

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

AUG 22 2017
SC Court of Appeals

The Honorable Roger M. Young, Sr.
Circuit Court Judge

APPELLATE CASE NO. 2017-001131

Glenn Gunnells, Individually and as the Personal Representative
of the Estate of Helen B. Gunnells.....Appellant.

v.

Cathy G. HarknessRespondent.

CONSENT MOTION TO REINSTATE

COMES NOW the Petitioner, Glenn A Gunnells, individually and as personal representative of the Estate of Helen B. Gunnells and the Respondent, Cathy G. Harkness, by and through their undersigned counsel, who would jointly move for this Honorable Court to reinstate this matter pursuant to Rule 260 SCACR based on the following grounds:

1. On May 10, 2017, Petitioner filed its Notice of Appeal with the South Carolina Court of Appeals.
2. On that same day, pursuant to Rule 607, SCACR, Petitioner sent a letter to Karen Andersen, Charleston County court reporter, requesting a copy of the transcript from the final hearing on the underlying action to which this appeal arises – Charleston County Case No.: 2016-CP-10-4566.
3. On July 18, 2017, all parties received a letter from the South Carolina Court of Appeals indicating that the Court had not received any information with regards to the transcript

in the underlying action and that Petitioner should contact the South Carolina Office of Court Administration if the transcript was still outstanding.

4. Furthermore, the letter required the Petitioner advise the Court of the status of the transcript within ten (10) days of the date of the letter.

5. As of the date of receipt the Court's letter (July 20, 2017), Petitioner had still not received the transcript in the underlying action.

6. On the same day, July 20, 2017, Petitioner wrote the South Carolina Office of Court Administration indicating it had not yet received the transcript and asking when it could expect to receive the same. [See EXHIBIT A attached hereto]. The Honorable Jenny Abbott Kitchings, Clerk of the South Carolina Court of Appeals, opposing counsel and Ms. Karen Andersen, were all copied on this correspondence.

7. On August 11, 2017, counsel for Petitioner called the South Carolina Office of Court Administration indicating that they had still not received a transcript. At that time, Petitioner was given the email address for the Court reporter. Counsel for Petitioner then emailed the court reporter asking again for a copy of the transcript. Opposing counsel was copied on the email to the court reporter.

8. On August 13, 2017, the court reporter sent an invoice to Petitioner for the transcript.

9. On August 16, 2017, counsel for Petitioner sent payment for the transcript to the court reporter.

10. On August 18, 2017, counsel for Petitioner received an Order from the Court of Appeals indicating the case was dismissed for failure to respond to the Court's July 18, 2017 letter.

11. Upon receipt of this Order, counsel for Petitioner contacted opposing counsel who indicated they had received the July 20, 2017 correspondence and they would not object to reinstatement of the case.

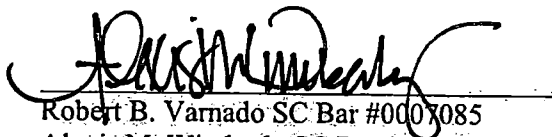
12. Upon receipt of this Order, counsel for Petitioner contacted the clerk's office for the Court of Appeals via telephone. The clerk indicated that they were not in receipt of the Petitioner's July 20, 2017 letter.

13. The July 20, 2017 correspondence on which the Honorable Jenny Abbot Kitchings was copied was never returned to the Petitioner as undeliverable.

14. Furthermore, the transcript has been paid for in full. While it has not been received by Petitioner, Petitioner is informed and believes it will be delivered sometime in the next week. As such, there will be no further delay in this appeal.

15. As such, Petitioner respectfully requests that this matter be reinstated as the facts above indicate counsel for Petitioner did everything to abide by the Rules of Appellate Procedure and counsel for Respondent has no objection to the same.

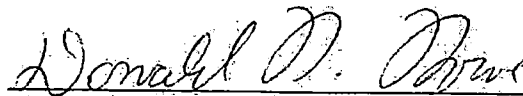
WE SO CONSENT:



Robert B. Varnado SC Bar #0007085
Alexis M. Wimberly SC Bar #101611
BROWN & VARNADO LLC
P.O. Box 1127
Mount Pleasant, South Carolina 29465
(843) 737-7300
Attorneys for Petitioner

August __, 2017
Mt. Pleasant, South Carolina

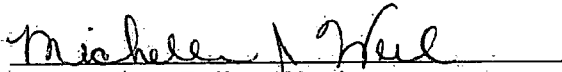
WE SO CONSENT:



Donald H. Howe, Esquire
Law Offices of Donald H. Howe, LLC
P.O. Box 31324
Charleston, South Carolina 29417
Attorney for Respondent

August 15, 2017
Charleston, South Carolina

WE SO CONSENT

A handwritten signature in cursive script, reading "Michelle Weil", is written over a horizontal line.

