4(d)(3) as stated in the Order is completely erroneous, not based in any legal or logical justification, and appears to have prevented the lower court—and by extension, this Court—from considering this issue under a substantial compliance standard, consistent with South Carolina caselaw.

For this reason, and all other reasons set forth herein, Appellant respectfully prays this Court to:

1. Rehear this action,

2. Allow for oral arguments,
3. Review the record, and reread and reconsider Appellant's Briefs,
4. Withdraw the judgment and opinion,
5. Reverse the dismissal by the circuit court, and
6. Rule for the Appellant that service on the Defendant SCDPS was properly made.

Respectfully submitted,

February 19, 2026

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PROOF OF SERVICE

I certify that I have served the **APPELLANT'S PETITION FOR REHEARING** on South Carolina Department of Public Safety, South Carolina Highway Patrol, and Trooper Patrick J. Goshorn electronically by email to their attorneys of record to their email addresses listed below on February 19, 2026.

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February 19, 2026

Respectfully Submitted,

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