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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Marvin Dukés, Special Circuit Court Judge

Appellate Case No. 2016-001790

RECEIVED
NOV 28 2016
SC Court of Appeals

Lafayette Webber,.....Appellant,

v.

Jasper County Attorney and Sheriff of
Jasper County.....Respondents.

**RESPONDENTS'
MOTION TO DISMISS APPEAL**

O. Edworth Liipfert, III (SC No.: 72678)
Griffith Sharp, & Liipfert, LLC
600 Monson St.
Beaufort, SC 29902
(843) 521-4242
worth@griffithsharp.com
Attorneys for Respondents

Respondents Jasper County Attorney and Sheriff of Jasper County hereby move, pursuant to Rule 240, SCACR, for an order dismissing the Appellant's appeal on the grounds that the Appellant has continuously failed to comply with the Rules of Court after repeated notices and the Appellant has failed to provide proof of noticing the transcript pursuant to the Court's order dated November 8, 2016.

This case is very old. The case was originally filed in 2011, and the Respondents were added to the case in August of 2013.¹ The Respondents filed their motion for summary judgment on August 6, 2014.² The motion was originally heard on before Judge Mullen on September 25, 2014.³ Judge Mullen ruled on the record that she was granting the Respondent's motion for summary judgment, but before the written order was signed, she recused herself from the case.⁴ The Appellant fired his counsel and the case was referred to Special Referee Dukes by court order dated September 4, 2015.⁵ The motion was heard by Judge Dukes on July 27, 2016, nearly two years after it was filed.⁶ The Order granting the Respondents' motion was entered with the Clerk of Court on August 1, 2016.⁷

At the summary judgment hearing, the Appellant moved for a continuance of the hearing to retain counsel and to conduct additional discovery, but this was denied because nearly two years had passed since the initial motion hearing.⁸

A. Notice of Appeal

The Appellant filed his Notice of Appeal on August 29, 2016. On August 31, 2016, the Court notified the Appellant that he needed to serve the Notice on the Respondents and file the order of the lower court within ten days or his appeal may be dismissed.⁹ On October 4, the Court send the Appellant another letter stating that it had received the lower court order, and

¹ Order of Special Referee, p.5

² Exhibit 1.

³ Order of Special Referee, p.1

⁴ Order of Special Referee, p.1

⁵ Order of Special Referee, p.1-2

⁶ Order of Special Referee, p.1

⁷ Order of Special Referee. p.1

⁸ Order of Special Referee, p.5-6

⁹ Exhibit 2.

again instructing the Appellant to serve the Notice of Appeal on the Respondents within ten days of October 4 or the appeal would be dismissed.¹⁰ The Respondents received the Notice of Appeal from the Appellant on October 31, 2016, well past ten days after October 4 and over two months after it was filed.¹¹ There was no letter accompanying the document to show the date it was mailed by Appellant.

B. Hearing Transcript

The Court notified the Appellant by letter dated September 14, 2016, that the time for ordering the transcript had expired, and he must file proof of ordering the transcript and a motion to order outside the time within ten days or his Appeal would be dismissed.¹² On October 4, 2016, the Court wrote Mr. Webber again informing him that he had failed to provide proof of ordering the transcript to the Court.¹³ In response to this letter, the Appellant filed a request for an extension to the October 4, 2016 letter on October 19, 2016. On October 25, 2016, the Court wrote the Appellant informing him that he must serve the Respondents with the motion within ten days or the Appeal would be dismissed.¹⁴ On November 7, 2016, the Respondents received from Mr. Webber his request for an extension of time to order the transcript.¹⁵ On November 8, 2016, the next day, the Court granted the Appellant's motion and informed him that he must copy opposing counsel on the transcript correspondence and provide proof of ordering the transcript within ten days of the Order or his appeal would be dismissed.¹⁶ To date, the Appellant has failed to serve and correspondence regarding the transcript on the Respondents.¹⁷

This case has dragged on for five years. Since the Appellant filed the Appeal, he has continuously failed to comply with deadlines. He filed the Appeal at the end of July, and he did not serve the Notice of Appeal on the Respondents until the end of October. The Appellant still

¹⁰ Exhibit 3.

¹¹ Exhibit 4.

¹² Exhibit 5.

¹³ Exhibit 6.

¹⁴ Exhibit 7.

¹⁵ Exhibit 8.

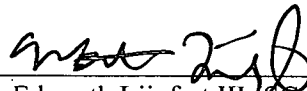
¹⁶ Exhibit 9.

¹⁷ Aff. of O. Edworth Liipfert, III Para. 4.

has not served correspondence regarding the transcript after multiple requests from the Court to do so and in violation of the Court's November 8, 2016 Order. The Respondents respectfully request that the Court dismiss the Plaintiff's Appeal for failing to comply with the service requirements and for failing to serve correspondence regarding the transcript on the Respondents within the time allowed.

