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THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL RICHLAND COUNTY
Court Of Common Pleas

Jean H. Toal, Senior Circuit Court Judge

Case No. 2016-CP-40-06177

RECEIVED
SEP 26 2017
SC Court of Appeals

Alexander N. Gee, Jr. a/k/a Sandy Gee, and Karen B. Gee a/k/a Karen Gee,
Respondents,

v.

Ernest E. Yarborough, a/k/a Ernest Yarborough,
Appellant.

Appellate Case No. 2017-001394

NOTICE OF MOTION AND MOTION TO DISMISS APPEAL

YOU WILL PLEASE TAKE NOTICE that the Respondents, Alexander N. Gee, Jr. a/k/a Sandy Gee and Karen B. Gee a/k/a Karen Gee, by and through their undersigned attorney, will hereby move before this Court for an Order dismissing the appeal for Appellant's failure to comply timely with Rule 207, SCACR..

The court reporter informed the undersigned on September 26, 2017, that she has not prepared the transcript and will not prepare it until Appellant advances her fee, which she requested on July 17, 2017.

Rule 207(a)(1), SCACR, provides that, "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." As of September 25, 2017, Appellant has failed to advance payment of the court reporter's fee.

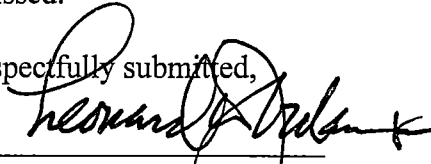
Rule 207(a)(2) provides that, “[t]he court reporter shall transcribe and deliver the transcript to appellant no later than sixty (60) days after the date of the request.” This has not happened, and no extension has been requested.

Appellant also failed to comply with Rule 207(a)(5), which provides that, “[i]f appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time, appellant shall notify the Office of Court Administration, the Clerk of the appellate court, and the court reporter in writing.” The deadline for compliance was on or about September 15, 2017.

The Order issued on August 24, 2017, which granted an extension to appellant for ordering the transcript out of time, did not make mention of complying with the requirements quoted above. Now, over a month after the Order was issued, satisfactory arrangements have still not been made, so no steps by the court reporter to prepare the transcript have been taken, and no timely notification of the delayed transcript has been made by Appellant.

Please consider the Chronology of events and deadlines regarding the request for the transcript by Appellant, which is attached hereto.

Based upon the failure (once again) of Appellant to comply with the Court Rules for perfecting his appeal, the appeal should be dismissed.

Respectfully submitted,

Leonard R. Jordan, Jr., ID #003221
JORDAN LAW FIRM
211 Veterans Road, Suite D
Columbia, South Carolina 29209
(803) 726-1950 Tel
(803) 726-1951 Fax
Email: ljordan@ljordanlaw.com
Attorney for the Respondents

Columbia, South Carolina
September 26, 2017

CHRONOLOGY

June 21, 2017 Notice of Appeal filed by Appellant

July 3, 2017 Deadline to order transcript under Rule 207, SCACR

July 7, 2017 Transcript ordered by Appellant

July 14, 2017 Petition to Order Transcript Outside of the Time Required issued by Appellant

August 24, 2017 Court issued Order granting motion to order transcript out of time

September 5, 2017 Deadline under Rule 207 for court reporter to deliver transcript to Appellant

September 13, 2017 Respondents' attorney inquired via email to Appellant about his receipt of the transcript **(See copy of email attached.)**

September 15, 2017 Respondents' attorney inquired again about transcript, and Appellant responded by email that, "I will pay for it by month . . . I will send you confirmation next week when we can expect the delivery of the transcript." **(See copy of email attached.)**

September 15, 2017 Deadline under Rule 207 for Appellant to notify Court of tardy transcript

September 26, 2017 Respondents' attorney received confirmation from the court reporter (Stacy Johnson) that, although requested by email on July 17, 2017, the charge for the transcript has still not been paid by Appellant. **(See copy of email attached.)**

Leonard R. Jordan, Jr.

