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SC Court of Appeals

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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Roger L. Couch, Circuit Court Judge

APPELLATE CASE NO. 2017-002290

Deborah B. Harwell, Respondent,

v.

Robert Bryan Harwell, individually and as the
Personal Representative of the Estate of
David W. Harwell; and the South Carolina
Department of Health and Environmental Control,
Division of Vital Records, Defendants,

Of whom Robert Bryan Harwell, individually
and as the Personal Representative of the
Estate of David W. Harwell is the Petitioner,

Of whom the South Carolina Department of
Health and Environmental Control,
Division of Vital Records is the Respondent,

v.

Law Office of Deidre W. Edmunds, P.A.
And Deidre W. Edmunds, Individually, Respondents.

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

The Respondent, Robert Bryan Harwell, individually and as Personal Representative of the Estate of David W. Harwell, would respectfully move that the Notice of Appeal filed in the court of Appeals dated December 11, 2020, and mailed December 15, 2020 by Appellant be dismissed based upon the following legal authority:

(1) The Appellant has exhausted her available Appellate remedies. On April 8, 2020, the Court of Appeals filed its Opinion dated April 8, 2020. (Exhibit A) In that opinion, the

Court of Appeals affirmed the decision of the Trial Court sanctioning the Appellant under the *South Carolina Frivolous Civil Proceedings Sanctions act and Rule 11 Carolina Rules of Civil Procedure* dated April 22, 2020. (See C. Track) On October 7, 2020 the Court of Appeals denied Appellant's Petition for Rehearing. (See Exhibit D). Thereafter, the Court of Appeals withdrew Opinion #1 (Exhibit A) and submitted Opinion #2 filed October 3, 2020 (Exhibit B) which it also withdrew, and then filed Opinion #3 (Exhibit C) on November 18, 2020. No further action was taken by Appellant until the current filing dated December 11, 2020. Neither the second nor the third opinions changed the affirmance of the sanctions against the Appellant. Appellant did not file petitions for re-hearing as to opinions #2 and #3.

(2) The Appropriate Appellate remedy following final action by the Court of Appeals is set forth in Rule 242, SCRAP a *Petition for a Writ of Certiorari*, filed with the Supreme Court.

A) In Rule 242 (C) this Petition must be filed with the Supreme Court within 30 days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals. The Motion for Rehearing filed by the Appellant was denied on October 7, 2020. No *Petition for Writ of Certiorari* was filed by the Appellant. More than thirty days have elapsed, since October 7, 2020 and to date no Petition for Certiorari has been filed.

(3) The Appellant cannot now meet the pre-conditions for the filing of a Petition for *Writ of Certiorari* to the Supreme Court since all time periods for filing for the petition for rehearing and *Writ of Certiorari* have expired.

For the forgoing reasons the "Appeal to the Supreme Court" filed in the Court of Appeals, by the Appellant Deborah Harwell should be dismissed.

December 21, 2020

Respectfully Submitted,



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