

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM KERSHAW COUNTY

Court of Common Pleas

Roger M Young, Circuit Court Judge

2013-CP-28-358

Case No. 2014-000084

Richard Hough,

Appellant

vs.

Angela Hough,

Respondent

RESPONDENT'S MOTION FOR RELIEF FROM COURT RULE VIOLATIONS WHICH HAVE PRODUCED INEQUITABLE APPLICATION OF COURT RULES WHICH HAVE FAVORED THE APPELLANT AND HAVE VIOLATED THE RESPONDENT'S DUE PROCESS AND EQUAL PROTECTION OF THE LAW. RESPONDENT REQUESTS THE COURT TO VACATE CLERK OF COURT'S ORDER DATED AUGUST 15, 2014 DUE TO VIOLATION OF RULES OF LAW, DUE PROCESS, AND AMMENDMENT XIV OF THE U. S. CONSTITUTION FOR THE RESPONDENT

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SC Court of Appeals

The Respondent respectfully requests this Court to review the following inequalities that have occurred in this case and moves this Court to apply the Rules fairly to each party insuring integrity and fairness in the system and requiring the Appellant to act in good faith and abide by the Rules of the Court.

The inconsistencies that need to be addressed include the following time lines:

First the actions of the Appellant and the Court's responses and actions.

1. The Appellant requested through a motion for an extension on April 22, 2014.
2. The following day the Court granted the extension to the Appellant by Order on April 23, 2014. The Court acted in **1 day**.
3. The Appellant failed to file a Return following Rule 240e in response to the Respondent's Motion filed on August 5, 2014 which was due August 15th.
4. The Appellant requested through a motion to supplement the Record on Appeal on August 8, 2014. The Appellant files the Supplemental Record on Appeal.
5. On September 2, 2014 the Court sends the Appellant a Deficiency Letter for "document has not been timely filed. A motion for late filing will have to be made."
6. On September 3, 2014, the Appellant files a motion to amend his May 27, 2014 filing.
7. **Seven days later** the Court grants the Appellant's motion on September 10, 2014, **26 days** later than the filing date.

Through these actions the Appellant has been given leave to bypass the Courts filing time frames, as well as, the Court Rules.

Second the actions of the Respondent and the Court's responses and actions.

1. On June 23, 2014 the Respondent filed a letter with the Court pursuant to the Rules of the Court for one letter without being a motion pointing out to the Court the Appellant's inclusion in the Record on Appeal an item not in the Record. The Respondent received **no response from the Court**. The Appellant removed the item from his Designation of Matter in his next filing with the Court.
2. On August 5, 2014 the Respondent filed a Motion to Compel following Rule 240d due to the fact that the **one** item the Respondent had requested for the Designation of Matter that was in the record was not included by the Appellant's Record on Appeal which is found in Rule 209b and 210c. The Court did not respond until **36 days later and then not to the Respondent's motion**.
3. On August 15, 2014 the day the Appellant's Return to the Respondent's Motion is due the Court grants the Appellant's Motion to Supplement **without addressing in any form the Respondent's Motion to Compel filed 10 days earlier**.
4. On August 19, 2014 the Respondent request in a letter for an extension for the Return on the Motion to Supplement following the Rules of the Court 240e. On the phone the clerk stated the extension was granted. No order granting the extension was ever done in writing by the Court. The Court did not officially respond for **22 days** later and again it was not to the Respondent's motion.
5. On August 26, 2014 the Respondent filed a Motion requesting the Order granting the Appellant's Motion be vacated and the Rules of the Court to be fairly applied to

both parties. The Court did not respond for **15 days**.

6. On September 10, 2014 the Court again granted the Appellant's motion without addressing any of the Respondent's motions and just stating they were moot by this Order.
7. On January 21, 2014 the Court returned the Respondent's final brief with the changes that were requested in the Deficiency Letter on Sept. 2, 2014 that was filed in a timely manner. When contacted by phone the Court did correct this error on January 23, 2014 by letter.

