

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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FEB 01 2016

Appeal From The Richland County
Court of Common Pleas From Orders of SC Court of Appeals
Honorable G. Thomas Cooper, Jr.,
Fifth Judicial Circuit Court Judge

Appellate Case No.: 2015-000740

Case No.(s): 2013-CP-40-03078
2007-CP-40-03742

Subsequent Interlocutory Orders Of (FORMER) Circuit Court Judge,
Honorable J. Michelle Childs:

Case No.(s): 2007-CP-40-03742
2009-CP-40-02442

Subsequent Interlocutory Order of Circuit Court Judge,
Honorable De Andrea Gist Benjamin:

Case No.: 2009-CP-40-02442

Clarence S. Gregory, Appellant,

Verses

Riley Pope & Laney, LLC, Law Firm, Attorney(s) and Counselor(s)
at Law, Individually and Individually named, Theodore D. Riley,
T. Lowndes Pope, LeRoy Free Laney, Nikole H. Boland, Of Whom
All are sued in Their Individual and Professional Capacities,
Riley Pope & Laney, Limited Liability Contractor(s) (LLC);

AND

Heath McAlvin Stewart, III, Individually and Individually named,
Of Who, Formerly Employed with, Riley Pope & Laney, LLC, Law
Firm, An Agent Attorney Is Sued In His Individual and
Professional Capacities, Et Al.,

(2)

All Whom are Named as Defendants,
Of Which, Riley Pope & Laney, LLC, Is The Respondent.

APPELLANT'S OPPOSING REPLY TO RESPONDENT'S MOTION FOR
EXTENSION OF TIME TO FILE AND SERVE FINAL BRIEF

NOW COMES, the Appellant by way of pro se, and do hereby respectfully REQUEST this COURT, pursuant to Rule 240 (c), (1), (2), (3), and Rule ⁽²⁶⁰⁾ 260 (a), SCACR, for an Order to deny Respondent -'s said Motion for an extension to file and serve their final brief, is outside the deadline time period and their reasons are vague and insufficient.

The Respondent's motion is in contravention to Rule 240 (c), SCACR, which provides in pertinent parts:

Rule 240 (a), "This Rule governs all motions or petitions filed in the appellate court, including but not limited to: "Motions For Extension of Time, etc;

(c). "All motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall "comply" with the requirements of Rule 267, etc., Each motion or petition "shall" include the following:

(3). "where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, "the parties "shall" file "affidavits" and other documents in support of their positions.

Appellate asserts, according to the case law cited in,

(3)

Beckmann Concrete Contractors, Inc. vs. United Fire And Casualty Co., (S.C. App. 2004) 600 S.E.2d 76, 360 S.C. 127, rehearing denied; (Which held, in Beckmann's Court, "The S.C. Court of Appeals ruled, Subcontractors did "not" follow the required "mandated" procedural rule for obtaining default judgment against payment bond surety, etc.

The subcontractor did not "file" a verified pleading or an "affidavit," and no supporting documents in any form or fashion; Further, the S.C. Court of Appeals "denied" the motion as a result of Beckmann Concrete Contractors, Inc., "failed to follow the procedural "mandated" by Rule 55 (b)(2), SCRCP.

55
Based upon these facts, the Respondents' ^(has) failed to follow the required "mandated procedural rule under, Rule 240 (c) (3). Respondents' did not file with their motion an "Affidavit, as required; Respondent motion for extension is outside the time frame period within 20 (Twenty Days), Rule 211, SCACR, for filing their Final Brief, a petition or motion for extension should have been filed on or before the deadline time-frame period.

WHEREFORE, the Appellant prays that this Court deny the Respondent's said motion for extension of time to file and serve their final brief.

The Respondents' asserts in their Respondent's Notice of Deficiency of Record on Appeal and Motion to File A Supplemental Record on Appeal, dated January 19, 2016, apprising the Court that Appellant's Record on Appeal does not contain the complete

(4)

Complaint, (R. pp. 67-141); Alleging that the Complaint's Affidavit of Service does not bear the filing stamp and, in fact, is not the Affidavit of Service on record with the Circuit lower Court of Common Pleas. The Respondents' counsel to this extent is trying to demonstrate their belief of establishing the statutory limitation of Appellant's Complaint;

Appellant Reply And Oppose as upon these grounds:

In the Respondents' Initial Brief, In, Argument on Page 7, ¶ and Page 8, ¶ 01, Respondents' alleged that Inmate offered no evidence to the trial court to explain the three (3) months delay in resubmitting the Appellants' summons and complaint and being re-dated and sent for filing on/or about, May 15, 2012; (Filed on/or About, October 23, 2015, Respondents' Initial Brief);

ARGUMENT OF REPLY

Appellant argues under the informa pauperis status process provided according to § 24-27-150, it authorizes the Appellant as an incarcerated prisoner a to exercise a right to file summons and complaint as held in, Henry Martin, II, vs. State, 471 S.E.2d 134-135 (1995); as the S.C. Supreme Court Chief Justice (Former) stated in her responsive letter (See, App. Volume II, ROA pp. 256-257; and as Appellant has demonstrated and proved by the Richland County Office of the County Attorney, Mr. Larry C. Smith, correspondence Letter (See, App. Volume II, ROA pp. 256-259);

Therefore, Appellants' summons and complaint filed on/or about, in the original time, October 15, 2012, has a "retroactive effect, under the § 24-27-150, which gave Appellant ^(has) the right to file, and the Richland County Court of Common Pleas, Clerks' staff, Ms. Judy N. Davis, interfered and prevented Appellant

(5)

Therefore, the Appellant's summons and complaint with the "affidavit" showing and dated on/or about, October 15, 2012, from the original time filed at the BRCI prison authorities for mailing as cited in, "Houston vs. Lack, 487 U.S. 266, 276 (1988), (holding, "A pleading is considered "filed" by an inmate when it is delivered to prison authorities for mailing)."

