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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JUN 11 2018

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

SC Court of Appeals

Marvin H. Dukes III, Master in Equity & Special Circuit Court Judge

Appeal Case No. 2017-002270
Circuit Court Case No. 2014-CP-07-00943

JOSEPH C. SUN Appellant

v.

TOWN OF BLUFFTON, BLUFFTON
POLICE DEPARTMENT, BRYAN
NORBERG, ANGELA TUBBS,
JOSEPH BABKIEWICZ, CLAUDIA
HEBDA, JEFFERY DICKSON and
CHRISTIAN GONZALES. Respondents

APPELLANT'S MOTION FOR LEAVE TO FILE
PETITION FOR REHEARING OUT OF TIME
and PETITION FOR REHEARING

Joseph C. Sun, pro se
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

E. Mitchell Griffith, Esq.
Griffith, Freeman & Liipfert
P. O. Box 570
Beaufort, SC 29901

Appellant Joseph Sun moves the court for leave to file his petition for rehearing out of time on the order entered on January 26, 2018, and shows the court his Petition for Rehearing as follows:

Some time in 2017, Respondents filed a motion to dismiss the appeal, contending Appellant had failed to timely serve the notice of appeal. This court on January 26, 2018 entered an order finding Appellant had timely served his notice of appeal on the “Order Denying Plaintiff’s Motion to Vacate and Set Aside Judgment” and allowed the appeal from that order to proceed.

The court also ruled that “because a Rule 60, SCRCF motion does not toll the time for serving the appeal for any other orders, Appellant has failed to timely serve and file an appeal from any other order.” Based on that conclusion alone, the court ruled that “these appeals are dismissed.” In rendering that order, the court has overlooked that Appellant was not relying on the filing of the aforesaid Rule 60, SCRCF motion to toll the time for serving or filing of any notice of appeal. But rather, it is Appellant’s argument that because he had not been served or received a “written notice of entry of the order or judgment” which he had included in his notice of appeal, the time to trigger the thirty (30) days within which he had to file the notice of appeal on all those orders had not begun, not even up to this date. Therefore, Appellant has not failed to timely serve a notice of appeal from the other orders listed in his Notice of Appeal.

Appellant prays the court to consider Rule 203(b)(1) as a strict verbatim requirement for him to serve his notice of appeal. Appellant in his Issue 1 of his Initial Brief, has included a copy of the Beaufort County Public Index in his Designation of Matters to be included in his Record of Appeal. According to the public index, the only court orders Appellant had been served and he had received were the Order Denying his motion to vacate and set aside judgment entered on August 29, 2017¹,

¹ Copy of order was sent to Appellant by U.S. Certified Mail from respondents, signed receipt requested.

and the Order Granting Defendant' Motion for Summary Judgment and Denying Plaintiff's Motion to Compel Discovery entered on December 7, 2016. Appellant timely filed his motion to reconsider after he received a copy of that order on December 15, 2016.

As found by the court aforesaid previously, The Amended Order Granting Defendants' Motion for Summary Judgment entered on May 23, 2017, which turned out to act as an Order denying Appellant's Motion to Reconsider and which was filed and indexed at the court docket, was never served or received by the Appellant. Therefore, Appellant's time to serve his notice of appeal pursuant to Rule 203(b)(1) has never started. Appellant has explained that he had gone to the Beaufort County Public Index website and downloaded copies of certain court orders without judge's signature or signing date. That alone did not meet the due process requirement to trigger the 30 days period for him to serve and file the notice of appeal. Therefore, Appellant has not failed to timely serve his notice of appeal on any other court orders.

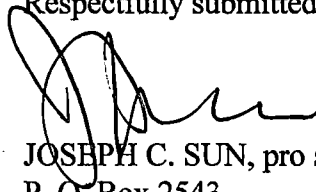
Appellant prays the court for leave to file his petition for rehearing at this time because when he received copy of the aforesaid court order (entered on January 26, 2018) allowing him to proceed only on the appeal of the denial of his motion to vacate and set aside judgment but not the other orders listed in his notice of appeal, he had a deadline to meet in preparing and filing of the initial brief in this case and legal matters in several other cases. Furthermore, by filing his petition for rehearing now though out of time, Appellant can refer to and adopt his appeal brief on Issue 1 with the copy of the Beaufort Public Index in his attached Designation of Matters, and later on, the unsigned and undated orders in the Record on Appeal which he had downloaded from the internet. Appellant has to file the order exhibits in his Record on Appeal with his Final Brief to show that he was not required to, therefore, he has not failed to serve or file his notice of appeal on the other

court orders pursuant to Rule 203(b)(1) because he had not received the other written notice of entry of the orders included in his notice of appeal. Therefore, Appellant has not failed to timely serve his notice of appeal on all other orders.

CONCLUSION

For the foregoing reasons, Appellant prays the court to grant his motion for leave to file his petition for rehearing out of time, and because he has not failed to timely serve his notice of appeal on all other orders pursuant to Rule 203(b)(1), he should be allowed to proceed his appeal from those court orders.

Respectfully submitted,



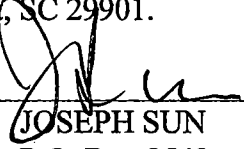
JOSEPH C. SUN, pro se
P. O. Box 2543
Bluffton, SC 29910
843-226-8788

CERTIFICATE OF SERVICE

This is to certify that I have this date served the Respondents a copy of Appellant's Motion for Leave to file Petition for Rehearing Out of Time and Petition for Rehearing by depositing a copy of same on 5th day of June, 2018 in the U.S. Mail postage prepaid to:

E. Mitchell Griffith, Esq. P. O. Box 570, Beaufort, SC 29901.

This 5th day of June, 2018.



JOSEPH SUN
P.O. Box 2543
Bluffton, SC 29910

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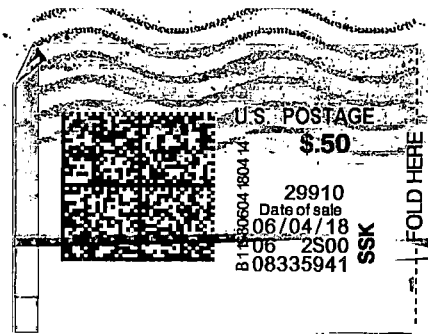
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SC Court of Appeals

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Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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