

MOTION-RETURN
TO DISALLOW FILING OUT OF TIME FOR RESPONDENT

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals
Appellate Case No. 2015-002367

RECEIVED

FEB 05 2016

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Tanya Gee, Circuit Court Judge

Orlando I. Brown, Pro Se,

Appellant,

v.

The State Of South Carolina,

Respondent.

Motion-Return

Orlando I. Brown
440 Rimer Pond Road
Blythewood, S.C. 29016
(803) 477-0098
Pro Se Appellant

I. **MEMORANDUM**

I filed a Motion for Relief on 1-21-16 on the grounds of barratry committed by the then Respondent's lawyer, Mr. Richard Marsh III. Two weeks prior to filing this motion, on 1-12-2016, the Respondent's Initial Brief and Designation of Matter To Be Included In The Record On Appeal, was due to be filed, according to Appellate rules. I called Mr. Marsh and asked if he had mailed in his copies and he said yes. I asked if he could please expedite a copy to me via email, and he said yes. A week went by with no copies emailed, so I called again. He apologized and reassured me that he would email copies to me. To this date I still have not received those copies from Mr. Marsh and Mr. Marsh no longer is employed by the law firm Mckay, Cauthen, Settana, and Stublely, P.A. Their receptionist told me that Mr. Marsh was fired because of the barratry charge I filed on 1-21-16 but told me if I waited he would introduce me to whom the case was transferred to, which is Temus C. Miles, Esquire, who at present claims that his law firm never received my Initial Brief, and that is the reason they have requested an extension of time to file their Initial Brief and Designation of Matter to Be Included In The Record On Appeal. This is not the first time I have experienced inaccuracies from this law firm. Mr. Miles told me that he worked for the Appeals Court for three years, and he has apparently been able to get his Motion To File Out Of Time granted in one day because of this, without time given for me to contest, which I do hereby contest. The Respondents have had ample time to file, and their excuse to gain an extension of time to file based on their claim that they are not in receipt of my Initial Brief is untrue. They could have checked the docket. This law firm has a history with me of inaccuracies that are listed in the proceeding Facts below that I present are reasons they should not be allowed to have any further gains or advantages in this case, which I might add, is "a matter of law." I feel that this firm is counting on inaccuracies and confusion to win this case because they refuse

to give my merits any settlement value and have tried to portray me as confused as Mr. Miles states in his Motion-Return opposing my Motion For Relief.

II. MOTION

I hereby motion the court to rescind the extension of time given to the Respondents to file their Initial Brief and Designation Of Matter To Be Included In The Record On Appeal based on the following Statement Of Facts.

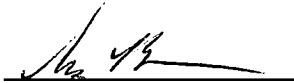
III. STATEMENT OF FACTS

- a.) The attached hereto Exhibit: A1 has there underlined, proof that I had to amend the pleadings in lower court to show South Carolina as the sole defendant, because the clerk's office adopted the Respondent's lawyer's fraudulent claim of defendants that I never before claimed, by way of their filed Notice of Motion And Motion To Dismiss Against The S.C. Attorney General's Office and Attorney Alan Wilson, which is also evidenced in Exhibit:A2. In receipt of this fraudulent filing, Mr. Marsh's response and advise was to leave it until the hearing, at which point he stated that the Judge would dismiss the improper defendants, which I believe would have gained an entire dismissal.
- b.) The attached hereto Exhibit: B1 is proof that the defense is in receipt of Appellant's Initial Brief. Mr. Miles is inaccurate that Initial Brief was not received.
- c.) The attached hereto Exhibit:C1 is evidence underlined of Mr. Mile's continued and shared inaccuracies by way of him claiming that my Motion For Relief was based on a barratry charge against the Honorable Judge Tanya Gee and further claims that I am confused. No, he is inaccurate. If he had properly analyzed what had transpired, he would see that Mr. Marsh committed barratry and not Judge Gee as the underlined in Exhibit:C2 illustrates. The Proposed Order was submitted by Mr. Marsh who did not properly do as the judge ordered.

IV. BRIEF

It is my contention, that if this law firm as a whole, is entitled to any more leverage or leniency, they will do whatever is necessary, to make favorable gains. This case is "as a matter of law", and should have been settled. I conclude this Motion-Return to state that the extension of time given to the Respondents should be rescinded.

