

STATE OF SOUTH CAROLINA
In The Court of Appeals

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SEP 28 2015

SC Court of Appeals

APPEAL FROM BAMBERG COUNTY COURT OF COMMON PLEAS
Honorable Edgar W. Dickson, Circuit Court Judge

Case No. 2010-DR-05-39
Appeal No. 2014-002727

The Forfeited Land Commission of Bamberg County, Plaintiff,

v.

Eartha Dean Moody Beard, et al. Ralph Johnson, et al., of whom Ralph Johnson is
answering as Defendant - Third Party Plaintiff,

v.

Bank One, N.A. Conseco Finance Servicing Corp., Equity One, Inc., JPMorgan Chase Bank, National Association, as trustee for the C-Bass Mortgage Loan Asset-Backed Certificates, Series 2005-CB2, and Mark D. Johnson, JOHN DOE AND MARY ROWE, fictitious names representing any known minors, incompetents, persons in the military, persons imprisoned and persons under any legal disability and RICHARD ROE AND SARAH DOE, fictitious names representing unknown devisees, distributees, or personal Representatives of LILLIAN G. BROWN, GERALDINE G. REED, RETHA G. GREGGS, LILLIE D. GRAY, GEORGE DAVIS, JULIA DAVIS, VIVIAN DAVIS, MARGARET DAVIS, LILLIE MAE DAVIS, LECIA RICE, ROY H. SETZLER, DYAN SETZLER, LUCIOUS WRIGHT, JULIA JONES, EDITH K. GILMORE, EDDIE GRIMES, HENRY C. GUESS, WILLIE THOMPSON, BESSIE THOMPSON, ANNIE MAE WHITE, and also all other unknown persons claiming any right, title estate, or lien upon the real estate which is the subject of this action, Third Party Defendants,

Of Whom Ralph Johnson is the Respondent and Coretta McMillan, Samuel Lee Morant, Jr., and Betsy Felicia Morant are the Appellants.

MOTION TO FILE RECORD ON APPEAL OUT OF TIME

Michael C. Tanner, Esq.
Post Office 1061
Bamberg, SC 29003

(803)245-9153
Attorney for Appellant

MEMORANDUM IN SUPPORT OF MOTION TO FILE
RECORD ON APPEAL OUT OF TIME

Appellant's *Notice of Appeal* in this matter was timely filed with the South Carolina Court of Appeals. The Appellant's *Initial Brief and Designation of the Matter to be Included in the Record on Appeal* were timely served on the Respondent.

Appellant served the *Record on Appeal* on August 20, 2015, and served a copy on the Respondent, but due to an in-house error the original and copies were not filed with the South Carolina Court of Appeals.

Appellant now moves the Court for permission to file the Record on Appeal out of time. Appellant asserts Respondent will not be prejudiced by filing the Record out of time, as Respondent was timely served.

ARGUMENT

The South Carolina Appellate Court Rules allow that the time for performing any act under the Rule, with the exception of filing the Notice of Appeal, may be extended by the Court. Rule 263(b), SCACR. Appellant now comes and moves the Court to grant her permission to file the Record on Appeal.

“[t]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.” Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992). However, where an appellant's brief does not fully comply with the Rules, the Court may grant the appellant an opportunity to correct it. *C.f. id.* (holding appellant would have fifteen days to submit an initial brief conforming to the Rules, where version

first submitted contained numerous violations). Appellant respectfully asserts she should be allowed to file the Record late.

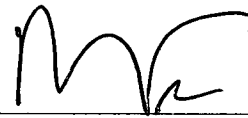
Appellant asserts that the short delay cannot be construed as causing prejudice to the Respondent in any way as he was timely served a copy of the Record.

CONCLUSION

Based upon the foregoing authority, Coretta McMillan respectfully requests that her *Motion to File her Record on Appeal Out Of Time* be GRANTED.

Respectfully submitted,

CORETTA MCMILLAN



Michael C. Tanner
P.O. Box 1061
Bamberg, SC 29003
(803) 245-9153
Attorneys for Respondent

Bamberg, SC
September 28, 2015

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Of Whom Ralph Johnson is the Respondent and Coretta McMillan, Samuel Lee Morant, Jr., and Betsy Felicia Morant are the Appellants.

PROOF OF SERVICE

I certify that I have served a copy of the Motion To File Record On Appeal Out Of

Time by depositing a copy of same in the United States Mail, postage prepaid, on
September 28, 2015, addressed to the Third Party Plaintiff's attorney as follows:

J. Martin Harvey, Esquire
P.O. Box 705
Barnwell, SC 29812



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Bamberg, S.C.
September 28, 2015