

77387

**RECEIVED**

SEP 25 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM THE NINTH CIRCUIT COURT OF COMMON PLEAS  
MIKELL ROSS SCARBOROUGH, PRESIDING JUDGE IN CHARLESTON COUNTY

---

APPELLATE CASE NUMBER: 2015-001607

---

Jigness Patel, .....Respondent

v.

Jayantilal Patel, .....Appellant

---

PETITION TO REINSTATE APPEAL FROM THE ORDER FILED SEPTEMBER 11, 2015

---

Appellant does hereby petition the Honorable South Carolina Court of Appeals for an Order to Reinstate the instant appeal pursuant to SCACR 260. The grounds for this Petition are that it was improvidently granted pursuant to *USAA Property and Casualty Insurance Company v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (S.C. 2008) and should be reinstated for good cause shown.

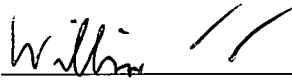
Appellant's counsel was under an Order of Protection from June 15, 2015 to June 24, 2015. Appellant's counsel departed the State by airplane at 6:00 a.m. on June 16, 2015. The Order denying Appellant's SCRCRCP Rule 59 motion to reconsider was filed June 12, 2015 and was apparently received at the office of Appellant's counsel on or about June 16, 2015, but at least five (5) hours after counsel had departed the State. Appellant's counsel returned to the State on June 24, 2015 and actually received the Order upon returning to his office on June 24, 2015, but still under the Order of Protection. The Notice of Intent to Appeal was filed and properly served on the Clerk of Court for the Hon. South Carolina Court of Appeals, the Charleston County Clerk of Court and opposing counsel on July 24, 2015 within thirty (30) days of actual receipt by counsel of the SCRCRCP 59 Order.

DISCUSSION

At issue before this Honorable Court is the scope of an Order of Protection issued by the Court of Common Pleas while it retained jurisdiction of the case or controversy and/or the definition of "received" the SCRCF Rule 59 Order in the wake of *USAA Property and Casualty Insurance Company v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (S.C. 2008). Appellant would further urge that the foregoing be reviewed in light of the preference for matters to be resolved on their merits and not on mere procedural technicalities, as has been expressed repeatedly under SCRCF Rule 55, which also has a "good cause shown" standard.

Respectfully submitted,

SWOPE LAW FIRM, P.A.



WILLIAM K. SWOPE, ESQUIRE

S.C. Bar No.: 15168

1525 Sam Rittenberg Blvd., Ste. 208

Charleston, SC 29407

Ph.: (843)852-4925

Attorney for Appellant

Charleston, SC

September 25, 2015

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

JIGNESS PATEL,  
PLAINTIFF,

VERSUS

DIPAK M. PATEL et al.  
DEFENDANTS.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT  
C/A No.: 2013-CP-10-0642

Appellate Case No: 2015-001607

CERTIFICATE OF SERVICE

**RECEIVED**


SEP 25 2015

SC Court of Appeals

On this 25<sup>th</sup> day of July, 2015, I, William K. Swope, Esquire, of the Swope Law Firm, P.A., did hereby serve Defendant/ Appellant Jayantilal Patel's Petition to Reinstate Appeal on the following:

The Hon. Jenny Abbot Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211  
**(Hand Delivered)**

Joseph Alfred Vasquez, Esquire  
Setzler & Scott, PA  
P. O. Box 4024  
West Columbia, SC 29171-4024  
**(Hand Delivered and sent via email: [joe@setzler-scott.com](mailto:joe@setzler-scott.com))**

  
\_\_\_\_\_  
William K. Swope