GRIFFITH SHARP & LIIPFERT, LLC

By:



O. Edworth Liipfert III (SC Bar No.: 72678)
600 Monson Street
PO Drawer 570
Beaufort, SC 29901
843-521-4242
843-521-4247 (fax)
worth@griffithsharp.com

ATTORNEYS FOR RESPONDENTS

November 23, 2016
Beaufort, South Carolina

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AFFIDAVIT

O. Edworth Lüpfert, III (SC No.: 72678)
Griffith Sharp, & Lüpfert, LLC
600 Monson St.
Beaufort, SC 29902
(843) 521-4242
worth@griffithsharp.com
Attorneys for Respondents

Personally appeared before me O. Edworth Liipfert, III, who, being duly sworn, states the following:

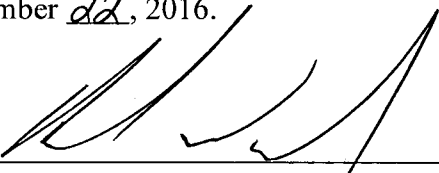
1. I am over the age of 18, am competent to testify, and make this affidavit of my own personal knowledge of the matters stated herein.
2. I received the Notice of Appeal from the Appellant on October 31, 2016.
3. I received the Appellant's Motion for Extension of Time to Order the Transcript on November 7, 2016.
4. I have not received any correspondence from the Appellant showing that he has ordered the transcript.



O. Edworth Liipfert, III

Sworn to and subscribed before me

on November 22, 2016.



NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires: December 17, 2025

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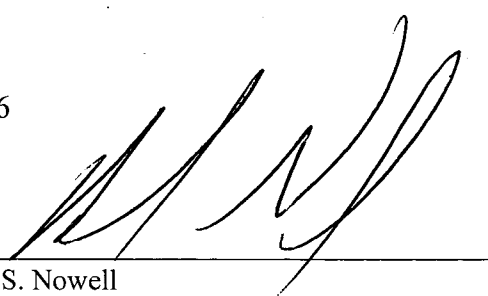
Jasper County Attorney and Sheriff of
Jasper County Respondents.

PROOF OF SERVICE

This hereby certifies that RespondentS have served a copy of its Motion to Dismiss in the above-referenced matter pursuant to Rule 240 SCACR by depositing it in the United States, mail, with postage prepaid, and addressed as follows:

Lafayette Webber
PO Box 2071
Ridgeland, SC 29936

By:



Anna S. Nowell

November 22, 2016
Beaufort, South Carolina



Griffith Sharp Liipfert
ATTORNEYS AT LAW

O. Edworth Liipfert III
Griffith, Sharp & Liipfert, LLC
600 Monson Street
PO Box 570
Beaufort, SC 29901
P (843) 521-4242
F (843) 521-4247
W griffithsharp.com
E worth@griffithsharp.com

E. MITCHELL GRIFFITH+
MARY E. SHARP+*
O. EDWORTH LIIPFERT III+
MICHAEL D. FREEMAN+
KELLY DENNIS DEAN
HILLARY G. MEYER

+ certified mediator
* also admitted in NC

November 23, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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RE: Webber v. Jasper County Attorney, et al.
Appellate Case No: 2013-CP-27-645
GS&L File No: 1011-006

Dear Ms. Kitchings:

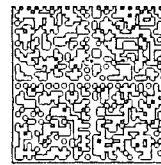
Please find enclosed the original and six (6) copies of *Respondents' Motion to Dismiss Appeal* in this case. Also enclosed is our \$25 check for the filing fee. I would appreciate you filing the original and returning the clocked copies in the enclosed envelope. By copy of this letter and enclosures, I herewith serve the Pro Se Plaintiff with the same.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me.

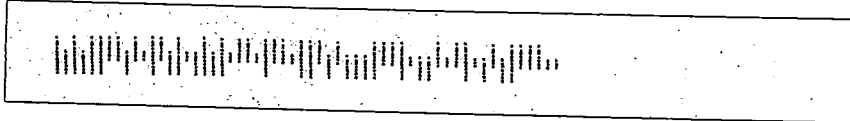
With kindest regards, I remain,

Very truly yours,

O. Edworth Liipfert III
OEL/an
Enclosures
cc: Lafayette Webber



UNITED STATES POSTAGE
 PITNEY BOWES
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GRIFFITH SHARP LIIPFERT
 ATTORNEYS AT LAW

Griffith, Sharp & Liipfert, LLC
 600 Monson Street
 PO Box 570 || Beaufort, SC 29901

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