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SC Court of Appeals

EMERGENCY LEGAL MEMORANDUM

TO: South Carolina Court of Appeals
FROM: Sabrina Davis
DATE: June 11, 2026
RE: *Sabrina D Davis v. Bankers Life and Casualty Company* Case# 2014CP2300815

Supremacy Clause

Federal law and US Supreme Court case precedent

28 U.S.C. § 1332 establishes federal diversity jurisdiction, requiring (1) complete diversity of citizenship between parties and (2) an amount in controversy exceeding \$75,000, exclusive of interest and costs.

The amount in controversy for Case 2014CP2300815 is \$40,000.

The judgment issued by Judge Gravely is a void judgment.

In Henderson v. US, 217 U.S. 654 (1996), we conclude that the 120-day provision operates not as an outer limit subject to reduction, but as an irreducible allowance that is not subject to judicial reduction.

The judgment issued by Judge Lee violates due process and ignores US Supreme Court precedent and intrudes on Davis's due process rights.

South Carolina Law and Court Rules

SECTION 15-3-20. General rule as to time for commencement.

(A) Civil actions may only be commenced within the periods prescribed in this title after the cause of action has accrued, except when, in special cases, a different limitation is prescribed by statute.

(B) A civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing.

South Carolina allows 120 days to accomplish service.

RULE 41

DISMISSAL OF ACTIONS; NON-SUIT

(b) Involuntary Dismissal: Non-suit; Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against him. After the plaintiff in an action tried by the court without a jury has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.

RULE 60

RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court. The ending of a term of court or departure from the circuit shall not operate to deprive the trial judge of jurisdiction to correct such mistakes. A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. 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.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Note:

This Rule 60 is drawn from the Federal Rule. There are minor changes in the language of the Federal Rule. The last sentence of 60(a) was added permitting the trial judge to correct clerical errors even after departure from the circuit. Rule 60(b) deletes subsection (6) of the Federal Rule which permits relief for "any other reason justifying relief from the operation of the judgment." In the Federal Rule subsection (6) has created ambiguity about what is included.

Finally, Rule 60(b) provides, leave to make the motion need not be obtained from any appellate court except during such time as an appeal from the judgment is actually before the appellate court. This permits the motion to be made before the trial court. The United States Supreme Court approved a similar result in *Standard Oil Co. v. U.S.*, 429 U.S. 17, 97 S.Ct. 31, 50 L.Ed.2d 21 (1976). This change will not, except in civil actions, affect S.C. Supreme Court Rule 24, Motions for New Trial upon After-discovered Evidence, which now requires leave by the Supreme Court before the motion can be made in the trial court.

Rule 60(b) is substantially the same as Code § 15-27-130. There are two differences. First, existing State law provides for relief from a "judgment taken against him through his mistake." Rule 60(b) deletes "his" and thus there may be a motion for relief from other mistakes. Second, the statute provides that the relief must be sought within one year. This Rule retains the one year limitation for Rule 60(b)(1)-(3) for mistake, inadvertence, excusable neglect, newly-discovered evidence, and fraud; but permits relief under Rule 60(b)(4) and (5) after one year, but within a "reasonable time" when the judgment is void or the judgment has been satisfied, avoiding the necessity of bringing a new action to set aside the judgment in such cases after one year

The court has erroneously labeled my motion under rule 59 but it is an action under Rule 60 of the South Carolina Rules of Civil Procedure.

Issues that must be considered in this case:

1. Davis appealed her case and it sat in the South Carolina Court of Appeals for nearly 2 years.
2. Davis submitted a motion for reconsideration to Judge Lee.
3. Judge Lee made a claim that she had examined South Carolina law and could not find one single provision that prevented her from dismissing the case for insufficient process of service.
4. Judge Lee ignored South Carolina law that allowed 120 days to accomplish service on purpose and should not be considered a mistake.
5. Judge Gravely issued a judgment that was void from inception and refused to remove it or grant Davis a hearing to discuss the means to enforce his order.
6. It was disclosed to the Court that the federal courts were refusing to acknowledge case 2014CP2300815.

SUMMARY

The 14th Amendment guarantees that equality under the law and due process to all born in the United States. However, this court is trying to deny those protections in this case. This court has issued orders/judgments that violate and ignore the law. A dismissed case is a dismissed case. Jurisdiction does not transfer from a dismissed case to a refiled case. Sabrina D Davis is addressing the improper dismissal of case 2014CP2300815 and the jurisdiction in that case remains in the state court. The federal court cannot review a judgment issued by a state court(Rooker-Feldman). Any violations that occurred in case 2014CP2300815 must be addressed by the court that rendered the judgment. As for reasonable time as required by Rule 60 of SCRCF, Davis has satisfied that burden. The judgments entered by Judge Lee and Judge Gravely are void judgments that violate the law and ignore case precedent.

Respectfully submitted