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MAR 20 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2014-CP-40-6379
Appellate Case No. 2016-001848

The State of South Carolina.....Respondent

vs.

Terris S. Riley, Jacque P. Riley
and Palmetto Citizens Federal Credit Union.....Defendants,

of whom

Terris S. Riley and Jacque P. Riley.....Appellants.

**RESPONDENT, THE STATE OF SOUTH CAROLINA'S
RETURN TO APPELLANTS MOTION TO REINSTATE**

RESPONDENT, THE STATE OF SOUTH CAROLINA enters its opposition to Appellants' Motion to Reinstae pursuant to Rule 240(e), South Carolina Rules of Civil Procedure. Respondents would assert that Appellants are not entitled to reinstate their dismissed appeal because contrary to the assertions in their Motion to this Court, Appellants failed to coply with the South Carolina Appellate Court Rules in making a timely Order of the Transcript and further failed to Comply with the Court's express instruction in its January 31, 2017 letter to "within ten days of the date of this letter, you must file a copy of the letter showing that you have timely ordered the

transcript from the court reporter.” The record reflects no evidence that a letter containing the scope of the request for the transcript set out in Form 11 was ever issued. As reflected by the attached e-mail correspondence from the Court reporter, (Exhibit A) the Court reporter did not acknowledge the transcript Order until March 14, 2017. Moreover, the attached letter referred to in the motion is not present and the Appellants present no evidence to the Court substantiating that any letter was delivered to the Court on February 10, 2017, as asserted in the Motion.

Respondent would also note that the Motion does not include the original signature of counsel and that the return address on the letter serving the motion is, upon information and belief the Appellants’ address. (Exhibit B). Finally, Respondent’s Counsel would note as reflected in the attached affidavit that other than the motion which was mailed to him postmarked March 14, 2017, he has received no correspondence concerning the transcript as required by the South Carolina Rules of Appellate Procedure.

Rule 207 (a)(1) SCACR sets the rule for appeal according to the Appellate Court Rule. It provides that “

Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas, masters in equity, special referees or the family court in domestic actions, the transcript must be ordered within ten (10) days after the date of service of the notice of appeal. In appeals from the court of general sessions or the family court in juvenile actions, the transcript must be ordered within thirty (30) days of the date of service of the notice of appeal. Appellant shall contemporaneously furnish all counsel of record, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter. Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below. If a party to the appeal unjustifiably refuses to agree to ordering less than the entire transcript, appellant may move to be awarded costs for having unnecessary portions transcribed; this motion must be made no later than the time the final briefs are due under Rule 211.

This facts of this matter are as follows:

1. This appeal was filed September 7, 2016.
2. Appellant filed a motion to proceed without costs on September 7, 2016.
3. On December 19, 2016, the Court of Appeals issued a decision denying Appellant's Motion to proceed *in forma pauperis*.
4. Appellant paid the Case Initiation Fee on January 3, 2017.
5. The Appellant has failed to timely Order the transcript in this matter.
6. On January 31, 2017 the Court gave Appellants 10 days to either file a copy of the letter showing that the transcript was ordered or to serve and file a motion requesting permission to order the transcript outside of the Rule 207 deadlines.
7. More than ten days has passed after that notice and Appellant took no action.
8. After the Court dismissed the Appeal on February 23, 2017, Appellants purportedly sent a letter to Court Administration which was dated February 14, 2017 – but not received by the Court until March 9, 2017 purporting to verify that the transcripts were Ordered.
9. On March 8, 2017, the subject motion was filed.
10. Respondents received the Motion on March 15, 2017.

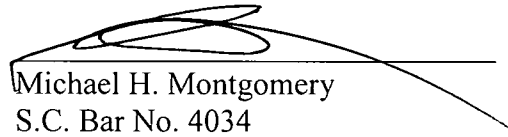
Respondents believe that allowing the Appellants to continue to delay this matter rewards the repeated abuse of the process and rules that Appellants have engaged in. Repeatedly it appears that Appellant Terris Riley is working on the appeal rather than counsel. Respondents would respectfully request that the Court deny Appellants Motion to Reinstate and ensure that the Remittitur in this matter is returned to the Court of Common Pleas for the Fifth Judicial Circuit.

