

LEONARD R. JORDAN, JR.
TELEPHONE: (803) 726-1950
DIRECT LINE: (803) 255-0650
EMAIL: LJORDAN@LJORDANLAW.COM

JORDAN
LAW FIRM
LEONARD JORDAN, ATTORNEY, LLC

211 VETERANS ROAD, SUITE D
COLUMBIA, SOUTH CAROLINA 29209
TOLL FREE: (866) 222-1044
FACSIMILE: (803) 726-1951

February 21, 2020

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
FEB 24 2020
SC Court of Appeals

RE: Richie D. Barnes vs. James Reese; Appellate Case No.: 2018-002157

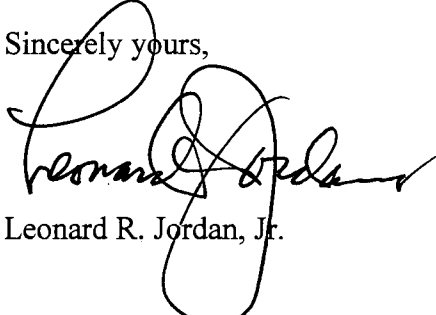
Dear Ms. Kitchings:

See the enclosed Motion and first page of the Case Management System. I assume that the highlighted entry on January 2, 2020, stating "Motion – Dismiss," intends to refer to the enclosed Motion, but the attachments tied to said entry do not include the Motion itself. I thought you might want to correct the error.

Let me know if you have any questions.

With kindest regards, I am

Sincerely yours,



Leonard R. Jordan, Jr.

LRJjr/km
Enclosures
cc: Mr. James Reese

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Alison Renee Lee, Presiding Judge

Case No. 2016-CP-32-01385

Appellate Case No. 2018-002157

RECEIVED
JAN 02 2020
SC Court of Appeals

Richie D. Barnes,..... Respondent,

v.

James Reese,..... Appellant.

MOTION TO DISMISS APPEAL
AND MEMORANDUM

Respondent, Richie D. Barnes, hereby moves to dismiss this appeal as a consequence of the failure of Appellant, James Reese, to comply with the filing requirements of Rules 208 and 209, SCACR, as extended by court order filed on October 25, 2019.

[Note that a Motion to Dismiss Appeal was filed by Respondent on January 18, 2019. Appellant subsequently corrected several deficiencies, and that Motion was denied on March 27, 2019. Subsequently, on April 24, 2019, the appeal was dismissed only to be reinstated on June 28, 2019. On July 23, 2019, Appellant moved for a first extension of time to file his initial brief, which motion was granted on July 30, 2019. The filing-deadline was extended to September 9, 2019. On September 6, 2019, Appellant moved for a second extension of time

to file his initial brief, which motion was granted on October 25, 2019.]

MEMORANDUM

1. By court order filed on October 25, 2019, the filing-deadline was extended to December 2, 2019 – extending the filing for a total of 87 additional days after the Motion (requesting the extension) was filed. The final extension allowed Appellant a total of 146 days after his acknowledged receipt of a hard copy of the trial transcript (July 9, 2019; see document filed on July 10, 2019) to file his initial brief. (Appellant admitted receiving the transcript via email “on or about June 30, 2019” (see document filed on September 17, 2019), making the elapsed time between actual receipt of the transcript and the filing-deadline a total of 155 days.)

2. Appellant’s initial brief was dated December 5, 2019. Curiously, it was declared by Appellant to be served on December 2, 2019.

3. The initial brief was filed with the Court on December 5, 2019.

4. Respondent’s undersigned counsel received Appellant’s initial brief by mail on December 6, 2019.

5. The designation of matter was not served and filed with Appellant’s initial brief.

6. Appellant then filed an Amended Initial Brief (which included a Designation of Matter) on December 12, 2019. Curiously, it was declared to be served on December 5, 2019.

7. Respondent’s counsel received the Amended Initial Brief and Designation of Matter by Federal Express on December 16, 2019.

8. The last court order (10/25/19), together with the accompanying cover letter, is unambiguous: “You must serve and file the appellant’s initial brief and designated of matter by December 2, 2019.” (emphasis added)

9. The cover letter also made it clear that Appellant’s failure to comply with said order

“will result in the dismissal of your appeal.”

10. Notwithstanding the extreme generosity of the Court and the unambiguous directive, and there being no request for a third extension, Appellant was obligated to file both the initial brief and the designation of matter by December 2, 2019. (Appellant was also obligated to serve both by said date; but with regard to both the initial brief and the amended initial brief, he has dated (clearly back-dated) the document, which raises an issue of the actual service dates.)