I, the undersigned, certify that the foregoing Motion-Return on the grounds of inaccuracies and barratry is true, accurate and correct.



Orlando Ira Brown

440 Rimer Pond Road

Blythewood, S.C. 29016

(803) 477-0098

Irabrown81@gmail.com

2-5-2016

Date

RECEIVED

FEB 05 2016

SC Court of Appeals

Exhibit: A1

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO: 2015-CP-40-04012

Orlando Ira Brown,

Plaintiff,

CONSENT ORDER TO AMEND
PLEADINGS

vs.

State of South Carolina,

Defendant.

RICHLAND COUNTY
FILED
SEP - 1 PM 12:11
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter comes before the Court with the consent of all parties for an Order allowing Plaintiff to remove Defendants "Alan Wilson" and "Attorney General" as parties in this action.

Plaintiff, appearing *pro se*, filed the Summons and Complaint in the above matter with the Richland County Clerk of Court on July 2, 2015. Plaintiff filed an Amended Complaint on July 10, 2015. The Amended Summons and Complaint removed the S.C. County Probate Court as a Defendant and added the State of South Carolina as the sole defendant in this action. However, it appears that parties identified as "Alan Wilson" and "Attorney General" were listed as Defendants with the Richland County Clerk's office by mistake.

Plaintiff filed a Motion to Amend the Pleadings on August 13, 2015 to correct the incorrectly listed Defendants and to reflect that the State of South Carolina is the sole Defendant in this matter. The parties have since informed the Court that they consent to the relief requested in Plaintiff's Motion to Amend and enter into this Consent Order.

IT IS THEREFORE ORDERED THAT, by agreement and consent, Plaintiff's Motion to remove the Defendants identified as "Alan Wilson" and "Attorney General" as parties in this action is granted. The State of South Carolina will remain the sole defendant pursuant to the Amended Summons and Complaint.

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Orlando Ira Brown,

Plaintiff,

vs.

State of South Carolina,

Defendant.

Exhibit: A2

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO: 2015-CP-40-04012

SOUTH CAROLINA ATTORNEY
GENERAL'S OFFICE AND
ATTORNEY GENERAL ALAN
WILSON'S NOTICE OF MOTION
AND MOTION TO DISMISS

RICHLAND COUNTY
FILED
AUG 10 PM 4:25
JANETTE N. HOBRIDGE
C.C.P. & G.S.

TO: ORLANDO IRA BROWN, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the alleged Defendants, the South Carolina Attorney General's Office and Attorney General Alan Wilson ("Defendants"), by and through their undersigned attorneys, will move the Court for an Order dismissing the case against them pursuant to the grounds set forth in this Motion. Said Motion will be heard within ten (10) days or at such time and place as may be set by the Court thereafter in the Court of Common Pleas for Richland County, of which you will be notified.

The alleged Defendants move to dismiss the case against them on the following grounds:

- 1) The Plaintiff fails to state a cause of action under the Constitution and the laws of the United States and the State of South Carolina; the claims are frivolous and without merit; there is no genuine issue as to any material fact; and the Amended Complaint does not state a claim upon which relief can be granted;
- 2) The alleged Defendants move to dismiss this case pursuant to Rules 12(b)(1), (2), (4), and (5) of the South Carolina Rules of Civil Procedure on the grounds of lack of jurisdiction of the subject matter; lack of jurisdiction of the person; insufficiency of process; and insufficiency of service of process.

1 REM

6 of 9 LWB

pg 14 of 48

State of South Carolina)	Exhibit: B1
)	In The Court of Appeals
County of Richland)	
Orlando Ira Brown,)	CA No. 2015-002367
)	
Plaintiff,)	
Vs.)	Proof of Service
)	DEC 11 2015
State of South Carolina,)	SC Court of Appeals
)	
Defendant.)	

