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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Alison Renee Lee, Presiding Judge

RECEIVED
JAN 18 2019
SC Court of Appeals

Case No. 2016-CP-32-01385

Appellate Case No. 2018-002157

Richie D. Barnes,..... Respondent,

v.

James Reese,..... Appellant.

MOTION TO DISMISS APPEAL

Respondent, Richie D. Barnes, hereby moves to dismiss this appeal as a consequence of failure of Appellant, James Reese, to comply with the requirements of Rules 203(b)(1) and 207(a)(1), SCACR.

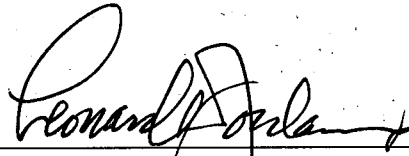
A. This appeal is from a judgment filed against Appellant, which was based upon a jury verdict, which judgment was filed in the Office of the Clerk of Court for Lexington County on November 8, 2018. Appellant filed a notice of appeal in this Court on December 7, 2018. Appellant's filing did not reflect service of such notice upon Respondent. Following this Court's notice of deficiency, Appellant filed on December 17, 2018, a proof of service which indicated that he mailed a 'Notice of Appeal' to Respondent by "Certified Mail No.:

_____” on November 17, 2018. Respondent never received the ‘Notice of Appeal.’ Such ‘Notice of Appeal,’ curiously, indicated that Appellant received written notice of entry of the judgment on November 20, 2018 (3 days after he claims to have mailed the ‘Notice of Appeal’ to Respondent). The Form 4 Order, which was filed on November 8, 2018, indicated that copies were to be mailed to Respondent’s undersigned counsel and to Appellant, but it was not completed (as to date of the mailing) or signed. Respondent’s undersigned counsel received this Form 4 Order by mail on Monday, November 12, 2018. It would be expected that the mailing of the Form 4 Order would have been received by Appellant within a day or two before or after November 12, 2018, making his deadline to serve a notice of appeal no later than December 14, 2018. Respondent’s undersigned counsel received the ‘Notice of Appeal,’ via hand-delivery by Appellant on December 17, 2018.

Service of the ‘Notice of Appeal’ by Appellant was not timely under Rule 203(b)(1), SCACR. For this reason, this appeal should be dismissed.

B. In accordance with Rule 207(a)(1), SCACR, “the transcript must be ordered within ten (10) days after the date of service of the notice of appeal.” According to Steve LeBlanc, the court reporter (see the attached email), Appellant has made no arrangement with him to produce a transcript. It therefore appears that, at least as of January 17, 2019, Appellant has failed to “make satisfactory arrangements. . . with the court reporter for furnishing the transcript.” Even assuming that his appeal was effective as of December 17, 2018, Appellant should have made satisfactory arrangements with the court reporter by December 27, 2018, or within a few days thereafter due to holiday closings.

The transcript has not been timely ordered, in accordance with Rule 207(a)(1), SCACR. For this reason, the appeal should be dismissed.



Leonard R. Jordan, Jr., #3221
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Columbia, South Carolina 29209
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Attorney for Respondent

Columbia, South Carolina
January 18, 2019

Leonard R. Jordan, Jr.

From: LeBlanc, Steven <sleblanc@sccourts.org>
Sent: Thursday, January 17, 2019 6:19 PM
To: Leonard R. Jordan, Jr.
Subject: Re: Barnes vs. Reese--Jury Trial held on November 5-7, 2018

Mr. Jordan, I have not received a transcript request from Mr. Reese and no arrangements have been made.

From: Leonard R. Jordan, Jr. <ljordan@ljordanlaw.com>
Sent: Thursday, January 17, 2019 2:18 PM
To: LeBlanc, Steven
Subject: Barnes vs. Reese--Jury Trial held on November 5-7, 2018

Mr. Leblanc, I understand that you were the court reporter on this trial. I would like to know if you have made an arrangement with Mr. James Reese, the Defendant, who is appealing the jury verdict, to prepare a transcript of the trial. I just want to make sure that he is doing what he needs to do to perfect his appeal.

I look forward to hearing from you. Thank you.

Leonard R. Jordan, Jr.
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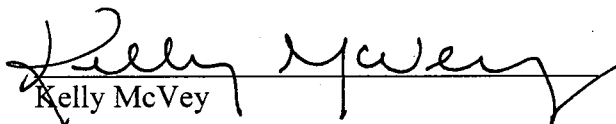
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CERTIFICATE OF MAILING

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I, Kelly McVey, of Jordan Law Firm, attorney for the Respondent, Richie D. Barnes, hereby certify that I have, this 18<sup>th</sup> day of January, 2019, served a copy of the attached Motion to Dismiss Appeal upon James Reese, Appellant, by mailing a copy thereof to him, postage prepaid, to the address indicated below:

Mr. James Reese  
717 Cindy Drive  
Columbia, SC 29203

  
Kelly McVey

**RECEIVED**  
JAN 18 2019  
SC Court of Appeals