

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**RECEIVED**

NOV 12 2015

APPEAL FROM THE CHARLESTON COUNTY  
COURT OF COMMON PLEAS

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**SC Court of Appeals**

J.C. Nicholson, Jr., Circuit Court Judge  
Stephanie P. McDonald, Circuit Court Judge at Trial  
Case No. 2012-CP-10-3421

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Mamie F. Nichols,

Appellant,

v.

ALBERT NAPOLEON THOMPSON, JR.,  
AL THADDEUS THOMPSON,  
TITUS SHEROD THOMPSON, and ASIA RACHAL THOMPSON,

Respondent.

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OPPOSITION TO MOTION TO DISMISS APPEAL

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PRECIOUS FELDER  
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Atlanta, GA 30309  
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Attorney for Appellant (Pro-Hac Vice)  
State Bar Number 648264

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DECLARATION IN OPPOSITION TO MOTION TO DISMISS APPEAL

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PRECIOUS FELDER declares that the following statements are true under the penalties  
of perjury:

1. I am the attorney for the Appellant and make this declaration in opposition to the  
motion of the Respondents to dismiss the appeal, purportedly for failure to file a timely brief,  
even though the brief has been filed and accepted by the Court. The motion is utterly frivolous  
within the meaning of Rule 269 and should be denied.

2. Contrary to the Respondents' argument, the transcript was timely ordered on August 25, 2015 and a notice of the timely delivered transcript was filed on October 16, 2015. The initial brief was filed on October 21, 2015. This is all a matter of public record.

3. Respondents nonetheless argue that the transcript was "unnecessary." They are wrong. It was necessary to order a complete transcript. First, the original transcript had been written on. Second, parts of the transcript were only received last year in 2014 for a JNOV motion filed on March 12, 2014 in the Charleston County Court of Common Pleas. Therefore, it was necessary to order the *completed* transcript within the 10 days after the date of service of the notice of appeal (Rule 207 (a)(1)), which was done, in order to receive the completed e-transcript/transcript (which cost extra). (Rule 607(1)(H)).

4. In any event, no motion to dismiss the appeal was made prior to the submission of the initial brief. Counsel waited until it was served to make this "argument."

5. Counsel supplies no precedent for the relief sought. The transcript *was* ordered. Thus, even applying a strict technical view of the rule cited, it cannot operate to compel an automatic dismissal.

6. Inasmuch as the brief has been filed without prior objection, if the Respondents' argument had any merit the Court may, even now, extend the time to file the initial brief *nunc pro tunc*. See Rule 263(b); *Ex parte Strom*, 343 S.C. 257, 264, 539 S.E.2d 699, 702-03 (2000) ("*Nunc pro tunc* is a phrase applied to acts allowed to be done after the time when they should have been done, with a retroactive effect."). And, if it had been dismissed, a motion for reinstatement could be made under Rule 260.

7. In short, the motion is utterly frivolous and supported by no legal authority. Indeed, it is contrary to common sense.

Accordingly, the motion should be denied, in all respects, and the Court should consider whether a Rule 269 sanction is in order.

Declared to be true under the penalties of perjury on November 12, 2015.

  
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PRECIOUS FELDER

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas, Ninth Judicial Circuit

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J.C. Nicholson, Jr., Circuit Court Judge

SC Court of Appeals

Case No. 2012-CP-10-3421

Albert Napoleon Thompson,  
Jr., Al Thaddeus Thompson,  
Titus Sherod Thompson, Asia  
Rachal Thompson, Respondents,

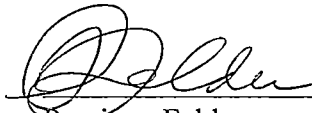
v.

Mamie F. Nichols, Appellant.

CERTIFICATE OF SERVICE

I certify that I have served Opposition to Motion to Dismiss Appeal on Albert Napoleon Thompson, Jr., Al Thaddeus Thompson, Titus Sherod Thompson and Asia Rachal Thompson by depositing a copy of it in the United States Mail on November 12, 2015, to their attorney of record, Demal I. Mattson, Jr. at 1156 Bowman Road, Suite 200, Mt. Pleasant, South Carolina 29464 and 804 St. Dennis Drive, Charleston, South Carolina 29407.

November 12, 2015



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