

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
David Rosen)
)
)
Plaintiff,)
)
VS.)
)
Josephine Middleton)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-23-00513

ORDER

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SC Court of Appeals

This matter came before the Court on Defendant’s Motion to Substitute counsel, Motion to Quash and Motion for Relief from Judgement pursuant to Rule 60 of the South Carolina Rules of Civil Procedure. Defendant’s motion was filed in response to this Court’s December 10, 2018 order attached hereto as Exhibit “A.” Present at the hearing was Plaintiffs’ counsel, Joshua T. Hawkins, of the Greenville County Bar, and Defendant’s counsel, Devon Puriefoy, of the Greenville County Bar.

FINDING OF FACTS AND CONCLUSIONS OF LAW

At the commencement of the hearing, counsel for Defendant recommended the Court heard the Motion to Substitution of Counsel motion. All parties consented to this motion. The Court agreed.

Counsel for Defendant then recommended the Court hear the Rule 60 Motion for Relief from Judgment prior to the Motion to Quash, as a grant of Defendant’s Rule 60 motion would render moot his Motion to Quash. The Court agreed.

Based on the arguments presented at the hearing, the court finds as follows:

1. The Court releases Michael Gambrell as counsel for Defendant Josephine Middleton and

substitute Kimberly T. Thomason and Devon M. Puriefoy,

2. The Court finds further, that although Plaintiffs have argued the Rule 60 relief from judgment should be denied as our Court's have routinely held that attorney negligence does not entitle a party subject to a judgment to relief, this Court finds that, pursuant to the United States Supreme Court case of Maples v. Thomas, attorney abandonment has been established. In accordance with the findings of our nation's Supreme Court, the action, or inaction, of Defendant's former counsel went beyond traditional notions of attorney negligence and constitute attorney abandonment. Maples v. Thomas, 565 U.S. 266, 273, 132 S. Ct. 912, 918, 181 L. Ed. 2d 807 (2012).
3. Finally, I find that as a result of this Court's grant of Defendant's Rule 60 Motion for Relief from Judgment, the Court need not consider Defendant's Motion to Quash as doing so would be premature.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

IT IS SO ORDERED!

Alex Kinlaw, presiding Judge
Thirteenth Judicial Circuit

_____, SC
this ___ day of _____, 2019



Greenville Common Pleas

Case Caption: David Rosen vs. Josephine Middleton

Case Number: 2018CP2300513

Type: Order/Vacate Judgment

So Ordered

s/Alex Kinlaw, Jr., #2763

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