If the Court would review its actions in case number 2012-213252 Maureen T. Coffey v. Community Services and others the pattern of addressing Motions are as follows Motion filed time lapses for opposing parties to file a Return, Reply and then an Order. This pattern of following the Rule of Law (Rule 240) has been denied to the Respondent of the case 2014-000084. Also noting the cases Order of 1/30/13 which states, "have filed...Respondent has not filed a return. Therefore, the motions are granted." There is a clear need for the Respondent in this current case to be shown the equal and fair application of the law and rules that were afforded to previous cases.

The Court within a 12 month span of time from cases filed from January 1, 2014 – December 31, 2014 has used and relied upon the standard pattern of following the Rule of Law concerning Motions, which consist of Motion filed, time given for opposing party to file a Return, time given for a Reply, followed by an Order on the Motion. This is seen in the examples of the following cases:

1. **January:** *2014-000194 Evalena Catoe v The City of Columbia the pattern is:
7/13/14 Motion, 8/13/14 Return, 8/22/14 Reply 9/18/14 Order
2. **February:** 2014-00332 Ebony Bethea v Derrick Jones the pattern is:
3/13/14 Motion, 4/9/14 Order stating, "appellant moves... The Respondent's have not filed a Return. Accordingly, the motion is granted."
3. **March:** *2014-000663 James W. Trexler v The Humane Society
12/22/14 Motion to Strike, 12/31/14 Return, 1/9/15 Order, but in this case the Order on the Motion has not been decided therefore this Order is granting a time extension with the Order stating, "...and it appears unlikely that the Court will rule on the Motion to Strike before the current...deadline to file..." **Please note that the Respondent of the current case 2014-000084 was denied this same measure although requested.**
4. **April:** *2014-000946 Richard Wilson v Laura B. Willis
10/14/14 Motion, 10/20/14 Return, 11/26/14 Order
5. **May:** * 2014-000963 Allen Patterson v Herb Witter
10/23/14 Motion, 11/3/14 Return, 11/10/14 Reply, 12/19/14 Order
6. **June:** 2014-001280 Glen LaConey v Xavier
12/3/14 Motion, 12/11/14 Return, 12/17/14 Reply, 1/22/14 Order
7. **July:** 2014-001472 John Frick v Keith Fulmer
12/22/14 Motion, 1/12/15 Order The Order states, "The appellant has requested... The Respondents did not file a return. The motion is hereby Granted..."
8. **August:** 2014-001799 Costal Pi v Danville Business Advisors
11/25/14 Motion, 12/4/14 Order stating, "The time for serving and filing the appellant's return to respondent's motion to dismiss is hereby extended until December 29..."
12/4/14 Return, 1/16/15 Order
9. **September:** 2014-002080 Cheyenne Burrell v Capital Growth
10/10/14 Motion, 10/17/14 Return, 11/19/14 Order
10. **October:** 2014-002354 Hector Fragosa v Kade Construction
12/1/14 Motion, 12/5/14 Return, as of 1/24/15 No Order on Record
11. **November:** 2014-002487 Zachary Smith V SCDC
12/29/14 Motion and nothing else on record since this date.
12. **December:** 2014-002748 deutsche Bank v Minnie L. Williams
11/14/15 Motion, 11/15/15 Return, as of 1/24/15 No Order on Record

The analysis of these randomly selected cases reveals in 12 out of 12 cases the Rule of Law was followed. In 2 of the 12 cases the Return was not filed on time and the Motion was granted. In 1 of the 12 an extension of time was given for the Return. Obviously this is something that the Court deals with on a continuing basis so it seems that the errors made in handling of the Respondent's Motion for the case 2014-000084 would be and should be

handled the same for fairness and integrity of the system. Also no other motions in these cases were able to supersede another motion already filed, which was allowed to happen in case 2014-000084. In fact, the March case of James W. Trexler v The Humane Society, the Court went so far as to stay other deadlines for the motion to be considered. This is again something that was denied to the Respondent even with a Motion filed to do so.

The Respondent respectfully moves this Court, pursuant to Rule 240(d)(e)(f)(g) of the South Carolina Rules of Appeals and the United States Constitution Amendment XIV Section 1, to vacate the Court Order of August 15, 2014 which allows the Appellant to Supplement the Record on Appeal without the consideration of the Respondent's Motion concerning the Motion to Compel the material designated in the Respondent's initial brief under Designation of Matter to be included in the Record on Appeal, the Appellant's failure to submit a Return, as well as denying the Respondent due process to Reply to the Appellant's Motion to Supplement.