Movant does not believe that a Memorandum pursuant to Rule 240 (c) (2) is necessary in this matter as the Return is based solely on the record and the Appellate Court Rules.

This motion is based on the pleadings and papers in the file of this action, together with such other material as may be served at or prior to the hearing, and upon, South Carolina Rules of Appellate Procedure, applicable statutes and decisions of Courts of law of the State of South

Carolina and of the United States. Respondents request that the Court dismiss the Appellant's appeal with prejudice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Montgomery", is written over a horizontal line. The signature is stylized and somewhat cursive.

Michael H. Montgomery
S.C. Bar No. 4034
MONTGOMERY WILLARD, LLC
1002 Calhoun Street (29201)
Post Office Box 11886
Columbia, South Carolina 29211
Telephone: (803) 779-3500

ATTORNEYS FOR
THE STATE OF SOUTH CAROLINA

March 20, 2017
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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and Palmetto Citizens Federal Credit Union.....Defendants,

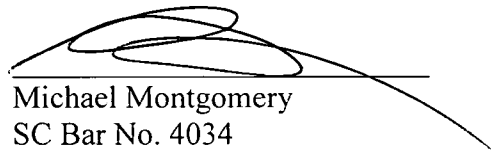
of whom

Terris S. Riley and Jacque P. Riley.....Appellants.

PROOF OF SERVICE

I certify that I have served the **RESPONDENT, THE STATE OF SOUTH CAROLINA'S RETURN TO APPELLANTS MOTION TO REINSTATE** on the Appellant, by depositing a copy of each in the United States Mail, postage prepaid, on the 20th day of March 2017, addressed to her attorney of record, Mr. Geoffrey Kelly Chambers, Esquire, 411 Walnut Street, #10646, Green Cove Springs, Florida 32043-3443.

MONTGOMERY WILLARD, LLC



Michael Montgomery
SC Bar No. 4034
1002 Calhoun Street
Columbia, SC 29201
Phone: 803-799-3500
mhm@montgomerywillard.com
Attorney for the Respondent
State of South Carolina

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Terris S. Riley and Jacque P. Riley.....Appellants.

AFFIDAVIT OF MICHAEL H. MONTGOMERY

Personally Appeared before me, Michael H. Montgomery, who first being duly sworn,
deposes and states as follows:

1. I am an Attorney licensed to practice in South Carolina since January 6, 1986. My South Carolina Bar No. is 4034.
2. I am counsel of record for the Respondent in this matter, the State of South Carolina.

3. On February 1, 2017, my office received in the mail a copy of a letter to Appellants Counsel Geoffrey Kelly Chambers advising that the record in this matter did not reflect that the transcript was timely ordered. The letter gave Appellants ten days to take action.
4. The next correspondence I received in this matter was the Court's Order dismissing the Appeal.
5. On March 15, 2017, I received what purported to be a letter from Mr. Chambers to the South Carolina Office of Court Administration dated February 14, 2017, with a stamp reflecting that the letter was received on March 9, 2017. The letter contains the following text: *I have verified on February 14 that my client has ordered transcripts for the above referenced hearings. I will notify the court when they are received. The court reporter was Meg Mollohan.*
6. Attached to the letter was a Motion to Reinstate with a received stamp dated March 8, 2017. That motion refers to a letter purportedly delivered to the Court on February 10 advising of the transcript status. No letter was attached to the Motion.
7. In reviewing the documents, I noted that neither the Motion nor the purported February 14, 2017, letter contained the original signatures of Mr. Chambers – both contained an identical printed picture of a digital signature. I also noted that Mr. Chambers letterhead appeared altered. (See attached Exhibit A). Additionally, I noted that the return address on the envelope mailed to me belongs not to Mr. Chambers but to Appellant Terris S. Riley.
8. I became concerned that Ms. Riley was originating these documents and felt the need to so advise the Court, which I am doing by way of this affidavit.
9. I would also advise the Court that my office contacted Ms. Mollohan on February 16,

2017, and was advised that no transcript had been Ordered at that time.

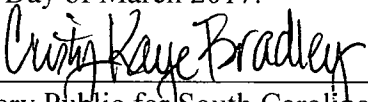
10. I would respectfully ask that the Court deny Appellants' Motion to Reinstate.

FURTHER AFFIANT SAYETH NOT.



