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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Honorable Thomas W. McGee, III, Circuit Court Judge
Honorable Charles B. Simmons, Jr., Master-In-Equity

Jennifer L Hamrick and James C. Hamrick ,. Respondents

v.

Jack D. Curlee and AG First Farm Credit Bank Defendants

Of which Jack D. Curlee is the. Appellant

C.A. NO: 23-CP-23-00052

Appellate Case NO: 2026-001612

Memorandum

GROUND ONE

Appellant filed his Notice of Appeal of the Order of July 10, 2026
from the Honorable Charles B. Simmons, Master-in-Equity for
Greenville County with the Court of Appeals on July 17, 2026.

On July 29, 2026 Respondents file their Motion to Dismiss the
Appeal and served the attorney for the Appellant on July 29, 2026.

On October 20, 2026, Appellant filed a Return to Motion to Dismiss the Appeal of the Respondents.

ANALYSIS OF RETURN TO MOTION
APPLICABLE TO RULE 240(e) SCACR

Rule 240(e) SCACR clearly states any party opposing a motion shall have ten (10) days from date of service to file his return with the Clerk of Court of Appeals. Failure of a party to timely file a return may be deemed consent by that party to the relief sought in the motion.

More than ten (10) days have elapsed that required the Appellant to file his Return. From July 29, 2026, the date of service of Respondents Motion to Dismiss and October 20, 2026, the filing and date of service of Appellant's Return, it totals eighty-three (83) days.

This Court did have discretion to enlarge the time for filing a Return pursuant to Rule 240(e) SCACR.

Nevertheless, the Appellant never requested an extension to file his Return with this Court. Furthermore, this Court in its sole discretion did not give the Appellant enlargement of time to file his Return.

Appellant did not timely file his Return. It can be further reasoned that the date he did file and serve his Return cannot be interpreted as an “excusable delay,” pursuant to the plain meaning of Rule 240 SCACR, being over two- and one-half months to submit a Return.

Respondents respectfully argue that they are entitled to an order granting their Motion to Dismiss.

GROUND TWO

Specifically reserving and not waiving their preceding ground to dismiss the Appeal of the Appellant, Appellant submits in his Return that he mistakenly filed a Notice of Appeal from the Order of November 18, 2025. Upon recognizing the mistake he moved to dismiss his Notice of Appeal because no Final Order had been published [See Paragraph 10 of Appellant’s Return].

A careful review of Appellate Case No.: 2026-000093, involving the same parties herein and the Order of this Court filed on February 23, 2026, does not show any record that Appellant moved to dismiss his appeal of that case. The Order of November 18, 2025 was a Final Order.

The only issue subject to any appeal of Appellate Case No.: 2026-001612, arises only from the Order of July 10, 2026 should this Court deny the relief sought by the Respondents in accordance with Rule 240(e) SCACR.

For the foregoing reasons, Respondents move again that their Motion to Dismiss be granted.


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