

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

FEB 22 2016

SC Court of Appeals

Appellate Case No. 2014-002545

City of Columbia.....Respondent,

v.

Haiyan Lin.....Appellant,

**Respondent's Objection to Appellant's Motion to Recall Remittitur
and Motion for Full Panel Review**

Respondent hereby objects to Appellant's request to recall remittitur and for full panel review for the reasons that follow:

Appellant was notified by Order dated October 22, 2015, that her motion to reinstate her appeal was being treated as a motion to rehear or reconsider the dismissal of her appeal for which there was no basis and the Court therefore denied her motion.

By another Motion for Reconsideration dated November 5, 2015, Appellant took issue with the Court for not giving her motion to rehear the proper consideration.

On November 27, 2015, Appellant notified the Court that she had been out of town and sought protection from meeting deadlines in several cases, the above-referenced matter among that list. She provided an address in California as a temporary address until further notice.

On December 4, 2015, this Court notified Appellant that protection wasn't granted prospectively, but extensions could be requested pursuant to the Appellate Court Rules but motions should be separately made for each case Appellant has on appeal. This notice was mailed to the address in California.

On December 21, the Court advised Appellant at her Columbia address that it took no action on the second request for rehearing/reconsideration and the Remittitur was sent down on that date.

On February 3, 2016, Appellant filed the current Motion to Recall Remittitur and Motion for Full Panel Review, citing violation of her due process rights.


Analysis

It is clear, that through Appellant's actions she has intentionally confused her numerous cases leaving the Court to sort out her matters at great effort. Following the denial of her motion for reconsideration on October 22, 2015, there was no mechanism for a second motion duplicating the first. Pursuant to Rule 221(b), SCACR, where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court until the time to petition for a writ of certiorari under Rule 242(c) has expired. That Rule stated that Appellant had 30 days to file her petition for writ of certiorari after the rehearing decided, or by November 21, 2015, at the latest. Appellant did not petition for writ. Instead, she filed another duplicative motion in the same court. It was nearly one week after missing that 30-day deadline that she advised this Court of her temporary address in California. She cannot hide behind the temporary address change as an excuse to reopen her appeal yet again.¹

¹ On December 11, 2015, a letter was sent from a court reporter to Appellant at her Columbia address indicating that her request for a transcript dated November 10, 2015, in the matter of

Conclusion

This Court has graciously provided Appellant with ample opportunities to comply with the South Carolina Appellate Court Rules and has given the Appellant numerous time extensions prior to dismissing her appeals. The record is clear that Appellant does not meet deadlines as provided by this Court. Appellant seeks to confuse the issues with her correspondence. It is not necessary to reinstate the appeal because the case has no merit. For the reasons provided, Respondent respectfully requests this Court deny Appellants request to reinstate this action.



Dana M. Thye
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Attorney for Respondent

February 18, 2016

2013-CP-40-2594 which is Appellate No.: 2015-001866 not 2015-002545 which is the case here before this Court, was being processed and that payment needed to be made prior to work beginning. An estimate was included and instructions for payment relayed. In an undated letter, copied to the Office of the City Attorney and received on January 19, 2016, Appellant listed her Columbia address as her return address and included payment to that court reporter as instructed for that case. It is clear that between December 11 and January 19, Appellant was receiving and sending mail from her Columbia address.

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v.

Haiyan Lin Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the Respondent's Objection to Appellant's Motion to Recall Remittitur and Motion for Full Panel Review upon the Appellant by placing it in the United States mail, first class postage prepaid to her at her address indicated below on this 18th day of February, 2016:

Haiyan Lin
P.O. Box 8776
Columbia, SC 29202



Jennifer L. Hendrix
Paralegal for Respondent City of Columbia

February 18th, 2016
Columbia, South Carolina



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SC Court of Appeals

We Are Columbia

Office of the City Attorney
Post Office Box 667 • Columbia, SC 29202 • (803) 737-4242 • Fax (803) 737-4250

February 18, 2016

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: City of Columbia v. Haiyan Lin
Appellate Case No. 2014-002545

Dear Ms. Kitchings:

Enclosed for filing, please find the original and six (6) copies of the *Respondent's Objection to Appellant's Motion to Recall Remittitur and Motion for Full Panel Review* along with *Certificate of Service* in the above referenced case. Also enclosed is a self-addressed stamped envelope for return of an extra clocked copy to this office.

By copy of this letter, I am serving same on the Appellant, *Pro Se*.

Sincerely,

Dana M. Thye
Sr. Assistant City Attorney

DMT/jlh
Enclosure(s) as Stated

cc: Haiyan Lin, Pro Se



neopost
02/18/2016
FIRST-CLASS MAIL
US POSTAGE \$002.30⁰



ZIP 29201
041M10260293



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CITY ATTORNEY
P. O. Box 667
Columbia, SC 29202

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SC Court of Appeals

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