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IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APR 03 2015

SC Court of Appeals

APPEAL FROM DARLINGTON COUNTY  
MARVIN I. LAWSON, PROBATE JUDGE

CASE NO.: 2012-ES16-287

Harold Wilson,.....Appellant.

Vs.

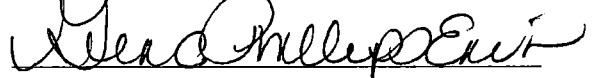
Cynthia Barnett, Louise Sweet, and Hubert Wilson,.....Respondents.

MOTION TO DISMISS APPEAL

The Respondent, Cynthia Barnett by and through her undersigned Attorney, hereby moves this Court for an order dismissing Appellant's Appeal. This motion is made on the grounds that S.C. Code Ann. §62-1-308 mandates that all appeals from Probate Court must be to the Circuit Court. In addition, the statute requires that a Notice of Intention to Appeal to the Circuit Court must be filed in the office of the Circuit Court and in the office of the Probate Court within ten (10) days after receiving written notice of the appealed from Order. Upon information and belief, no Notice of Intent to Appeal was filed to the Circuit Court within the time period required. As a result of the Appellants failure to timely file the Notice of Intent to Appeal in the Circuit Court as required by S.C. Code Ann. §62-1-308, this Court lacks subject

matter jurisdiction to consider the Appeal and it therefore must be dismissed. See *Gallagher v Evert*, 353 S.C. 59, 577 S.E.2d 217 (S.C. App., 2002).

RESPECTFULLY SUBMITTED,



GENA PHILLIPS ERVIN  
ORR, ELMORE & ERVIN, LLC  
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Florence, South Carolina 29503  
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ATTORNEYS FOR RESPONDENT

Florence, South Carolina

April 1, 2015

Other Parties of Record:

Harold Wilson, Pro Se Appellant  
1549 Country Manor Rd.  
Darlington, SC 29532  
(843)339-0576

Louise Sweet  
6857 North 19<sup>th</sup> Street  
Philadelphia, PA 19126

Hubert Wilson  
2916 Briar Park Road  
Effingham, SC 29541

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CERTIFICATE OF SERVICE

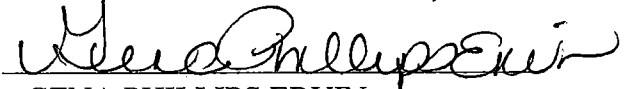
The undersigned certifies that a copy of Respondent Barnett's Motion to Dismiss was served upon the following Via First Class Mail Postage Prepaid on the 1<sup>st</sup> day of April, 2015:

Harold Wilson, Pro Se Appellant  
1549 Country Manor Rd.  
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April 1, 2015

APR 03 2015

SC Court of Appeals

Elizabeth Carter  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

RE: Wilson v Barnet et al  
Appellant Case No.: 2014-000689  
My File No.: 6141.002

Dear Ms. Carter:

Enclosed please find the original and six copies each of Respondent Barnett's Motion to Dismiss Appeal as well as a Motion of Extension of Time to File Respondent's Initial Brief, Affidavit of Counsel, and Certificate of Service in the above mentioned matter. I am also enclosing a check in the amount of Fifty Dollars (\$50.00) to cover the cost of filing both Motions.

If you have any questions, or if the Court needs anything further in order to act on either of these requests, please do not hesitate to call.

With warmest personal regards, I am

Yours very truly,

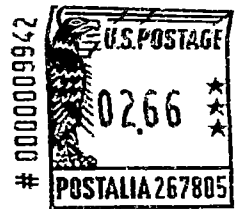
ORR, ELMORE & ERVIN, LLC

BY:

  
GENA PHILLIPS ERVIN

GPE/kcr

cc: Hubert Wilson  
Louise Sweet  
Harold Wilson  
Cynthia Barnett (w/ Enclosures)



**ORR, ELMORE & ERVIN, LLC**  
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