

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**RECEIVED**

AUG 24 2020

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

**SC Court of Appeals**

Russell A. DeMott, Special Referee

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Appellate Case No.: 2020-000209  
Case No.: 2015-CP-18-2381

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Ronald Tucker, Jr. and Kenneth W. Tucker a/k/a Kenneth Tucker, Individually and as Co-Personal Representatives of the Estate of Mary H. Tucker, and Michael Allen, Respondents

Vs.

Lutricia Tucker Blakey, Gwendolyn Garretson, Priscilla Gray, Florie T. Hamilton, Jamika Tucker Jackson, Doris Tucker Jenkins, Alice C. Johnson, Pamela D. Tucker McKnight, Charlene Tucker Smalls, Abraham Tucker, Ashaunte Tucker, Bradley Tucker, Calvin Tucker, Clifford Tucker, Craig Tucker, Cynthia Marie Tucker, Cynthia Tucker, Dorothy Tucker, Dorothy Kitt Tucker, Frank T. Tucker, Gary C. Tucker, Hazel Tucker, Herman Tucker, Kenneth J. Tucker, Kenneth Tucker, Larry Tucker, Lillian A. Gregg Tucker, Mary Tucker, Maurice Tucker, Michael Anthony Tucker, Reubin Tucker, III, Ryan Tucker, Sadie Hutchinson Tucker, Shawn Tucker, Sheldon Tucker, Shontique Tucker, Sophronia Tucker, Spencer Tucker, Victor Leroy Tucker, Victoria Lorene Tucker, Deborah Tucker White, John Doe, a fictitious name used herein to designate the estates and unknown heirs at law, distributees, devisees, issue, personal representative, successors and/or assigns of Lawrence Herman Cuttino, Lula Tucker Cuttino Jerry Cuttino, Drayton W. Gray, Jr., Marion Tucker Gray, Alonza Tucker, Bernice Harrison Tucker, Carsedra Yvette Tucker, Charles Tucker, Donald Vaughn Quentin Tucker, Eliza Gallashaw Tucker, Emmie Richardson Tucker, Geraldine Tucker, Harry Tucker, Israel Tucker, Sr., James Tucker, Lucille Tucker, Lucius J. Tucker, Mary Ella Tucker, Nathaniel Tucker, Regimen Gerthrod Tucker, Reubin Tucker, Reubin Tucker, Jr., Ronald Tucker, Teselene Rivers Tucker, Theron Antonio Tucker, William Tucker, Willie B. Tucker all being deceased person(s) or who may be deceased person(s); and Mary Roe, a fictitious name designating all other persons and legal entities unknown who may have or claim any right, title, estate, interest in or lien upon the real estate described herein, including any such as may be infants, minors, prisoners, incompetents, or under any other disability, including the Servicemembers Civil Relief Act, American Builders & Contractors Supply, Co., Inc., Citifinancial, Department of the Treasury – Internal Revenue Service, First Credit of Holly Hill,

Lowcountry Credit, LLC, South Carolina Department of Revenue, South Carolina Electric and Gas, Herbert E. Myers, Defendants.

of Whom Lutricia Tucker Blakey, Gary C. Tucker, Spencer Tucker, Sophronia Tucker, Pearl Hazel Tucker, Reubin Tucker, III, Cynthia Marie Tucker, Victoria Loren Tucker, Victor Leroy Tucker, Theresa Tucker, Heirs of Reubin Tucker and Reubin Tucker, Jr., Deborah Tucker White and the Heirs of Alonzo Tucker, Clifford Tucker, Calvin Tucker, Shawn Tucker, and Darryl Tucker, and the Heirs of Nathaniel Tucker, Samuel Tucker, Jeffrey Tucker, Timothy Tucker, and Lucius Tucker, Jr., and Heirs of Samuel Tucker and Dorothy Tucker, Cynthia Tucker, Larry Tucker, Craig Tucker Sheldon Tucker, Charlene Tucker Smalls, Bradley Tucker, Ryan Tucker, Ashaunte Tucker, Jamika Tucker Jackson, and Shontique Tucker, and Heirs of Isreal Tucker, Sr., Gwendolyn Garrettson, Priscilla Gray, Heirs of Marion Tucker Gray are the Appellants.

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**RESPONDENTS' RETURN TO "MOTION FOR REINSTATEMENT OF APPEAL  
PURSUANT TO RULE 260 SCACR"**

This Court should not consider this motion as this Court no longer has jurisdiction over this matter. On June 29, 2020, this Court dismissed this appeal for failure to cure deficiencies as outlined in a letter from the Court to the Appellants' counsel dated March 10, 2020. Appellants did not file a motion or response of any type, and accordingly, on July 23, 2020 the Court remitted this matter to the lower court. Once the remittitur is sent down from the appellate court, the lower court acquires jurisdiction. *See Muller v. Myrtle Beach Golf and Yacht Club*, 313 S.C. 412, 438 S.E.2d 248 (1993). Further, a remittitur will not be recalled due to some excusable neglect on the part of the appellant in failing to perfect his appeal, since the proper time for such a showing is before the remittitur is sent. *See State v. Keel*, 39 S.C. 553, 17 S.E. 802 (1893). Accordingly, this Court no longer has jurisdiction over this matter and should not consider this motion.

