

71367

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
FEB 24 2014
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

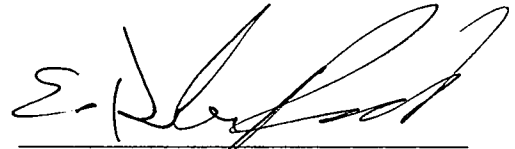
CASE NO.: 2012-CP-23-7868

Antwion M. Yowe, Willie Johnson, Michael Humbert and
Charles Edward,..... Respondents,
v.
Theoplious Welfare and Karla Welfare,..... Appellants.

MOTION TO RESTORE

The appellants, Theoplious Welfare and Karla Welfare, respectfully request that
case be restored the roster of cases before the South Carolina Court of Appeals.

February 17, 2014



E. Delane Rosemond
P.O. Box 1498
Seneca, South Carolina 29679
(864) 888-2832
Attorney for Appellant

1947

1948

1949

1950

1951

1952

1953

1954

1955

1956

RECEIVED

FEB 24 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

CASE NO.: 2012-CP-23-7868

Antwion M. Yowe, Willie Johnson, Michael Humbert and
Charles Edward,.....Respondents,

v.

Theoplious Welfare and Karla Welfare,.....Appellants.

PROOF OF SERVICE

I certify that I have served the Motion to Restore on Antwion M. Yowe, Willie Johnson, Michael Humbert and Charles Edward by depositing a copy of it in the Unites States Mail, postage prepaid on February 18, 2014, addressed to their attorney of record, L. Lee Plumblee, P. O. Box 10066, Greenville, South Carolina 29603.

February 18, 2014



E. Delane Rosemond
P.O. Box 1498
Seneca, South Carolina 29679
(864) 888-2832
Attorney for Appellant

THE
ROSEMOND LAW FIRM
PROFESSIONAL ASSOCIATION

P.O. Box 1498
100 Century Plaza, Suite 2
Seneca, South Carolina 29679

www.rosemondlawfirm.com

Telephone: 864.888.2832
Fax: 864.886.9072
E-mail: delane@rosemondlawfirm.com

February 17, 2014

RECEIVED

FEB 24 2014

SC Court of Appeals

Ms. Jenny A. Kitchings
Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Antwion M. Yowe, Willie Johnson, Michael Humbert and
Charles Edward, v. Theoplious Welfare and Karla Welfare, Appellants
Case No.: 2012-CP-23-7868

Dear Ms. Kitchings:

Enclosed for filing is a motion to restore the appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the motion to restore the appeal.
- (2) A copy of the order, which dismissed the appeal.
- (3) A filing fee of \$25.00

Sincerely,



E. Delane Rosemond
P.O. Box 1498
Seneca, South Carolina 29678
(864) 888-2832
Attorney for Appellant

cc: L. Lee Plumblee
P. O. Box 10066
Greenville, South Carolina 29603
(864) 235-2600
Attorney for the Respondents

The South Carolina Court of Appeals

Theoplious Welfare & Karla Welfare, Appellants,

v.

Antwion M. Yowe, Willie Johnson, Michael Humbert, &
Charles Edward, Respondents.

Appellate Case No. 2013-002084

RECEIVED

FEB 24 2014

ORDER

SC Court of Appeals

Appellants have failed to provide proof of ordering the transcript and failed to serve and file the appellants' initial brief and designation of matter, as required by Rules 207, 208, and 209 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

FILED

12/23/13

cc:

Edward Delane Rosemond, Esquire
Larry Lee Plumblee, Esquire

THE
ROSEMOND LAW FIRM
PROFESSIONAL ASSOCIATION

P.O. Box 1498
100 Century Plaza, Suite 2
Seneca, South Carolina 29679

www.rosemondlawfirm.com

Telephone: 864.888.2832
Fax: 864.886.9072
E-mail: delane@rosemondlawfirm.com

February 17, 2014

RECEIVED

FEB 24 2014

SC Court of Appeals

Ms. Jenny A. Kitchings
Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Antwion M. Yowe, Willie Johnson, Michael Humbert and
Charles Edward, v. Theoplious Welfare and Karla Welfare, Appellants
Case No.: 2012-CP-23-7868

Dear Ms. Kitchings:

My clients and I are asking that you please reinstate this appeal for several reasons. First, I had filed two Notices of Appeal with the South Carolina Court of Appeals within two months. We filed a Notice of Appeal in this case i.e. Appellate Case No.: 2013-002084 and the case of Timothy Ray Wirtz, appellant vs. The State, respondent, Appellate Case No.: 2013-002328 on October 24, 2013. When the Office of Appellate Defense called my office and asked my staff whether we were representing Mr. Wirtz in his appeal and had we requested a copy of the transcript, they asked me and I told them we are not representing Mr. Wirtz nor do we order a transcript.

