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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

R. Ferrell Cochran, Jr., Circuit Court Judge
George M. McFaddin, Jr., Circuit Court Judge

RECEIVED
AUG 20 2018
SC Court of Appeals

Appellate Case No. 2017-002617
Case No. 2016-CP-45-544

Terry Tisdale, as Guardian for Amber Lynn Bush, and Terry Tisdale in her Individual Capacity, Appellant,

v.

John Michael Mitchum, as Personal Representative for the Estate of Susan T. Mitchum, and John Michael Mitchum in his Individual Capacity, Respondent.

RESPONDENT'S SECOND (2nd) MOTION TO DISMISS

NOW COMES W. Evan Reynolds, Esquire, upon second (2nd) motion to this Court in the above captioned action, to dismiss same upon the following grounds:

The Appellant has not timely ordered the transcript, nor filed a copy of a letter showing that the Appellant has ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadline pursuant to both South Carolina Appellate Court Rules, Rule 207, and multiple letters from the South Carolina Court of Appeals.

Pursuant to SCACR, Rule 207, the Appellant must order the transcript of the proceeding which is being appealed from the court of common pleas within ten (10) days after the date of service of the notice to appeal. In this case, the Appellant did not timely file and serve the notice to appeal which was cited in the Respondent's original motion to dismiss. After being given a second chance, the Appellant filed an amended notice of intent to appeal on January 9, 2018. According to Rule 207, the Appellant should have ordered, in writing, the transcript from the proceeding in which she is appealing by January 19, 2018. The Appellant failed to do so.

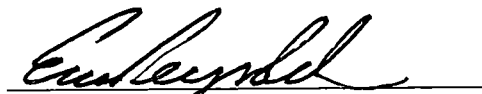
Three (3) months later on April 27, 2018, and the Court of Appeals send the Appellant a letter that

states, in part, "Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. **Your appeal will be dismissed if no motion is made within ten days of the date of this letter.**" Appellant again failed to do so.

Six (6) months later on August 1, 2018, the Court of Appeals send the Appellant another letter that states, in part, "Within ten (10) days from the date of this letter, you must provide this Court with a copy of the transcript order. **Failure to provide a copy of the transcript order within ten (10) days from the date of this letter will result in the dismissal of this appeal.**" Appellant has once again failed to do so.

Therefore, the Respondent submits this second (2) motion to dismiss based on the Appellant failing to comply with the procedural rules of the South Carolina Appellate Court, particularly Rule 207 of the SCACR, and the multiple chances given to her to do so by this Court.

August 17, 2018
Kingstree, South Carolina



W. Evan Reynolds, Esquire
South Carolina Bar No. 102352
JENKINSON, JARRETT & KELLAHAN, P. A.
Post Office Drawer 669
Kingstree, SC 29556
Ph. (843) 355-2000
Fax (843) 355-2010
ATTORNEYS FOR THE RESPONDENT



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

April 27, 2018

Terry Tisdale
4993 Martin Luther King, Jr. Blvd
Salters SC 29590

Re: Terry Tisdale v. John Mitchum
Appellate Case No. 2017-002617

Dear Mr. Tisdale:

We received your filing fee for the motion for extension of time to obtain new counsel. However, no proof of service has been provided for the motion for extension of time to obtain new counsel. You must provide a proof of service within ten (10) days or no action will be taken on your motion for an extension.

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jenny Abbott Kitchings".

CLERK

cc: Amber Lynn Bush
William Evan Reynolds, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
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August 01, 2018

Terry Tisdale
4993 Martin Luther King, Jr. Blvd
Salters SC 29590

Re: Terry Tisdale v. John Mitchum
Appellate Case No. 2017-002617

Dear Ms. Tisdale:

As of today's date, no proofs of service have been provided for the motions for extension of time to obtain counsel. Therefore no action will be taken regarding your motions for extension of time to obtain counsel. Within ten (10) days from the date of this letter, you must provide this Court with a copy of the transcript order. Failure to provide a copy of the transcript order within ten (10) days from the date of this letter will result in the dismissal of this appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Amber Lynn Bush
William Evan Reynolds, Esquire

