

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**Sep 29 2020**

**S.C. SUPREME COURT**

APPEAL FROM CHARLESTON COUNTY  
R. Markley Dennis, Jr., Circuit Court Judge

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Case No. 2020-CP-10-2676  
Appellate Case No.: 2020-001209

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Deon Tedder.....Respondent,

v.

Charleston County Board of Voter Registration and Elections  
and Jeffrey W. Wilder,

Of whom, Jeffery W. Wilder is.....Appellant.

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**RESPONDENT’S REPLY TO APPELLANT’S RETURN TO  
RESPONDENT’S MOTION TO DISMISS APPEAL  
AND MEMORANDUM IN SUPPORT**

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Respondent Deon Tedder, pursuant to Rule 240, SCACR, hereby replies to Appellant’s Return to Respondent’s Motion to Dismiss. In support thereof, Respondent would respectfully show the following:

1. This matter arises out of Appellant’s appeal of a Circuit Court decision finding Respondent to be a qualified voter residing in South Carolina House District 109 (“District 109”).
2. On September 16, 2020, Respondent filed a Motion to Dismiss (“Motion”) Appellant’s appeal on two (2) specific grounds: Appellant lacked standing to bring the appeal; and

Appellant's failure to perfect the appeal deprived this Court from appellate jurisdiction over the matter.

3. On September 23, 2020, Appellant filed a Return to Respondent's Motion to Dismiss ("Return").
4. Appellant's Return contains a multitude of factual inaccuracies. Because each are wholly irrelevant to the issues of Appellant's lack of standing and failure to timely perfect the Appeal raised in the Motion, however, Respondent offers no reply. This Court can simply disregard Appellant's inaccurate and irrelevant factual allegations for purposes of this Motion.
5. On the issue of Appellant's lack of standing, Appellant fails to comprehend that the sole issue before the lower court in this matter was Respondent's voter registration qualifications, which is governed exclusively by S.C. Code. Ann. § 7-5-230. Similarly, in his attempt to respond to precedent, Appellant fails to understand this Court's analysis in *Gantt v. Selph*, 423 S.C. 333, 814 S.E.2d 523 (2018).
6. Instead, Appellant continues to believe that the issue decided by the lower court in this matter was Respondent's candidate qualifications. Based on this falsity, Appellant purports that *Gantt* is a benefit to Appellant, presumably because Appellant failed to read and/or comprehend the entire opinion and skipped straight to the Conclusion. ("Section 7-5-230 applies only to a review of the Richland Election Board's determination of a person's qualification to vote. The circuit court therefore had subject matter jurisdiction over Respondents' declaratory judgment action...(t)herefore, the circuit court's declaration that Murphy is not qualified to be a candidate for a Richland County seat on the School Board is **AFFIRMED.**") *Id* at 343.

7. Respondent believes this Court should reach the same conclusion in this matter, despite it being a voter registration matter and not a candidate qualification matter. “Similarly, in this case, the dispute centers not upon Respondent Tedder’s application for voter registration, but rather upon his qualifications to be a candidate for the election. Accordingly, S.C. Code. Ann. § 7-5-230 does not apply in this case.” Appellant’s Return at 006.
8. As this Court is well aware, this matter deals only with the issue of Respondent’s voter registration; that was the only issue before the CCBVRE; the only issue it had the authority to rule on; the only issue before the lower court on appeal of Respondent; and a right that belongs exclusively to the voter pursuant to S.C. Code. Ann. §§ 7-5-230(C), -240 and -250. This is the exact issue analyzed in *Gantt* to reach its conclusion; the circuit court had subject matter jurisdiction over Respondent’s declaratory judgment action to determine Murphy’s candidate qualifications, which would have been lacking if the issue before it was one of voter registration qualifications, since “neither section 7-5-230 nor any other statute gave Respondents the right to appeal the...Board’s conclusion that Murphy was a qualified voter...” *Gantt* at 535. Likewise, Appellant lacks the right to appeal the determination as to Respondent’s voter registration qualifications.
9. Appellant further argues that Respondent’s position on standing, or lack thereof, and “ability to be aggrieved are misplaced.” In response to this claim, Respondent craves reference to Respondent’s Motion to Dismiss at 7, noting that only the voter has a stake in his own voter qualifications, and no one else. In support of same, Respondent cites in his Motion relevant case law, the constitution, multiple statutes, and Rule 201, SCACR, which requires that, for one to have standing, one must be aggrieved.

10. Finally, Appellant readily admits in his Return at 006 that he is not aggrieved by Respondent's voter registration status, which is the only issue before the Court in this matter. This Court should grant Respondent's Motion to Dismiss for lack of standing.
11. Regarding the second issue that provides the basis for Respondent's Motion to Dismiss, that being the timeliness of his July 11, 2020 Rule 59, SCRPC, Motion, Appellant simply states in his Return that it was timely filed and thus not at issue. Appellant fails to refute or provide any basis or justification for his failure to comply with Rule 59(g), SCRPC, nor offers any support for his belief that it was timely filed.
12. Instead, Appellant argues that any procedural error in Appellant's July 11, 2020 Rule 59 Motion is cured by Appellant's August 25, 2020 Amended Motion since it added an additional ground for relief.
13. This Court, along with our Court of Appeals, have held that the filing of written, successive, and virtually identical post-trial motions – raising issues which already had been raised and ruled on – does not stay the time for serving a notice of appeal. *See Quality Trailer Products v. CSL Equipment Co.*, 349 S.C. 216, 562 S.E.2d 615 (2002) (Holding that “the time for filing appeal is not extended by submitting the same motion under a different caption”); *Coward Hund Const. Co. v. Ball Corp.*, 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999) (Holding that Coward Hund's second Rule 59(e) motion did not stay the time for appeal and consequently dismissed the appeal as untimely); and *Collins Music Co. v. IGT*, 353 S.C. 559, 579 S.E.2d 524 (Ct. App. 2002) (Holding that IGT's appeal is untimely).
14. “Allowing subsequent motions to repeatedly toll the filing period for a notice of appeal would encourage frivolous motions and undermined a fundamental canon of our legal

system, to promote the finality of judgments.” *Glinka v. Maytag Corp.*, 90 F.3d 74, 74 (2d Cir. 1996) (as cited in *Elam v. SCDOT*, 361 S.C. 9, 602 S.E.2d 772 (2004)).

15. As a result of Respondent’s failure to comply with Rule 59(g), SCRCF, upon filing his June 11, 2020 motion, Appellant’s Notice of Appeal was untimely, and therefore, Appellant failed to perfect the appeal which deprives this Court from appellate jurisdiction over the matter. Respondent’s Motion at 9. This Court should grant Respondent’s Motion to Dismiss for lack of appellate jurisdiction.
16. For the reasons included in his Motion and Reply, and due to the numerous inaccurate, irrelevant, and categorically false statements contained throughout Appellant’s Return, Respondent renews its request for sanctions.

WHEREFORE, for the reasons set forth in his Motion and this Reply, along with the failure of Appellant to refute these reasons in his Return, Respondent moves the Court to issue an order dismissing the appeal and ordering sanctions.

Respectfully Submitted,

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