

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

AUG 08 2017

SC Court of Appeals

Honorable Craig D. Brown, Presiding Judge

Appellate Case No. 2015-001941

Elizabeth J. LangleyAppellant

v.

Wendy J. Lynch, Rebecca M. Lynch, James M. Lynch II, Donald Jordan III, Jimmy White, and S. Porter Stewart, II, as Personal Representative of the Estate of James M. Lynch,

Of whom Wendy J. Lynch is this.....Respondent.

Appellant's Reply in Opposition of Respondent's Motion
for Sanction under SCARC 269

Elizabeth request that the Motion for Sanction under SCACR 269 be dismissed or denied. Elizabeth filed her Motion for Reconsideration on time and believes that the Court should have held the Remittur back under rule 221(b) *(if petition for rehearing is received before the Remittitur sent, the Remittitur shall not be sent pending disposition of the petition by court. where a petition for rehearing has been denied the Court of Appeals shall not send the*

Remittitur to the lower court or administrative tribunal until the time to petition for writ of certiorari under rule 242 (c) has expired). Elizabeth believes her actions were in good faith and presented factual evidence in all of the Motions filed. Elizabeth believes all the Motions are relative to the issues at hand and needed to be filed, so the Court could see the entire picture. Elizabeth believes she was acting with in the rules according to SCACR 240 (b)¹ due to relief of counsel. Elizabeth doesn't believe in waisting the courts time, but believes she was Justified in her actions. The filings were to seek Justice for the Estate of Mr. James Lynch and his legal Heirs, because she believes that the Will is the product of Wendy Lynch not James Lynch. Elizabeth believes that the Respondents motion is just another attempt to intimidate the Appellant and prevent the truth of what really transpired around the execution of a Will and Mr. Lynch, during his sickness up to the day he passed away. The Appellant's Motion to Recall the Remittitur was filed for different reasons other than that filed by Rene Josey. Elizabeth filed her motion for Reconsideration on time and was within the statute of (SCACR 221 (a)(b))² but was prejudiced

¹**SCACR 240 (b) Stay of Time Limits.** Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.

¹
SCACR 221
REHEARING AND REMITTITUR

(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR.

(b) Remittitur. The remittitur shall contain a copy of the judgment of the appellate court, shall be sealed with the seal and signed by the clerk of the court, and unless otherwise ordered by the court shall not be sent to the lower court or administrative tribunal until fifteen (15) days have elapsed (the day of filing being excluded) since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal. If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent pending disposition of the petition by the court. Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired. If a petition for writ of certiorari is filed, the Court of Appeals shall not send the remittitur until notified that the petition has been denied. If the writ is granted by the Supreme Court, the Court of Appeals shall not send the remittitur.

by the Attorney Rene Josey not filing timely Motion to withdraw as counsel violating (SCACR 264 (b))³. Also, Elizabeth believes that the Remittitur sent too soon by mistake or in error (which was the same day the Court notified Elizabeth of the disposition of the petition) believes that it should have been held back according to the (SCACR 221(b)), therefore Elizabeth believes that she should be allowed her day in court.

Elizabeth had no reason to ask for extension of time, as early as Friday afternoon, Memorial day weekend, May 26.-June 1,2017, because she had no knowledge that Rene Josey didn't have time in his schedule to file the reconsideration until June the 1st,(Rene Josey, emails sent , state "Rule 221 establishes a hard-deadline (that cannot be extended) for petitions for rehearing" (see exhibit A ROA 12 from previous motions filed July 19, 2017) "would be happy to meet with me next week to discuss, left me know if you want to and what day and time might work"(ROA 3) then Elizabeth ask him " can you call me" and he never replied to the question and never called her back (ROA 3) Elizabeth emails multiple questions to him and he replies about the dead line of June 8th (ROA 4) but never, does he say, that he doesn't have time until June 1, 2017. Rene stated that the time cannot be extended, and at the time Elizabeth wasn't aware of

³SCACR 264 (b) **Withdrawal.** An attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, and with notice to the adverse party.

the Rules and relied on her attorney to file appropriate motions. Also, as I have stated before, I had not consulted with an attorney until after June 1, 2017, who wouldn't take the case due to the complexity, such short notice and not enough time, so how could another attorney that wouldn't take the case, file for a motion for extension of time. Rene should have filed for a motion to be relieved, (then an extension would have automatically been granted) when he first told Elizabeth of his inability to file on June 1. Elizabeth stands by her statement, that on June 1, 2017 was the first time she was notified by her Attorney Rene Josey that his schedule didn't allow for him to do a reconsideration.

Elizabeth didn't consult with another attorney for this matter until after Rene Josey informed her for the first time (June 1, 2017 of his inability to do the Reconsideration, but was unsuccessful because, there was not enough time for a new attorney to engage due to the magnitude of the file/case. All statements by Elizabeth are factual and has documentation and or laws to support claims. (see rule 264 (b) and also rule 1.3 Diligence paragraph 1, 2,)^{4 5} Elizabeth Emails (see exhibit A ROA 1-19, filed with previous motions on July 19,2017)

⁴Appellate rule 264(b) Withdrawal. An attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, and with notice to the adverse party.

