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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY  
PROBATE COURT

Tamara C. Curry, Associate Probate Court Judge

Case No. 2018-ES-10-0696

IN THE MATTER OF THE ESTATE OF  
KENYA L. MANIGAULT

DARALYN MANIGAULT,

v.

VIRGIL J. GREEN as Personal  
Representative for the Estate  
Kenya L. Manigault,

**RECEIVED**  
Respondent, FEB 26 2020  
SC Court of Appeals

Appellant.

**RESPONDENT'S NOTICE OF MOTION AND  
MOTION TO DISMISS THE APPEAL**

Respondent Daralyn Manigault through her undersigned attorney seeks to dismiss the Appellant's Appeal on the basis the Appellant did not comply with S.C. Code Ann. § 62-1-308.

The Honorable Tamara C. Curry, the associate probate court judge for Charleston County issued an Order granting Respondent's Petition for Allowance of Creditor's Claim against the Estate of Kenya L. Manigault. The Appellant through his attorney stated in the Notice of Appeal to this Court that he received the written notice of entry of the Order from the

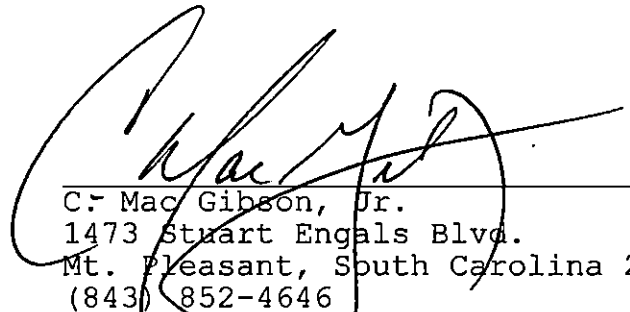
Charleston County Probate Court on January 6, 2020. The Appellant through his attorney filed the Notice of Appeal with this Court instead of the Charleston County Circuit Court and the Charleston County Probate Court in contravention of S.C. Code Ann. § 62-1-308.

The statute requires an appeal of a final order from the probate court to be filed to the circuit court in the same county. "The notice of intention to appeal to the circuit court must be filed in the office of the circuit court and in the office of the probate court and a copy served on all parties within ten days after the written notice of the appealed from order.. of the probate court."

As a result of the Appellant's noncompliance with S.C. Code Ann. § 62-1-308, the Appellant's appeal is to be dismissed per In re Estate of Cretzmeyer, 365 S.C. 12,14, 615 S.E.2d 116,116-117 (2005) ("Our settled rules of statutory construction mandate the result we reach, for the statute is clear that the notice of appeal 'must be filed' in the circuit court within the ten-day period").

Respectfully submitted,

February 24, 2020



C. Mac Gibson, Jr.  
1473 Stuart Engals Blvd.  
Mt. Pleasant, South Carolina 29464  
(843) 852-4646

Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
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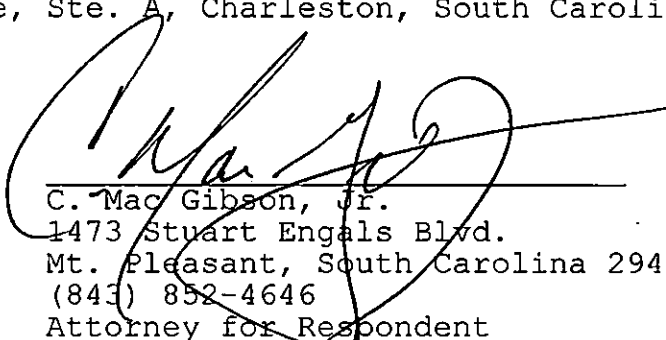
VIRGIL J. GREEN as Personal  
Representative for the Estate  
Kenya L. Manigault,

Appellant.

**PROOF OF SERVICE**

I certify that I have served the Respondent Daralyn Manigault's Notice of Motion and Motion to Dismiss the Appeal via the United States Mail, postage prepaid, on February 24, 2020, addressed to his attorney of record, Ittriss J. Jenkins, Esquire, 652 Rutledge Avenue, Ste. A, Charleston, South Carolina 29403.

February 24, 2020

  
C. Mac Gibson, Jr.  
1473 Stuart Engals Blvd.  
Mt. Pleasant, South Carolina 29464  
(843) 852-4646  
Attorney for Respondent

**C. MAC GIBSON, JR.**  
**Attorney at Law**  
**1473 Stuart Engals Blvd.**  
**Mt. Pleasant, SC 29464**

Telephone: (843) 852-4646

[cmacgibson@yahoo.com](mailto:cmacgibson@yahoo.com)

February 24, 2020

The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

Re: In the Matter of the Estate of Kenya L. Manigault  
Appellate Case No.: 2020-000200

Dear Mrs. Kitchings:

I have enclosed the following documents pertaining to the above-referenced appeal as follows:

1. An original and seven (7) copies of the Respondent Daralyn Manigault's Notice of Motion and Motion to Dismiss Appeal, and
2. An original and a copy of the Proof of Service.

I would appreciate it if you would file the originals and six (6) copies of the Respondent Daralyn Manigault's Notice of Motion and Motion to Dismiss Appeal and stamp filed the remaining copies and return the filed copies to me in the enclosed stamped self addressed envelope.

I have enclosed a check from my operating account made payable to the South Carolina Court of Appeals in the amount of \$50 for the filing fee.

If you have any questions concerning the enclosed documents, then please contact me.

With kind regards, I am

Sincerely,

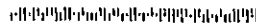
  
C. Mac Gibson, Jr.

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FEB 26 2020  
SC Court of Appeals

Enclosures (as stated)

cc: Client (w/ encls. via email)

Ittriss J. Jenkins, Esq. (w/ encls.)



CHARLESTON SC 294  
MON 24 FEB 2020 AM

C. Mac Gibson, Jr.  
Attorney at Law  
1473 Stuart Engals Blvd.  
Mt. Pleasant, SC 29464

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
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