

STATE OF SOUTH CAROLINA
In the Circuit Court

RECEIVED

DEC 06 2016

Appeal from Richland County
Probate Court

SC Court of Appeals

The Honorable Amy W. McCulloch, Probate Judge

Appellate Case No. 2016-001960

Georganna Paradeses, as Personal Representative of the Estate of William D.
Paradeses,..... Petitioner,

v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses,
Stephanie Starr, Robin Pace, Mary Paradeses and Jim Paradeses,.....Respondents.

OF WHOM

Georganna Paradeses, individually, Pam Paradeses, Stephanie Star, Robin Pace,
Mary Paradeses and Jim Paradeses are.....Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is.....Respondent.

APPELLANTS' RETURN TO RESPONDENT'S MOTION TO DISMISS

Background

On November 17, 2016, Respondent Eleanor Glisson (Faye) (a.k.a. Faye
Greeson) ("Respondent") moved to dismiss this appeal, based on purported late
filing of the Initial Brief and Designation of Matter herein. Because of "a mistake on
the address," however, the undersigned never received this motion until it was

emailed to him with an amended Proof of Service on December 1, 2016.¹

The first basis of Respondent's motion is the purported late filing of the Initial Brief and Designation of Matter, which were originally due on October 21, 2016. Because Appellants' counsel is a sole practitioner and was in the midst of a hectic Court schedule that had consumed the time originally blocked off to complete the needed documents in this case, the undersigned delivered a letter request for a short extension through November 7, 2016 to file the Initial Brief and Designation. Copies were sent to all counsel of record.

No response was received in opposition to the request. On October 26, 2016, the undersigned received an envelope from the Court of Appeals which contained only the check delivered with the letter, to which there is affixed a Post-it Note reading "Do Not Need" and marked with a smiling face. A copy of the envelope and check (with note still affixed) are attached as Exhibit A. The letter was not returned with the check, and the undersigned received no further correspondence regarding this action until receipt of the Motion to Dismiss.²

Appellants' Initial Brief and Designation of Matter to be Included in the Record on Appeal were served and filed on November 7, 2016.

Argument

I. Appellants' Motion for Extension was Properly Made; their Request was Unopposed; and their Initial Brief and Designation

¹ The address shown on the original Proof of Service is correct, so Appellants' counsel is unsure of the nature of the mistake which required re-service.

² The letter inquiry by the Clerk of the Court of Appeals regarding the transcript was never received by Appellants' counsel until he received the copy attached as Exhibit A to Respondent's Motion. There was no transcript prepared of the Probate Court hearing in this matter (as the Probate Court does not maintain Court Reporters in its hearings), and Appellants' counsel is so advising the Court by letter of even date herewith.

of Matter were Properly and Timely Filed.

As set out above, Appellants' counsel timely requested a short extension of the time allowed to file the Initial Brief and Designation of Matter herein. Pursuant to instruction from the Clerk's office, that request was made in the form of a letter, rather than a motion. Because Respondent attaches a copy of the request to her motion (which alleges that the Clerk's office does not have it), her counsel presumably received it. Neither Respondent nor other counsel of record communicated opposition to the request to the Court or Appellants.

Appellants have complied with Rule 240 and Rule 263(b) in seeking an extension. Neither sets forth any requirement that requests for extension must be made any number of days in advance of a due date. While extensions required because of the complexity of a case or the size of a record should be predictable early on, the same cannot be said about emergent matters which consume counsel's time.

Respondent cites *Wade v. Gore*, 154 S.C. 262 (1930) for her proposition that this Court should dismiss this appeal because there was no Order issued granting an unopposed request for a short extension. Although Appellants certainly agree that the Rules must be followed, they submit that they have done so. They further note that *Wade* appears to apply a very different set of procedural rules which were in effect nearly a century ago. It is unclear from the text of *Wade* how the appellant therein failed to perfect his appeal or by what measure the applicable deadlines were missed. It is, however, clear that *Wade* dealt with a case in which the appellant had failed to seek an extension at all and was forced to seek reinstatement after his

appeal was dismissed.

Likewise, *Southland Mobile Homes of America v. Associates Financial Services*, 270 S.C. 525, 244 S.E.2d 211 (1978), deals with a matter in which a paper was filed late without request for an extension. It further appears that the tardy paper in that matter was required by a statute setting forth the lower-Court appellate process and may have thus been jurisdictional.

