

"Affidavit of Fact"
Giving Judicial Notice

1 of 3

RECEIVED

AUG -2-2021

S.C. SUPREME COURT

By: Joseph Rowland #290065
(RE: CASE # 2021-000089, Constructed Trust.

HERECOMES, I the (Principal) and/or Creditor of the Constructed TRUST FOR SURETY via JOSEPH ROWLAND SS [REDACTED] and CASE # 2021-000089. THEREFO to protect my rights and interest in this case and Status, I Object to these proceedings this "appeal" Filed by the State in this court the "S.C. Supreme Court" due to the Fact on grounds it has NO-legal Standing and or is unlawful NULL and Void on its Face in violation of my "due-process" to the 5th, 14th amend to the Constitution of These United States, and S.C. Const. as well clearly a "miscarriage of Justice" in violation of Equal-protection of Laws as a matter of Law...

The issue im raising is that the State has abandoned and Lost their right to appeal, and or Forfeited their rights to REMEDY in their recourse to appeal this case any further to the higher court. The State NEVER Filed "Notice of Intent to Appeal on the P.C.R. Court in the Court of Common Pleas, (AKA the lower-court,)" with the Charleston County Clerk of Court in the court which Jurisdiction the case was OUVERTURNED on. SEE Upchurch V. Upchurch, 367 S.C. 16, 22, 624 S.E.2d 643, 646 (2006). Further as proof to my claims of the FOREMENTIONED as evidence in the Record SEE (Exhibit-A Charleston-County Clerk of Court response to the matter at hand.)
Inasmuch the State cannot Just do what they want to do and

decide to appeal on their own time (magically).
It's called a window, procedure and Statutory Law
they have to abide by with respect to the Legislators intent
which is clear in its language in the Statute ⁽¹⁸⁻¹⁻¹⁷⁰⁾ pursuant to
(SCACR Rule 203) and Rule 241(c)(1)... Anything otherwise
would be a "TRESPASSOR OF LAW" infringed upon those protected
Rights. Furthermore this court lacks Subject matter -
Jurisdiction to hear this case. Inasmuch im not saying this
court doesn't have Jurisdiction to hear this case that's
not my argument at hand. I'm definitively saying that
due to the Fact aforementioned the lower court has
"No-knowledge of this appeal" because it was never Filed
through and or with the Clerk in the Lower Court in violation
of (SCACR Rule 203^(b)). Therefore Judge Bentley Price
the presiding PCR Judge who overturned this case is in
the blind of this appeal, therefore this court is Void of
Jurisdiction thus RES-judicata and Collateral-Estoppel
attaches to this case on appeal therefore Judge Bentley
Price Final Ruling via (ORDER) dated 11/8/21 is Final ^{and} protected
by DUE-PROCESS as a matter of Law...

FURTHERMORE I WAS NEVER SERVED by the State, NOT GIVEN
NOTICE OF the States intent to appeal, neither has my PCR
LAWYER James Falk sent me the clocked-stamped copy of
the States Notice to appeal which I asked for, therefore
this court has NO action with me.. The last legal document
Filed by the State was the States Petition FOR RECONSIDERATION which was
denied... State V. Scott S.C. Supreme Court (2002) Opinion No. 25541

(2.)

351 S.C. 584

The State magically Filed a "Notice of Appeal" to the S.C. Supreme Court Jan 26th 2021 but Failed to timely SERVE the Corrected Notice of Appeal on the lower court with in (10-day) TIME PERIOD, afterwards therefore

I, JOSEPH ROWLAND as principal maintain my Status as Creditor in this case not the Debtor I hereby ~~demand~~ and through this "Affidavit of Fact" as a "sound-mind" not a ward of the State as KING demand and instruct my "Fiduciary Trustee" appellate lawyer KATHERINE HUDGINS to immediately move and petition the court for Dismissal and Vacate ~~to~~ ~~vacate~~ this case all together as a whole on all the grounds set forth herein this Affidavit to protect my due-process rights as a matter of Law.

Pursuant to Statute § (18-1-170), (SCACR Rule 203^B), SCACR Rule 262 also Procedures on Appeal to Supreme Court or Court of Appeals SCRCivil Procedure Rule 273, 274, 275., S.C Code Ann § 14-3-330 Article V § 5 Juris of Const.

