

Isaac Smith, Jr.
2916 ¼th West Vernon Ave.
Los Angeles CA 90008
323-295-9500

July 26, 2019

RECEIVED

JUL 29 2019

SC Court of Appeals

The South Carolina Court of Appeals
1221 Senate Street
Post Office Box 11829
Columbia, South Carolina 29201

Attention: V. Clair Allen, Deputy Clerk

RE: Isaac Smith, Jr. vs. Johnnie Mae Newton
Appellate Case No.: 2018-002167

Dear Ms. Allen:

In response to a letter from Heather Cairns, Attorney for the Estate of Johnnie Mae Newton, dated July 12, 2019, must address the claims to which she made in her correspondence to the Court. The Attorney for the Estate of Johnnie Mae Newton seeks to provide the court with pertinent facts she claims the appellant was not clear about in his brief. The method to which she seeks to clarify any fact provided in the appellant's initial brief is through the filing of the respondent's brief. Attorney Cairns acknowledges the time has passed for her to formerly reply to appellate initial brief.

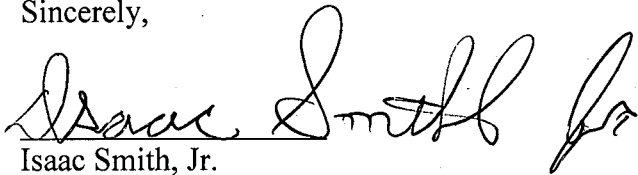
Attorney Cairns can not challenge the facts stated in the appellant's brief with a letter. She must produce exhibits in her responsive brief that challenges fact in initial brief. The purpose of the appellant court is to correct errors in the ruling of the law. The appellant court can not determine the facts. The facts were established in the lower court. If the Attorney for the Estate of Johnnie Mae Newton wants to change the facts the case must be remanded to the lower for which the case was appealed.

Similarly, the Attorney for the Estate of Johnnie Mae Newton acknowledges in her letter that the time for her to formerly reply to the appellant's brief has passed. Therefore, because of respondent's none response, the case should be reprimanded to the lower court. In the lower court the facts that she disputes can be addressed.

The Attorney for the Estate of Johnnie Mae Newton wants to challenge the appellant's assertion that the prison mail box rule applies by seeking to admit the appellants envelop into the record on appeal without filing a record on appeal. The prison stamp issue was not addressed at the circuit court and can not be introduce into evidence on appeal. If the case is remanded to the circuit court than that can be determined.

Lastly, the Attorney for the Estate of Johnnie Mae Newton acknowledges in her letter that the time for her to formerly reply to the appellant's brief has passed and seeks to go around the rules of the court of appeals to win her case. That should not be allowed. The case should be remanded to the circuit court to determine these issues that the Attorney for the Estate of Johnnie Mae Newton asserts. She acknowledges in her letter that the time for her to formerly reply to the appellant's brief has passed and the case should be remanded to the circuit court as an appeal to the probate court ruling.

Sincerely,

A handwritten signature in cursive script that reads "Isaac Smith Jr". The signature is written in black ink and is positioned above the printed name.

Isaac Smith, Jr.



Heather M. Cairns, Esquire

Heather@CairnsLawFirm.com

July 12, 2019
~~March 11, 2019~~

South Carolina Court of Appeals
Attn: V. Clair Allen, Deputy Clerk
PO Box 11829
Columbia, SC 29211

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

Dear Ms. Allen:

I understand the time for me to formally file a reply to the brief of Mr. Smith has passed but I feel that as an officer of the court, I must provide the court with two pertinent facts Mr. Smith was not clear about in his brief.

In his Statement of the Case, Mr. Smith offers that the post mark on the envelope containing his appeal was merely one day late. This is not correct. The postmark on the envelope to my office containing the Notice of Intent to Appeal was dated 15 days after the Appellant was served the Order.

Mr. Smith also asks the court to utilize a Prison Mail Box Rule to excuse the untimeliness of the service. However, the envelope containing the Notice of Intent to Appeal does not appear to have been mailed from the detention center. In my experience all mail from any Detention Center is stamped by the staff indicating that the mail came from within a detention facility. The attached envelope has no such stamps.

If you should have any questions, please do not hesitate to contact my office. Thank you, in advance, for your time and attention to this matter.

Yours Very Truly,

Heather Cairns
Attorney for the Estate of Johnnie Mae Newton
SC Bar No: 73521

C: G. Hampton, Personal Representative of the Estate of Johnnie Mae Newton
I. Smith, Appellant

* Smith was served the Probate Court order on the 12th of February 2018 and the envelope is postmarked the 2nd of February -- see attachments initially provided with the Motion filed in Circuit Court 2

March 11, 2019

South Carolina Court of Appeals
Attn: V. Clair Allen, Deputy Clerk
PO Box 11829
Columbia, SC 29211

RECEIVED
MAR 12 2019
SC Court of Appeals

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

Dear Ms. Allen:

Please allow this letter to provide some insight on the above referenced matter. It is my belief, as the attorney for the Estate of Ms. Newton, that this matter could be administratively dismissed based on the following procedural history.

