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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024

Appellate Case No. 2014-001683

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

Motion to Dismiss Appeal

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent Wells Fargo Bank, N.A. (“Wells Fargo”) moves to dismiss the above-captioned appeal in its entirety. The basis for this motion is that Appellant failed to timely file any Initial Appellant’s Brief. As a result, this Court must dismiss the appeal.

The South Carolina Appellate Court rules require Appellant to serve the Initial Appellant’s Brief “[w]ithin thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal” Rule 208(a)(1), SCACR. Appellant filed and served her notice of appeal on July 30, 2014. On August 18, 2014, Appellant advised this Court that no transcript would be ordered in this appeal. See “Certificate that no Transcript Will Be Ordered by Appellant” filed August 18, 2014. Therefore, Appellant’s Initial Brief was to be served on Well Fargo no later than August 29, 2014, pursuant to Rule 208(a)(1), SCACR.

Appellant failed to serve her Initial Appellant's Brief¹ by that mandatory deadline. This Court must dismiss the appeal. See Wise v. S.C. Dept. of Corrections, 372 S.C. 173, 173, 642 S.E.2d 551, 551 (2007) (stating that "[w]henver it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal **shall** be issued") (emphasis added). Appellant's status as a pro se litigant does not alter that result. See, e.g., State v. Burton, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9 n. 5 (2003) ("A pro se litigant who knowingly elects to represent h[er]self assumes full responsibility for complying with substantive and procedural requirements of the law.").

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By: 

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Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina

September 8, 2014

¹ Appellant served a Designation of Matters but failed to serve any Initial Appellant's Brief.

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Appellate Tracking No.

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

Proof of Service

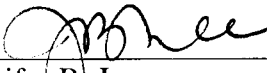
I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by certified United States Mail, return receipt requested, postage prepaid, to the following address(es):

Pleadings:

Motion to Dismiss Appeal

Party Served:

pro se Defendant
Ms. Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115


Jennifer B. Lee

September 8, 2014

Nelson Mullins

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September 8, 2014

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Wells Fargo Matter #: 0362522-01
Case No.: 08-CP-38-1024
NMRS File No.: 10275/01528

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of a Motion to Dismiss Appeal in the above-referenced matter. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me

By copy of this letter, I am hereby serving opposing parties.

Very truly yours,



Michael J. Anzelmo

MJA:jlee
Enclosures

cc: Ms. Dorothy Sistrunk