From: Leonard R. Jordan, Jr.
Sent: Wednesday, September 13, 2017 4:21 PM
To: 'Ernest Yarborough'
Cc: 'Sandy Gee'
Subject: RE: Water Damage

By the way, when did you receive the transcript of the hearing before Judge Toal, which you requested months ago?]

Leonard R. Jordan, Jr.
JORDAN LAW FIRM
211 Veterans Road, Suite D
Columbia, South Carolina 29209
(803) 255-0650 Direct
(803) 726-1950 Office
(803) 726-1951 Fax
ljordan@ljordanlaw.com

Leonard R. Jordan, Jr.

From: Ernest Yarborough <eyarborough001@gmail.com>
Sent: Friday, September 15, 2017 3:54 PM
To: Leonard R. Jordan, Jr.
Subject: Response

I had previously inquired whether you had insurance, which might cover the water damage. Do you?

Answer: Once Sandy removed my name from the tax records, I lost my insurable interest in the property. Therefore, I have no insurance that will cover the "owner's" interest.

I had also inquired about when you received the hearing transcript. Please reply.

Answer: I just received the order last week that granted my request to order the transcript out of time. I will pay for it by month. As you known, it normally takes 3 to 6 months to get the transcript. I will send you confirmation next week of when we can expect the delivery of the transcript.

Question: Does Sandy have insurance to cover this damage? If so, why would you argue against his interest to attempt to blame me? But does he have insurance? If so, has this matter been reported?

Leonard R. Jordan, Jr.

From: Johnson, Stacy <sjohnson@sccourts.org>
Sent: Tuesday, September 26, 2017 11:01 AM
To: Leonard R. Jordan, Jr.
Subject: Re: Gee vs. Yarborough 2016-CP-40-06177

I did not prepare an invoice. I just sent him an estimate for the transcript, which is as follows:

Sent 7/17/17:

"Per your request below, I have estimated the length of the transcript to be approximately 40 pages. At our rate of \$3.25 per page, the estimated cost of the transcript will be \$130.00, plus \$6.65 for postage. Once I receive a money order in that amount, I will put the transcript in line for transcription.

Under the rules we have 60 days in which to complete a transcript. If the cost turns out to be less than the \$136.65, the overage will be refunded to you. If it turns out to be more, I will let you know the balance due.

If you have any questions or need anything further, please let me know."

Stacy S. Johnson, RPR
Circuit Court Reporter
125 Firebridge Drive
Chapin, SC 29036

From: Leonard R. Jordan, Jr. <ljordan@ljordanlaw.com>
Sent: Tuesday, September 26, 2017 10:43 AM
To: Johnson, Stacy
Subject: RE: Gee vs. Yarborough 2016-CP-40-06177

Could you email to me the invoice (or other request) of your charges to prepare the transcript, which you originally sent to Mr. Yarborough?

Thank you.

Leonard R. Jordan, Jr.
JORDAN LAW FIRM
211 Veterans Road, Suite D
Columbia, South Carolina 29209
(803) 255-0650 Direct
(803) 726-1950 Office
(803) 726-1951 Fax
ljordan@ljordanlaw.com<mailto:ljordan@ljordanlaw.com>

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

From: Johnson, Stacy [mailto:sjohnson@sccourts.org]

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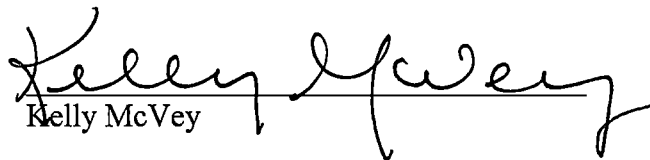
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Appellate Case No. 2017-001394

CERTIFICATE OF MAILING

I, Kelly McVey, of Jordan Law Firm, attorney for Respondents, Alexander N. Gee, Jr. a/k/a Sandy Gee, and Karen B. Gee a/k/a Karen Gee, hereby certify that I have this 26th day of September, 2017, served a copy of the Notice of Motion and Motion to Dismiss Appeal upon Appellant, by mailing a copy thereof, postage prepaid, to him at the address indicated below:

Mr. Ernest E. Yarborough
117 Ashley Hall Road
Columbia, SC 29229


Kelly McVey