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SC Court of Appeals

URGENT LEGAL MEMORANDUM

TO: Judge Albert Diaz
FROM: Sabrina Davis
DATE: June 24, 2025
RE: Abuse of discretion in case# 17-1869

Facts: Ms. Davis presented evidence that proved a defective pleading was filed during the statutory period and was eligible for equitable tolling .

1. Ms. Davis provided the Appeals court a copy of a defective pleading that displayed a court filing date of February 14, 2014.

The US Supreme court has permitted equitable tolling in situations where the claimant has actively pursued judicial remedies by filing a defective pleading during the statutory period. Ms. Davis provided the date of the defective pleading and the outcome and also provided the appeal and the length of time her pleading languished in the South Carolina Court of Appeals. Ms. Davis alleges that the Appeals Court engaged in an abuse of discretion by not considering evidence submitted that proved beyond a shadow of a doubt that she sought out judicial remedies before the statute of limitations had expired on her claims.

2. Ms. Davis argued against a state court judgment that linked case# 2014-CP-23-00815(filed in the Greenville, South Carolina Court of Common Pleas) and the district court case# 6:16-cv-03100-TMC(removed from Greenville, South Carolina Court of Common Pleas 2016-CP-23-04733). This judgment dictated that the district court resolve a due process violation that occurred in case# 2014-CP-23-00815. It was discovered that during the appeal the state court had only allowed Ms. Davis 96 days to accomplish service and not the required 120 days. Ms. Davis could now argue that the defective pleading was in fact not a defective pleading at all because due to the errors of the court she was not given the time allowed by law to serve her complaint.

When Ms. Davis accepted the ruling of the district court and the appeals court and presented the state court judgment for execution by the district court, she received no such service. The judgment has languished in the district court for 2 years. She recently submitted a new demand for the judgment to be executed by the district court. Ms. Davis believes that because this judgment requires the district court to vacate its judgment in case 6:16-cv-03100-TMC, the district court will simply ignore the judgment as it has done for the past 2 years. The district court has taken the stance that it will not vacate the judgment issued in case# 6:16-cv-03100-TMC regardless of the law, court rules and case precedent that demand the court vacate its erroneous judgment.

Ms. Davis is submitting this correspondence as a cry for help against the abuse of discretion that is being practiced in her case.

Respectfully submitted