Even if this Court did have jurisdiction, Appellants' Motion for Reinstatement Pursuant to Rule 260 SCACR is not timely and should not be considered. Rule 260 SCACR states in part: "A case shall not be reinstated except my leave of the court, upon

good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the Court within (fifteen) 15 days of filing of the order of dismissal (the day of filing being excluded)." In this case any Motion for Reinstatement should have been filed within 15 days of June 29, 2020 or July 14, 2020. Accordingly, since such motion was not even mailed to the court until August 14, 2020, this motion is not timely.

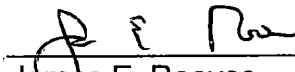
Further, the equity of this situation does not support the Court granting such motion on the basis requested. On February 13, 2020, the Court forwarded a letter to Appellants' counsel via regular mail noting deficiencies and providing 10 days from the date of the letter for the deficiency to be corrected or that the appeal would be dismissed. Appellants did not respond in any way to correct any deficiencies. On March 10, 2020, the Court sent another letter via regular mail recounting a phone call between a staff member of the Appellants' attorney and a staff member of the Court indicating that the letter dated February 13, 2020, was not received by the Appellants' counsel. Consequently, the Court gave the Appellants another 10 days from March 10, 2020, or March 20, 2020, to correct any deficiencies or that the appeal would be dismissed. Again, Appellants did not respond in any way to correct the deficiencies. After more than three months of no response, on June 29, 2020, the Court ordered the dismissal of the case with service upon Appellants' counsel via email. Again, Appellants did not respond attempting to correct the deficiency or to file a motion to reinstate the appeal. On July 23, 2020, the matter was remitted to the lower court with a copy of the Order of Dismissal to Appellants' counsel via email. Again, no response was attempted until this

motion was mailed to the Court on August 14, 2020. Further, throughout the entire appeals process the letters and pleadings were readily available on the South Carolina Appellate Case Management System from any location with an internet connection.

The Court has granted Appellants more than ample time to correct any deficiency and to pursue an appeal. In addition to correspondence via regular mail and email and the ability to access all correspondence and pleadings online, the Court's staff even called the Appellants' counsel office on March 10, 2020. The Respondents have a right to have this matter decided pursuant to the established court rules that are applicable to all parties. Accordingly, the Court should not consider this motion and should instead allow the lower court to proceed.

**REEVES LAW, PA**

BY:



James E. Reeves  
400 North Cedar Street  
Summerville, SC 29483  
Office: (843) 832-7337  
Facsimile: (888) 466-8615  
Email: JimmyReeves@ReevesLawPA.com

**SHELBOURNE LAW**  
P. Brandt Shelbourne  
131 East Richardson Avenue  
Summerville, SC 29483  
(843) 871-2210

**ATTORNEYS FOR THE RESPONDENTS**

8/21/2020  
Summerville, South Carolina

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM DORCHESTER COUNTY  
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Russell A. DeMott, Special Referee

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Case No.: 2015-CP-18-2381

Ronald Tucker, Jr. and Kenneth W. Tucker a/k/a Kenneth Tucker, Individually and as  
Co-Personal Representatives of the Estate of Mary H. Tucker, and Michael Allen,  
Respondents

Vs.

Lutricia Tucker Blakey, Gwendolyn Garretson, Priscilla Gray, Florie T. Hamilton, Jamika Tucker Jackson, Doris Tucker Jenkins, Alice C. Johnson, Pamela D. Tucker McKnight, Charlene Tucker Smalls, Abraham Tucker, Ashaunte Tucker, Bradley Tucker, Calvin Tucker, Clifford Tucker, Craig Tucker, Cynthia Marie Tucker, Cynthia Tucker, Dorothy Tucker, Dorothy Kitt Tucker, Frank T. Tucker, Gary C. Tucker, Hazel Tucker, Herman Tucker, Kenneth J. Tucker, Kenneth Tucker, Larry Tucker, Lillian A. Gregg Tucker, Mary Tucker, Maurice Tucker, Michael Anthony Tucker, Reubin Tucker, III, Ryan Tucker, Sadie Hutchinson Tucker, Shawn Tucker, Sheldon Tucker, Shontique Tucker, Sophronia Tucker, Spencer Tucker, Victor Leroy Tucker, Victoria Lorene Tucker, Deborah Tucker White, John Doe, a fictitious name used herein to designate the estates and unknown heirs at law, distributees, devisees, issue, personal representative, successors and/or assigns of Lawrence Herman Cuttino, Lula Tucker Cuttino Jerry Cuttino, Drayton W. Gray, Jr., Marion Tucker Gray, Alonza Tucker, Bernice Harrison Tucker, Carsedra Yvette Tucker, Charles Tucker, Donald Vaughn Quentin Tucker, Eliza Gallashaw Tucker, Emmie Richardson Tucker, Geraldine Tucker, Harry Tucker, Israel Tucker, Sr., James Tucker, Lucille Tucker, Lucius J. Tucker, Mary Ella Tucker, Nathaniel Tucker, Regimen Gerthrod Tucker, Reubin Tucker, Reubin Tucker, Jr., Ronald Tucker, Teselene Rivers Tucker, Theron Antonio Tucker, William Tucker, Willie B. Tucker all being deceased person(s) or who may be deceased person(s); and Mary Roe, a fictitious name designating all other persons and legal entities unknown who may have or claim any right, title, estate, interest in or lien upon the real estate described herein, including any such as may be infants, minors, prisoners, incompetents, or under any other disability, including the Servicemembers Civil Relief Act, American Builders & Contractors Supply, Co., Inc., Citifinancial, Department of the Treasury – Internal Revenue Service, First Credit of Holly Hill,