Respectfully, Appellants submit that *Wade* and *Southland* are simply inapposite to their case, in which their counsel did in fact seek an extension and file the required documents within the time requested. Respondent alleges no prejudice from the short extension, and Appellants note that she has now secured for herself an indefinite extension of time to file her brief by filing the instant motion.

II. The Certificate which was Inadvertently Omitted from the Designation of Matter has now Been Filed, and Dismissal is Not Warranted for this Minor Oversight.

Respondent correctly points out that Appellants' Designation of Matter to be Included in the Record on Appeal did not include the certificate required by Rule 209(c). Although the Certificate of Counsel was prepared, it was inadvertently omitted from the filing and service packages. Respondent's motion was the first notice the undersigned received of the omission, and the Certificate of Counsel is being sent for filing and served along with this Return (See Exhibit B).

There is no suggestion that any irrelevant material was included in Appellants' designation, and their counsel has now certified that to be the case.

Conclusion

Respondent does not allege that the extension – which she did not oppose – causes her any hardship. She likewise does not allege that any irrelevant matter was included in the Designation of matter, for which counsel has now provided the needed Certificate. Because Appellants timely filed their Initial Brief and Designation of Matter and the missing Certificate was simply a clerical error, Appellants submit that dismissal of the appeal is unwarranted. They therefore respectfully ask that Respondent's motion be denied and the appeal proceed.

Respectfully submitted,



Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellants

December 3, 2016

Other Counsel of Record:

Sarah T. Cassidy, Esquire
Moore Taylor Law Firm
Post Office Box 5709
West Columbia, South Carolina 29171
Counsel for Petitioner

James S. Murray, Esquire
Warlick, Stebbins, Murray & Chew, LLP
P.O. Box 1495
Augusta, GA 30903
Counsel for Respondent Eleanor Glisson (Faye)
(a.k.a. Faye Greeson)

Exhibit A

Exhibit B

Law Office of
ADAM T. SILVERNAIL
LLC

December 3, 2016

By U.S. Mail:

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: *Paradeses v. Paradeses, et al*
Appellate Case No. 2016-001960

Dear Ms. Kitchings:

In connection with the above-referenced appeal, I enclose the original and seven (7) copies of Appellants' Return to Motion to Dismiss, with Proof of Service.

Also enclosed are an original and one copy of the Certificate of Counsel, which was inadvertently omitted from the Appellants' Designation of Matter to be Included in the Record on Appeal (previously filed on November 7, 2016).

Finally, please be advised that I did not receive Ms. Allen's November 9, 2016 letter inquiring about the transcript until I received Respondent's Motion to Dismiss on December 1, 2016. In response, I advise that there was no transcript of this proceeding, as the Probate Court neither provides nor requires a Court Reporter.

I would appreciate your filing the originals and returning a file-stamped copy of each enclosed document to me. By copy of this letter, I am serving these documents on all other counsel of record.

Kind thanks for your assistance with this matter.

Sincerely,



Adam T. Silvernail

Enclosures

Cc: Sarah T. Cassidy, Esquire
Moore Taylor Law Firm
Post Office Box 5709
West Columbia, South Carolina 29171

James S. Murray, Esquire
Warlick, Stebbins, Murray & Chew, LLP
P.O. Box 1495
Augusta, GA 30903

**STATE OF SOUTH CAROLINA
In the Supreme Court**

**Appeal from Richland County
Probate Court**

The Honorable Amy W. McCulloch, Probate Judge

Case No. 2016-ES-40-0215

Georganna Paradeses, as Personal Representative of the Estate of William D. Paradeses,..... Petitioner,

v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses, Stephanie Starr, Robin Pace, Mary Paradeses and Jim Paradeses,.....Respondents.

OF WHOM

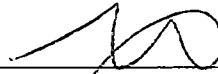
Georganna Paradeses, individually, Pam Paradeses, Stephanie Star, Robin Pace, Mary Paradeses and Jim Paradeses are.....Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is.....Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies pursuant to Rule 209(c) that the Appellants' Designation of Matter to be Included in the Record on Appeal contains no matter which is irrelevant to the appeal.



Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellants

December 3, 2016

STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

DEC 06 2016

SC Court of Appeals

Appeal from Richland County
Probate Court

The Honorable Amy W. McCulloch, Probate Judge

Case No. 2016-ES-40-0215

Georganna Paradeses, as Personal Representative of the Estate of William D. Paradeses,..... Petitioner,

v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses, Stephanie Starr, Robin Pace, Mary Paradeses and Jim Paradeses,.....Respondents.

OF WHOM

Georganna Paradeses, individually, Pam Paradeses, Stephanie Star, Robin Pace, Mary Paradeses and Jim Paradeses are.....Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is.....Respondent.

PROOF OF SERVICE

The undersigned counsel for Appellants hereby certifies that he has served a copy of the Appellants' Return to Motion to Dismiss herein on all counsel of record by depositing a copy of same in the United States Mail, First-class postage prepaid, on December 3, 2016, addressed as follows:

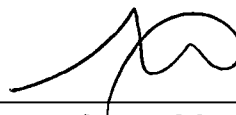
Sarah T. Cassidy, Esquire
Moore Taylor Law Firm
Post Office Box 5709
West Columbia, South Carolina 29171

Counsel for Georganna Paradeses, as

*Personal Representative of the Estate of
William D. Paradeses*

James S. Murray, Esquire
Warlick, Stebbins, Murray & Chew, LLP
P.O. Box 1495
Augusta, GA 30903

*Counsel for Respondent Eleanor Glisson (Faye)
(a.k.a. Faye Greeson)*



Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellants

December 3, 2016

STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

DEC 06 2016

SC Court of Appeals

Appeal from Richland County
Probate Court

The Honorable Amy W. McCulloch, Probate Judge

Case No. 2016-ES-40-0215

Georganna Paradeses, as Personal Representative of the Estate of William D.
Paradeses,..... Petitioner,

v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses,
Stephanie Starr, Robin Pace, Mary Paradeses and Jim Paradeses,..... Respondents.

OF WHOM

Georganna Paradeses, individually, Pam Paradeses, Stephanie Star, Robin Pace,
Mary Paradeses and Jim Paradeses are..... Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is..... Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies pursuant to Rule 209(c) that the
Appellants' Designation of Matter to be Included in the Record on Appeal contains
no matter which is irrelevant to the appeal.



Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellants

December 3, 2016

Law Office of
ADAM T. SILVERNAIL
LLC

December 3, 2016

By U.S. Mail:

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
DEC 06 2016
SC Court of Appeals

Re: *Paradeses v. Paradeses, et al*
Appellate Case No. 2016-001960

Dear Ms. Kitchings:

In connection with the above-referenced appeal, I enclose the original and seven (7) copies of Appellants' Return to Motion to Dismiss, with Proof of Service.

Also enclosed are an original and one copy of the Certificate of Counsel, which was inadvertently omitted from the Appellants' Designation of Matter to be Included in the Record on Appeal (previously filed on November 7, 2016).

Finally, please be advised that I did not receive Ms. Allen's November 9, 2016 letter inquiring about the transcript until I received Respondent's Motion to Dismiss on December 1, 2016. In response, I advise that there was no transcript of this proceeding, as the Probate Court neither provides nor requires a Court Reporter.

I would appreciate your filing the originals and returning a file-stamped copy of each enclosed document to me. By copy of this letter, I am serving these documents on all other counsel of record.

Kind thanks for your assistance with this matter.

Sincerely,



Adam T. Silvernail

Enclosures

Cc: Sarah T. Cassidy, Esquire
Moore Taylor Law Firm
Post Office Box 5709
West Columbia, South Carolina 29171

James S. Murray, Esquire
Warlick, Stebbins, Murray & Chew, LLP
P.O. Box 1495
Augusta, GA 30903

PLACE THIS LABEL TO THE LEFT OF THE POSTAGE

USPS TRACKING NUMBER



9505 5000 0221 6338 0002 09



U.S. POSTAGE
\$6.80
PM 1-DAY
29201 0024
Date of sale
12/03/16
06 2S00
B 08282331 SSK

Law Office of
ADAM T. SILVERNAIL LLC
PO Box 7995
Columbia, SC 29202

RECEIVED

DEC 06 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211