

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
COURT OF COMMON PLEAS

Markley Dennis, Jr., Circuit Court Judge
Case No. 2014-CP-10-2954

RECEIVED
JUN 20 2016
SC Court of Appeals

Appellate Case No. 2015-001930

DARRELL EDWARDS, Appellant,

v.

E. PAUL GIBSON, REISEN LAW FIRM, E. PAUL GIBSON PC, and JOHN DOES 1-5,
..... Respondents.

RESPONDENTS' RETURN TO
APPELLANT'S MOTION TO REINSTATE APPEAL
AFTER REMITTITUR

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Joseph C. Wilson, IV
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Attorneys for Respondents

Other Counsel of Record:

Chauntel Demetrius Bland
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Attorney for Appellant

Respondents/Defendants E. Paul Gibson, Reisen Law Firm, and E. Paul Gibson PC hereby respond to Appellant Darrell Edwards' Motion to Reinstate Appeal after Remittitur.

I. APPELLANT HAS REPEATEDLY FAILED TO COMPLY WITH THIS COURT'S ORDERS OR WITH THE APPELLATE COURT RULES.

On May 9, 2016, the Court of Appeals dismissed this appeal due to Appellant's failure to file proof of service of the Record on Appeal. This dismissal followed a long line of repeated failures by Appellant and his counsel to comply with the Court's rules. These failures included:

1. Filing a Reply Brief that was solely based on an argument not presented in Appellant's Initial Brief or before the trial court and that relied upon material that was not designated to be included in the record on appeal.
2. Repeated failures to comply with the Court's deadlines, including making motions for an extension past the deadlines.
3. Failing to provide a filing fee for the original appeal, and for several subsequent motions made in this matter, apparently including the motion to reinstate.
4. Not providing accurate certificates of service. For instance, Appellant never served Respondents with Appellant's Designation of Matter to Be Included in the Record on Appeal.

Counsel for Respondent received the Order of Dismissal on May 11, 2016. Counsel for Appellant did nothing to oppose the Order, and the remittitur was issued on May 25, 2016.

Appellant waited another two weeks until finally, on June 8, 2016, he filed a motion to reinstate. Appellant claimed to have not received notice of the Court's Order of Dismissal, even though there is no evidence of not receiving prior notices from the Court.

Appellant admitted to receipt of the remittitur, but offered no excuse for waiting two weeks after the remittitur to file the pending motion.

Appellant claims that he delayed preparing the Record on Appeal because he was waiting to see if the Court would allow the inclusion of orders in a related matter that were issued during the briefing of this matter. This does not explain all of Appellant's other failings, including his on-going inability to include a filing fee with his motions. Of course, at any time, Appellant could have and should have filed and served a Record on Appeal and then simply sought to supplement the Record with any recent orders.

Appellant's failures have resulted in a confusing docket and required Respondents to engage in repeated filings to correct the record and address Appellant's mistakes. The end result is an inexcusable delay and prolonging of this appeal. This matter was originally dismissed by the trial court on January 15, 2015. We are now two and a half years past this original dismissal, and briefing has still not been completed. For all of these reasons, dismissal of this matter was entirely appropriate and, indeed, required by the Appellate Court Rules.

II. THE COURT DOES NOT HAVE JURISDICTION TO REINSTATE THIS APPEAL.

While the Court has been willing to give Appellant repeated extensions to try to comply with the Appellate Court Rules, Appellant has now reached the point where he neither should nor can be helped for his failings. The Court remitted this matter on May 25, 2016, sixteen days after entering its Order of dismissal. The motion to reinstate was filed two weeks after the remittitur.

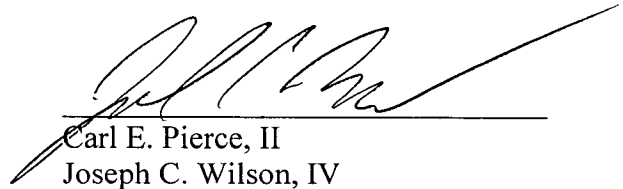
The Rules on this matter are clear. A petition for rehearing must be filed no later than fifteen (15) days after the filing of the order. Rule 221(a), SCACR. If no petition for

rehearing is filed, the Court will remit the matter to the lower court in fifteen (15) days. Rules 221(b) and 260(a), SCACR.

“When the remittitur has been properly sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter.” Wise v. S. Carolina Dep't of Corr., 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007). “The only exception to this rule is when the remittitur is sent down by mistake, error or inadvertence of the Court.” Id. Appellant has not identified any mistake, error or inadvertence of the Court. Accordingly, the Court no longer has jurisdiction over this matter, and Appellant’s motion to reinstate should be denied.

Based on the foregoing, Respondents would ask that the Court deny Appellant’s Motion to Reinstate.

Respectfully submitted,



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6/16, 2016
Charleston, South Carolina

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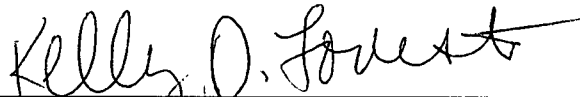
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..... Respondents.

PROOF OF SERVICE

I, Kelly Forrester, an employee of Pierce, Hems, Sloan & Wilson, LLC, attorneys for the Respondents, do hereby certify that I have served a copy of Respondents' Return to Appellant's Motion to Reinstate Appeal after Remittitur on this the 16th day of June, 2016, by U.S. Mail to the attorneys identified below:

ATTORNEY FOR APPELLANT:
Chauntel Demetrius Bland, Esquire
463 Regency Park Drive
Columbia, SC 29210



Kelly Forrester

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June 16, 2016

The Honorable V. Clair Allen
Deputy Clerk, S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

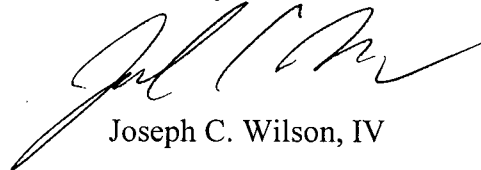
Re: *Darrell Edwards v. E. Paul Gibson, Reisen Law Firm and E. Paul Gibson PC and
John Does 1-5*
C/A No. 2014-CP-10-2954
Appellate Case No. 2015-001930
PHSW File No. D2529.01

Dear Ms. Allen:

Enclosed for filing please find the original and six (6) copies of Respondents' Return to Appellant's Motion to Reinstate Appeal after Remittitur, including a Certificate of Service. If you have any questions, please do not hesitate to contact me.

With kind regards,

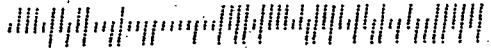
Sincerely,



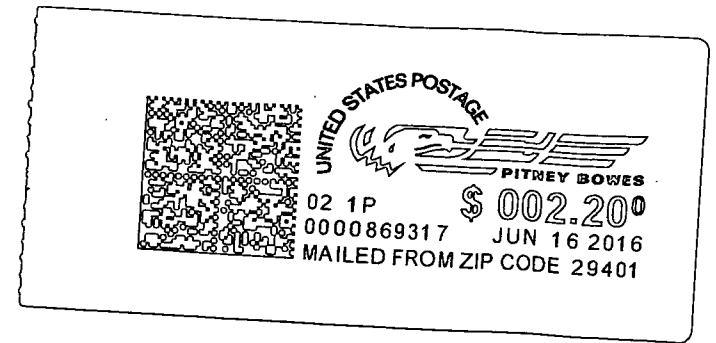
Joseph C. Wilson, IV

Enclosure

cc: Chauntel Demetrius Bland, Esquire



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