

THE STATE OF SOUTH CAROLINA
SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

MARVIN H. DUKES, III, MASTER-IN-EQUITY,
BEAUFORT COUNTY
TRIAL COURT CASE NO.: 2013CP0700918

APPELLATE CASE NO.: 2014-000636

THE STATE,

Respondent,

vs.

MARE BARACCO,

Appellant.

APPELLANT'S REPLY TO
RESPONDENTS RETURN TO APPELLANTS MOTION
TO DISMISS



Mare Baracco, *Pro Se*
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062

Date: August 9, 2014

Appellant hereby replies to Respondent's Return to Appellant's Motion to Dismiss. Appellant is a Pro Se Litigant and Pleadings by Appellant are in Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria pleadings are not to be held to the same high standards of perfection as practicing lawyers. Pro Se litigants complaint must be held to "less stringent standards than formal pleadings drafted by lawyers. Haines v. Kerner, 92 S.Ct. 594 595 (1972). Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957) "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." And, that "all pleadings shall be construed to do substantial justice." In applying the Conley standard, the Court will "accept the truth of the well-pleaded factual allegations of the Complaint."

In regard to the Respondent's claim Appellant's timeline to file has expired, Appellant would state emphatically she is in compliance with all court rules regarding proper filings and timelines; the Respondent's themselves filed a Motion jointly, prior to the Appellant's Motion to Dismiss, requesting, again, for the Court to re-caption this case and for the timeline to be held in abeyance until their motion was heard and ruled upon. This Court has previously designated, twice, in the Appellant's favor, in regard to the proper captioning of this case as "State of South Carolina v. Mare Baracco", as a criminal matter.

In regard to Respondent's statement "This case is an appeal to the magistrate's court of an administrative determination", Appellant understands the law in this regard is clear and in plain language: "*a judgment from a court that does not have subject-matter jurisdiction is forever a nullity*". As Appellant stated in her Motion to Dismiss, she cited the appropriate statute in her Motion, in reference to magistrate jurisdiction in the State of South Carolina for a

Civil Hearing and would restate the Beaufort County Magistrate Court did not have authority to hear this case March 12, 2013 or at any time.

For the foregoing reasons, Appellant prays that Respondent's Return to Appellant's Motion to Dismiss is denied. Appellant does consent to the Respondent's motion to hold the deadlines in abeyance until there is a ruling on the motions.

Authorities ii

Haines v. Kerner, 92 S.Ct. 594 595 (1972).

Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957)

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Appellant.

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

I certify that I have served the Appellant's Reply to Respondent's Return to Appellant's Motion to Dismiss on the Respondent(s) by depositing a copy of it in the United States Mail, with proper postage, on August 9, 2014, addressed as follows:

Mary Bass Lohr
Howell, Gibson and Hughes
PO Box 40
Beaufort SC 29901
Parkin Hunter
SC Attorney General's Office
1000 Assembly Street, Room 519
Columbia SC 29201

SIGNATURE PAGE TO FOLLOW

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SC Court of Appeals

A handwritten signature in black ink, appearing to read 'Mare Baracco', written over a horizontal line.

Mare Baracco, *Pro Se*

1006 Madrid Avenue

Port Royal, South Carolina 29935

(843) 592-1062

Mare Baracco
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062
maremailmmm@yahoo.com

August 9, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia South Carolina 29211

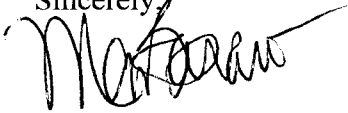
RE The State vs Mare Baracco
Appellate Case No. 2014-000636

Dear Ms. Kitchings:

Please accept the enclosed copies of Appellant's Reply to Respondent's Return to Appellant's Motion to Dismiss, and Proof of Service to Respondent(s).

For the purpose of noting this Reply was filed in a timely manner, I've enclosed a copy of the envelope from the Respondent, with the postage date stamped "Charleston August 2"; I did not receive it until late Monday afternoon, August 4. As I understand, I then have five days to respond (and mailing time).

Sincerely,



Mare Baracco, *Pro Se*

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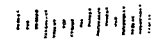
HOWELL, GIBSON & HUGHES, PA
P.O. BOX 40
BEAUFORT, SC 29901
JAY

CHARLESTON SC 294
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Ms. Mare Baracco
1006 Madrid Ave.
Port Royal, SC 29935

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MARE BARACCO
(843) 592-1062
THE UPS STORE #3483
219 SCOTT ST
BEAUFORT SC 29902-5554

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