Michael H. Montgomery

Sworn to and Subscribed before me this
20th Day of March 2017.


Notary Public for South Carolina
My Commission Expires: 3/18/2025

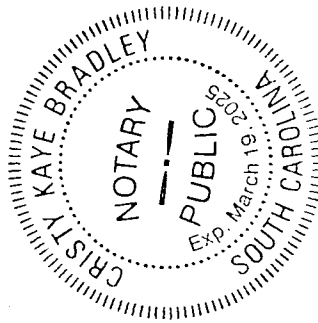


Exhibit A

Cristy M. Bradley

From: Mollohan, Meg A. <MMollohan@sccourts.org>
Sent: Wednesday, March 15, 2017 2:56 PM
To: Cristy M. Bradley
Subject: Fw: Transcript of hearing from June 28th, 2016

Meg A. Mollohan

From: Mollohan, Meg A.
Sent: Wednesday, March 15, 2017 2:53:16 PM
To: terris riley
Cc: Jacque Riley; Geoffrey Chambers
Subject: Re: Transcript of hearing from June 28th, 2016

March 15th, 2017

Dear Ms. Riley,

As of today, I am in receipt of your deposit for the transcript of your hearing. It was postmarked March the 14th and received by me today, making March 15th the day it will be noted as officially requested in my administrative paperwork. Also, per the rules of the South Carolina Court Administration, court reporters have 60 days in which to produce a transcript. Thank you, and I will contact you when this transcript is prepared.

Sincerely,
Meg A. Mollohan
(O) 803-576-1761

From: terris riley <terriss.riley@gmail.com>
Sent: Wednesday, March 8, 2017 3:28:59 PM
To: Mollohan, Meg A.
Cc: Terris Riley; Jacque Riley; Geoffrey Chambers
Subject: Re: Transcript of hearing from June 28th, 2016

Ms. Mollohan,

Please note that the deposit for the transcript request was mailed. Please notify me as soon as possible if there are any additional fees.

Thank you, Ms. Mollohan.

Kind regards,
terriss riley

On Fri, Mar 3, 2017 at 4:50 PM, terriss riley <terriss.riley@gmail.com<mailto:terriss.riley@gmail.com>> wrote:
Hi Meg,

Thank you for responding. I'll get that in the mail right away. Please let me know to whom I should make the check payable.

I hope you have a nice weekend.

Mrs. Riley

On Fri, Mar 3, 2017 at 12:46 PM Mollohan, Meg A. <MMollohan@sccourts.org<mailto:MMollohan@sccourts.org>> wrote:

Dear Mr. Riley,

I have received your request, and will provide your transcript. I would request a \$50.00 deposit before I do so. You may mail that to 182 Derby Dr. West Columbia, SC 29170.

Thank you!

Meg A. Mollohan

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terris riley | director of constituent support Office of Representative Gilda Cobb-Hunter South Carolina  
e: terris.riley@gmail.com<mailto:terris.riley@gmail.com>  
o: 803.734.2809<tel:(803)%20734-2809>

--

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e: terris.riley@gmail.com<mailto:terris.riley@gmail.com>  
o: 803.734.2809

## Cristy M. Bradley

---

**From:** Mollohan, Meg A. <MMollohan@sccourts.org>  
**Sent:** Friday, February 03, 2017 2:22 PM  
**To:** Cristy M. Bradley  
**Subject:** Re: Riley Transcript

Cristy,

As we discussed, I have NOT received a request for this transcript from Ms. Riley. If you need the transcript, please send me an official request, I have a lot of transcripts to do, and I take them in order of the date of request. At this time, I know this has to do with your office filing a motion to dismiss, but I am only concerned with whether or not you are requesting the transcript. If you don't need it now, then you can ask for it in the future. At this time, once again, I have received no request from anyone for it. Please advise me how to proceed. Thanks!

Meg A. Mollohan

---

**From:** Cristy M. Bradley <cbradley@montgomerywillard.com>  
**Sent:** Thursday, February 2, 2017 8:01 AM  
**To:** Mollohan, Meg A.  
**Subject:** RE: Riley Transcript

So I am reading this right that Ms. Riley has now requested the transcript from you?

