

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Appellate Case No.: 2019-001428

APPEAL FROM EDGEFIELD COUNTY

Court of Common Pleas

Alison Renee Lee, Chief Administrative Circuit Court Judge

Rufus Lyndell Griffin,

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Appellant

JAN 15 2020

v.
SC Court of Appeals

Thomas Mosley, Quinnie Mosley, Walter Mosley, Timothy Mosley,
And Paquita Mosley, Individually and as Personal Representative
Of the Estate of Ellec Mosley,

Respondents

Reply to Respondent's Motion for Extension of Time

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Appellant Rufus Lyndell Griffin, submits his Reply to Respondent's Motion for Extension of Time as it pertains to Appellant's previously filed Motion to Vacate an Order.

Appellant filed his Motion to Vacate Order on December 27, 2019, serving all parties of the circuit court case. The Court of Appeals issued an Order on January 7, 2020 to hold the time for perfecting the appeal in abeyance, pending resolution of the Motion to Vacate. Respondent, Paquita Mosley, through her counsel, Rachael A. Dain, submitted a 'Respondent's Motion for Extension of Time' on January 6, 2020 and the Court of Appeals did grant Respondent's Motion the very next day, January 7, 2020.

However, Appellant wishes to request that the Court reconsider its position of having granted Respondent's Motion for the forty-nine (49) day extension based on the following grounds:

- 1) Respondent's Certificate of Service (associated with her Motion for Extension) was not accurate and Appellant was not properly served.
- 2) Respondent's Motion for Extension was frivolous and lacked candor to the Court.

On the first action,

Pursuant to SCRCF 5(d) and SCACR 242, Respondent Paquita Mosley did not comply with proper service upon Appellant. Respondent's counsel presented to the Court of Appeals a certificate of service which attested *'I did transmit the following document in the manner described below'*, listing the date of January 6, 2020, and listing that the said document was *'Hand Delivered'* to the Court of Appeals, and served upon Appellant *'VIA US Mail'* by that same date. Although Respondent's counsel did hand deliver her Motion for Extension to the Court on January 6, 2020, she did not place the document in the mail for delivery/service to Appellant until the following day, January 7, 2020. (see copy of letters postmarked January 7, 2020 addressed to Appellant; **Exhibit A**). The same date that the Court approved the Respondent's Motion, (Jan. 7th), and mailed notification of the Court's approval to Appellant, is the same date that counsel for Respondent actually served Appellant her Motion via US Mail.

Therefore, counsel's statement to the Court in past tense that she *'did transmit'* the said document to Appellant *'via US Mail'* on January 6th was not accurate or truthful at the time when she personally hand-delivered her Motion for Extension and Certificate of Service to the Court (**Exhibit B**). Counsel for Respondent clearly did not deposit said document to Appellant via US Mail until January 7, 2020. Therefore, as court rules support that all service should be completed prior to filing a certificate of service, it is certain that Respondent was not compliant.

On the second action,

Pursuant to SC 407 Rules of Professional Conduct 3.3(a)(1) and 8.4 (d)(e), Respondent's counsel, Rachael A. Dain, lacked candor before the Court in her Motion for Extension, when providing her reasoning behind her request for a forty-nine (49) day extension to respond to Appellant's Motion to Vacate. Ms. Dain led the Court to believe that she had insufficient time and staff to respond to Appellant's Motion to Vacate an Order because she conducts extensive annual *"file review"* in January, and that *"attorney's schedule is such that she needs the month of January to finish these important tasks"* (see **Exhibit C**: Respondent's Motion, pg 1, para 3) Ms. Dain gave an accounting of the time she would not be able to act on her client's behalf by explaining

how she singularly was responsible and unable to prepare a response to Appellant's Motion, eluding that she was without any legal assistance and no office staff.

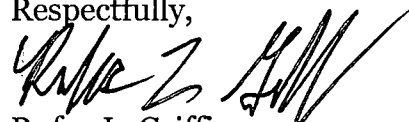
I must remind the Court that Respondent, Paquita Mosley, has not only the legal representation of counsel Rachael Dain, but also that of co-counsel, Mr. Palmer Freeman, available and equally capable to have responded on Ms. Mosley's behalf. Mr. Freeman first appeared in support of Ms. Dain almost a year ago, on March 18, 2019, to assist Ms. Dain in arguing her own 'Motion to Dismiss' Appellant's case in circuit court. Mr. Freeman officially notified the circuit court of his co-counsel status with Ms. Dain in representation of Respondent Paquita Mosley, on March 21, 2019. (see **Exhibit D**)

As Ms. Dain's co-counsel, Mr. Palmer Freeman, has not officially requested relief from his position as counsel for Respondent, as would have been his duty to do had he at any time decided to cease representation of said client. Therefore, the Court and Appellant must rightly assume that he is still active counsel for Respondent. It is most concerning that Ms. Dain would fail to mention Mr. Freeman's involvement to the Court when she submitted her Motion to request more time from the Court, and that she would lead all to believe she was the lone attorney available to answer Appellant's Motion to Vacate. It is also notable that when Ms. Dain submitted her certificate of service (dated January 6, 2020) to the Court of Appeals, she clearly omitted Mr. Palmer Freeman as a party or counsel served. This action seems to further indicate that Dain and Freeman still share the responsibility of co-counsel for Respondent, as Ms. Dain felt no need to include Mr. Freeman in proper service (contrary to the service standards which the Court and Appellant have repeatedly followed since the outset of this appeal).