This pending appeal is attempting to reverse a dismissal of an appeal filed in the circuit court. The circuit court appeal was dismissed as not being properly served on the estate. The appellant attempted a Motion to Reconsider the dismissal of the circuit court appeal which was not sent to the judge in a timely manner and was also dismissed. The circuit court appeal was filed in circuit court as this is a probate court matter and the original order the appellant is attempting to reverse is a Probate Court Order issued in December of 2016.

This estate has not been able to distribute the assets to the intestate heirs as determined by the probate court in 2017 because of the actions of Mr. Smith. This latest appeal was delayed by Mr. Smith when he failed to properly serve the circuit court judge his Motion to Reconsider. As an officer of the court, and having in my hand a Motion to Reconsider, I respectfully asked the judge to address the matter so that this estate could move forward. Without my prodding, the judge would never have known there was a pending Motion to Reconsider and would not have issued her final dismissal in November of 2018.

I have provided the case history in outline format as it can be difficult to follow in narrative form. The case history listing includes only the dates items were filed, hearings held, and court orders issued, excepting the first date:

1. January 8, 2016
 - a. Ms. Newton passes in a fire that consumes her home.
2. January 15, 2016
 - a. Mr. Smith files a formal proceeding to open probate with a copy of a purported unrevoked will.

3. December 1, 2016
 - a. Hearing held to determine if the Copy of the purported Will can be probated.
4. December 19, 2016
 - a. Order Issued by the Probate Court denying the probate of the purported will but appoints Mr. Smith as Personal Representative as no other petitions have been filed.
5. June 26, 2017
 - a. Mr. Smith files a Rule 60 motion to have the order of 12/19/2016 set aside based on, *inter alia*, surprise.
6. August 22, 2017
 - a. Hearing held in probate court to address the actions of Mr. Smith as Personal Representative (but not his motion filed 6/26/2017).
7. September 5, 2017
 - a. Order issued for the 08/22/2017 hearing removing Smith as Personal Representative, determining the intestate heirs of Ms. Newton and ordering the return of funds to the estate by Mr. Smith.
8. September 25, 2017
 - a. Mr. Smith files an appeal of the Probate Court order dated 12/19/2016 in the Court of Appeals.
 - b. This appeal is dismissed as it is the wrong court and the time to appeal to the circuit court has passed.
9. October 19, 2017
 - a. Mr. Smith files a Motion seeking clarification of the 09/05/2017 order, renews his Rule 60 motion filed 6/26/2017 to have the order of 12/19/2016 set aside based on, *inter alia*, surprise.
10. January 11, 2018
 - a. Hearing held on the Rule 60 Motion of Mr. Smith AND a Rule to Show Cause motion initiated by the court based on the failure of Mr. Smith to pay back the required funds to the estate pursuant to the 09/05/2017 Order.
 - b. Mr. Smith is found in Contempt of Court and sent to the detention center until he pays back funds due the estate based on the Order of 09/05/2017.
11. January 19, 2018
 - a. Smith attempts to appeal the Order from the Hearing of 1/11/2018 however the order has not yet been issued.
12. February 7, 2018
 - a. Order issued from the hearing on 01/11/2018 denying the Rule 60 Motion and finding that Mr. Smith owes additional funds to the estate. He remains detained until the additional funds are repaid.
13. February 16, 2018
 - a. Mr. Smith files a Notice of Intent to Appeal the probate court order of 02/07/2018 to the Circuit Court.

14. March 1, 2018
 - a. The Estate files a Motion to Dismiss the Appeal filed in the circuit court based on failure to timely serve the appeal on the estate.
15. May 11, 2018
 - a. Hearing held on the Motion to Dismiss the appeal filed 02/16/2018.
16. June 26, 2018
 - a. Order issued dismissing the appeal as not timely served.
17. July 6, 2018
 - a. Mr. Smith files a Rule 59(e) Motion to Reconsider the 06/26/2018 Order dismissing his appeal.
18. November 15, 2018
 - a. Order issued dismissing the Motion to Reconsider as it was not timely served on the Judge.
19. December 7, 2018
 - a. Mr. Smith files a Notice of Intent to Appeal the 11/15/2018 Order dismissing the Motion to Reconsider in the Court of Appeals.
20. January 18, 2019
 - a. Mr. Smith files a Motion to extend the time to order the transcript

If you should have any questions, please do not hesitate to contact my office.

Thank you, in advance, for your time and attention to this matter.

