

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

MAY 05 2016

SC Court of Appeals

APPEAL FROM COLLETON COUNTY
In the Circuit Court

Doyet A. Early, III Circuit Court Judge

Case No. 2010-CP-15-0247

Ted A. Nettles and Janell B. Nettles, Appellants,

v.

Sylvester Guess Drew, Jr., Debra Drew, and Colleton County, Respondents.

AFFIDAVIT OF THOMAS C. NELSON, ESQUIRE

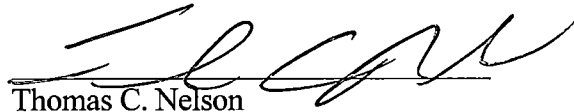
PERSONALLY APPEARED BEFORE ME, Thomas C. Nelson, who after being duly sworn, deposes and says:

1. I am the attorney of record for the Appellants in the referenced case.
2. I submit this affidavit in opposition to Respondents' Motion to Dismiss Appeal. Based upon Respondents' motion and Respondents' reply to Appellants' return, which seem to imply that I am misrepresenting to this Court as to the date I received the Form 4 Order, filed November 23, 2015, I feel it necessary to report my investigation to this Court.
3. First, Appellants' Return to Respondents' Motion to Dismiss Appeal was signed by me as an officer of the court. After my clients brought to my attention that fact that they found the order online in February, I checked my emails and hard file thoroughly and

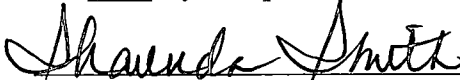
had my paralegal do the same. We never received a copy of the Form 4 Order by mail, email, or any other manner.

4. There are two other sets of attorneys in this case: David Swanson and Perry MacLennan (for Respondents Sylvester and Debra Drew, the parties filing this Motion to Dismiss Appeal) and Mitchell Griffith (for Respondent Colleton County).
5. Mitchell Griffith also did not receive the Form 4 Order from the Clerk of Court. I have attached as Exhibit A a string of email correspondence between Mr. Griffith and me regarding this issue.
6. Since April 7, 2016, I have attempted to determine when and how Respondents Sylvester and Debra Drew's trial counsel received the Form 4 Order, if at all. Respondents' counsel replied on April 8, 2016 stating that he would check on it, but no further response was ever given, despite two further attempts by me on April 21, 2016 and April 26, 2016. I have attached as Exhibit B a string of email correspondence between Respondent Drews' counsel and myself.

AFFIANT SAYS NO MORE.


Thomas C. Nelson

SWORN to and subscribed before me)
this 27th day of April 2016)


NOTARY PUBLIC FOR SOUTH CAROLINA)

My commission expires: 11/9/2016)

NOTARY SEAL

EXHIBIT A

Subject: Re: Nettles v. Drew

Date: Thursday, April 14, 2016 at 6:43:16 PM Eastern Daylight Time

From: Mitch Griffith

To: Thomas Nelson

I am just getting to my mail for the week. Just saw your motion. Okay to use my email if you want to supplement the record. Mitch

Sent from my iPad

On Apr 12, 2016, at 10:57 PM, Thomas Nelson <tnelson@charlestonlaw.net> wrote:

Ok Mitch. Thank you so much for checking. I hope your trial went well. Do you mind if I forward your email below to the Court of Appeals?

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Mitch Griffith <mgriffith@griffithsharp.com>

Date: 04/12/2016 4:28 PM (GMT-05:00)

To: Thomas Nelson <tnelson@charlestonlaw.net>

Cc: Linda Smyth <lsmyth@griffithsharp.com>

Subject: Re: Nettles v. Drew

Tom,

Sorry for the delay in responding. I have been in a trial which preoccupied my thoughts. However I looked back through my emails and do not see that I had received electronically the order denying your motion to reconsider. I did receive the first order, on the original trial electronically from Ms. Weiss, but not the one on the motion to reconsider.

Additionally, I had my assistant check her in box and she advised me that she could not find that she had received the order electronically. I also have no recollection or record of having received it by regular mail even though Ms Weiss did not indicate that it was served in that fashion. Mitch

Sent from my iPad

On Apr 8, 2016, at 10:16 AM, Thomas Nelson <tnelson@charlestonlaw.net> wrote:

Mitch,

Did you ever receive a copy of the Form 4 order denying my motion for reconsideration via mail, email, or otherwise?

Thanks,

Tom

Thomas C. Nelson, Esq.

Futeral & Nelson, LLC

1004 Anna Knapp Blvd., Suite 3

Mount Pleasant, South Carolina 29464

(843) 284-5500

(fax) 284-5501

www.charlestonlaw.net

<181C469E-F7DC-42FB-BDC9-430EB85F7FF7[21].png>

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EXHIBIT B

Subject: Re: Nettles v. Drew
Date: Tuesday, April 26, 2016 at 2:13:32 PM Eastern Daylight Time
From: Thomas Nelson
To: MacLennan, Perry, Swanson, David
Attachments: image001.png, 181C469E-F7DC-42FB-BDC9-430EB85F7FF7[1].png, 181C469E-F7DC-42FB-BDC9-430EB85F7FF7[14].png

David and Perry,

Please advise as to the question below or at least give the courtesy of letting me know that no reply is coming.

Thomas C. Nelson, Esq.

Futeral & Nelson, LLC
1004 Anna Knapp Blvd., Suite 3
Mount Pleasant, South Carolina 29464
(843) 284-5500
(fax) 284-5501
www.charlestonlaw.net



Attorneys Serving the Lowcountry

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From: Thomas Nelson <tnelson@charlestonlaw.net>
Date: Thursday, April 21, 2016 at 12:11 PM
To: "MacLennan, Perry" <pmaclennan@hsblawfirm.com>, "Swanson, David" <dswanson@hsblawfirm.com>
Subject: Re: Nettles v. Drew

Any follow up to the email below?

Thomas C. Nelson, Esq.

Futeral & Nelson, LLC

1004 Anna Knapp Blvd., Suite 3

Mount Pleasant, South Carolina 29464

(843) 284-5500

(fax) 284-5501

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From: "MacLennan, Perry" <pmaclennan@hsblawfirm.com>

Date: Friday, April 8, 2016 at 11:58 AM

To: Thomas Nelson <tnelson@charlestonlaw.net>, "Swanson, David" <dswanson@hsblawfirm.com>

Subject: RE: Nettles v. Drew

Tom,

I will check with Parker – thanks.

From: Thomas Nelson [<mailto:tnelson@charlestonlaw.net>]

Sent: Thursday, April 07, 2016 4:54 PM

To: Swanson, David; MacLennan, Perry

Subject: Nettles v. Drew

David and Pierce,

Would you kindly advise when and how Parker first received any Form 4 order from the last hearing? I have scoured my file and my email, and I simply do not see it. I received an email from Ms. Weiss on September 23, 2015 with the Final Order from the trial attached, but I have no other email from her related to this case.

Thanks,

Tom

Thomas C. Nelson, Esq.
Futeral & Nelson, LLC
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Mount Pleasant, South Carolina 29464
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www.charlestonlaw.net



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