

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

NOV 07 2017

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No. 06-CP-10-1772

Leon Chisolm, James Roosevelt Chisolm, Doris G. Fladger, Robert Chisolm, Florence Chisolm, Alice C. Jenkins, Sadie Y. McDonald, Martha Pryor, Patricia Millian, Margaret E. Warren, Andrew K. Chisolm, Edrina L. Wilson, Carl Chisolm, Lawrence Chisolm, Roosevelt Chisolm, II, Louis Chisolm, Eddie Chisolm, Leroy Chisolm, and Tommy Chisolm, Respondents

v.

Mary Frances S. Chisolm, William Chisolm, Emily C. Campbell, Debra C. Murphy, Alice C. Frazier, Cora C. Brown, Cordell Chisolm, Charles Chisolm, Jr., Phillip Chisolm, Anthony Chisolm, David Chisolm, Leonard Chisolm, and Levy Chisolm, Appellants

RESPONDENTS' MOTION TO DISMISS APPELLANTS' APPEAL

Respondents are forced to ask this court to dismiss Appellants' appeal. Appellants were ordered to "file the record on appeal and proof of service by September 18, 2017" (Order of September 13, 2017, attached hereto as Exhibit "1"). They have failed to do so. The Appellants filed the record on appeal and proof of service on September 25, 2017 and mailed it late to Respondents on September 22, 2017 (Appellants' Certificate of Service, attached hereto as Exhibit "2" and Envelope from Appellants mailing record on appeal to Respondents, attached hereto as

Exhibit "3"). On September 25, 2017, the court sent the Appellants a letter stating "Within ten (10) days of the date of this letter you must serve the record on appeal and file a proof of service, along with a motion requesting permission to serve and file outside of the filing deadline set by Rule 210, SCACR, or your appeal will be dismissed" (Court's letter dated September 25, 2017, attached hereto as Exhibit "4"). Appellants never filed the motion they were ordered to file.

Further, the record on appeal is deficient. As pointed out in Respondents' Motion to Have Appellants File a Supplemental Record on Appeal Containing Omitted Items, the record on appeal contains none of the matters designated by Respondents (Respondents' Motion filed October 9, 2017, attached hereto as Exhibit "5"). Respondents previously informed Appellants of this deficiency by copying them on a letter that was sent to the court on September 27, 2017 (Letter to court dated September 27, 2017, attached hereto as Exhibit "6") and Appellants have made no effort to correct the Record on Appeal. Respondents cannot file final briefs because the record on appeal has not been corrected. Respondents were forced to file a motion because of this deficiency (Respondents' Motion filed October 9, 2017, attached previously hereto as Exhibit "5").

Additionally, it is extremely unlikely that Appellants will prevail on the merits. A cursory review of the initial briefs will make this evident.

WHEREFORE, Respondents pray that Appellants' appeal be dismissed.



Harold A. Oberman
OBERMAN & OBERMAN, LLC
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843) 577-7010

SIBIB

Barry I. Baker
Kyle T. Varner
One Carriage Lane, Building H
Charleston, SC 29407
(843) 766-9007

Attorneys for Respondents

Other Counsel of Record:

Willie B. Heyward, Esquire
Heirs' Property Law Center, LLC
27 Gamecock Avenue, Suite 200
Charleston, SC 29407
(843) 745-7055

Attorney for Appellants

The South Carolina Court of Appeals

Leon Chisolm, James Roosevelt Chisolm, Doris C. Fladger, Robert Chisolm, Florence Chisolm, Alice C. Jenkins, Sadie Y. McDonald, Martha Pryor, Patricia Millian, Margaret E. Warren, Andrew K. Chisolm, Edria L. Wilson, Carl Chisolm, Lawrence Chisolm, Roosevelt Chisolm, II, Louis Chisolm, Eddie Chisolm, Leroy Chisolm, and Tommy Chisolm, Respondents,

v.

Mary Frances S. Chisolm, William Chisolm, Emily C. Campbell, Debra C. Murphy, Allie C. Frazier, Cora C. Brown, Cordell Chisolm, Charles Chisolm, Jr., Phillip Chisolm, Anthony Chisolm, David Chisolm, Leonard Chisolm, and Levy Chisolm, Appellants.

Appellate Case No. 2016-001197

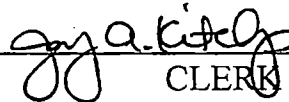
The Honorable Mikell R. Scarborough
Charleston County
Trial Court Case No. 2006CP1001772

ORDER

The time for serving the record on appeal and filing a proof of service is hereby extended until September 18, 2017. No further extensions will be granted absent extraordinary circumstances.

