

75801
RECEIVED

APR 27 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2011-CP-42-04385

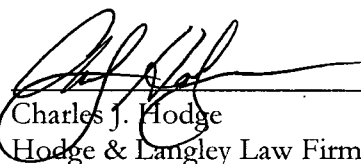
Appellate Case No. 2014-002260

Nellie Josephine Brown,Respondent

v.

Delilah Goode,Appellant

MOTION TO DISMISS APPEAL



Charles J. Hodge
Hodge & Langley Law Firm, P.C.
229 Magnolia Street
PO Box 2765
Spartanburg, SC 29304
(864) 585-3873

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

APR 27 2015

SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2011-CP-42-04385

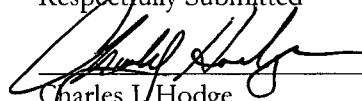
Appellate Case No. 2014-002260

Motion to Dismiss

The Respondent, Nellie Josephine brown moves to dismiss the above referenced appeal upon the grounds that Appellant has failed to comply with Rule 209 of the SC Appellate Rules (SCACR) specifically Appellant served an initial brief and did not serve any designation of matter to be included in the record on appeal upon Respondent. This rule is extremely important because it alerts the Respondent to matters which might be relied upon by Appellant in her arguments as well as matters left out which Respondent might want to be included on the record on appeal.

A reading of this rule is that it is mandatory. Because it has not been complied with your Respondent believes it is appropriate to dismiss the appeal for the reasons set forth above.

Respectfully Submitted



Charles J. Hodge
Hodge & Langley Law Firm, P.C.
229 Magnolia Street
PO Box 2765
Spartanburg, SC 29304
(864) 585-3873
Attorney for the Appellant

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

APR 27 2015

SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2011-CP-42-04385

Appellate Case No. 2014-002260

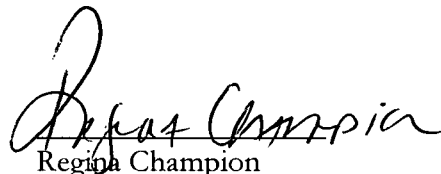
Nellie Josephine Brown,Respondent

v.

Delilah Goode,Appellant

CERTIFICATE OF SERVICE

The undersigned paralegal of the Hodge & Langley Law Firm, P.C. hereby certifies that a true copy of the Motion to Dismiss of the Respondent of the above referenced case has been served on O. Cyrus Hinton, Attorney for Appellant, PO Box 10981, Rock Hill, SC 29371.



Regina Champion
Hodge & Langley Law Firm, P.C.
229 Magnolia Street
PO Box 2765
Spartanburg, SC 29304

April 23, 2015

HODGE & LANGLEY LAW FIRM, P.C.

Attorneys at Law
229 MAGNOLIA STREET, P.O. BOX 2765

Spartanburg, SC 29304-2765

TEL. (864) 585-3873

FAX (864) 585-6485

RECEIVED

APR 27 2015

SC Court of Appeals

CHARLES J. HODGE

E-MAIL: hodgecharles@hotmail.com

NBTA CERTIFIED CIVIL TRIAL SPECIALIST

The Honorable Jenny Abott Kitchings
Clerk SC Court of Appeals
PO Box 11629
Columbia, SC 29211

April 16, 2015

T. RYAN LANGLEY

E-MAIL: RLangley@hodgelawfirm.com

LICENSED IN SOUTH CAROLINA AND GEORGIA

RE: Nellie Josephine Brown vs. Delilah Goode
Appeal No.: 2014-002260

Dear Ms. Kitchings,

This office represents the Respondent, Nellie Josephine Brown in the above referenced case. Mr. O. Cyrus Hinton is listed as counsel of record for the Appellant Delilah Goode. On April 10, 2015 Mr. Hinton filed an initial brief on behalf of the Appellant. He sent a copy to the undersigned along with the transcript of record from arguments before the circuit court Judge. This matter arose out of a jury verdict rendered against the Appellant in the Spartanburg County Magistrates Court. Mr. Hinton did not include a transcript from those proceedings. Likewise pursuant to rule 209 of the SC Appellant Court rules (SCACR) he did not serve a designation of matter to be included in the record on appeal. My reading of the rule is that the designation of matter to be included in the record on appeal is mandatory and may not be waived.

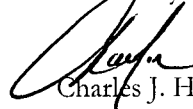
Rule 260 (A) (SCACR) deals with involuntary dismissal and a reinstatement. The rule provides "whenever it appears that an Appellant or a Petitioner has failed to comply with the requirements of these rules, the clerk shall issue an order of dismissal which shall have the same force and effect as an order of the Appellate Court.

Rule 240 (B) (SCACR) states that a motion to dismiss an appeal shall automatically stay the time limits for perfecting the appeal until the motion is decided. While I believe Rule 260 allows you as the Clerk to dismiss the appeal, out of an abundance of caution I am filing a motion in conjunction with the request set forth in the letter.

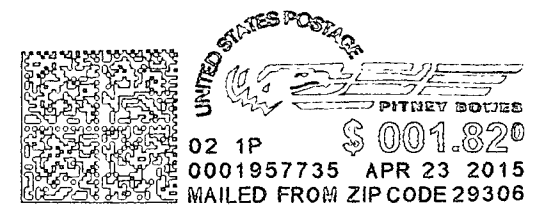
Finally, I am sad to report Mr. Hinton was killed on April 12, 2015 by his son according to newspaper accounts. I will leave to you and the Court of Appeals judgment how Mr. Hinton's death should affect the above request and ultimately the appeal.

Ms. Kitchings, I very much appreciate your consideration of the above and if I need to do anything more please let me know.

Yours very truly,


Charles J. Hodge

CJH/rc



HODGE & LANGLEY LAW FIRM, P.C.
229 MAGNOLIA STREET
P.O. Box 2765
SPARTANBURG, SC 29304-2765

TO:

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

RECEIVED
APR 27 2015
SC Court of Appeals

