

The South Carolina Court of Appeals

Jerome Harris, Respondent,

v.

Judy Pinckney Singleton, Gordon Ladson, Charlene Wilson, Andrew Lee, Dorothy Pinckney, Priscilla Jonson, Sandra Pinckney Rahim, Anthony Pinckney, Alexis Lee, Timothy Lee, and Ronald Lee, The Estate of Eloise Pinckney Harris, John Doe, Jane Doe, Richard Roe, and Mary Roe, who are fictitious names representing all unknown persons and the heirs at law or devisees of the following Deceased person known as Simeon B. Pinckney, Isabella Pinckney, Alex Pinckney, Mary Pinckney, Samuel James Pinckney, Rebecca Riley Pinckney, James H. Pinckney, William Brown, Sarah Pinckney, Julia H. Pinckney, Laura Riley Pinckney Heyward, Herbert Pinckney, Ellis Pinckney, Jannie Gathers, Robert Seabrook, Annie Haley Pinckney, Lillian Pinckney Seabrook, Simeon B. Pinckney, Jr., Matthew G. Pinckney, Mary Riley, John Riley, Richard Riley, Daniel McLeod, Isadora A. Pinckney, Hattie Pinckney (wife of Ellis Pinckney), Josiah Pinckney, Annie Pinckney, Julius Pinckney, Sr., Eloise Pinckney Harris, Jerome Harris, Sr., Dorothy Lee, Josiah W. Pinckney, Beatrice Pinckney, Julius Pinckney, Jr. also known as Julia Pinckney, Hattie Pinckney (daughter of Josiah Pinckney, Elizabeth Lee, John Lee and all other persons known or unknown, claiming any right, title, estate, interest, or lien upon the real estate tracts described in the complaint herein, Defendants,

Of whom Gordon Ladson is the Appellant.

Appellate Case No. 2015-000586

ORDER


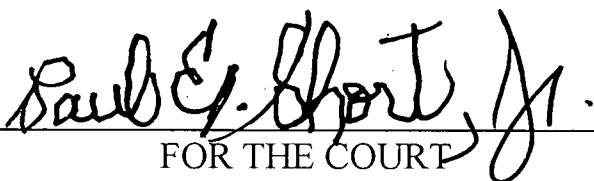
This case was initially filed by Respondent in the Charleston County Court of Common Pleas on November 5, 2013. Respondent moved for summary judgment. Appellant's current counsel represented him at the hearing on the motion. On May 9, 2014, the Charleston County Master-in-Equity filed an order granting summary judgment to Respondent. On May 29, 2014, Appellant filed a *pro se* letter with the circuit court that the master treated as a motion to alter or amend the judgment under Rule 59(e), SCRCF. The master denied that motion in an order filed January 16, 2015. Appellants served Respondent with a notice of appeal from that order on February 23, 2015. Respondent has now filed a motion to dismiss the appeal.

We find Appellant's motion to alter or amend the judgment should not have been accepted and ruled upon by the master because it was not submitted by the attorney who represented Appellant and therefore constitutes hybrid representation. *See Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527 (2010) ("Since there is no right to hybrid representation that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel." (internal quotation marks omitted)); *id.* (finding a *pro se* motion filed under Rules 59(e) and 60(b), SCRCF, by a litigant who was represented by counsel was "essentially a nullity").

Because Appellant's Rule 59(e) motion was "essentially a nullity," the thirty-day period for service of the notice of appeal began to run at the time Appellant received written notice of the order granting summary judgment and was not stayed by the Rule 59(e) motion. *See* Rule 203(b)(1), SCACR (requiring an appellant to serve a notice of appeal on all respondents within thirty days after receipt of written notice of entry of the order or judgment but providing for the time for appeal to be stayed when a motion to alter or amend under Rule 59, SCRCF is made). Although the record before this court is unclear as to the exact date Appellant received written notice of the entry of the order, Appellant must have received it no later than May 29, 2014, the date the *pro se* Rule 59(e) motion was filed. Accordingly, the deadline for Appellant to serve the notice of appeal was June 30, 2014. Appellant did not serve the notice of appeal until February 23, 2015.

Thus, Appellant's notice of appeal served February 23, 2015, was untimely. See Rule 203(b)(1), SCACR ("A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment."). Therefore, this court has no jurisdiction over the appeal. See *Holroyd v. Requa*, 361 S.C. 43, 54, 603 S.E.2d 417, 423 (Ct. App. 2004) ("The failure to timely serve a notice of appeal divests this court of subject matter jurisdiction and results in dismissal of the appeal." (internal quotation marks omitted)); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("[I]f a party misses the deadline [for serving the notice of appeal], 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.").

Accordingly, Respondent's motion is granted and this appeal is dismissed. Remittitur will be sent as required by required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:
Edward McKinley Brown, Esquire
Willie Bruce Heyward, Esquire

FILED
6/29/15