

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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MAR 11 2015

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. Supreme Court

The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2006-CP-40-4840

William A. Thompson, #145029,Petitioner,

v.

Jon Ozmint, Director, S.C. Dept. of Corr.;
Dennis Patterson, Records, S.C. Dept. of Corr.,.....Defendants,

Of Whom South Carolina Department of Corrections is the,Respondent.

RETURN OF RESPONDENT

RILEY, POPE & LANEY, LLC

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TABLE OF CONTENTS

Counter Statement of the Case.....1

Argument

I. THE COURT OF APPEALS DID NOT ERR IN DISMISSING THE
APPEAL FOR PETITIONER’S FAILURE TO PROPERLY PERFECT
THE APPEAL.....2

Conclusion.....3

TABLE OF AUTHORITIES

CASES

USAA Prop. & Cas. Ins. Co. v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2008).....2, 3
Conner v. City of Forest Acres, 348 S.C. 454, 560 S.E.2d 606 (2002).....2, 3
State v. Hollman, 232 S.C. 489, 102 S.E.2d 873 (1958) overruled
on other grounds by Stevenson v. State, 335 S.C. 193, 516 S.E.2d 434 (1999).....3

RULES

Rue 203(a), SCACR.....2

COUNTER STATEMENT OF THE CASE

On July 26, 2004, Petitioner, William Thompson (“Thompson”), appearing pro se, brought suit against Jon Ozmint and Dennis Patterson in the Richland County Court of Common Pleas. Defendants filed an Answer and removed the case to the United States District Court. (Thompson v. Jon Ozmint and Dennis Patterson, 2004-CP-40-3521, 3:04-22109-JFA-JRM). In his suit, Thompson contended his Fifth and Fourteenth Amendment rights were violated because he was labeled a sex offender without due process and because his picture and name were placed on a website with false information indicating he was a sex offender. He also claimed his Eighth Amendment rights were violated because he was subjected to ridicule and emotional distress by those actions. (Id.)

On January 13, 2005, Defendants filed a Motion for Summary Judgment asserting Thompson could not establish any violation of his constitutional rights, that they were entitled to immunity and that Thompson’s state law claims were barred. The United States District Court granted Defendants’ Motion for Summary Judgment but declined to exercise jurisdiction over any state law claims, instead remanding those claims to the state court for determination.

Upon remand of the state law claims, Defendants filed a Motion for Summary Judgment with the Richland County Court of Common Pleas on September 16, 2011. On October 10, 2005, a hearing on Defendants’ Motion was held before the Honorable L. Casey Manning. By Form 4 Order filed August 21, 2006, Judge Manning granted the SCDC’s motion. The Form 4 Order provided a formal Order was to follow. However, the formal Order was not filed until September 16, 2011.

On September 23, 2011, Thompson served a Notice of Intent to Appeal upon counsel for Defendants. However, the Notice of Intent to Appeal identified Jon Ozmint and Dennis Patterson as Defendants and the South Carolina Department of Corrections, which was never a party to the underlying action, as the Respondent. By Order filed October 30, 2014, the Court of Appeals dismissed the appeal because Mr. Ozmint and Mr. Patterson were never served with a Notice of Appeal identifying them as Respondents. Petitioner timely sought rehearing of the dismissal which was denied by Order filed January 8, 2015. The Petition for Writ of Certiorari was submitted to this Court on January 23, 2015.

ARGUMENT

I. THE COURT OF APPEALS DID NOT ERR IN DISMISSING THE APPEAL FOR PETITIONER'S FAILURE TO PROPERLY PERFECT THE APPEAL

Rule 203(a), SCACR, requires that a party intending to appeal must serve the notice of appeal on all respondents within thirty (30) days after receipt of written notice of the entry of the order or judgment. "The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice." USAA Prop. & Cas. Ins. Co. v. Clegg, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008); see also Conner v. City of Forest Acres, 348 S.C. 454, 461, 560 S.E.2d 606, 609 (2002) (dismissing two defendants who were not identified as "respondents" in the Notice of Appeal).

As set forth above, Petitioner failed to identify either Defendant as a "respondent" in the Notice of Appeal. In fact, Petitioner added a new party as the "respondent" in the


Notice of Appeal. Therefore, the appeal was not perfected and the appellate court lacks jurisdiction to address the appeal. Id.

Despite failing to perfect the appeal, Petitioner argues that his appeal should not have been dismissed based upon his misinterpretation of statutes and the fact that he is proceeding *pro se*. However, the “established rules of procedure are not to be discarded, either in the trial court or on appeal, merely because the defendant has been his own lawyer.” State v. Hollman, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) overruled on other grounds by Stevenson v. State, 335 S.C. 193, 516 S.E.2d 434 (1999). Accordingly, Petitioner’s argument is without merit.

CONCLUSION

For the foregoing reasons, Respondents respectfully request this Court affirm the Order dismissing the appeal.

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March 11, 2015

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY
The Honorable L. Casey Manning, Circuit Court Judge
Case No.: 2004-CP-10-40-3521

S.C. Supreme Court

Appellate Case No. 2015-000172

William A. Thompson, #145029,

Petitioner,

v.

Jon Ozmint, Director, S.C. Dept. of Corr;
Dennis Patterson, Records, S.C. Dept. of Corr.,

Defendants,


Of whom South Carolina Department of Corrections is the

Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be served upon the persons named below the attached **Return of Respondent** in the above-captioned matter via United States mail, first-class postage prepaid, to the following:

William A. Thompson #145029
KCI HC Rm. 122
4848 Goldmine Hwy.
Kershaw, SC 29067


Damon C. Włodarczyk

Columbia, South Carolina
March 11, 2015

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March 11, 2015

(Hand Delivery)
The Honorable Daniel E. Shearouse
The Supreme Court of South Carolina
1231 Gervais Street
Columbia, SC 29201

Re: Thompson, William v. SCDC
Appellate Case No.: 2015-000172
Our File No.: 5021.02304

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Dear Mr. Shearouse:

Enclosed please find an original and (7) copies Respondent's Return with an original and one (1) copy of the Certificate of Service. Please return a filed copy to me with my courier.

Sincerely,



Damon C. Wlodarczyk

DCW/
Enclosures
cc: Mr. William Thompson