

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE WILLIAMSBURG COUNTY
COURT OF COMMON PLEAS

Circuit Court Case No.: 2017-CP-45-0224

Appellate Case No.: 2017-001077

RECEIVED
JAN 30 2018
SC Court of Appeals

April Grant Mack, as Personal Representative
of the Estate of Barrett Demetric Jeremiah Mack.....Respondent,

vs.

Necole Binyard, as Personal Representative
of the Estate of Harry Rufus Emmanuel Washington.....Appellant.

RETURN TO RESPONDENT'S MOTION TO FILE
REPLY BRIEF AND DESIGNATION OF MATTER OUT OF TIME

NOW COMES the Appellant, objecting to Respondent's Motion to extend the time to file Initial Reply Brief along with Designation of Matter through Counsel, based on but not necessarily limited to the following:

1. Appellant filed the Initial Brief and Designation of Matter in this Appeal on September 7, 2017.
2. Respondent's Initial Reply Brief should have been due on or about October 8, 2017. However, Respondent did not file its Initial Reply Brief or Designation of Matter within the requisite time period.
3. By letter dated November 6, 2017, Respondent requested an Extension of Time to file an Initial

Reply Brief but not the Designation of Matter outside of the time period for submission of the Initial Reply Brief and Designation of Matter. Nevertheless, the Court granted the same making Respondent's Initial Reply Brief and Designation of Matter due on or before November 28, 2017.

4. By letter dated December 6, 2017, The Court advised Respondent that they had failed to meet the November 28, 2017 deadline to file the Initial Reply Brief and Designation of Matter. Nevertheless, the Court granted Respondent another extension for an additional ten (10) days to file the documents on or before December 16, 2017. The Court further advised the Respondent in this letter, the necessity to file a Motion requesting permission to file the Initial Reply Brief and Designation of Matter outside the deadline(s). Respondent failed to honor this deadline and file a Motion requesting extension of time.

5. By letter dated December 31, 2017, the Respondent attempted to file Initial Reply Brief Reply Brief and Designation of Matter, and alleged in the letter that the Court had granted an extension to file the same. However, that was not the case.

6. By letter dated January 9, 2018, the Respondent was advised through the Court that a motion for late filing was required in order to accept the Initial Reply Brief and Designation of Matter.

7. Subsequently on January 16, 2018, Respondent filed a Motion to File Initial Brief out of time and filed what it labeled as an Amended Initial Brief along with Designation of Matter. Noteworthy, Respondent's Motion failed to request an extension to file the Designation of Matter outside of the requisite time period and this was not an Amended Initial Brief.

8. Self- evidently, pursuant to South Carolina Appellate Rule 208 (a)(2), Respondent's Initial Brief(s) along with Designation of Matter(s) are outside the requisite time periods and requested extensions.

9. Respondent's Motion to Extend the Time has failed to show good cause for the Court to accept a late filing of all required documents. Respondent's contention of a personal computer virus is

quite untenable as a reason for good cause, considering the vast array of availability of computers in Respondent's attorney's office(s) and elsewhere. Most egregious is Respondent's disregard for the rules of Court and its brash behavior to not follow the Court's instructions after receiving knowledge from the Court on how to proceed in requesting additional time to file the required documents outside of the statutory time period. Even now, Respondent is not in compliance with instructions from the Court as this Motion to Extend time to file the required documents does not mention the request to have time extended for filing the Designation of Matter.

10. Further, upon information and belief, Respondent's Motion to file Initial Reply Brief out of time does not comply with South Carolina Appellate Rule 240 (c)(2) and 267(c) and 267 (d).

11. The Appellate has already suffered from Respondent's improper actions from which this Appeal derives. Any further extension would be extremely prejudicial especially in light of the pending cases in the lower courts which is collaterally connected with this appeal. The Respondent's behavior continues to halt the progression of these cases as they cannot be disposed of until after this Appeal.

12. Respondent has already been granted significant leave and grace from this court with the two (2) prior extensions which Respondent unappreciatively ignored.

WHEREFORE, Appellant prays that the Court deny Respondent's Motion to allow the Initial Reply Brief and Designation of Matter outside of the statutory boundaries of time.

Dated: January 29, 2018
Kingstree, South Carolina



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PROOF OF SERVICE

I certify that I have served the Return to Respondent's Motion to File Reply Brief Out of Time by faxing and depositing a copy of the same in the United States Mail, postage prepaid, on January 29, 2018, addressed to the following attorneys of record:

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Nelson Mullins Riley & Scarborough LLP
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P.O. Box 580
Sumter, SC 29141

Attorney for April Grant Mack

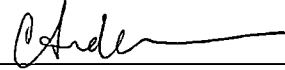
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January 29, 2018



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January 29, 2018

VIA FAX & USMAIL
803-734-1839

Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

JAN 30 2018

SC Court of Appeals

RE: April Mack vs. Estate of Harry Washington
Appellate Case No.: 2017-001077

Dear Ms. Kitchings:

Enclosed please find original and seven (7) copies of the Return to Respondent's Motion to file Reply Brief and Designation of Matter out of time along with Proof of Service. Please return one filed copy of the Return and Proof of Service to this office in the enclosed self-addressed stamped envelope.

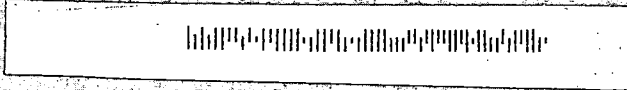
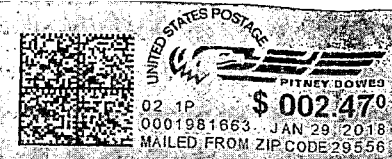
Sincerely,

[signed in his absence to avoid delay in mailing]

William J. Barr
Attorney At Law

WJB/ca
enclosures

cc. Charles R. Norris, Esquire (via USmail only)
G. Murrell Smith, Jr., Esquire (via USmail only)
Kimberly Barr, Esquire (via USmail only)
Ronnie A. Sabb, Esquire (via USmail only)
Jonathan M. Robinson, Esquire (via USmail only)
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