11. The designation of matter was not filed until December 12, 2019.

12. Appellant filed his initial brief 3 business days after the filing-deadline established by court order.

13. Appellant filed his designation of matter 8 business days after the filing-deadline established by court order.

14. Rule 208(a)(4), SCACR, in relevant part, provides:

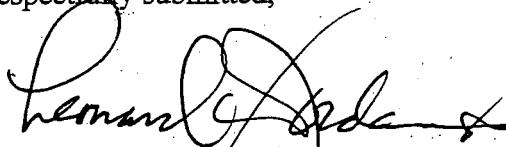
Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. . . . (emphasis added)

15. Rule 260(a), SCACR, in relevant part, provides:

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties (emphasis added)

Appellant’s initial brief and designation of matter were not timely filed, in accordance with Rules 208 and 209, SCACR, as extended by court order to December 2, 2019. Based upon said court order and Rules 208 (a)(4) and 260, SCACR, the appeal should be dismissed.

Respectfully submitted,



Leonard R. Jordan, Jr., #3221
JORDAN LAW FIRM
211 Veterans Road, Suite D
Columbia, South Carolina 29209
(803) 726-1950 Tel.
(803) 726-1951 Fax
ljordan@ljordanlaw.com
Attorney for Respondent

Columbia, South Carolina
January 2, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Alison Renee Lee, Presiding Judge

Case No. 2016-CP-32-01385

Appellate Case No. 2018-002157

CERTIFICATE OF MAILING

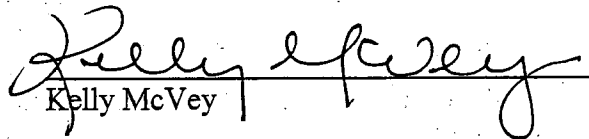
RECEIVED

JAN 02 2020

SC Court of Appeals

I, Kelly McVey, of Jordan Law Firm, attorney for the Respondent, Richie D. Barnes, hereby certify that I have, this 2nd day of January, 2020, served a copy of the attached Motion to Dismiss Appeal and Memorandum upon James Reese, Appellant, by mailing a copy thereof to him, postage prepaid, to the address indicated below:

Mr. James Reese
717 Cindy Drive
Columbia, SC 29203


Kelly McVey



CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

South Carolina Appellate Case Management System

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

Cases

Case Search

Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2018-002157			
Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Richie D. Barnes v. James Reese	Case Status:	Held In Abeyance
	View Full Title		
Consolidated:			
Filed Date:	12/07/2018	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:	Lexington (2016CP3201385)		

- Party Information			
Appellate Role	Party Name	Former	Attorney(s)
Appellant	James Reese	N	Self Represented
Respondent	Richie D. Barnes	N	Leonard R. Jordan, Jr.

Views	
Display:	Descending <input type="button" value="Go!"/>

Event Information		
Filed Date	Event Information	Doc
02/04/2020	Deficiency - Correction (Motion to Amend Appellant's Initial Brief)	
01/29/2020	Correspondence - Incoming (Regarding Motion to Dismiss)	
01/27/2020	Motion - No Return (Amend Appellant's Initial Brief)	
01/27/2020	Deficiency - Deficiency Letter Sent (Motion to Amend Appellant's Initial Brief)	
01/27/2020	Motion - No Reply (Dismiss)	
01/17/2020	Designation of Matter - Designation of Matter Filed (Appellant)	
01/17/2020	Initial Brief - Appellant (AMENDED)	
01/17/2020	Motion - Amend Appellant's Initial Brief	
01/17/2020	Motion - Return (Dismiss)	
01/02/2020	Motion - Dismiss	
12/30/2019	Correspondence - Outgoing (In re: 12/20/19 correspondence)	
12/30/2019	Deficiency - Deficiency Letter Sent (Appellant's Initial Brief)	
12/20/2019	Correspondence - Incoming (Regarding Appellant's Initial Brief)	
12/12/2019	Correspondence - Incoming (Attachments Filed with Appellant's Initial Brief)	
12/12/2019	Initial Brief - Appellant (AMENDED)	
12/06/2019	Correspondence - Incoming (Regarding Appellant's Initial Brief)	
12/05/2019	Initial Brief - Appellant	
10/29/2019	Correspondence - Incoming ("Objection to Respondent's Objection to Appellant's Motion to Extend Time")	
10/25/2019	Non-Dispositional Decision - Extension Granted (Appellant's Initial Brief)	
10/15/2019	Correspondence - Incoming (Respondent's Second Objection to Motion for Extension)	
09/17/2019	Motion - Reply (2nd Extension of Time-Appellant's Initial Brief)	
09/12/2019	Motion - Return (2nd Extension of Time-Appellant's Initial Brief)	
09/11/2019	Correspondence - Incoming (Mailing Receipts Filed by Appellant)	
09/06/2019	Motion - Extension of Time (2nd) (Appellant's Initial Brief)	
07/30/2019	Non-Dispositional Decision - Extension Granted (Appellant's Initial Brief)	

JORDAN LAW FIRM

211 VETERANS ROAD, SUITE D
COLUMBIA, SC 29209

COLUMBIA
COLUMBIA
SC 290
21 FEB 20
PM 21



RECEIVED

FEB 24 2020

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

29211-162929

