

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2019-000030

Shawonder Scott,

Appellant,

vs.

Curtis McAlister, Acquana McAlister,
Norma L. Cyrus, Tax Collector for
Williamsburg County, the County of
Williamsburg, an Unincorporated
Subdivision of the State of South Carolina,
Hartwell Pendergrass, Sr., and
Hattie S. Pendergrass, Defendants,

Of whom Norma L. Cyrus, Tax Collector
For Williamsburg County, and the County
of Williamsburg, an Unincorporated
Subdivision of the State of South Carolina,
are

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JUN 11 2019
SC Court of Appeals

Respondents.

APPELLANT'S REPLY TO RESPONDENTS' MOTION TO DISMISS
APPELLANT'S INITIAL REPLY BRIEF

Respondents have moved before this Court for dismissal of the Appellant's Initial Reply Brief on the grounds that the said Brief was untimely served and filed in accordance to Rule 208(a)(3) and Rule 262.

Appellant asserts that under the applicable provisions of the pertinent Appellate Court Rules, her Initial Reply Brief was timely served and filed. In support thereof, she would respectfully show as follows:

If a reply brief is prepared, appellant shall, within ten (10) days after service of respondent's brief, serve one copy of the reply brief on all parties to the appeal and file with the clerk of the appellate court one copy of the reply brief with proof of service.

Rule 208(a)(3), SCACR

(a) Filing.

... [F] may be accomplished by:

(1) Delivering the document to the clerk of the appellate court. . . .

(b) Service. Whenever under these Rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the appellate court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of court. . . . Service by mail is complete upon mailing.

Rule 262(a)(1)(b), SCACR

Appellant directs the Court's attention to Rule 263, SCACR, which governs the issue of timeliness as it pertains to Respondents' Motion to Dismiss.

(a) Computation. In computing any period of time prescribed or allowed by these Rules, by order of the court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a state or federal holiday in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. . . .

Rule 263(a), SCACR

The Proof of Service for the Initial Brief of the Respondents state that the said Brief was deposited in the United States Mail on May 14, 2019. The Respondents' Initial Brief was received by Appellant's Counsel on May 15, 2019.

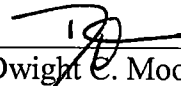
The Appellant's Initial Reply Brief was filed on May 28, 2019, and served by mail upon Respondents' Counsel on May 28, 2019.

Rule 208(a)(3) required that Appellant's Reply Brief be filed and served within ten (10) days after service of Respondents' Initial Brief which was on May 14, 2019. Rule 263(a) provides that computation of the ten-day period "is not to include" the "day of the act, event, ...". The "act" or "event" here is service of Respondents' Initial Brief. May 14, 2019, is the day of the "act" or "event" not to be included when computing ten days from the date of service. Therefore, ten days from May 15, 2019, is May 25, 2019, which falls on a Saturday. May 26, 2019, is a Sunday and May 27, 2019, is Memorial Day, a federal holiday. Computing the end of the ten-day period under Rule 263(a), SCACR, allows Appellant's Initial Reply Brief to be timely filed and served on May 28, 2019, which was neither a Saturday, Sunday nor a federal holiday.

WHEREFORE, based upon the foregoing, Appellant prays that the Court deny Respondents' Motion to Dismiss Appellant's Reply Brief.

Respectfully submitted,

MOORE LAW FIRM, L.L.C.


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Attorney for Appellant

June 10, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Respondents.

AFFIDAVIT OF SERVICE FOR
APPELLANT'S REPLY TO RESPONDENTS' MOTION TO DISMISS
APPELLANT'S INITIAL REPLY BRIEF

Personally appeared Daisy M. Moore, who being first duly sworn, deposes and says that she served the documents described below upon Respondents Norma L. Cyrus and County of Williamsburg and upon Defendants Curtis McAlister, Acquana McAlister, Hartwell Pendergrass, Sr., and Hattie S. Pendergrass on June 10, 2019, by electronic transmission to the facsimiles

and/or e-mail addresses shown and by depositing a copy of the said documents in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

DOCUMENT(S) SERVED: Appellants Reply to Respondents' Motion To Dismiss the Initial Brief of Appellant
Proof of Service

PERSON(S) SERVED: William E. Jenkinson, III, SC Bar No.: 2984
Email: billy@jenkinsonlaw.com
Williams Evan Reynolds, SC Bar No.: 102352
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Jenkinson, Jarrett & Kellahan, PA
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Fax (843) 355-2010
Attorneys for Respondents Norma L. Cyrus and
County of Williamsburg


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Brunson Law Firm, LLC
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Fax (803) 774-3448
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Attorney for Respondents Curtis McAlister and
Acquana McAlister

Harriet Lynae Huell Lampkin, SC Bar No.: 100312
Lampkin Law Firm, L.L.C.
P. O. Box 843
Blythewood, SC 29016
Telephone (803) 920-1003
Email: harriet@lampkinlawfirm.com
Attorney for Respondents Hartwell Pendergrass, Sr., and
Hattie S. Pendergrass

Affiant states further that she is above the age of eighteen years and that she has no interest in the within litigation.

Daisy M. Moore
Daisy M. Moore

Sworn to before me this
10th day of June 2019

A circular notary seal for Dwight C. Moore, Notary Public for South Carolina, is partially visible on the left side of the page. The seal contains the text "DWIGHT C. MOORE" and "NOTARY PUBLIC FOR SOUTH CAROLINA".
[Signature]
Notary Public Signature
Dwight C. Moore
Notary Public Printed Name
Notary Public for South Carolina

My commission expires 09-17-2020

June 10, 2019

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Shawonder Scott v. Curtis McAlister, et al.
Appellate Case No.: 2019-000030
Moore File No.: 4349.4

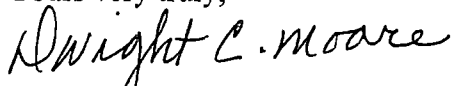
Dear Ms. Kitchings:

Enclosed for filing are the following documents for the above-referenced case:

- Appellant's Reply to Respondents' Motion To Dismiss Appellant's Initial Reply Brief
- Proof of Service

Also enclosed are copies of the Reply and Proof of service to be file-stamped and returned to this office in the envelope provided. Appellant's Reply is being served upon opposing counsel under cover of a copy of this letter.

Yours very truly,



Dwight C. Moore
DCM:dmm
Enclosures

c: W. E. Jenkinson, III, Esquire
Williams Evan Reynolds, Esquire
Jenkinson, Jarrett & Kellahan, P.A.
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Kingstree, SC 29556

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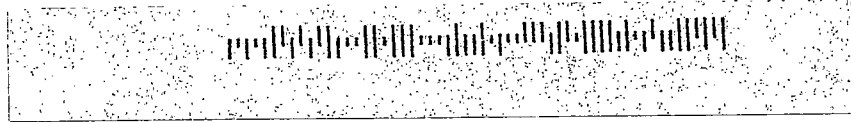
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Moore Law Firm, L.L.C.

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