The Appellant's Affidavit of Service, dating October 15, 2012, has a "retroactive effect," under the doctrine of equitable tolling and equitable estoppel, and under Houston verses Lack, 487 U.S. 266, 276 (1988); The Statute S 24-27-100, thru 150, gave Appellant a right to file, ~~but~~ the Clerk's staff, Ms. Judy N. Davis, interferred and prevented Appellant from timely filing his summons and complaint, as cited in, Vice vs. Self Memorial Hospital, 314 S.C. 305, 443 S.E.2d 909.

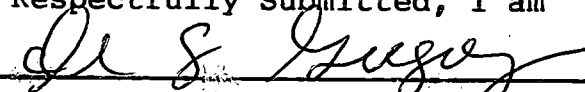
WHEREFORE, Respondents' claims of the Appellant's affidavit of Service of serving the summons and complaint, dating May 15, 2013, with the Clerk's clocked-stamped & dated for May 22, 2013, ~~has no relevant effect of~~ Respondent's claims of statutory ~~limitation~~ period, because of the Affidavit of Service, original dated October 15, 2012, was timely filed under Houston vs. Lack, 487 U.S. 266, 276 (1988), having a "retroactive effect on timely filed.

CONCLUSION

The Respondents' claims in this matter is without merits, and this Court should not affirm Respondents' claims.

Respectfully Submitted, I am

s/



CLARENCE S. GREGORY, #224394

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Clarence S. Gregory, Appellant,
Verses

Riley Pope & Laney, LLC, Law Firm, Attorney(s) and Counselor(s)
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T. Lowndes Pope, LeRoy Free Laney, Nikole H. Boland, Of Whom
All are sued In Their Individual and Professional Capacities,
Riley Pope & Laney, Limited Liability Contractor(s) (LLC);

AND

Heath McAlvin Stewart, III, Individually and Individually named,
Of Who, Formerly Employed with, Riley Pope & Laney, LLC, Law
Firm, An Agent Attorney Is Sued In His Individual and
Professional Capacities, Et Al., All Whom are named as

Defendants, Of Which, Riley Pope & Laney, LLC, Is The Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be served upon the person(s) named below the enclosed/attached Appellant's Opposing Reply To Respondent's Motion For Extension of Time To File And Serve Final Brief, Cover Letter, in the above captioned matter, from the Broad River Correctional Institution, MailRoom, by Via United States Regular-First Class Mail as postage and pre-paid served upon the following individual(s):

The S.C. Court of Appeals
C/o Honorable Jenny About Kitchings
Clerk of Appellate Court
1220 Senate Street
Post Office Box 11629
Columbia, South Carolina 29211-1629

Mr. Riley Pope & Laney, LLC, Law Firm
C/o Mr. Damon Christian Wlodarczyk, Esquire For Respondent
Attorney(s) And Counselor(s) at Law
2838 Devine Street
Post Office Box 11412
Columbia, South Carolina 29211-1629

Richland County,
Columbia, South Carolina 29210

This January 27th, 2016
27th

Respectfully Submitted, I am

Clarence S. Gregory

CLARENCE S. GREGORY, #227394

APPELLANT PRO' SE

CASE NO.: 2015-000740

Sworn To and Subscribed To Before me
This 26 DAY OF January, 2016,

Jimmie M. [Signature]
NOTARY PUBLIC FOR STATE, SOUTH CAROLINA

My Commission Expires: 6/1/2018

Clarence S. Gregory, #227394
C/o Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, S.C.

29210-4012

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SC Court of Appeals

VIA U.S. REGULAR MAIL

Dated: January 27, 2016

TO: The S.C. Court of Appeals
C/o Honorable Jenny A. Kitchings
Clerk of Court
1220 Senate Street
Post Office Box 11629
Columbia, S.C.

29211-1629

RE: Gregory, Clarence S. #227394 vs. Riley Pope & Laney, LLC,
Et. Al., Appellate Case No.: 2015-000740

SUBJ: Request For Filing Enclosed Original Appellant's Opposing
Reply To Respondents' Motion For Extension of Time To File And
Serve Final Brief

Dear Honorable Kitchings/Clerk:

Please find enclosed an original "Reply" Opposing Respondent
-s Motion For Extension of Time To File And Serve their Final
Brief.

By copy in receipt of the original on this date you have
been served.

Respectfully Submitted, I am

s/


CLARENCE S. GREGORY, #227394

Cc: Mr. Damon C. Wlodarczyk, Esquire For Respondent



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LEGAL MAIL

CLARENCE S. GREGORY, # 227394
 Clo BRCI, MURRAY Unit, B-Wing Rm. 234
 4460 Broad River Road
 Columbia, S.C. 29210-4012

VIA U.S. Regular Mail

To: The S.C. Court of Appeal
 Clo Honorable Jenny A. Kitchings
 Clerk of Court
 Post Office Box 11629
 Columbia, S.C. 29211-1629

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