I remain,

Yours Very Truly,



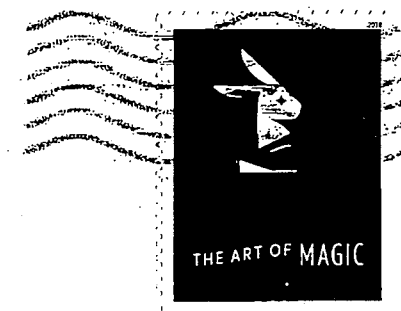
Heather Cairns
Attorney for the Estate of Johnnie Mae Newton
SC Bar No: 73521

C: G. Hampton, Personal Representative of the Estate of Johnnie Mae Newton
I. Smith, Appellant



2537 Gervais Street
Columbia, South Carolina 29204

COLUMBIA SC 29204
MAR 12 2019 3:41 PM



RECEIVED
MAR 12 2019
SC Court of Appeals

South Carolina Court of Appeals
Attn: V. Clair Allen, Deputy Clerk
PO Box 11829
Columbia, SC 29211

29211-11829



Isaac Smith
2918 W. Vernon Avenue
Los Angeles, CA 90008

323-295-9510

March 15, 2019

RECEIVED
MAR 18 2019
SC Court of Appeals

The South Carolina Court of Appeals
1221 Senate Street
Post Office Box 11829
Columbia, South Carolina 29201
Attention: V Claire Allen, Deputy Clerk

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

Dear Ms. Allen:

In response to a letter from Heather Cairns, Attorney for the Estate of Johnnie Mae Muller Newton, dated March 11, 2019, I respectfully want to address some of the misinformation in the letter. First and foremost, Attorney Cairns asserts in the letter that I, Isaac Smith, Jr. failed to properly serve the circuit court judge the Motion to Reconsider. As always upon filing any motions, I direct the filing clerk at the clerk of court's office to place a copy in the ruling judge's box in addition to mailing or hand delivering a copy to the judge's office. That pattern is demonstrated by the copies filed with the Probate Court's Office.

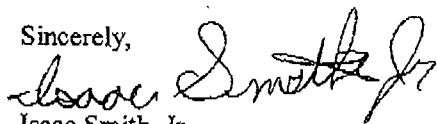
The attorney for the Estate of Johnnie Mae Muller Newton is using whatever technicality possible to preclude me from exercising my constitutional right to appeal. Attorney Cairns may has question as to whether her case can prevail on the merits and is seeking any technicality to dismiss the case even if the technicality is manufactured in this case. That is not a matter for this court. If the judge had not been properly served, she would have dismissed the motion rather than deny the motion and Judge Benjamin did. (A copy is attached)

Upon denial of my Motion to Reconsider, I exercised my right to appeal. As to whatever delay to which Attorney Cairns is referring, that in all possibility occurred in the Judge's office. It has been demonstrated through my efforts to obtain an official transcript, the misplacement and misinformation given from the judge's office. All instances were fully document to the court by my correspondences to the court of appeals clerk. I am in statutory compliance and even though I am a Pro Se litigant, I deserve to be treated the same as appellants represented by an attorney.

Hopefully, we can proceed with this appeal and get a decision on the merit, rather than a contention of the Appellate Attorney. I exercised due diligence in my efforts to obtain a transcript of the hearing held on May 11, 2018, and send you verification that I requested the transcript. Despite the misinformation given me from the Judge's I exercised discipline and was able to obtain the transcript and I dutifully sent it to all required parties in adequate time allowed by the appellant rules.

I am this honorable disregard the March 11, 2019 letter from Attorney Cairns and continue with the appellant process my having complied with the South Carolina Appellate Court Rules (SCACR) with my timely satisfaction of any deficiencies.

Sincerely,



Isaac Smith, Jr.

Cc: Cairns Law Firm, LLC
Heather M. Cairns, Esquire
2537 Gervais St,
Columbia, SC 29204

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from RICHLAND COUNTY

Deandrea G. Benjamin, Circuit Court Judge
Court of Common Pleas

RECEIVED

JUL 29 2019

SC Court of Appeals

Case No. 2018-0002167

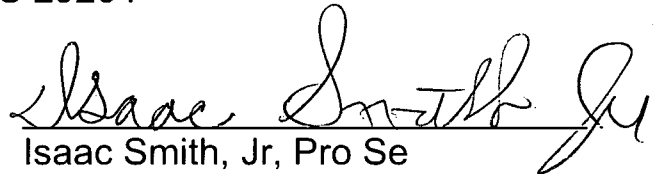
Estate of Johnnie Mae Muller Newton, Respondent

v.

Isaac Smith, Jr.,Appellant

PROOF OF SERVICE

I certify that I have served a copy of the Reply to the Letter dated July 12, 2019, by depositing a copy of it in the United States Mail, Certified return receipt requested, on July 29, 2019, addressed to the attorney of record, Heather Cairns, Cairns Law Firm, LLC, 2537 Gervais Street, Columbia, SC 29204



Isaac Smith, Jr, Pro Se
2918 W. Vernon Avenue
Los Angeles, CA 90008
Telephone 323-295-9500

July 29, 2019