

The South Carolina Court of Appeals

Bobby Jo Clark, as personal representative of the Estate
of Richard Clark, Respondent,

v.

Fairy Bell Irving, Andrew Irving, A/K/A Andrew Erving,
Alfonzo Irving A/K/A Alfonzo Erving, John D. Irving,
A/KA John D. Erving, William T. Irving, A/K/A William
T. Erving, Robert Irving, Sr., A/K/A Robert Erving, Sr.,
Sally May Morgan, F/K/A Sally May Irving, Minnie Lee
Butler, F/K/A Minnie Lee Irving, Joyce Thelma Taylor,
F/K/A Joyce Thelma Irving, Mary Irving A/K/A Mary
Erving, Mamie Irving, A/K/A Mamie Erving, Jessie Ina
Irving, A/K/A Jessie Ina Erving, Julious Irving, A/K/A
Julious Erving, Rashell Irving, Fairy May Irving, Thelma
Irving, Anell Ray, Julious Irving, Jr., Alfreda Irving,
Thelma Cartlele, Bennie Warren Butler and Person
claiming any right, Title Estate, Interest in or lein upon
the real estate described in the complaint herein, any
unknown adults being a class designated as John Doe;
and any unknown minors or other persons under legal
disability being a class designated as Richard Roe,
Appellants.

Appellate Case No. 2012-208166

ORDER

On February 17, 2012, Appellants filed a notice of appeal from a December 9, 2011 order, which appeared to be timely served on Respondent. Subsequently, Appellants filed two amended notices of appeal purporting to appeal a June 1, 2010 order. Respondent has filed a motion to dismiss. After careful consideration, Respondent's motion to dismiss as to the appeal from the December

9, 2011 order is denied because the order appears to have been timely served on Respondent. *See* Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for *servicing* the notice of appeal . . . may be extended or shortened by the appellate court, or by any judge or justice thereof." (emphasis added)). This Court notes that there has never been a proper notice of appeal filed from the June 1, 2010 order.¹ Accordingly, this appeal shall proceed only as to the December 9, 2011 order. Additionally, because Appellants have never filed an amended notice of appeal from the December 9, 2011 order pursuant to this Court's March 1, 2012 letter, Appellants shall file an amended notice of appeal "stating within the body of the notice the names of the Appellants in this matter" with an original proof of service within ten days.


FOR THE COURT

Columbia, South Carolina

cc:
Christian Giresi Spradley
Willie Bruce Heyward

FILED
cc 2/8/13

¹ Although Appellants referenced the June 1, 2010 order in their amended notices of appeal in this case, a proper notice of appeal from the June 1, 2010 order has never been filed with this Court.