Thanks,  
Cristy M. Bradley

-----Original Message-----

**From:** Mollohan, Meg A. [mailto:MMollohan@sccourts.org]  
**Sent:** Wednesday, February 01, 2017 10:03 PM  
**To:** Cristy M. Bradley <cbradley@montgomerywillard.com>  
**Subject:** Re: Riley Transcript

Cristy,

Court reporters have 60 days from the request to produce a transcript per the rules of the South Carolina Court Administration. I will contact you when this one has been prepared. Thank you.

Meg A. Mollohan

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**From:** Cristy M. Bradley <cbradley@montgomerywillard.com>  
**Sent:** Monday, January 30, 2017 1:09:54 PM  
**To:** Mollohan, Meg A.  
**Subject:** Riley Transcript

Meg,  
I have not heard back from you about the transcript. Per our conversation, we are trying to file this Motion to Dismiss immediately and need to know if she has ordered the transcript?

Thank you so much for your help in advance.

I appreciate it very much.

Cristy M. Bradley  
[cid:image002.jpg@01D27AFA.259DD8C0]

Cristy M. Bradley

cbradley@montgomerywillard.com<mailto:cbradley@montgomerywillard.com>

Montgomery Willard, LLC  
1002 Calhoun Street (29201)  
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(803) 799-2755 (Fax)

www.montgomerywillard.com<https://urldefense.proofpoint.com/v2/url?u=http-3A\_\_www.montgomerywillard.com\_&d=DwMFAg&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=Zx0KciGrcq4trqunagTsqjn-OCWlhHjK1t6K\_HU2px4&m=1YmwwBxOC9jYPoClQAFVZjGFBhLn-pfkKoO8WcAt3o&s=X4NeIUUWyyGvpOY27mAyVC4Iz1SiY1Sykd2U0HixOSg&e=>

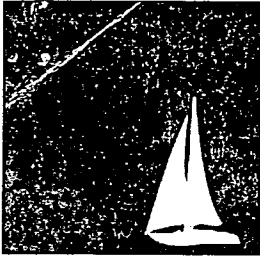
NOTICE: THIS BLOCK DOES NOT AND IS NOT INTENDED TO CONSTITUTE AN ELECTRONIC SIGNATURE PURSUANT TO E-SIGN 15 USC 7001 et. seq. OR UETA, S.C. Code Ann. Section 26-6-10 et. seq.

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Exhibit B



Protection, Environmental, and Regulatory
Law Group, LLC

From the desk of:
Geoffrey K. Chambers
(864) 508-0899
geoffrey@CPERLGroup.com

February 14, 2017

Ms. Jenny Kitchings
South Carolina Office of Court Administration
1220 Senate Street, Suite 201
Columbia, SC 29201

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SC Court of Appeals

Dear Mrs. Kitchings,

I have verified on February 14 that my client has ordered transcripts for the above referenced hearings. I will notify the court when they are received. The court reporter was Meg Mollohan.

Sincerely,

Geoffrey K. Chambers

THE SOUTH CAROLINA COURT OF APPEALS

The State of South Carolina, Respondent,

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v.

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Terris S. Riley and Jacque P. Riley, and Palmetto Citizens Federal
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Of whom Terris S. Riley and Jacque P. Riley are Appellants.

Appellate Case No. 2016-001848

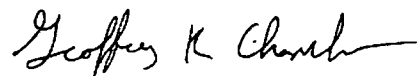
The Honorable L. Case Manning
Richland County
Trial Court Case No. 2014CP4006379

MOTION TO REINSTATE

Appellants respectfully move the court to reconsider dismissal of case number 2016-001847. Transcripts have been ordered by the client and the attached letter was hand delivered to the court on February 10th advising the court of the transcript status. It is my understanding that the letter is not present in the case files.

Because transcripts were ordered and the appellant was responsive to the Court's request, I respectfully ask the case be reinstated pursuant to Rule 221 (b), SCACR.

Respectfully Submitted,



Geoffrey K. Chambers

3/8/2017

Date

cc:

Michael H. Montgomery, Esquire

Robert D. Cook, Esquire

Alan McCrory Wilson, Esquire

497 Langford Road
Blythewood, SC 29016

COLUMBIA SC 290

14 MAR 2017 PM 2 L



Michael Montgomery
Montgomery Willard
P.O. Box 11886
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