The Respondent received a copy of the Appellant's Record on Appeal which was filed with the Court on July 22, 2014. The Respondent found the Record on Appeal was lacking the Designation of Matter that the Respondent had requested in the initial brief. The Respondent followed the Rule 240 and filed a Motion to Compel on August 5, 2014 with the Court of Appeals and served the same on the Appellant's Attorney. Rule 240(e) allows for the Appellant to then respond to the motion within 10 days which was not done. Instead of following the Rule of Law as stated in Rule 240(e), on August 8, 2014 the Appellant filed with

the Court of Appeals another Motion to Supplement the Record. On August 15, 2014, the Clerk of Court for the SC Court of Appeals filed an Order granting the Appellant the Motion to Supplement. The first Motion filed by the Respondent had not been addressed and disposed of before the Order of the Court was decided on the second Motion filed by the Appellant.

The Respondent's Motion to Compel was filed on August 5, 2014. Following the Rule of Law Rule 240(e) the Appellant was given 10 days to file a Return which would be due on August 15, 2014. The Appellant choose not to file a Return. Instead the Appellant filed a different Motion which was filed on August 8, 2014 denoting the reasons for the Motion was in response to the Respondent's Motion. The Rule 240(f) provides opposing party 10 days to file a Return to the Motion. With filing on August 8, 2014, the Respondent would then have 10 days to file a Return to the Appellant's Motion which would be due on Monday, August 18, 2014. The Order granting the Appellant's Motion was filed on Friday, August 15, 2014. Thus denying the Respondent consideration of the Motion filed, as well as, a Return to the Appellant's Motion. Both actions are violation of the S.C. Court of Appeals Rule of Law, Due Process, and U.S Constitutional right in Amendment XIV Section 1 of equal protection of laws.

The Appellant's actions of filing a Motion on August 8, 2014 without filing a Return or request for an extension on August 15, 2014 shows that there was a deliberate action to choose one route 204(d) and discard the other route Rule 240(e) at the expense of the Respondent.

Rule 240(e) Return to Motion states the following:

“Any party opposing a motion or petition shall have ten (10) days from the date of service... Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.”

By choosing to start a new motion instead of answering the Motion at hand, puts the Appellant in default. Black's Law Dictionary defines default in this manner:

“default 1) n. failure to respond to a summons and complaint served on a party in the time required by law. If a legal answer or other response is not filed, the suing party (plaintiff) can request a default be entered in the record, which terminates the rights of the defaulting party to defend the case. The omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement. State v. Moores, 52 Neb. 770, 73 N. W. 299; Osborn v. Rogers, 49 Hun, 245, 1 N. Y. Supp. 623; Mason v. Aldrich, 36 Minn. 283, 30N. W. SS4. In practice. Omission; neglect or failure. When a defendant in an action at law omits to plead within the time allowed him for that purpose, or fails to appear on the trial, he is said to make default, and the judgment entered in the former case is technically called a “judgment by default.”

The Appellant's Motion by the Rules cannot supersede the Respondent's although by his efforts he was allowed to do just that. It was a mistake by the Clerk of Court to sign the Order to grant. It was a continuation of the Appellant's misconduct in an effort to continue to mislead the Court that created this situation.

In the Appellant's initial brief under Designation of Matter, there was included under item 4b Incident Report- January 23, 2011. This item had not been a part of the record nor even part of the file for this case. This was brought out in the first appeal hearing as seen in the transcript page 12, attached as Exhibit 1. This was a clear violation of South Carolina Rule of Appeal Rule 210 (c). It reads as follows:

“(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal.”

The Respondent did due diligence by calling attention to this to the clerk handling this case and was told to write a letter to the Clerk of Court. The Respondent did send the letter

and served it upon the opposing party as well, attached Exhibit 2. The letter clearly states the facts that the Appellant has no Incident Report of January 23, 2011. The only Incident Report of January 23, 2011 was the Respondent's call into the Sherriff's office two times that day with two officers responding one in the morning and one in the evening documenting the Appellant's continued extortion, destruction of the property, waste, and nuisance activities on the jointly owned property. The Appellant responded by deleting this item from the Record on Appeal.

