

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Joseph M. Strickland

Case No. 2014-CP-4003950
Appellate Case No. 2016-001895

RECEIVED
OCT 12 2016
SC Court of Appeals

First Citizens Bank and Trust
Company, Inc., Successor by
Merger to Community
Resource Bank, N.A.,

Respondent,

v.

Eugene G. McDonald a/k/a
Eugene G McDonald III,
Individually,

Appellant.

**RETURN TO MOTION FOR RECONSIDERATION OF DISMISSAL OF
APPEAL**

Respondent First Citizens Bank and Trust Company, Inc., Successor by Merger to Community Resource Bank, N.A., ("First Citizens") hereby responds to Eugene G. McDonald's ("McDonald") Motion for Reconsideration of Dismissal of Appeal, filed on October 3, 2016. First Citizens requests that the Motion be denied.

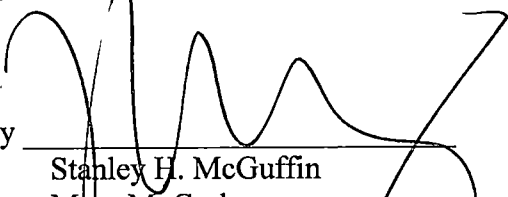
This is an appeal from an order of foreclosure, which was filed on August 2, 2016. On September 10, 2016, McDonald filed a Notice of Appeal (the "Notice") on behalf of himself and SOH Properties LLC, appealing the Order and Judgment of Foreclosure and Sale (the "Order").

On September 15, 2016, the Deputy Clerk notified McDonald that there were several deficiencies with the Notice, and that he had ten (10) days from the date of the letter to correct the deficiencies or his appeal would be dismissed. On September 25, 2016, McDonald filed the Amended Notice of Appeal, but the Amended Notice of Appeal failed to comply with the clerk's directions. Accordingly his appeal was dismissed on September 29, 2016.

Pursuant to SCACR 260(a), whenever an appellant or petitioner has failed to comply with the South Carolina Appellate Court Rules, the clerk must issue an order of dismissal. Here, the clerk properly dismissed McDonald's appeal because he failed to provide proof of having timely filed the notice of appeal pursuant to SCACR 203(b)(1). Because McDonald has had an ample opportunity to correct the deficiencies and has failed to do so, First Citizens requests that the Court deny McDonald's Motion for Reconsideration of Dismissal of Appeal.

Respectfully Submitted,

By



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Attorneys for Respondent First Citizens Bank and Trust
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Resource Bank, N.A.

October 12, 2016

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v.


Eugene G. McDonald a/k/a
Eugene G McDonald III,
Individually,

Appellant.

PROOF OF SERVICE

I certify that on October 12, 2016 a copy of the foregoing **Return to Motion for Reconsideration of Dismissal of Appeal** has been served upon the Appellant by placing the same in the United States mail to the following party:

Eugene G. McDonald
4533 Ivy Hall Dr.
Columbia, SC 29206
Pro se Appellant



Amanda Willoughby
Haynsworth Sinkler Boyd, P.A.

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October 12, 2016

VIA HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court for the SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

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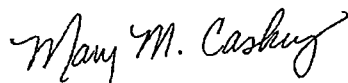
RE: *First Citizens Bank and Trust Company, Respondent v. Eugene G. McDonald, Appellant*
Appellate Case No. 2016-001895
HSB File No. 01798.1203

Dear Ms. Kitchings:

With regard to the above-referenced matter, enclosed for filing please find an original and seven copies of the Return to Motion for Reconsideration of Dismissal of Appeal. Please file and return the extra clocked copy via our courier.

Thank you for your assistance with this matter.

Sincerely yours,



Mary M. Caskey

MMC/ajw

Enclosures

cc: Eugene G. McDonald