

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

Trial Court Case Number 2011-CP-12-00291

Robert H. Breakfield, as attorney-in-fact, Respondent,

v.

Mell Woods, Appellant.

72933

Court of Appeals Number: 2012-212318

Motion to Recall Remittitur



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1. Mell Woods the appellant herein moves that the the remittitur issued in the above case on June 27, 2014, be recalled since the case was administratively dismissed by the Clerk of the Supreme Court, instead of being ruled on by the Supreme Court itself.

2. Rule 260(a), SCACR, requires that 15 days must first elapse before a remittitur is sent to the lower court, in this case the remittitur was issued the same day, instead of 15 days later. Since the remittitur was not *properly* sent, this case is still pending in the South Carolina Supreme Court.

3. Under Rule 262(a)(2) filing with the clerk of court is defined as "depositing the document in the U.S. Mail, properly addressed to the clerk, with sufficient first class postage attached. *The date of filing shall be the date of delivery or the date of mailing.*" [Rule 262(a), SCACR requires that petitions for rehearing and motions for reinstatement be actually received by the clerk to be timely filed, but for everything else the date of mailing is sufficient.]

4. The box containing the petition for certiorari in this case was postmarked on June 23, 2014, and placed in the U.S. Mail on June 23, 2014, which made the filing timely.

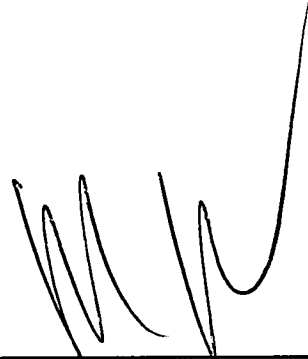
5. Petitioner previously obtained an extension to file the petition for certiorari with appendix with the last day being June 21, 2014, hence the date of filing was extended to June 23, 2014, the next Monday.

Conclusion

The remittitur sent in this case does not comply with Rule 260(a) SCACR, and should be recalled; in addition a Motion to Reinstate the Appeal is pending in the Supreme Court of South Carolina.

Respectfully submitted,

This 14 day of July, 2014.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

 ORIGINAL

SOUTH CAROLINA COURT OF APPEALS

Number 2012-212318

Robert H. Breakfield, as attorney-in-fact, Respondent,
v. Mell Woods, Appellant.

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

Proof of Service

Trial Court Case Number: 2011-CP-12-00291
Court of Appeals Internal Tracking Number: 2012-212318

I hereby certify that I have on the 16 day of July, 2014,
served the respondents with a true copy of the
within and foregoing *Motion to Recall Remittitur*
by placing the copies in the U.S. Mail with sufficient postage
addressed to:

Moses Koon & Brackett, PC
c/o: B. Michael Brackett
P.O. Box 100261
Columbia, SC 29202



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

 ORIGINAL

July 16, 2014

Mell Woods
P.O. Box 2503
Lancaster, SC 29721

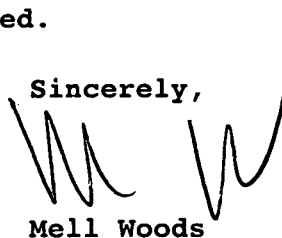
South Carolina Court of Appeals
Office of the Clerk
P.O. Box 11629
Columbia, SC 29211

Re: Case Number 2012-212318
Robert H. Breakfield, as attorney-in-fact, Respondent,
v. Mell Woods, Appellant.

Dear Sir or Madam:

Please file the attached Motion to Recall Remittitur.
The \$25.00 motion fee is included.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mell Woods', with a long, sweeping flourish extending upwards and to the right.

Mell Woods

Copy of this letter to:

Moses Koon & Brackett, PC
c/o B. Michael Brackett
P.O. Box 100261
Columbia, SC 29202