FOR THE COURT

BY


CLERK

FILED

September 13, 2017

Exhibit "1"

Columbia, South Carolina

cc:

Willie Bruce Heyward, Esquire

Barry I. Baker, Esquire

Kyle T Varner, Esquire

Harold Alan Oberman, Esquire

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY

Master In Equity
Hon. Mikell R. Scarborough

Case No.: 2016-01197

RECEIVED

SEP 25 2017

SC Court of Appeals

LEON CHISOLM, JAMES ROOSEVELT CHISOLM, DORIS C. FLADGER, ROBERT CHISOLM, FLORENCE CHISOLM, ALICE C. JENKINS, SADIE Y. MCDONALD, MARTHA PRYOR, PATRICIA MILLIAN, MARGARET E. WARREN, ANDREW K. CHISOLM, EDRINA L. WILSON, CARL CHISOLM, LAWRENCE CHISOLM, ROOSEVELT CHISOLM, II, LOUIS CHISOLM, EDDIE CHISOLM, LEROY CHISOLM, AND TOMMY CHISOLM, Respondents,

v.

MARY FRANCES S. CHISOLM, WILLIAM CHISOLM, EMILY C. CAMPBELL, DEBRA C. MURPHY, ALLIE C. FRAZIER, CORA C. BROWN, CORDELL CHISOLM, CHARLES CHISOLM, JR., PHILLIP CHISOLM, ANTHONY CHISOLM, DAVID CHISOLM, LEONARD CHISOLM, and LEVY CHISOLM, Appellants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is a Legal Assistant for Attorney Willie B. Heyward of the Heirs Property Law Firm, LLC, counsel for the above-named Appellants and that she is a person of such age and discretion as to be competent to serve papers.

That on September 20, 2017 that she served a copy of the following document(s) in the above-entitled case by placing said copy in a post-paid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by

Exhibit "2"

depositing said envelope and contents in the United States Mail in Charleston, South Carolina.

DOCUMENTS:

Record On Appeal

ADDRESSEE(s)

Harold A. Oberman, Esquire
60 Markfield Drive, Ste. 2
Charleston, SC 29401
Attorney for Respondents

Barry I. Baker, Esquire
Attorney at Law
Charleston, SC 29417-1265
Attorney for Respondents

Kyle T. Varner, Esquire
Attorney at Law
P.O. Box 31265
Charleston, SC 29417
Attorney for Respondents



Virginia Plitnik
Willie B. Heyward
27 Gamecock Ave., Ste. 200
Charleston, SC 29407
(843) 225-8754
Attorney for Appellants
SC Bar No.11063

September 20, 2017



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

September 25, 2017

Mr. Willie Bruce Heyward, Esquire
27 Gamecock Ave
Ste. 200
Charleston SC 29407

Re: Leon Chisolm v. Mary Chisolm
Appellate Case No. 2016-001197

Dear Counsel:

Our records reflect that the time for serving the record on appeal and filing a proof of service has expired. Within ten (10) days of the date of this letter you must serve the record on appeal and file a proof of service, along with a motion requesting permission to serve and file outside of the filing deadline set by Rule 210, SCACR, or your appeal will be dismissed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jenny A. Kitchings". The signature is written in a cursive, flowing style.

CLERK

Exhibit "4"

cc: Barry I. Baker, Esquire
Kyle T Varner, Esquire
Harold Alan Oberman, Esquire

84761

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

OCT 09 2017

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

Mikell R. Scarborough, Master-in-Equity

Case No. 06-CP-10-1772

Leon Chisolm, James Roosevelt Chisolm, Doris G. Fladger, Robert Chisolm, Florence Chisolm, Alice C. Jenkins, Sadie Y. McDonald, Martha Pryor, Patricia Millian, Margaret E. Warren, Andrew K. Chisolm, Edrina L. Wilson, Carl Chisolm, Lawrence Chisolm, Roosevelt Chisolm, II, Louis Chisolm, Eddie Chisolm, Leroy Chisolm, and Tommy Chisolm, Respondents

v.