When it was time to order the transcript in this case, they assumed that we didn't have to order it from the court reporter. That was typical because on April 3, 2013, we filed an appeal on Dan Temple, appellant v. The State, respondent, Appellate Case No.: 2013-000663. In that case, we no longer represented Mr. Temple and we didn't order the transcript in that case. Unfortunately, they assume, which is my fault that we didn't have to order a transcript in this case which was in error.

Secondly, when I saw the Order of dismissal from the Court of Appeals on December 31, 2013, the parties had already scheduled Mediation before Attorney Eric Englehardt for January 28, 2014. Attorney Lee Plumlee and I still had hopes of resolving this issue at mediation. A week prior to mediation, the respondents did not want to mediate because there was nothing left to mediate because of the dismissal. My clients, the appellants, did not want to mediate because the respondents still refused to give us the documents that we were requesting in this case. Several days before the

Ms. Jenny A. Kitchings
February 18, 2014
Page 2

mediation, after talking with Mr. Plumblee, we decided to cancel the mediation, which leads us here.

As such, the appellants are respectfully requesting that you restore this case to the active case docket and set out a new scheduling order as to when our initial briefs are due.

Sincerely,



E. Delane Rosemond
P.O. Box 1498
Seneca, South Carolina 29678
(864) 888-2832
Attorney for Appellant

cc: L. Lee Plumblee
P. O. Box 10066
Greenville, South Carolina 29603
(864) 235-2600
Attorney for the Respondents

The South Carolina Court of Appeals

Theoplious Welfare & Karla Welfare, Appellants,

v.

Antwion M. Yowe, Willie Johnson, Michael Humbert, &
Charles Edward, Respondents.

Appellate Case No. 2013-002084

ORDER

Appellants have failed to provide proof of ordering the transcript and failed to serve and file the appellants' initial brief and designation of matter, as required by Rules 207, 208, and 209 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

FILED

SA 12/23/13

Columbia, South Carolina

cc:
Edward Delane Rosemond, Esquire
Larry Lee Plumblee, Esquire

RECEIVED

FEB 24 2014

SC Court of Appeals



Delane Rosemond <delane.rosemond@gmail.com>

Welfare v. Yowe, et. al.

1 message

Lee Plumblee <lplumblee@eppesandplumblee.com>

Fri, Dec 27, 2013 at 4:48 PM

To: delane@rosemondlawfirm.com

Delane:

I received the attached a notice from the Court of Appeals administratively dismissing your appeal. I don't know what your clients' intentions are with regard to the appeal, but I also have attached a copy of minutes of a December 15, 2013 church meeting, which, I believe is the one that you and I discussed attending, or more appropriately, not attending in our earlier phone conversation.

As you can see, at the meeting, the church leadership moved to rescind the vote from the October 2012 church meeting that was challenged by your clients for lacking a quorum. A quorum was present on December 15, and a written balloting process used. The majority voted NOT to rescind the decisions from the October 2012 meeting.


It seems to me that this vote would moot, at least to some extent, your clients' requests for relief. In light of this recent decision, and of the administrative dismissal of the appeal, I was in hopes that your clients would be willing to put this matter behind us.

Please discuss this matter with your clients and let me know their response at your earliest convenience.

I appreciate your consideration of this request, and I hope that you have a Happy New Year.

Lee

2 attachments

 Dismissal of Appeal.pdf
36K

 Church Minutes Dec 15 2013.wpd
15K

RECEIVED

FEB 24 2014

SC Court of Appeals

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Eric K. Englehardt

Attorney at Law
Certified Mediator

Admitted in NC and SC
EEnglehardt@TurnerPadget.com
Writer's Direct Dial: (864) 552-4624
Direct Fax: (864) 552-4620

November 20, 2013

L. Lee Plumblee
P. O. Box 10066
Greenville, SC 29603

Delane Rosemond
P. O. Box 1498
Seneca, South Carolina 29679

RECEIVED

FEB 24 2014

SC Court of Appeals

Re: Theoplious Welfare and Karla Welfare v. Antwion M. Yowe, Willie Johnson,
Michael Humbert and Charles Edward
2012-CP-23-7868

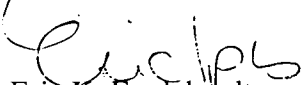
Dear Counsel:

This correspondence is to confirm that the mediation has been scheduled regarding the above referenced case for January 28, 2014 at 10:00 a.m. at my office. As such, I have enclosed a mediation agreement which I would appreciate you reviewing and returning a signed copy to me. If you have any questions about the fees or any other aspect of the case, please do not hesitate to contact me.

With kind regards, I remain

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.


Eric K. Englehardt

EKE/pls
Enclosure

BUSINESS • LITIGATION • SOLUTIONS

200 East Broad Street • Suite 250 (29601) • PO Box 1509 • Greenville, SC 29602
Phone (864) 552-4600 • Fax (864) 552-4620 • turnerpadget.com