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FROM: ISAAC SMITH, JR. 2916 $\frac{1}{4}$ W. VERNON AVE., L.A., CA. 90008
SUBJECT: APPELLATE CASE NO. 2018-002167

DEAR V. CEATRE ALLEN,
FOLLOWING IS MY COMPLIANCE WITH YOUR REQUEST. THANK YOU FOR YOUR
PROFESSIONALISM. IT IS ALWAYS A PLEASURE TO WORK WITH A PROFESSIONAL
OF YOUR CALIBER. I LOOK FORWARD TO HEARING FROM YOU SOON. THANK YOU.

VERY TRULY YOURS,


REV. I. SMITH, JR.



The South Carolina Court of Appeals

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January 28, 2019

Isaac Smith, Jr.
2916 1/4 W. Vernon Avenue
Los Angeles CA 90008

Re: Isaac Smith, Jr. v. Johnnie Mae Muller Newton
Appellate Case No. 2018-002167

Dear Mr. Smith:

Upon reviewing your motion to order the transcript late, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected in their entirety within ten (10) days of the date of this letter or your motion will not be considered and your appeal will be dismissed:

A copy of this document was not provided to the Office of Court Administration as required by the SCACR. The address for Court Administration is 1220 Senate Street, Suite 200, Columbia, SC 29201.

The required filing fee has not been submitted. The correct filing fee is \$50.00.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Heather M. Cairns, Esquire



State of South Carolina
The Circuit Court of the Fifth Judicial Circuit

DeAndrea Gist Benjamin
Judge

Post Office Box 192
1701 Main Street, Room 215
Columbia, SC 29202
Phone: (803) 576-1770
Fax: (803) 576-1772
dbenjaminj@sccourts.org

2/1/19

RESPOND
TO

January 22, 2019

Rev. I. Smith, Jr.
2916 1/4 West Vernon Avenue
Los Angeles, CA 90008

→ ISCSMITH14@YAHOO.COM
323-295-9500

IN RE: Request Court Transcripts
Date: Friday, May 11, 2018
Court: Common Pleas Non-Jury
Presiding Judge: DeAndrea Gist Benjamin

Rev. I. Smith, Jr.

We received your letter Tuesday, January 22, 2019 requesting a copy of court transcripts for Friday, May 11, 2018 court of Common Pleas Non-Jury, presiding Judge DeAndrea Gist Benjamin.

All transcripts should be requested from the court report assigned to transcribe during the court week in question/referenced. The court reporter assigned to Judge DeAndrea Gist Benjamin the week of May 7, 2018 was Stacy S. Johnson. Below is Stacy S. Johnson's contact information. Please contact Stacy S. Johnson for the transcripts for Friday, May 11, 2018.

Stacy S. Johnson
sjohnson@sccourts.org

If you have any questions regarding the transcripts process please contact Desiree Allen / Miss Allen with SC Court Administration at 803-734-1800.

Respectfully,

Jerrell Kirk-James

Jerrell Kirk-James
Executive Administrative Specialist for
The Honorable DeAndrea Gist Benjamin

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January 11, 2019

Isaac Smith, Jr.
2916 1/4 W. Vernon Avenue
Los Angeles CA 90008

Re: Isaac Smith, Jr. v. Johnnie Mae Muller Newton
Appellate Case No. 2018-002167

Dear Mr. Smith:

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 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 SCACR.

Be sure to copy the Court, the Office of Court Administration and opposing counsel with all correspondence concerning the transcript. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1220 Senate Street, Suite 201
Columbia, SC 29201

Your appeal will be dismissed if no motion is made within ten days of the date of this letter.


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 **Holston, Joy E.** <JHolston@sccourts.org> 📧 Feb 28 at 5:22 PM
 To: iscmith14@yahoo.com

Mr. Smith,

I am mailing you your transcript tomorrow, March 1, 2019.

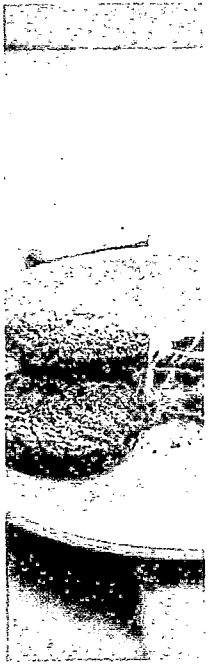
Thank you,

Joy E. Holston
 Court Reporter
 Eighth Judicial Circuit
 Honorable Eugene C. Griffith, Jr.
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1 THE COURT: This is case number 2018-CP-40-403, Isaac  
2 Smith versus Johnnie Mae Muller Newton. This is an appeal  
3 from Probate Court, is my understanding?