Mary Frances S. Chisolm, William Chisolm, Emily C. Campbell, Debra C. Murphy, Alice C. Frazier, Cora C. Brown, Cordell Chisolm, Charles Chisolm, Jr., Phillip Chisolm, Anthony Chisolm, David Chisolm, Leonard Chisolm, and Levy Chisolm, Appellants

RESPONDENTS' MOTION TO HAVE APPELLANTS FILE A SUPPLEMENTAL RECORD
ON APPEAL CONTAINING OMITTED ITEMS

The Record on Appeal, belatedly served on us by Appellants, contains none of the unique documents and transcripts that Respondents designated in their attached Designation of Matter (Exhibit "1" attached) dated July 25, 2017 and filed July 27, 2017. Specifically, Appellants left out the following:

1. Transcript of Testimony of Gary Chisolm at the hearing on August 21, 2012 - Page 25 is missing

Exhibit "5"

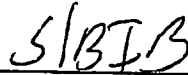
2. Defendants' Motion for Reconsideration (59(e), SCRCP) dated September 29, 2014 and filed September 30, 2014 - Missing in its entirety
3. Transcript of January 8, 2015 - Missing in its entirety
4. Transcript of March 10, 2016 - Missing in its entirety

Respondents move that Appellants file a corrected or supplemental Record on Appeal containing the omitted items, or in the alternative, that his appeal be dismissed. Appellants have filed no motion to file their Record on Appeal out of time.

Additionally, Respondents move that their time to file their Final brief be based on the date it is served with a corrected Record on Appeal.



Harold A. Oberman
OBERMAN & OBERMAN, LLC
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843) 577-7010



Barry I. Baker
Kyle T. Varner
One Carriage Lane, Building H
Charleston, SC 29407
(843) 766-9007

Attorneys for Respondents

Other Counsel of Record:

Willie B. Heyward, Esquire
Heirs' Property Law Center, LLC
27 Gamecock Avenue, Suite 200
Charleston, SC 29407
(843) 745-7055

Attorney for Appellants

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

OCT 09 2017

SC Court of Appeals

Mikell R. Scarborough, Master-in-Equity

Case No. 06-CP-10-1772

Leon Chisolm, James Roosevelt Chisolm, Doris G. Fladger, Robert Chisolm, Florence Chisolm, Alice C. Jenkins, Sadie Y. McDonald, Martha Pryor, Patricia Millian, Margaret E. Warren, Andrew K. Chisolm, Edrina L. Wilson, Carl Chisolm, Lawrence Chisolm, Roosevelt Chisolm, II, Louis Chisolm, Eddie Chisolm, Leroy Chisolm, and Tommy Chisolm, Respondents


v.

Mary Frances S. Chisolm, William Chisolm, Emily C. Campbell, Debra C. Murphy, Alice C. Frazier, Cora C. Brown, Cordell Chisolm, Charles Chisolm, Jr., Phillip Chisolm, Anthony Chisolm, David Chisolm, Leonard Chisolm, and Levy Chisolm, Appellants

PROOF OF SERVICE

I certify that I have served the Respondents' Motion to Have Appellants File a Supplemental Record on Appeal Containing Omitted Items by depositing one copy of it in the United States Mail, postage prepaid, on October 5, 2017, addressed to their attorneys of record, Willie B. Heyward, Heirs' Property Law Center, LLC, 27 Gamecock Avenue, Suite 200, Charleston, SC 29407.

October 5, 2017


Harold A. Oberman
OBERMAN & OBERMAN, LLC
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843) 577-7010
Attorneys for Respondents

OBERMAN & OBERMAN, LLC
ATTORNEYS AND COUNSELORS AT LAW
60 MARKFIELD DRIVE, SUITE 2
CHARLESTON, SOUTH CAROLINA 29407

MARVIN I. OBERMAN
HAROLD A. OBERMAN

TELEPHONE (843) 577-7010
FACSIMILE (843) 722-7359
EMAIL: obermanlaw@bellsouth.net

September 27, 2017

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Leon Chisolm v. Mary Chisolm
Appellate Case No. 2016-001197

Dear Ms. Kitchings:

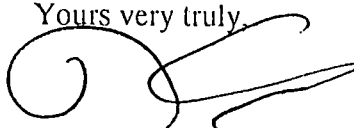
The Record on Appeal, belatedly served on us by Appellants, contains none of the unique documents and transcripts we designated in our attached Designation of Matter dated July 25, 2017 and filed July 27, 2017. Specifically, Appellants left out:

1. Transcript of Testimony of Gary Chisolm at the hearing on August 21, 2012 - Page 25 is missing
2. Defendants' Motion for Reconsideration (59(e), SCRCF) dated September 29, 2014 and filed September 30, 2014 - Missing in its entirety
3. Transcript of January 8, 2015 - Missing in its entirety
4. Transcript of March 10, 2016 - Missing in its entirety

We are seeking your guidance as to how to proceed, as it is impossible for us to file a Final Brief with a deficient Record on Appeal. We are copying Mr. Heyward on this letter.