WHEREFORE, As the questionable actions of Respondent's counsel, in the submission of her Motion for Extension, further exemplify the deep-seated tactics that have plagued Appellant's case even from its circuit court origins, Appellant requests the following:

Appellant requests that the Court of Appeals, although having already granted Respondent's Motion for Extension (of forty-nine (49) days) prior to Appellant being given opportunity to reply: 1)reassess that Order based on the new information regarding the contents and integrity of Respondent's Motion, 2)deny Respondent's request for said extension, and 3) commence review of Appellant's Motion to Vacate Order at this time.

Respectfully,



Rufus L. Griffin, pro se

313 Fifth Avenue

McCormick, SC 29835

Phone: 864-852-2163

Email: writeme44@yahoo.com



South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

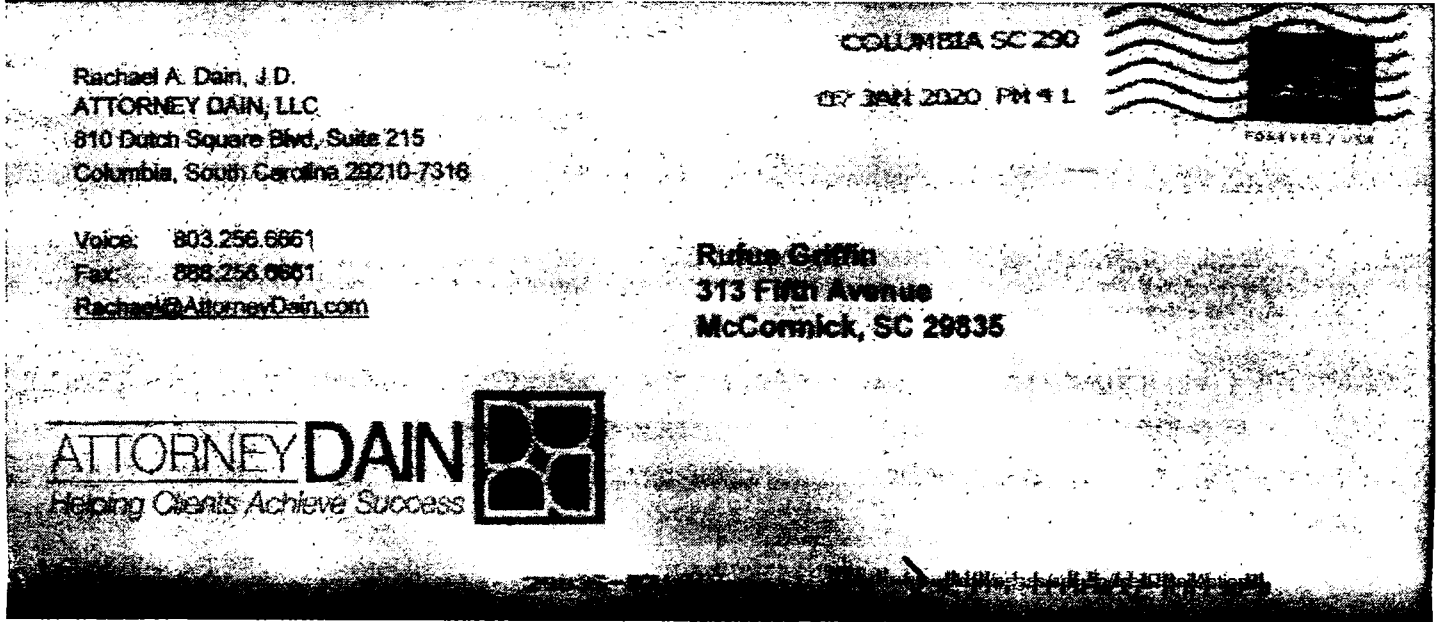
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RUFUS L. GRIFFIN
313 FIFTH AVENUE
MCCORMICK SC 29835

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-A-

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Personal Representative of the Estate
of Ellec Mosley,

Respondents

CERTIFICATE OF SERVICE

Dear Clerk: Please file this Certificate of Service and any other enclosed documents, then conform and clock any copies inside of the self-addressed, stamped envelope for return to me.