In the Respondent's initial brief of June 26, 2014 and restated in the Motion to Compel the Designation of Matter included the same items as the Appellant's with the exception of the addition of the item listed as 3a Return of the Honorable William D. Corbett- April 29, 2013. This Return was created as part of the process of the appeal that was initiated by the Appellant. It is part of the normal procedures of the appeals process. This was the only item that had been a part of the record which the Appellant chose to delete from the list of items. The Return of Judge Corbett was part of the file that was reviewed by Judge Young in making his decision to affirm the dismissal of the case. Judge Corbett's Return clearly recounts the legal aspects of his decision. The Respondent followed the Rule 209 which reads as follows:

“(b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.”

In the Appellant's submission of the required Record on Appeal the Appellant left out the Return of Judge Corbett.

The Respondent once again did due diligence by calling attention to the Court by the only legal option available to the Respondent and that was the Motion to Compel. The Respondent submitted all the required information in the required form within the required time limit. This of course was extra time and expense for the Respondent. In an effort to weld his will, the Appellant responds to this Motion to Compel not by following Rule 240(e), but by starting a whole new Motion.

It becomes obvious that the Appellant does not want all the information of the incident brought out in court and will continue to mislead the Court wherever and however he can. In this effort the Court should not be his vehicle to make this happen. The Rules should be applied equally and fairly.

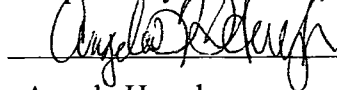
The Appellant has misled the Court in many aspects of this case. The Appellant does not state that his activities of extortion, vandalism, property damage, harassment, waste and nuisance that started on October 19, 2010 and continued until January 24, 2011 when the legal injunction stopped his activities played any part in this incident, which is a complete misleading of the Court. The Appellant continues to state in all Court documents that he is a private citizen pursuing this action; however in two prominent arenas he claims to be a business entity. The first is the Appellant's 2011 income taxes revealing he filed as a cattle business, Exhibit 3. In subsequent Court papers and transcripts the Appellant also uses the property as a firewood business, attached Exhibit 4. The Appellant has trees cut in North Carolina where he lives and transports the wood to the Kershaw County farm to season for sale, which is a business he claims; thus, misleading this Court with claims to the contrary. The

biggest misleading of the Court is the Appellant's claim that his property was stolen despite the two witnesses, one of which was the responding officer, that were at the scene and his inability to produce any witness in his court case except himself.

Since the Appellant has continued to commit actions to mislead the Court, has submitted improper documents to circumvent the Rule of Law, and has failed to respond in the time limits given in Rule 240(e) thus placing himself in a default situation, the Respondent request the relief the law affords.

WHEREFORE, the Respondent respectfully requests that this Court grant the Respondent's motion to Vacate the Order granting the Appellant's Supplemental and require the Appellant to correct the Record on Appeal to include the Return of the Honorable William D. Corbett not as a supplement that may be lost or overlooked due to the limited number of pages, but as an item in the bound Record on Appeal which should have been included properly the first time since the Appellant has been aware of this item since June 26, 2014. The Respondent also requests that the Appellant be found in default voiding further action on the Record of Appeal. The Respondent also requests that the Appellant be ordered to pay this extra expense created due to lack of adherence to the rules and a desire to mislead the Court, attached Exhibit 5. As well as, the Court to reimburse the Respondent for this motion at hand which was due to their error in not applying the Rules fairly and consistently, as done in other cases.

Respectfully Submitted,



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*Denote Time Extension Grants Exhibits can be found in the Respondent's First Motion online file

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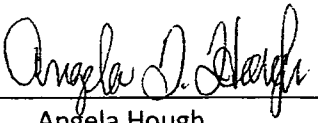
Angela Hough,

Respondent,

PROOF OF SERVICE

I, Angela Hough, Pro Se Respondent, do hereby certify that I have served a copy of Respondent's Motion filed on January 27, 2015 by causing a copy of the same to be deposited in the U.S. Mail, proper postage prepaid addressed as follows:

William A. Hodge
P.O. Box 8753
Columbia, SC 29202


Angela Hough

Lugoff, South Carolina