

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Maité Murphy, Circuit Court Judge

Case No. 2012-CP-10-1160

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AUG 25 2015

SC Court of Appeals

**Daniel O. Myers and
Bethany A. Thies,**

Respondents,

v.

John Melot,

Appellant.

**APPELLANT'S RETURN TO RESPONDENTS' MOTION TO
DISMISS**

Appellant submits this Return to Respondents' Motion to Dismiss. Respondents raise three issues with Appellant's appeal: (1) timely service of the Notice of Appeal, (2) timely filing of the Notice of Appeal, and (3) timely ordering of the transcript.

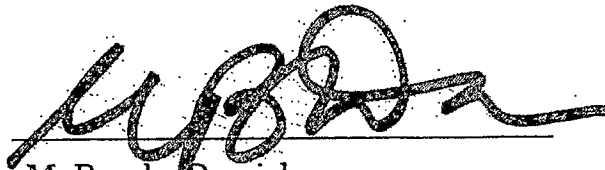
In response to Respondents' Motion to Dismiss, Appellant respectfully shows the following:

1. Rule 203(b)(1) of the South Carolina Rules of Appellate Practice require that the Notice of Appeal be "served on all respondents within thirty (30) days after receipt of written notice" of entry of judgment or of the denial of a motion to alter or amend the judgment.
 - a. On July 2, 2015, this office received written notice of the court's denial of Appellant's Motion to Alter or

- b. While on its face, the ordering of the transcript appears untimely. However, Rule 263(a) of the South Carolina Rules of Appellate Practice provides that "[t]he last day of the period so computed is to be included, unless a Saturday, Sunday, or a state or federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor such holiday."
- c. Merely counting the days, the time to order the transcript expired on August 8, 2015. However, August 8, 2015 is a Saturday, and as such the time to order the transcript expired on the next day that was not a Saturday or a Sunday, which was Monday, August 10, 2015 (the day the transcript was ordered).

Appellant did not fail to timely perfect his appeal of the above-captioned case. As demonstrated above, Appellant (1) timely served the Notice of Appeal in accordance with the rules, (2) timely filed the Notice of Appeal in accordance with the rules, and (3) timely requested the transcript from the court reporter in accordance with the rules. Therefore, Respondents' Motion to Dismiss should be denied.

August 25, 2015



M. Brooks Derrick
Law Office of M. Brooks Derrick
36 Broad Street
Charleston, South Carolina 29401
(843) 410-2545

Attorney for Appellant

Other Counsel of Record:
Mary Leigh Arnold
749 Johnnie Dodds Blvd., Suite B
Mt. Pleasant, South Carolina 29464
(843) 971-6053
Attorney for Respondents