

THE STATE OF SOUTH CAROLINA
South Carolina Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Honorable Marvin H. Dukes, III

Appellate Case No.: 2014-000636
Beaufort County Case No.: 2013-CP-07-00918

MARE BARACCO.....Appellant,

vs.

THE STATE OF SOUTH CAROLINA.....Respondent.

RETURN TO APPELLANT'S
MOTION TO DISMISS

Mare Baracco, *Pro se*
1006 Madrid Avenue
Port Royal, SC 29935
(843) 592 1062
Appellant

Mary Bass Lohr
J. Andrew Yoho
Howell, Gibson & Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901
Attorney for Respondent
Beaufort County

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AUG 04 2014

SC Court of Appeals

Pursuant to Rule 240(e), SCACR, the Respondent Beaufort County hereby responds to Appellant's Motion to Dismiss.¹

This case is an appeal to the magistrate's court of an administrative determination pursuant to Beaufort County Code of Ordinances 14-35. The issue before the Court is the classification of an animal owned by Appellant as a "dangerous animal" pursuant to Beaufort Code of Ordinances Section 14-35.

Appellant has appealed the order of the Circuit Court affirming the designation of Appellant's animal as "dangerous." Rather than filing an initial brief as required by Rule 208, SCACR, Appellant has filed a "Motion to Dismiss." Appellant's motion to dismiss is not seeking a dismissal of her appeal, but rather is seeking an Order of this Court dismissing "Respondent's Notice of Dangerous Animal." Respondent asserts Appellant has not properly complied with the Appellate Court Rules, and cannot receive the relief she is seeking via a Motion to Dismiss. As the Court is well aware, to seek reversal of a lower court's ruling, Appellant is required to file an initial brief pursuant to Rule 208, SCACR.

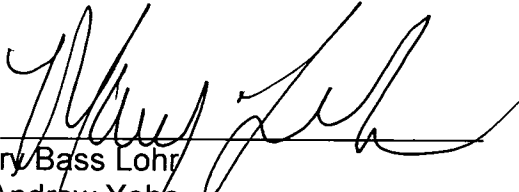
Furthermore, because Appellant's motion is not a motion to dismiss an appeal or a motion to relieve counsel, the time limits imposed by the appellate court rules are not stayed by the filing of Appellant's motion. See Rule 240(b), SCACR. Accordingly, the time allowed by the Court to file an initial brief expired on July 23, 2014. Therefore, unless the Court orders otherwise, Appellant's time within which to file an initial brief has expired.

¹ A separate motion regarding designation of the parties has been filed with the Court and is still pending. The State and Beaufort County contend that the State is not a proper party to the action because the appeal is not from a criminal matter. Accordingly, Beaufort County is hereby responding to Appellant's motion to dismiss.

Respondent therefore respectfully requests that Appellant's motion and appeal be dismissed or alternatively, Appellant be given the opportunity to comply with the Appellate Court Rules and file a proper brief.

Respectfully submitted,

HOWELL, GIBSON & HUGHES, P.A.

By: 
Mary Bass Lohr
J. Andrew Yoho
Post Office Box 40
Beaufort, SC 29901
(843) 522-2400
Attorney for Beaufort County

Beaufort, South Carolina

August 1, 2014

THE STATE OF SOUTH CAROLINA
South Carolina Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Honorable Marvin H. Dukes, III

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MARE BARACCO.....Appellant,

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PROOF OF SERVICE OF
RETURN TO APPELLANT'S MOTION TO DISMISS

The undersigned counsel hereby certifies that he has served the foregoing Return to Appellant's Motion to Dismiss upon the Appellant by affixing same with proper postage and placing same with the United States Postal Service on 1 day of August, 2014 addressed to the following:

Mare Baracco
1006 Madrid Ave.
Port Royal, SC 29935

(SIGNATURE PAGE TO FOLLOW)

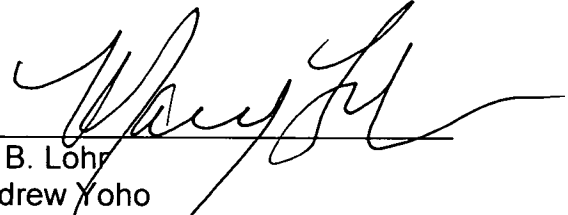
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SC Court of Appeals

HOWELL, GIBSON & HUGHES, P.A.

By: _____

A handwritten signature in black ink, appearing to read 'Mary B. Lohr', written over a horizontal line.

Mary B. Lohr

J. Andrew Yoho

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Beaufort County

Beaufort, South Carolina

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August 1, 2014

Ms. V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

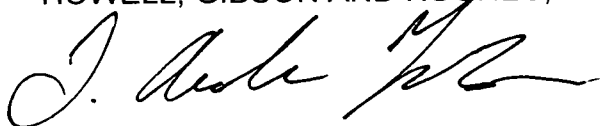
Re: The State of South Carolina vs. Mare Baracco
Civil Action No.: 2014-000636
Our File No: 11369 MBL

Dear Ms. Allen:

Please find enclosed herewith for filing an original and seven (7) copies of Return to Appellant's Motion to Dismiss, together with Proof of Service, with regard to the above referenced matter. I would appreciate your filing the same and returning a filed clocked copy to me in the enclosed self-addressed, stamped envelope provided for your convenience.

Yours truly,

HOWELL, GIBSON AND HUGHES, P.A.



J. Andrew Yoho

JAY/cab
Enclosure
cc: Ms. Mare Baracco -w/ enclosure

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AUG 04 2014

SC Court of Appeals