

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

RECEIVED

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas

JUN 12 2017

SC Court of Appeals

Jocelyn Newman, Circuit Court Judge

Case No. 2017-001081

Moore Church.....Appellant

vs.

African Methodist Episcopal Church, Inc., Bishop Elder Franklin Norris, Elder Rev. Rosalyn Coleman, and Dr. Vincent Johnson Respondents.

RESPONDENTS' MOTION TO DISMISS APPEAL

Respondents hereby respectfully move this Court to dismiss Appellant's appeal for failure to comply with the deadline to request a copy of the transcript from the lower court as required by Rule 207 of the South Carolina Appellate Court Rules.

INTRODUCTION

Appellant filed the Notice of Appeal with this Court on May 1, 2017, appealing the Order entered by the Honorable Judge Jocelyn Newman entered on March 24, 2017, in the Court of Common Pleas for Edgefield County, South Carolina. Pursuant to Rule 207, SCACR, Appellant was required to order a copy of the transcript within ten (10) days after the date of service of the

notice of appeal. Accordingly, Appellant's deadline to order the transcript was on or before May 12, 2017. Appellant did not take any action to order the transcript or request an extension of the deadline.

On May 17, 2017, the Honorable Jenny Abbot Kitchings, Clerk of Court for the South Carolina Court of Appeals, sent counsel for Appellant a letter advising counsel that the time for ordering the transcript had expired. The letter required counsel for Appellant to file with this Court, within ten (10) days from the date of the letter, evidence that Appellant had ordered the transcript along with a motion requesting permission of this Court to order the transcript outside of the filing deadlines set forth in Rule 207, SCACR. The Court advised Appellant that failure of Appellant to make a motion within the ten (10) days would result in dismissal of the appeal. The deadline for Appellant to take such action was May 28, 2017. Prior to the deadline, on May 24, 2017, Appellant's counsel of record filed with the Court a Motion to Withdraw as Counsel and requested that the Court suspend the deadlines of the appeal pending the resolution of the Motion to Withdraw. However, the deadline to request the transcript had already passed when this motion was filed and the filing of the motion did not preclude the filing of an extension request.

To date, counsel has not filed the motion as instructed by the Court or submitted any evidence of ordering the transcript.

ARGUMENT

Rule 260(a), SCACR, states in relevant part: “[w]henver it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” “The South Carolina Appellate Court Rules are not mere technicalities but provide the parties

and this Court with an orderly mechanism through which to guide appeals in this State.” Henning v. Kaye, 415 S.E.2d 794 (1992). Appellant failed to order the transcript from the lower court within ten (10) days after service of the notice of appeal as required by Rule 207 and failed to take action required by the Court in its letter dated May 17, 2017.

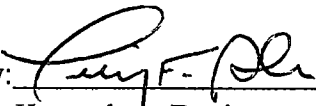
While Appellant’s counsel of record has requested to withdraw as counsel, there exist no circumstances which limited Appellant from requesting an extension of the initial deadline or from filing the motion to order the transcript outside the deadline as instructed by the Court. Thus, Appellant’s appeal should be dismissed in accordance with Rule 260, SCACR.

CONCLUSION

Accordingly, Respondents respectfully request that this Court dismiss Appellant’s appeal for failure to comply with the requirements of the South Carolina Appellate Court Rule 207.

Respectfully Submitted,

BOYKIN & DAVIS, L.L.C.

By: 
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Attorneys for Respondents

June 12, 2017
Columbia, South Carolina

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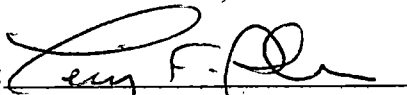
African Methodist Episcopal Church, Inc., Bishop Elder Franklin Norris,
Elder Rev. Rosalyn Coleman, and Dr. Vincent Johnson Respondents.

PROOF OF SERVICE

I certify that I have served **RESPONDENTS' MOTION TO DISMISS APPEAL** in the above-referenced matter on opposing counsel of record, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 12th day of June 2017:

Adrienne L. Turner, Esq.
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SC Court of Appeals

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

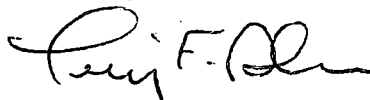
Re: Moores Church vs. African Methodist Episcopal Church, Inc., Bishop Elder Franklin, Norris, Elder Rev. Rosalyn Coleman, and Rev. Dr. Vincent Johnson
Appellate Case No. 2017-001081

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the original and six (6) copies of Respondents' Motion to Dismiss Appeal in the above-referenced matter. Also enclosed is a check for \$25 to cover the filing fee. Please return a time-stamped copy of this pleading to our courier.

By copy of this letter, we are serving a copy of this Motion on counsel for Appellant. Should you have questions, please feel free to contact Tierney Dukes or me directly.

Sincerely,



Tierney F. Dukes

/clm

Enclosure

cc: Bishop Samuel L. Green, Sr., 7th Episcopal District A.M.E. Church, Inc. (w/encl.)
Douglas Selby, Esq. (w/encl.)
Sarah Hamilton, Esq. (w/encl.)
I.S. Leevy Johnson, Esq. (w/encl.)
Kenneth A. Davis, Esq. (w/o encl.)