Julie Jackson Bailey, Esquire

Michelle Weil, Esquire

Bailey & Weil, LLC

1 Carriage Lane, Bldg H, 2nd Floor

Charleston, South Carolina 29407

Attorneys for Respondent

August 18th, 2017

Charleston, South Carolina

EXHIBIT A

**BROWN &
VARNADO** LLC
ATTORNEYS AT LAW

103 CHURCH STREET (29464)
POST OFFICE BOX 1127
MT. PLEASANT, SC 29465
OFFICE: (843) 737-7300
FACSIMILE: (843) 654-5109

ROBERT B. VARNADO
DIRECT: (843) 737-7301
EMAIL: rvarnado@brown-varnado.com

July 20, 2017

VIA U.S. MAIL

South Carolina Office of Court Administration
1220 Senate Street
Suite 201
Columbia, SC 29201

Re: Glenn Gunnells individually and as the Personal Representative of the Estate of Helen B. Gunnells v. Cathy G. Harkness
Charleston County Case No.: 2016-CP-10-4566
Appellate Case No. 2017-001131
Our File No. 5218

Dear Sir or Madam:

We have not yet received the transcript in the above-referenced matter, pursuant to our letter to the circuit court reporter, Ms. Karen Andersen, attached herewith

Pursuant to the attached letter from the Clerk of the South Carolina Court of Appeals, we ask that you kindly let us know when we can expect to receive the transcript, pursuant to the Clerk's request.

With best regards, I remain

Very truly yours,

BROWN AND VARNADO LLC



Robert B. Varnado

RBV/amw

cc: Donald Howe, Esquire (*Via U.S. Mail*)
Michelle Weil, Esquire (*Via U.S. Mail*)
The Honorable Jenny Abbott Kitchings
Ms. Karen Anderson, South Carolina Circuit Court Reporter

**BROWN &
VARNADO** LLC
ATTORNEYS AT LAW

103 CHURCH STREET (29464)
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ROBERT B. VARNADO
DIRECT: (843) 737-7301
EMAIL: rvarnado@brown-varnado.com

May 10, 2017

VIA U.S. MAIL

Karen Andersen
P.O. Box 333
Huger, SC 29450

Re: Glenn Gunnells individually and as the Personal Representative of the Estate of Helen B. Gunnells v. Cathy G. Harkness
Charleston County Case No.: 2016-CP-10-4566
Our File No. 5218

Dear Ms. Anderson:

On March 3, 2017, a hearing in the above matter was heard before the Honorable Judge Roger M. Young, Sr., Circuit Court Judge, Charleston County. My records indicate that you were the court reporter for this matter.

I respectfully request that you provide me with a transcript of the proceedings. I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

With best regards, I remain

Very truly yours,

BROWN AND VARNADO LLC



Robert B. Varnado

RBV/amw

cc: Donald Howe, Esquire (*Via U.S. Mail*)
Michelle Weil, Esquire (*Via U.S. Mail*)
Julie Jackson Baily, Esquire (*Via U.S. Mail*)
Clerk, South Carolina Court of Appeals (*Via U.S. Mail*)
Ms. Desiree Allen, Office of Court Administration (*Via U.S. Mail*)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 18, 2017

Mr. Robert Bratton Varnado, Esquire
PO Box 1127
103 Ronnie Boals Boulevard
Mt. Pleasant SC 29465

Ms. Alexis Mills Wimberly, Esquire
103 Ronnie Boals Blvd
Mount Pleasant SC 29464

Re: Glenn Gunnells v. Cathy G. Harkness
Appellate Case No. 2017-001131

Dear Counsel:

Our records indicate that the transcript in the above matter should have been delivered. As of today's date, we have not received any information indicating that the court reporter has been granted an extension. Further, you have not notified us that you have failed to receive the transcript, nor have we received your initial brief.

If you have not yet received the transcript, Rule 207 of the South Carolina Appellate Court Rules requires you to contact the Office of Court Administration. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1220 Senate Street, Suite 201
Columbia, SC 29201

Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript.

