

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GEORGETOWN COUNTY

The Honorable Benjamin H. Culbertson, Circuit Court Judge

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FEB 16 2016

SC Court of Appeals

Appellate Case No. 2015-001023

THE STATE, RESPONDENT,

v.

LOUSHONDA MYERS, APPELLANT.

INITIAL BRIEF OF RESPONDENT

LOUSHONDA MYERS

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Georgetown, SC 29440

PRO SE APPELLANT

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TABLE OF AUTHORITIES	II
STATEMENT OF ISSUES ON APPEAL	1
STATEMENT OF THE CASE	2
STANDARD OF REVIEW	3
ARGUMENT	4
THIS APPEAL SHOULD BE DISMISSED AS AN IMPROPER ATTEMPT TO REVIEW A CONTEMPT ORDER	4
CONCLUSION	5

TABLE OF AUTHORITIES

Cases

Enoree Baptist Church v. Fletcher,
287 S.C. 602, 340 S.E.2d 546 (1986) 4

State v. Elders,
386 S.C. 474, 688 S.E.2d 857 (Ct. App. 2010)..... 3

State v. Sheldon,
344 S.C. 340, 543 S.E.2d 585 (Ct. App. 2001)..... 3

Rules

Rule 60(b)(5), SCRCP 4

STATEMENT OF ISSUES ON APPEAL

ARGUMENT

**WHETHER THIS APPEAL SHOULD BE DISMISSED AS AN IMPROPER
ATTEMPT TO REVIEW A CONTEMPT ORDER?**

STATEMENT OF THE CASE

Following a hearing on September 26, 2014, Appellant was found to be in contempt of court for violating a prior order of the court. (IBOA, p. 3). Appellant filed a pleading captioned "Administrative Notice/Coram Nobis" that was filed on March 16, 2015. (ROA, p. ____). The State replied to the coram nobis arguing it should be dismissed as improper. (ROA, p. ____). Appellant responded to the State with a 37 page filing containing multiple attachments, filed April 20, 2015. (ROA, p. ____). The lower court (not the court that found Appellant in contempt) issued an order dismissing the coram nobis on April 30, 2015. (IBOA, p. 4).

STANDARD OF REVIEW

“On appeal, the trial court’s ruling will not be disturbed absent a prejudicial abuse of discretion amounting to an error of law.” State v. Sheldon, 344 S.C. 340, 342, 543 S.E.2d 585, 585-586 (Ct. App. 2001). An abuse of discretion occurs where the trial court’s conclusions lack evidentiary support or are controlled by an error of law. State v. Elders, 386 S.C. 474, 480, 688 S.E.2d 857, 861 (Ct. App. 2010).

ARGUMENT

THIS APPEAL SHOULD BE DISMISSED AS AN IMPROPER ATTEMPT TO REVIEW A CONTEMPT ORDER

Appellant expressly acknowledges “[t]he basis for the Administrative Notice/Coram Nobis was to correct the judgement and/or order of Judge Kristi Harrington in which she held me in contempt of an order/judgement she entered.”¹ (IBOA, p. 5). The lower court properly denied and dismissed Appellant’s coram nobis pleading. This is because “coram nobis” no longer exists as an available remedy. Rule 60(b)(5), SCRPC.

Appellant’s underlying coram nobis was an attempt to challenge a September 26, 2014 finding that she was in contempt. (IBOA, p. 3). Ample procedure existed to timely challenge the legitimacy of her contempt. “Coram nobis” is not one of them. Appellant argues that Judge Culbertson erred by not correcting Judge Harrington’s contempt finding. However, “[o]ne Circuit Court Judge does not have the authority to set aside the order of another.” Enoree Baptist Church v. Fletcher, 287 S.C. 602, 604, 340 S.E.2d 546, 547 (1986).

¹ While not paramount, Respondent does respectfully dispute Appellant’s assertion that she is not a “person.” (IBOA, p. 4).

CONCLUSION

For these reasons, Respondent submits this appeal should be denied and dismissed because the lower court properly denied Appellant's coram nobis as an attempt to challenge a contempt finding made by another circuit judge.

Respectfully submitted,

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By: 

ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina
February 12, 2016

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Appeal from Georgetown County
Honorable Benjamin H. Culbertson, Circuit Court Judge
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SC Court of Appeals

THE STATE,

Respondent,

vs.

Loushonda Myers,

Appellant.

PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellant and Designation of Matter by depositing a copy of it in the United States Mail; postage prepaid, on February 12, 2016, addressed to Appellant *pro se*:

LouShonda Myers
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February 12, 2016

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February 12, 2016

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

RE: State v. Loushonda Myers – Appellate Case No. 2015-001023

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Motion to File Initial Brief of Respondent and Designation of Matter Out of Time, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Brian T. Petrano
Assistant Attorney General
Bar Number 074244

cc:
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ATTN: STATE GRAND JURY