

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brian M. Gibbons, Circuit Court Judge

2015-CP-12-0179

Appellate Case No. 2016-002016

RECEIVED

APR 12 2018

SC Court of Appeals

Robert H. Breakfield, as attorney in fact for John D. Hinson,
John C. Hinson, Jerry Hinson, Kathy Huffstickle, Robert H. Hinson,
Darrell W. Hinson, Lois Hinson, Tina Jones, George Stanford
As Personal Representative of the Estate of Linda Stanford,
William L. Hinson, Elaine H. Hensley, and
William C. Hinson, Jr. Respondent,

v.

Mell Woods Appellant.

Respondent's Reply to Appellant's Return to Respondent's Motion
for Reconsideration or, More Accurately, for
Consideration in the First Instance
and to Stay Appeal Pending Ruling

Respondent hereby replies to the Appellant's Return to the Motion for Reconsideration,
filed with the Court on Tuesday, April 10, 2018, having allegedly been mailed to the Court and
to the undersigned on Saturday, April 7, 2018. As of the drafting of this Reply on Thursday

morning, April 12, 2018, (the fifth day after Appellant's alleged service by mail) the undersigned has not received from the Appellant a copy of the Return. The existence of the Return was discovered on the Court's C-track site. The Appellant's Return mostly addresses the underlying motion to dismiss and not the motion for reconsideration, in keeping with the Appellant's modus operandi to make everything a jumbled mess.

The relevant facts regarding the untimeliness of Appellant's circuit court motion for reconsideration, and consequently the untimeliness of his appeal, are:

1. By his own admission Appellant received notice of the circuit court's Order Affirming Magistrate's Court on Monday, July 18, 2016. (Appellant's Rule 240 (e) Return to the motion to dismiss appeal, ¶ 5.) The deadline to serve a motion for reconsideration was Thursday, July 28, 2016.
2. Appellant chose to use the postal service's Click-N-Ship "Priority Mail 2-Day" service, which includes the ability to track delivery.
3. The mechanics of the Click-N-Ship service is explained in the affidavit of Paris Cherry, a USPS manager. Most significantly, the shipping label is printed by the customer (Appellant) on his own computer, and "When the Click-N-Ship label is printed, a digital payment is automatically made to the USPS as part of the label printing procedure." (emphasis added.) (Attachment 4, Exhibit D to the Motion to Dismiss Appeal.)
4. The shipping label and tracking report for Appellant's Return is found in Attachment 4, Exhibits B and C to the Motion to Dismiss Appeal. The label shows the date "07/28/2016," and that the envelope was "Mailed from 29721." Zip code 29721 is the zip code for Lancaster, SC; however, Appellant stated in his Return that his envelope was deposited with the postal service in Georgia.

5. The USPS tracking report shows the USPS's first noted activity with regard to the Appellant's envelope occurred on Friday, July 29, 2016, described as "Pre-shipment info Sent to USPS." The USPS facility received Appellant's envelope on Monday, August 1, 2016. Therefore, according to Appellant, he deposited the package before payment for postage had been made. Delivery to the undersigned's post office box occurred on Tuesday, August 2, 2016 (a 2-day service that according to the Appellant and the tracking report resulted in delivery on day 5 following deposit.)

6. Appellant's *pro se* mischief is well documented in Attachment 4 to the motion to dismiss, including Respondent's Return to Appellant's motion for reconsideration in circuit court (in the above-captioned case) and Respondent's Return to Appellant's Motion to Reinstate Appeal in the Supreme Court in appellate case no. 2014-001039. In 2014-001039 Appellant's Petition for Certiorari was dismissed as untimely, based on the USPS tracking report. Appellant moved to reinstate the appeal, and the motion was denied. Respondent's Return to Appellant's Motion to Reinstate Appeal in 2014-001039 contains the relevant authorities on the issue. Attachment 4 was incorporated by reference into the Motion to Dismiss Appeal and is also incorporated herein by reference.

The appeal should be dismissed because the untimeliness of the Appellant's Rule 59 (e) motion, and the subsequent appeal, deprives this Court of jurisdiction.

April 12, 2018



B. Michael Brackett, S.C. Bar No. 0838
Moses & Brackett, PC
133 Brookspring Rd.
Columbia, SC 29223
803.422.1158
Attorney for Respondent

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brian M. Gibbons, Circuit Court Judge

2015-CP-12-0179

Appellate Case No. 2016-002016

RECEIVED

APR 12 2018

SC Court of Appeals

Robert H. Breakfield, as attorney in fact for John D. Hinson,
John C. Hinson, Jerry Hinson, Kathy Huffstickle, Robert H. Hinson,
Darrell W. Hinson, Lois Hinson, Tina Jones, George Stanford
As Personal Representative of the Estate of Linda Stanford,
William L. Hinson, Elaine H. Hensley, and
William C. Hinson, Jr.Respondent,

v.

Mell WoodsAppellant.

Certificate of Service

I, B. Michael Brackett, Attorney for Respondent, do hereby certify that I have served the Appellant by mail with a copy of the foregoing Reply to Appellant's Return, postage prepaid and return address clearly indicated on said envelope, on this 12th day of April, 2018, at the following address:

Mell Woods
P.O. Box 2603
Lancaster, SC 29721


B. Michael Brackett

Moses & Brackett, PC
B. Michael Brackett, Esquire
133 Brookspring Rd.
Columbia, SC 29223
803.422.1158

April 12, 2018

Hand Delivery

Honorable Jenny Abbot Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

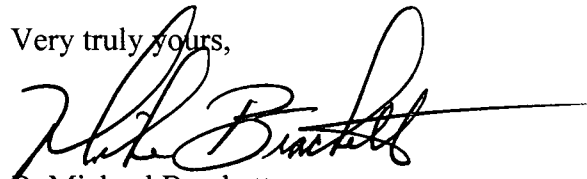
RECEIVED
APR 12 2018
SC Court of Appeals

Re: Breakfield, as Attorney in Fact v. Woods
Appellate Case No. 2016-002016

Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of Respondent's Reply to Appellant's Return. By copy of this letter, a copy of the enclosed Reply to Return is being served on the Appellant, as confirmed by the enclosed Certificate of Service.

Very truly yours,



B. Michael Brackett

Enclosures

cc. Robert H. Breakfield, Esquire
Mell Woods