Please advise the Court of the status of the transcript within ten (10) days of the date of this letter, or your appeal may be dismissed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Donald Higgins Howe, Esquire
Michelle Jennifer Weil, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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The Honorable Roger M. Young, Sr.
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Glenn Gunnells, Individually and as the Personal Representative
of the Estate of Helen B. Gunnells.....Appellant.

v.

Cathy G. HarknessRespondent

PROOF OF SERVICE

The undersigned attorney hereby certifies that a true copy of the *Consent Motion to Reinstate* in the above referenced case has been served upon counsel of record by mailing a copy in an envelope properly addressed with postage prepaid on this date to the following:

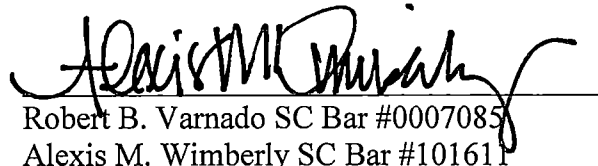
Donald H. Howe, Esquire
Law Offices of Donald H. Howe, LLC
P.O. Box 31324
Charleston, South Carolina 29417

Julie Jackson Bailey, Esquire
Michelle Weil, Esquire
Bailey & Weil, LLC
1 Carriage Lane, Bldg H, 2nd Floor
Charleston, South Carolina 29407

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SC Court of Appeals



Robert B. Varnado SC Bar #0007085

Alexis M. Wimberly SC Bar #101611

BROWN & VARNADO LLC

P.O. Box 1127

Mount Pleasant, South Carolina 29465

(843) 737-7300

Attorneys for Appellant

August 18, 2017

Mt. Pleasant, South Carolina

BROWN & VARNADO LLC

ATTORNEYS AT LAW

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ALEXIS M. WIMBERLY
DIRECT: (843) 737-7305
EMAIL: awimberly@brown-varnado.com

August 18, 2017

VIA FEDEX & FACSIMILE

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
(F): 803-734-1839

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SC Court of Appeals

Re: Glenn Gunnells individually and as the Personal Representative of the Estate of Helen B. Gunnells v. Cathy G. Harkness
Appellate Case No.: 2017-001131
Our File No. 5218

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven (7) copies of the **Consent Motion to Reinstate** in the above-referenced matter. Also enclosed are the following:

1. Proof of Service;
2. A filing fee of \$25.00.

Please file the original and return a date-stamped copy in the provided envelope. If you have any questions or directions, please do not hesitate to call.

With best regards, I remain

Very truly yours,

BROWN AND VARNADO LLC


Alexis M. Wimberly

AWM/

cc: Donald Howe, Esquire (*Via U.S. Mail & E-Mail*)
Michelle Weil, Esquire (*Via U.S. Mail & E-Mail*)
Julie Jackson Baily, Esquire (*Via U.S. Mail & E-Mail*)

ORIGIN ID:RBWA (843) 737-7300
BROWN & VARNADO LLC
PO BOX 1127
MOUNT PLEASANT, SC 29465
UNITED STATES US

SHIP DATE: 18AUG17
ACTWGT: 0.10 LB
CAD: 102685876/INET3920

BILL SENDER

TO **MS. JENNY A. KITCHINGS**
SOUTH CAROLINA COURT OF APPEALS
1220 SENATE STREET

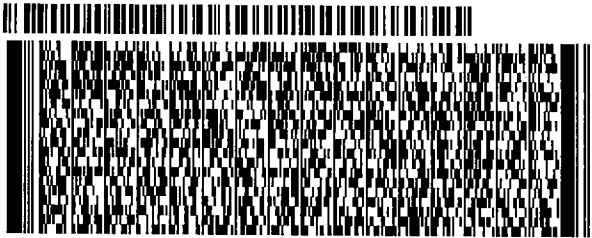
COLUMBIA SC 29201

(843) 737-7300
INV:
PO:

REF:

DEPT:

549,11577E104C



FedEx
Express



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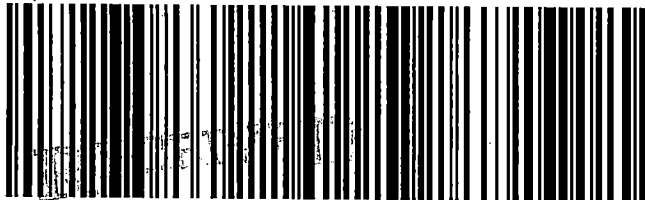
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**** 2DAY ****

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29201
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AUG 22 2017

SC Court of Appeals

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