

The State of South Carolina  
In the Court of Appeals

RECEIVED

Appeal from Richland County  
Court of Common Pleas  
D. Craig Brown Circuit Court Judge

SEP 06 2016  
SC Court of Appeals

Case No: 2016-001606

Tyrone Perry	Appellant
✓	
South Carolina Dept. of Corrections	Respondent

MOTION FOR REHEARING

I Tyrone Perry request a motion for rehearing. The Order dated on the dismissal is August 25, 2016. I received written notice of entry of this order on August 30, 2016. I the appellant motion for rehearing.

sv Tyrone Perry 307793  
4344 BroadRiver Rd  
Columbia S.C. 29210

Office of General Counsel  
Stephen H. Lunsford  
4444 BroadRiver Rd  
Columbia S.C. 29221  
Attorney for Respondent

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Case No: 2016-001606

Tyrone Perry

Appellant

v

South Carolina Dept. of Corrections

Respondent

PROOF OF SERVICE

I certify that I have served the motion for Rehearing on General Counsel, Stephen H. Lunsford, by depositing a copy of it in the U.S. mail postage prepaid on August 31, 2016 addressed to SCDC General Counsel 4444 Broad River Rd Columbia S.C. 29221

sv Tyrone Perry 307793  
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Tyrone Perry  
v

Appellant

South Carolina Dept. of Corrections

Respondent

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BRIEF OF APPELLANT

Tyrone Perry  
4344 Broad River Rd  
Columbia S.C. 29210  
Appellant

Stephen H. Lunsford  
P.O. Box 21787  
Columbia S.C. 29221  
Attorney for Respondent

## STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in failing to rule on appellant's timely filed 59(e) motion
2. Did the Court of Appeals err in dismissing the appellant's case pursuant to Hudson-V. Hudson 349 SE2d 341

## STATEMENT OF THE CASE

On June 9, 2016 the appellant went to Richland County Court of Common Pleas for a personal property tort claim. The appellant's case was dismissed on June 14, 2016. On June 22, 2016 the appellant filed a 59(e) motion for the circuit court judge to reconsider his judgment so the Appellant could reserve his issues for appellate review. The Court of common pleas never ruled on the appellate's properly filed 59(e) motion and the appellate wrote several times to check on the disposition of this motion. On August 10, 2016 the Appellate filed a notice of appeal with the court of Appeals.

## FACTS

The appellant's case was dismissed on June 14, 2016. The appellant received written notice from the institutional mailroom on June 21, 2016. On June 22, 2016 the appellant filed a 59(e) motion. One copy with the Clerk of Court Jeanette McBride and one copy to Circuit Court Judge D. Craig Brown. The Court of Common Pleas never ruled on the appellant's timely filed motion and on August 10, 2016 the appellant filed this notice of appeal.

# ARGUMENTS

## ISSUE 1

The Court of Common Pleas failed to rule on the appellant's timely filed 59(e) motion. The appellant went to the Court of Common Pleas on June 9, 2016. The appellant's case was dismissed on June 14, 2016. The appellant received this notice from the institutional mailroom on June 21, 2016. The appellant filed his 59(e) motion on June 22, 2016 before the ten day deadline was up. The appellant wrote to the Court of Common Pleas numerous times and was told the case was dismissed. After forty-nine days and no ruling the appellant filed his notice of appeal on August 10, 2016.

## ISSUE 2

On August 25, 2016 the Honorable Court of Appeals dismissed the appellant's case pursuant to Hudson-V-Hudson 349 SE2d 341. The Appellant received notice from the institutional mailroom on August 30, 2016. The Honorable Courts used Hudson-V-Hudson, but the mandates of Hudson don't apply to the appellant. The appellant filed his post trial motion before his notice of appeal. The Court of Common Pleas refused to rule on a properly filed 59(e) motion. In Hudson the notice of appeal was filed first then after the fact the post trial motion was filed. From the beginning the appellant wanted the Court of Appeals to help him get a ruling on his timely filed 59(e) motion, but the Honorable Court of Appeals instructed the Appellant to file his notice of appeal. The appellant wanted his 59(e) motion ruled on so his issues would be preserved for appellate review. Otten-V-Otten 337 SE2d 207 or Wicker-V-Anderson County

Council 347 SE2d 96 more apply to the Appellant. The Appellant wants the Court of Appeals to remand this 59(e) issue for the Court of Common Pleas to rule on so that the appellant can have appealable issues preserved for appellate review.

### CONCLUSION

For the reason stated, the Appellate ask that this 59(e) be remanded to the lower courts to be properly ruled on. As it was timely filed by the Appellant

This 31<sup>st</sup> day of August 2016

sv Tyrone Perry 307793  
Tyrone Perry 307793  
4344 Broad River Rd  
Columbia S.C 29210  
Appellant

The State of South Carolina  
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Case No: 2016-001606

Tyrone Perry

Appellant

✓

South Carolina Dept of Corrections

Respondent

PROOF OF SERVICE

I certify that I have served the Brief of Appellant on General Counsel Stephen H. Lunstord by depositing a copy of it in the U.S. mail postage prepaid on August 31, 2016 addressed to SCDC General Counsel 4444 Broad River Rd Columbia S.C. 29221

s/v Tyrone Perry 307793

Tyrone Perry 307793

4344 Broad River Rd

Columbia S.C. 29210

307793

THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED OR CENSORED THIS ITEM, THEREFORE, THE  
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY FOR  
ITS CONTENTS.