Lowcountry Credit, LLC, South Carolina Department of Revenue, South Carolina Electric and Gas, Herbert E. Myers, Defendants.

of Whom Lutricia Tucker Blakey, Gary C. Tucker, Spencer Tucker, Sophronia Tucker, Pearl Hazel Tucker, Reubin Tucker, III, Cynthia Marie Tucker, Victoria Loren Tucker, Victor Leroy Tucker, Theresa Tucker, Heirs of Reubin Tucker and Reubin Tucker, Jr., Deborah Tucker White and the Heirs of Alonzo Tucker, Clifford Tucker, Calvin Tucker, Shawn Tucker, and Darryl Tucker, and the Heirs of Nathaniel Tucker, Samuel Tucker, Jeffrey Tucker, Timothy Tucker, and Lucius Tucker, Jr., and Heirs of Samuel Tucker and Dorothy Tucker, Cynthia Tucker, Larry Tucker, Craig Tucker Sheldon Tucker, Charlene Tucker Smalls, Bradley Tucker, Ryan Tucker, Ashaunte Tucker, Jamika Tucker Jackson, and Shontique Tucker, and Heirs of Isreal Tucker, Sr., Gwendolyn Garrettson, Priscilla Gray, Heirs of Marion Tucker Gray are the Appellants.

**PROOF OF SERVICE**

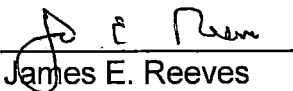
The undersigned hereby certifies a true copy of **RESPONDENTS' RETURN TO "MOTION FOR REINSTATEMENT OF APPEAL PURSUANT TO RULE 260 SCACR"** was served upon the following:

Maria Kiehling Brees, Esquire  
Brees Law Firm  
800 Wappoo Road, Suite A  
Charleston, SC 29407  
Counsel for Appellants

Russell A. DeMott  
103 Grandview Drive, Suite B  
Summerville, SC 29483  
Special Referee

by United States Mail, first class, postage prepaid on the 21<sup>st</sup> day of August, 2020.

**REEVES LAW, PA**

BY:   
James E. Reeves  
400 North Cedar Street  
Summerville, SC 29483  
Office: (843) 832-7337  
Facsimile: (888) 466-8615  
Email: JimmyReeves@ReevesLawPA.com

**SHELBOURNE LAW**  
P. Brandt Shelbourne  
131 East Richardson Avenue  
Summerville, SC 29483  
(843) 871-2210  
ATTORNEYS FOR THE RESPONDENTS

8/21/2020  
Summerville, South Carolina

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**REEVES LAW, PA**

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ATTORNEY & COUNSELOR AT LAW

400 NORTH CEDAR STREET  
SUMMERVILLE, SC 29483  
TELEPHONE: (843) 832-7337  
FACSIMILE: (888) 466-8615

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**SC Court of Appeals**

JAMES E. REEVES

August 21, 2020

South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

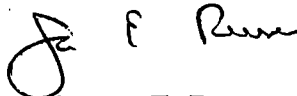
Re: Ronald Tucker, Jr., *et al.* v. Lutricia Tucker Blakey, *et al.*  
Lower Court Case No.: 2015-CP-18-2381  
Appellate Case No.: 2020-000209  
Our File No.: 2529-001

Dear Clerk:

Enclosed you will find the original and six copies of the Respondents' Return to "Motion for Reinstatement of Appeal Pursuant to Rule 260 SCACR" for filing in the above referenced matter.

If any of this is incorrect, please do not hesitate to contact our office and we will proceed as you advise. Thank you for your assistance.

Sincerely,



James E. Reeves

/ch

Enclosures

Cc w/enc: Maria Kiehling Brees, Attorney for Appellants  
Russell A. DeMott, Special Referee  
Peter Brandt Shelbourne, Co-Counsel for Respondents

REEVES LAW, PA  
400 N CEDAR ST  
SUMMERVILLE, SC 29483

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SC Court of Appeals

South carolina Court of Appeals  
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Columbia SC 29201-3769