4 MR. MOSLEY: That is correct.

5 THE COURT: All right. And this, this appeal is by  
6 Isaac Smith. Is that correct?

7 MR. MOSLEY: Yes, ma'am. Good morning.

8 THE COURT: Good morning.

9 MR. MOSLEY: How are you doing, Judge.

10 THE COURT: I am great. All right, I will be glad to  
11 hear from you.

12 MR. MOSLEY: Okay. Judge, may it please the Court.

13 THE COURT: Yes, sir.

14 MR. MOSLEY: I am Thomas Mosley, as you know.

15 THE COURT: Yes, sir.

16 MR. MOSLEY: And I recently got involved in this  
17 matter at the eleventh hour. And I have spoken to Ms.  
18 Cairns, who represents the Estate and Ms., Lawyer Dean who  
19 apparently represents a direct descendant of the deceased  
20 person.

21 THE COURT: Who is that now?

22 MR. MOSLEY: Elnora Dean. She represents the sister  
23 of the decedent. My client at this point, Mr. Smith, is a  
24 nephew and these parties have been in a very dysfunctional  
25 situation, arguing over an Estate, you know, the money and

1 a burnt house. My client, Mr. Smith, is in California and  
2 I have been communicating with him just recently. So we  
3 are asking for a, first of all, a continuance, and I did  
4 my notice of appearance and to initially ask the Court for  
5 a continuance. I note that the notices gave the parties a  
6 deadline to submit briefs to this particular appeal. I  
7 didn't have time, I guess I could have, but the late  
8 notice and so much material I didn't have time to prepare  
9 any briefs. So I am going to first ask for maybe fifteen  
10 to thirty days to present a brief subject to you looking  
11 at it and making your decision. I will say, Your Honor,  
12 that I think that the opposing counsel has done a great  
13 job to edify the Court about the background in this case  
14 by making a reply to everything to deny the, to deny the  
15 appeal sua sponte for a deficiency with regard to the ten  
16 day letter to appeal. At the time Mr. Smith, he accepted  
17 service of some orders of the Probate Judge while he was  
18 incarcerated in Richland County Detention Center back in  
19 February. Just as aside, Judge, he made a vital mistake,  
20 he come to South Carolina because it was an allegation  
21 that he had spent some Estate money paying some lawyer in  
22 California and traveling back and forth. And the parties  
23 have entered into an agreement, he was suppose to pay the  
24 money back to the Court but he has failed to meet the  
25 deadline. So as a condition of getting out of jail he,

1 you know, he had paid X amount of dollars. I think this  
2 family is fussing over about maybe \$200,000.00 dollars  
3 cash and a burnt house. I think there were some trucks  
4 and cars that were distributed to other apparent members.  
5 The unique thing about the law with regard to an Estate,  
6 which Ms. Cairns represents the Estate, there is a  
7 pecuniary interest of everybody involved including me.  
8 But primarily, you know, Courts at this particular point,  
9 especially Probate Court and its appellate power has more,  
10 more than a casual look at the designated time period to  
11 do something because as a matter of equity, equitable  
12 decisions have far reaching impact on the ability of  
13 people to attend each others funeral at the end. You  
14 know, this case is about a win/loss situation with lawyers  
15 and ultimately all of this nonsense will be trebled  
16 towards the advantage of the PR getting five percent, some  
17 money, all the lawyers get paid. And as a matter of fact  
18 of all of this, diminishes the value of the Estate and  
19 everybody gets paid. Ideally, my client, the Court in and  
20 of itself, knowing some of this stuff, when my client  
21 first appeared and was trying to probate the will the  
22 Probate Court simultaneously said, well, since nobody else  
23 is here and I will appoint you the PR. I think my  
24 opposing counsel's response to that is going to be, well,  
25 he had money that he wasn't suppose to take and other

1 family members didn't know about it. Well, on that  
2 particular regard, Your Honor, the Estate is a fictional  
3 of Western Jurisprudence and created and it really doesn't  
4 exist in and of itself. Somebody died and they are dead  
5 and the family is fussing over it. So when you look at  
6 that from a moral standpoint the nephew, how did Mr. Smith  
7 get access to everything, probably because this is a  
8 disfunctional family and, you know, he had access. Okay.  
9 So ultimately, Your Honor, I beg of you this morning to  
10 let us get some transcripts of record. I had talked to my  
11 clients earlier and I suggested to them, let's just  
12 suppose that the will is no good and you go back to the  
13 distribution and there is a hierarchy relationships  
14 without even the client of Ms. Cairns, you know, the PR in  
15 the Estate. They are more distant relatives so you have a  
16 hierarchy, ideally now, you have got to keep in mind that,  
17 it is my understanding, her client, I mean the mother,  
18 excuse me, the sister of the deceased, they are still  
19 fussing over whether or not that lady is incompetent or  
20 not. That is one issue.