With warmest personal regards, I remain

Yours very truly,



Harold A. Oberman

HAO/shb
Enclosure

cc: Willie B. Heyward, Esquire (w/enclosure)
Barry I. Baker, Esquire (w/enclosure)

E:\ob\chisolm802\appeal\2017\tr\kitchings.i27

Exhibit "6"

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
NOV 07 2017
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No. 06-CP-10-1772

Leon Chisolm, James Roosevelt Chisolm, Doris G. Fladger, Robert Chisolm, Florence Chisolm, Alice C. Jenkins, Sadie Y. McDonald, Martha Pryor, Patricia Millian, Margaret E. Warren, Andrew K. Chisolm, Edrina L. Wilson, Carl Chisolm, Lawrence Chisolm, Roosevelt Chisolm, II, Louis Chisolm, Eddie Chisolm, Leroy Chisolm, and Tommy Chisolm, Respondents


v.

Mary Frances S. Chisolm, William Chisolm, Emily C. Campbell, Debra C. Murphy, Alice C. Frazier, Cora C. Brown, Cordell Chisolm, Charles Chisolm, Jr., Phillip Chisolm, Anthony Chisolm, David Chisolm, Leonard Chisolm, and Levy Chisolm, Appellants

PROOF OF SERVICE

I certify that I have served the Respondents' Motion to Dismiss Appellants' Appeal by depositing one copy of it in the United States Mail, postage prepaid, on November 3, 2017, addressed to their attorneys of record, Willie B. Heyward, Heirs' Property Law Center, LLC, 27 Gamecock Avenue, Suite 200, Charleston, SC 29407.

November 3, 2017



Harold A. Oberman
OBERMAN & OBERMAN, LLC
60 Markfield Drive, Suite 2
Charleston, SC 29407
(843) 577-7010
Attorneys for Respondents

OBERMAN & OBERMAN, LLC
ATTORNEYS AND COUNSELORS AT LAW
60 MARKFIELD DRIVE, SUITE 2
CHARLESTON, SOUTH CAROLINA 29407

MARVIN I. OBERMAN
HAROLD A. OBERMAN

TELEPHONE (843) 577-7010
FACSIMILE (843) 722-7359
EMAIL: obermanlaw@bellsouth.net

November 3, 2017

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RECEIVED
NOV 07 2017
SC Court of Appeals

RE: Leon Chisolm v. Mary Chisolm
Appellate Case No. 2016-001197

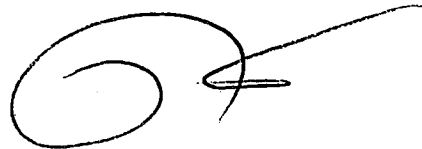
Dear Ms. Kitchings:

I enclose the original and six (6) copies of Respondents' Motion to Dismiss Appellants' Appeal, along with the Proof of Service, with regard to the above-captioned matter and our check for \$25.00.

Upon filing, please return a clocked-in copy to our office in the enclosed self-addressed, stamped envelope.

With warmest personal regards, I remain

Yours very truly,



Harold A. Oberman

HAO/shb
Enclosures

cc: Willie B. Heyward, Esquire (w/enclosure)
Barry I. Baker, Esquire (w/enclosure)
Kyle T. Varner, Esquire (w/enclosure)



UNITED STATES
POSTAL SERVICE®

Click-N-Ship®

P

usps.com 9405 5036 9930 0124 9629 31 0066 5000 0022 9211

\$6.65

US POSTAGE

Flat Rate Env



11/02/2017

Mailed from 29407 062S0000001310

PRIORITY MAIL 2-DAY™

HAROLD A OBERMAN
OBERMAN & OBERMAN
60 MARKFIELD DR
STE 2
CHARLESTON SC 29407-7907

Expected Delivery Date: 11/04/17

Ref#: Chisolm Ap

0024

Carrier -- Leave if No Response

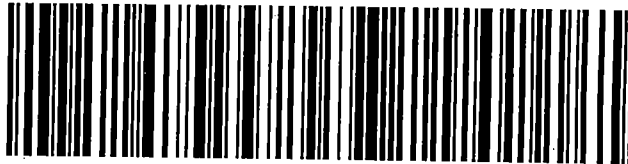
B012

SHIP

TO:

JENNY A KITCHINGS
S C COURT OF APPEALS
PO BOX 11629
COLUMBIA SC 29211-1629

USPS TRACKING #



9405 5036 9930 0124 9629 31

Electronic Rate Approved #038555749

PRESS FIRMLY TO SEAL

PRIORITY MAIL
POSTAGE REQUIRED

RECEIVED
NOV 07 2017
SC Court of Appeals