RECEIVED
 DEC 11 2015
 SC Court of Appeals

The undersigned hereby certifies that on December 11, 2015, a copy of the foregoing Plaintiff, Orland Ira Brown's Initial Brief was hand delivered to opposing counsel to the address as follows:

~~_____~~ *MB*

Richard Marsh III
 1303 Blanding Street
 Columbia, South Carolina 29201

Dec 11, 2015
 dated

Shirley Nelson
 Shirley Nelson
 440 Rimer Pond Road
 Blythewood, South Carolina 29016
 (803) 477-0098

Exhibit: C1

Pursuant to Rule 240, SCRACR, the Respondent sets forth its return to the Appellant's Motion for a Relief, as follows:

The Appellant has filed a Motion for Relief wherein he requests the South Carolina Court of Appeals grant him \$15,000,000.00 as a result of what he has construed to be barratry on behalf of the trial Judge, the Honorable Tanya Gee. In short, the Appellant claims Judge Gee committed the offense of barratry by instructing defense counsel at the conclusion of the hearing on the Motions to Dismiss to prepare a proposed Order granting a Motion to Dismiss primarily on the basis of the South Carolina Tort Claims Act immunity and later signing an Order of Dismissal based on 12(b)(6), SCRCP. There is no legal basis for the relief requested by the Appellant. The Motion for Relief appears to be a result of his confusion with the South Carolina Rules of Civil Procedure and should be denied.

South Carolina Rules of Civil Procedure 12(b)(6) provides a procedural mechanism by which a Defendant can move for dismissal of claims which fail "to state facts sufficient to constitute a cause of action" in the State of South Carolina. The Defendant's Motion for Dismissal was a 12(b)(6) motion based, inter ally, on the immunities provided by the South Carolina Tort Claims Act. South Carolina Rules of Civil Procedure 12(b)(6) is simply the procedural mechanism by which the Respondent/Defendant presented, and the Judge reached, the immunities included within the South Carolina Tort Claims Act. They are not opposing independent grounds for the grant of the Motion to Dismiss.

The basis of the Respondent/Defendant's Motion, and the ultimate ruling of the Court, was that due to the immunities granted through the South Carolina Tort Claims Act, the Appellant had failed to state facts sufficient to constitute a cause of action within the State of South Carolina and, accordingly, dismissal pursuant to Rule 12(b)(6) was appropriate. As a

Exhibit : C:2

I. MEMORANDUM

Barratry is when mistakes are made in court proceedings that a party can capitalize off of if uncorrected. In this case, on September 30, 2015, Judge Tanya Gee, at lower court proceeding of Motion To Dismiss Hearing, the defense was ordered to write a proposed order for dismissal based on S.C. Tort Immunities that she stated she would sign. I received a signed order with a completely different ground for dismissal as that of a violation of rule 12(b)(6). Let us not forget the importance of being able to follow specific court orders by way of this fictional example; if a judge at a murder trial orders the prosecution to propose an order convicting suspect of first degree murder, the prosecution is not going to therefor then propose an order for judge to sign convicting suspect of manslaughter. That would be outrageous and immediate grounds for a convicted killer to get away with a less severe punishment. For that reason, barratry is illegal and is often considered a misdemeanor, however, if committed by an attorney, is often punished by disbarment.

II. MOTION

I hereby motion the court to grant Appellant the relief demanded in this complaint of Fifteen million USDA by immediately reversing the lower court decision based on a charge of barratry.

III. STATEMENT OF FACTS

- a.) The attached hereto Exhibit: A is page 36 of the Official Transcript of the September 30, 2015 Motion To Dismiss Hearing, whereby it is underlined Judge Tanya Gee's order of dismissal based on S.C. Tort Immunities Claim.
- b.) The attached hereto Exhibit: B, on page 2 of 5, is the signed proposed order of dismissal based on 12(b)(6). The Honorable Judge Tanya Gee's signature is on page 5 of 5 of this exhibit.

9 of 9
A. B.

PROOF OF SERVICE OF MOTION-RETURN

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals
Appellate Case No. 2015-002367

RECEIVED

FEB 05 2016

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Tanya Gee, Circuit Court Judge

Orlando I. Brown, Pro Se,

Appellant,

v.

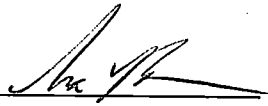
The State Of South Carolina,

Respondent.

Proof of Service

I certify that I have served the Motion-Return on the State of South Carolina by personally delivering a copy of it to the attorney of record, Mr. Temus C. Miles, at his office at 1303 Blanding Street, Columbia, S.C. 29201, on the date signed below.

2-5-2016


Orlando I. Brown
440 Rimer Pond Road
Blythewood, S.C. 29016
(803) 477-0098
Pro Se