21 THE COURT: Ms. Dean wasn't notified to be here?

22 MR. MOSLEY: I was curious about that. I called and  
23 spoke to her, Your Honor. And by no means, I think both  
24 counsel, Ms. Cairns and Ms. Dean have been great lawyers  
25 trying to do the best they can for their respective

1 clients, with the clients going through a lot of nonsense.  
2 I suggested, as a matter of alternative dispute  
3 resolution, which is what we are looking at now, judicial  
4 policy, that they take a look at, not in mediation but  
5 arbitration between some real good lawyers and some  
6 preachers and rather having people waiting for a dollar,  
7 have everybody show up so this family can heal and they  
8 can attend each others funeral when they die. These cases  
9 are very serious and under Western Jurisprudence I think  
10 is an obligation of this Court or any Court to sit people  
11 down like I do, I am not trying to tell Ms. Cairns' what  
12 to do, but sit people down and not let them net effect of  
13 our Jurisprudence, and the Jurist who started this system  
14 up. And I take these matters serious, Your Honor. And I  
15 have precedence with my argument going back to, my good  
16 friend, Benjamin Cardozo who was a great Jurist talking  
17 about civility in these matters. But, Your Honor, I think  
18 we need the transcript of the record. And finally, let me  
19 just say this, that I disgruntled last night and I didn't  
20 know that there was some legal issues over on the criminal  
21 side with regard to post conviction relief and a time  
22 table. And I found a word called hybrid representation of  
23 our Constitution, didn't create a right to legal  
24 representation especially inmates with regard to PCR's and  
25 their ten day notice. And this is a similar situation

1 whereby Mr. Smith was in jail, his son was his jailhouse  
2 lawyer in the ten days they missed. On the criminal side  
3 an appeal is a matter of the jurisdictional issue. But I  
4 would beg the Court's indulgence that in Probate Court an  
5 appeal to Circuit Court is more than just a notification  
6 requirement. This Court and its appellate power over  
7 Probate, my understanding of the law, is that he has a  
8 right to the facts and issues and make a decision based  
9 upon how you view things. So it is not just, boom, bam,  
10 bam, thank you, ma'am. I think it would be too  
11 conclusively to accept my opponent's argument based upon  
12 what she wrote up without the transcript of the record and  
13 without some judicial temperament. And I know--

14 THE COURT: Is there not a transcript in this case?

15 MS. CAIRNS: May I speak, Your Honor?

16 THE COURT: From the Probate -- yes, ma'am.

17 MS. CAIRNS: Thank you, Your Honor. I understand  
18 much of what Mr. Mosley speaks to. But I think it is  
19 important to understand that the matter that brings us  
20 before you today is a very simple discreet matter which  
21 was simply a motion filed to dismiss the appeal based on  
22 the untimeliness of the filings. And so the merits of the  
23 case, the facts of what occurred before, the need for  
24 transcripts or anything else are not relevant to today's  
25 hearing at all. It is completely a matter of the

1 timeliness of his ability to properly file and serve his  
2 notice of intent to appeal. The Probate code has been  
3 tuned up a few years ago to make appeals from Probate  
4 Court very clear in terms of the process. And after the  
5 receipt of the written order, which occurred on February  
6 12th, Mr. Smith was served the order while in Probate  
7 Court. Rule, well code, it is not even a Rule, it is a  
8 Code Section, 61-1-308, covers appeals from Probate Court  
9 to Circuit Court provided that he had ten days to file his  
10 notice of intent to appeal and serve. There has actually  
11 been a couple of cases, where the benefits of a couple of  
12 cases that say that that is exactly what it says, that  
13 they must be served, put them in the U.S. Mail and those  
14 things are insufficient. And so in terms of Mr. Mosley's,  
15 you know, lack of transcripts and lack of a full grasp of  
16 all the facts, it is simply not relevant for today. So I  
17 think the need for a continuance for today is not  
18 necessary. The only issue is whether or not Mr. Smith  
19 filed and served his notice of intent to appeal within the  
20 ten days required by statute. And I would offer, even his  
21 own--

22 THE COURT: When did he file this?

23 MS. CAIRNS: He filed, he was served the order on  
24 February 12th. He filed it in the court on February 16th  
25 and it was received by my office on February 28th which is

1 a full five days after the deadline necessary by the  
2 rules.

3 THE COURT: Wait a minute. You say he filed his  
4 appeal on the 16th?

5 MS. CAIRNS: He filed his notice of intent to appeal  
6 on the 16th.

7 THE COURT: That was within the ten days.

8 MS. CAIRNS: That was within the ten days. But the  
9 rule also requires service on all the parties within the  
10 ten days. And our office was not served with this until  
11 the 28th, if I accept service being received by U.S. Mail  
12 which I would offer that that would be okay.

13 THE COURT: He was detained at the Department of  
14 Corrections?

15 MS. CAIRNS: He was, he was in Alvin S. Glenn until  
16 the end of February. That is correct.

17 THE COURT: Do you have a date as to when he mailed  
18 it from Alvin S. Glenn. Because, you know, they have--

19 MS. CAIRNS: He mailed it on the 27th, it is  
20 postmarked on the 27th, received by my office on the 28th.

21 THE COURT: Okay. You know, sometimes Alvin S. Glenn  
22 has a delay.

23 MS. CAIRNS: Yes, there was an effort to actually  
24 serve on the order and the order was issued on the 8th, he  
25 was brought up to the court on the 12th. He had not



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