I did transmit the following document(s) in the manner described below:

Date: **January 6, 2020**

Enclosed: **Respondent's Motion for Extension of Time**

HAND DELIVERY:

S.C. Court of Appeals
1220 Senate Street
Columbia, SC 29201

ORIGINAL

-B-





VIA US MAIL:

Rufus Griffin
313 Fifth Avenue
McCormick, SC 29835
Email: Writeme44@yahoo.com

Randall D. Williams
PO Box 70
Edgefield, SC 29824
Email: Wms_lawfirm@bellsouth.net
Attorney for Timothy Mosley

Eydie J. Tillman
PO Box 71
Edgefield, SC 29824
Email: Ejtillman@tillmanlawfirm.com
Attorney for Quinnie Mosley

Eleazer Carter
PO Box 187
Manning, SC 29192
Email: Eleazercarter@aol.com
Attorney for Betty Mosley

Thomas Mosley
1018 Price Avenue
Columbia, SC 29201

Thanking you in advance,

Columbia, South Carolina

Rachael A. Dain, J.D. Bar#: 12768
ATTORNEY DAIN, LLC
810 Dutch Square Blvd, Suite 215
Columbia, SC 29210-7318
Voice: 803.256.6661
Rachael@AttorneyDain.com
ATTORNEY FOR RESPONDENT PAQUITA
MOSLEY

91840

ORIGINAL

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Respondents

RESPONDENT'S MOTION FOR EXTENSION OF TIME

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent Paquita Mosley, respectfully requests a forty-nine (49) day extension of time to file a response to Appellant's pending Motion to Vacate an Order in this case.

The office of Respondent's legal counsel was closed for the holidays and reopened today, January 6, 2020; however, Respondent, now and hereafter through her legal counsel, did check the office mail on January 3, 2020. At that time she received service of and first had notice of Appellant's pending motion.

* During January of each year, Respondent's legal counsel routinely performs an intense file review. This review also includes updates to office procedures and the



-C-

closing of physical files and archival of case and trust data of cases disposed of in the previous year. Respondent's attorney's schedule is such that she needs the month of January to finish these important tasks.

While Respondent makes no objection to Appellant's request for an extension of time, Appellant files this motion requesting additional time to respond to Respondent's pending motion so she may complete the scheduled file review.

Appellant's motion, which includes approximately ninety-four (94) pages of which thirty-one (31) pages are argument and sixty-three (63) pages are exhibits.

Respondent's impression of Appellant's motion is that it appears to be more in line with a brief, if not essentially a pro se brief, and as such requires more time for Respondent to prepare a response than is allotted for a motion.

For these reasons, Respondent requests this Court enter an order extending the deadline until Monday, February 24, 2020, for Respondent to file a response to Appellant's pending Motion to Vacate an Order. Respondent also requests the current deadline be held in abeyance while the Court considers this request.

Respectfully Submitted,



Columbia, South Carolina

Rachael A. Dain, J.D. Bar#: 12768
ATTORNEY DAIN, LLC
810 Dutch Square Blvd, Suite 215
Columbia, SC 29210-7318
Voice: 803.256.6661
Rachael@AttorneyDain.com
Attorney for Respondent Paquita Mosley

**PALMER FREEMAN
ATTORNEY
POST OFFICE BOX 8024
COLUMBIA, SC 29202**

TEL. 803 799 9400
FAX 803 376 5084
EMAIL: PFREEMAN@ATTORNEYSSC.COM

March 21, 2019

Rufus L. Griffin
313 Fifth Avenue
McCormick, South Carolina 29835


Re: Griffin vs. Mosley, et. al
Estate of Ellec Mosley

Dear Mr. Griffin:

I will be acting as co-counsel with Rachael Dain in representation of Paquita Mosely in this matter. Please be advised I have entered my appearance with the court. Enclosed please find a copy for your file.

With best regards, I am,

Sincerely,



Palmer Freeman

PF/
Enclosure
cc Rachael Dain, Esquire

-D-

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And Paquita Mosley, Individually and as Personal Representative
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CERTIFICATE OF SERVICE

This is to certify that I, Rufus Lyndell Griffin, have served a copy of Appellant's 'Reply to Respondent's Motion for Extension of Time' and 'Exhibits' on all named Respondents via First Class US Mail, on January 13, 2019. Parties were served, via each Respondent's attorney of record, or individually if no attorney of record, as follows:

Paquita Mosley- (Rachael A. Dain, 810 Dutch Square Blvd., Ste 215, Columbia, SC 29210 & Palmer Freeman, Jr., PO Box 8086, Columbia, SC 20202

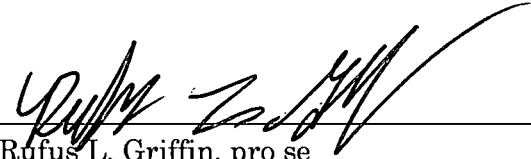
Thomas Mosley- (1018 Price Ave., Columbia, SC 20201/no counsel of record),

Timothy Mosley, Walter Mosley-(Randall D. Williams, PO Box 70, Edgefield, SC 29824)

Quinnie Mosley- (Eydie J. Tillman, P.O. Box 71, Edgefield, SC 29824)

Betty Mosley- (Eleazer Carter, P.O. Box 187, Manning, SC 29192)

January 13, 2020
(date)


Rufus L. Griffin, pro se
313 Fifth Ave., McCormick, SC, 29835
Phone:(864) 852-2163,
Email:writeme44@yahoo.com

Rufus L. Griffin
313 Fifth Ave
McCormick, SC 29835



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Jenny Abbott Kitchings, Clerk
P.O. Box 11629
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