Court of Appeals Timeline

- 1) June 22, 2017, Plaintiff's 2nd cause of action dismissed
- 2) December 5, 2017, Plaintiff's 1st cause of action and thus entire case dismissed
- 3) December 20, 2017, date on pro se Notice of Intent to Appeal
- 4) December 29, 2017 - Court of Appeals acknowledgment of receipt of pro se Intent to Appeal.
- 5) January 4, 2018 - Court of Appeals noting deficiencies a) Appeal not accompanied with Circuit Court Order nor a Court, Judge, County, nor docket number from which appeal is taken. An amended Notice of Appeal must be filed. **Must be corrected within 10 days from date of letter or appeal will be dismissed.**
- 6) January 8, 2018, date on the amended pro se Notice of Intent to appeal.
- 7) January 8, 2018, date on our Motion to Dismiss the pro se appeal for: a) Not timely filing notice of appeal from June 22, 2017, Order dismissing 2nd cause of action, and b) Submitting her notice of appeal pro se while represented by Counsel (hybrid representation)
- 8) January 9, 2018, date of opposing counsel (Eleazer Carter) motion to be relieved as counsel.
- 9) January 12, 2018, date of Court of Appeals letter indicating how title of appeal should read.
- 10) January 17, 2018, date of Court of Appeals letter informing Terry Tisdale that she cannot represent Amber Bush on this appeal. **An attorney must make an appearance on Amber Bush's behalf or her appeal will be dismissed within 10 days from this date of this letter.**
- 11) March 15, 2018, date of Court of Appeals Order granting opposing counsel's (Eleazer Carter) motion to be relieved as counsel. Holding the appeal in abeyance for 30 days for the Appellant to retain new counsel. Appellant shall file notice of appearance within 30 days of the date of this letter or the Court will presume the Appellant is proceeding Pro Se. Order further denied the Respondent's Motion to Dismiss.
- 12) April 5, 2018, date of letter of Court of Appeals acknowledging Pro Se Appellant's request for extension to obtain counsel. Noting deficiencies for failing to pay filing fee and proof of service not being provided for motion for extension. **Deficiencies must be corrected within 10 days of the date of the letter or the extension will not be considered.**
- 13) April 27, 2018, date of letter of Court of Appeals acknowledging receipt of filing fee, but no proof of service. **Must provide proof of service within 10 days from the date of the letter for no action will be taken on motion for an extension.** Additionally, time for ordering transcript has expired. **Within 10 days from the date of this letter, Pro Se Appellant must file copy of letter showing that she ordered transcript from court reporter along with motion requesting permission to order transcript outside of filing deadline or appeal will be dismissed.**
- 14) June 12, 2018, date of letter of Court of Appeals acknowledging receipt of Pro Se Defendant's motion for extension of time to obtain counsel and noting deficiencies of no filing fee and no proof of service. **These deficiencies must be corrected within 10 days of the date of this letter**
- 15) July 16, 2018, date of letter of Court of Appeals acknowledging receipt of Pro Se Defendant's filing fees for 1st and 2nd motions for extension of time to obtain counsel. Again, no proof of service. **Motions will not be considered if the proofs of service for the 1st and 2nd motions for extension of time to obtain counsel are not received within ten (10) days from the date of this letter.**
- 16) August 1, 2018, date of letter of Court of Appeals indicating that the motion for extension of time to obtain counsel will not be considered. **Further indicating that Pro Se Defendant has 10 days from the date of this letter to provide proof of order of transcript or the appeal will be dismissed.**

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v.


John Michael Mitchum as Personal Representative for the Estate of Susan T. Mitchum and John Mitchael Mitchum in his Individual Capacity, Respondent.

CERTIFICATE OF SERVICE

I, W. Evan Reynolds, hereby certify that I have served a copy of the *Respondent's Second (2nd) Motion to Dismiss* on the below stated parties at the stated addresses, by placing a copy of same, on August 17, 2018, with sufficient postage attached thereto in the United States Mail, addressed as follows:

Terry Tisdale
4993 Martin Luther King, Jr. Blvd
Salters, SC 29590

August 17, 2018


W. Evan Reynolds, Esq.
JENKINSON, JARRETT & KELLAHAN, PA
P.O. Drawer 669
Kingstree, South Carolina 29556

Ph: (843) 355-2000

Fax: (843)-355-2010

ATTORNEYS FOR RESPONDENT



Jenkinson, Jarrett & Kellahan, PA

ATTORNEYS AT LAW

120 WEST MAIN STREET • POST OFFICE DRAWER 669 • KINGSTREE, SOUTH CAROLINA 29556
TELEPHONE (843) 355-2000 • FACSIMILE (843) 355-2010 • TOLL FREE 1-888-354-7417
www.jenkinsonlaw.com

W. E. Jenkinson, III
Ernest J. Jarrett*
Jennifer R. Kellahan**

J. Thomas Thompson
William Evan Reynolds

August 17, 2018

*Certified Family Court Mediator
**Certified Circuit Court Mediator

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

Re: Terry Tisdale v. John Michael Mitchum
Appellate Case No. 2017-002617

Dear Ms. Kitchings:

Please find enclosed the following documents:

- 1) Original and six (6) copies of the Respondent's second (2nd) Motion to Dismiss the appeal in the above captioned case; further containing
- 2) Original and six (6) copies of Certificate of Service on all parties.

Please find enclosed my firm's check in the amount of \$25 for filing fees. By copy of this letter to the Pro Se Defendant, I am serving her with a copy of these documents.

We appreciate your continued cooperation.

With warm personal regards, I am

Very truly yours,

W. Evan Reynolds
evan@jenkinsonlaw.com

WER/

Pc: Terry Tisdale
John Michael Mitchum

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