

Gregg Meyers
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June 12, 2020

Jenny Abbott Kitchins
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
JUN 15 2020
SC Court of Appeals

Re: Appeal 2020-0000853, In re Estate of Annie Mae Crosby,
Case No. 2019-CP-10-1887, Probate Case No. 2016-ES-10-02054
(appeal from Charleston County)

Dear Ms. Kitchins:

Glaire Allen has inquired about the status of the motions pending in the Court of Common Pleas.

The two motions referred to remain pending.

The appeal was noticed out of an abundance of caution to accommodate an ambiguity arising from Charleston County's new e filing system.

The pending Rule 59 motion was submitted to the Charleston County clerk of court on May 18, the day that motion was due. Two days later the motion was rejected by the clerk due to a format issue. That issue was immediately corrected and the re-submission was accepted the same day, May 20. But the motion was accepted with a date stamp of May 20, not May 18.

The rule 59 motion was then provided to Judge Cole as required by Rule 59, but the ambiguity is whether that Rule 59 motion was timely filed.

In the federal court's efile system any corrections the clerk requires to an e filing are, if timely corrected, dated as of the date originally submitted. The clerk has that authority. The clerk of court in Charleston does not believe it has that authority. Thus the ambiguity about date of filing.

The efile manual provides for making a motion "for appropriate relief" on matters involving corrections to motions. I consulted Mr. Lydon by email about the need for such a motion and got no response. Which is not to fault Mr. Lydon as he might simply have been unable to respond promptly. So a second motion was made on May 20 to deem the Rule 59

motion to have been timely filed.

As noted above, by June 8 there had been no ruling on that timeliness motion submitted May 20, so the appeal was noticed to protect my client's right to appeal. Without either a ruling on the motion as to timing or the clerk having the authority to deem the Rule 59 filing as having been made when first submitted, I could not presume that the court would regard that Rule 59 motion as having been timely filed.

If the Rule 59 motion is timely then of course the time for appeal would not begin to run until the Rule 59 motion was ruled upon.

If the state court clerks had authority comparable to that possessed by the federal clerk of court, or the authority to handle the "motion for appropriate relief," or such motions were ruled on quickly, then the Rule 59 motion could have been stamped May 18 and the notice of appeal could have waited to be filed only after the Rule 59 motion had been ruled upon. If the Rule 59 motion is not regarded as timely, as I think it should be, then I had to serve the notice of appeal by June 8.

Sincerely,

A handwritten signature in black ink that reads "Gregg Meyers". The signature is written in a cursive style with a large, stylized "G" and "M".

Gregg Meyers

c: Mr. Lydon via email

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