⁵ Appellate scrule 1.3 Diligence

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

prove that Rene Josey said to set up time next week to Meet, then Elizabeth emailed and asked Rene Jose to call her. Elizabeth didn't get a call from Rene and called him on June 1, 2017 this is when Mr. Josey told Elizabeth that his schedule didn't allow for him to do the reconsideration.

Submitted emails with Rene Josey confirm that Elizabeth wanted to do the Reconsideration there were a lot of errors in the record and a lot of material facts overlooked. Also emails confirmed that Elizabeth didn't want Mr. Jose to be relieved and didn't have enough time to find a new attorney. (see exhibits A ROA 4-10) from previous motions filed on July 19, 2017) Elizabeth email to Rene on May 26; stating "I was the one living with my daddy from before he got sick Jan. 2012, til Wendy locked me out dec. 2012...she wasn't living there and the facts are wrong...in the appeals record." (see exhibit A, ROA 6). [note Mr. Josey never replied back to Elizabeth's findings on May 26, 2017, for the Reconsideration and never called her to schedule or talk as she requested, until June 1, when Elizabeth called him after not hearing back from him.] Mr. Josey even commented that fact that "I observed Errors in the Courts decision, like focus on the contents of the Text Message "from Wendy re: Mr. Lynch (he has not been competent since dx.(diagnosis) due to brain tumors, seizures, memory loss"... Mr. Josey also stated that a "new attorney could be helpful". (see exhibit A ROA 11) Mr. Josey's reasons were not justified (the

schedule doesn't allow isn't a Justifiable reason not to do the Reconsideration see above SCACR 1.3). Mr. Josey was not relieved as counsel until June 13, 2017 (only in attempt to save the Appeal) which was after the deadline of June 8, 2017, and after the Remittitur sent down June 12, 2017. Elizabeth, filed Pro Se which was on time and believes that this should have stopped the Remittitur from being sent.


Due to the Situation Elizabeth believes she is entitled to her Motion to Recall the Remittitur , the Extension of Time and Motion to correct errors in previous motion filed by Rene Josey and Attorney's fee reimbursement, also Elizabeth believes she filled them in the appropriate Court.

Mr Josey had consented to representing Elizabeth through out the Appeals process, the Civil Process and Probate, and has already represented her in a single Probate motion hearing, he was hired to see all of these thru to the end. (see exhibit B (ROA 20-21) from previous motions filed by Elizabeth on July 19, 2017)

SCACR 3.1 (1-2)⁶ THE LAW, BOTH PROCEDURAL AND SUBSTANTIVE, ESTABLISHES THE LIMITS WITHIN WHICH TO PROCEED. HOWEVER, THE LAW IS NOT ALWAYS CLEAR AND NEVER IS IT STATIC.

Elizabeth believes this applies to certain aspects of this case, especially in this unprecedented situation. Elizabeth believes that she has made a good faith argument in support of her position and believes such actions are not frivolous and ask the Court to please consider them. The Appellant has been prejudiced by having to expend additional sums, time and costs in responding to the Respondents inaccurate assessment of facts. The Appellant ask for the Respondent to pay her Court fees and/or other such relief as this Honorable Court may award, for replying to this inaccurate motion.

August 7, 2017



Elizabeth Langley
1225 Edgewood Ave.
Florence, South Carolina 29501
843-615-6918

⁶SCACR 3.1 [1] The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, establishes the limits within which an advocate may proceed. However, the law is not always clear and never is static. Accordingly, in determining the proper scope of advocacy, account must be taken of the law's ambiguities and potential for change.

[2] The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by good faith argument for an extension, modification or reversal of existing laws.

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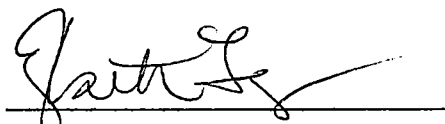
PROOF OF SERVICE

I certify this 7th day of August 2017 that I have served copies of the APPELLANT'S
REPLY IN OPPOSITION OF RESPONDENTS MOTION FOR SANCTION UNDER
SCACR 269, by mailing same, postage prepaid in the United States mail, addressed to
the following:

Joseph M. McCulloch, Jr., Esquire
Kathy R. Schillaci, Esquire
Law Offices of Joseph M. McCulloch, Jr.
Post Office Box 11623
Columbia, SC 29211

J. Rene Josey, Esquire
Post Office box 5478 (29502)
Turner Padgett Graham & ILaney, PA
Florence, South Carolina, 29501

AUGUST 7, 2017

A handwritten signature in cursive script, appearing to read "Elizabeth Langley", written over a horizontal line.

Elizabeth Langley
1225 Edgewood Ave.
Florence, South Carolina
29501
Phone: 843-615-6918

August 7, 2017

Elizabeth Langley
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South Carolina Court Of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

RE: Langley v. Lynch
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Dear Ms. Kitchings:

Please find the original and one copy of the Appellant's Reply to Opposition to Respondent's Motion for Sanction, along with Proof of Service. If you would please clock and file the original and return the copy to me. I have enclosed a self addressed envelope . Thank you for your attention in this matter.

Sincerely,


Elizabeth Langley

cc: J. rene Josey
Joe Mcculloch

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ELIZABETH LANGLEY
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