Rule 203(D)(2) SCACR

Respectfully Submitted: Joseph Rowland

State V. Scott, Supra

Elam V. S.C Dept 361 SC9 7/28/2021
(2004)

By: Joseph Rowland
(principal "CREDITOR")
"As Good as Aval"

CC: ATTORNEY GENERAL

Katherine Hudgins (Appellate Counsel)

JAMES FALK (PCR LAWYER)

received
JUNE 29, 2021 at SCDC Mailroom

I have the entire "Case-File" from the Charleston County Clerk THERE IS NO "NOTICE OF APPEAL" Filed to Supreme Court herein the lower court... The State did not comply with Rule 203(D)(2) and (B)(2)

(3)

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 28 DAY OF July,

2021 Severly Ferguson

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES 10-1-25

[Handwritten signature]

"Exhibit-B case-law"

Elam V. S.C. Dept. Transportation, 361 S.C. 9 (2004)
(The requirement of service of notice of appeal is jurisdictional, i.e., if a party misses the deadline, the Appellate Court lacks jurisdiction to consider the appeal and has no authority or discretion to "rescue the delinquent party" by extending or ignoring the deadline for service of the notice. (App Court Rule 203(B)).

State V. Scott, 351 S.C. 584 (2002)
HN (Rule 203 requires the state to serve a notice of appeal within the (10-days) after receipt of written notice of entry of the order of judgment Rule 203(b)(2), SCACR (emphasis added.) The rule requires the State file the notice "with the clerk of the appellate court within *587 ten (10) days after notice of appeal is served.

Lemmons V. Macedonia Water Works Inc, 431 S.C. 186, 847 S.E.2d. 471 (2020)

The South Carolina Supreme Court

1231 CHERVAIS ST,

Columbia, SC 29201

P.O. Box 11330

Columbia, SC 29211

Exhibit - A
"Affidavit of Fact"
- Giving Judicial Notice -

4/29/2021

FILED

DEAR, Head Clerk, CASE MANAGER; FILE CLERK

MAY 14 2021

(RE: CASE # 2018-CP-10-4545) COURT OF COMMON PLEAS JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

How you doing today, this is the ^{John Rowland} ISSUE at hand. My brother has informed me he talked to the CASE MANAGER and FILE CLERK regarding my case (Constructed Trust #2018-CP-10-4545) which was overturned on PCR (JUNE 8th 2020); and Motion For Reconsideration denied (Jan 8th 2021.) In which you already sent me copies of these ORDERS at my request thank you. As aforementioned my brother informed me the Clerk of your office said my case has been "disposed", and that the State has not Filed "A Notice of Intent to Appeal" in my case that would be required to be Filed in the Charleston County Clerk of Court office if the State choose to appeal to the higher Courts as a matter of Law. Pursuant to RULE 241(c)(1) SCACR the notice of intent to Appeal must be served first. Upchurch v. Upchurch, 367 S.C. 16, 22, 624 S.E.2d 243, 646 (2006). also see SCR 203 "Notice of Appeal"

Therefore can you please address this matter in requesting by responding back to me in writing as proof in the Record in my recourse that there was "NO NOTICE WITH INTENT TO APPEAL" Filed in my case on the Charleston County Clerks Office, as a matter of Law...

Thank You!!

4/29/2021

Respectfully submitted,
By: John Rowland
"As Good As Aval"

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS)
FOR THE NINTH JUDICIAL CIRCUIT)

Joseph Rowland, #290065)

Case No.: 2018-CP-10-4545

Applicant,)

Certificate of Service by E)

v.)

State of South Carolina)

Respondent,)
_____)

2020 JUN 18 AM 9:43
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

1. Undersigned is counsel of record for the Respondent in the above-captioned action.
2. Pursuant to the South Carolina Supreme Court's Order "RE: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447), dated April 3, 2020), "a lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer's primary email address listed in the Attorney Information System (AIS)."
3. Undersigned has served a copy of the Respondent's Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCP in the above-captioned matter on opposing counsel by emailing a copy to the email address as listed in the AIS:

James K. Falk, Esquire
jfalklaw@gmail.com

DATED this 18th day of June, 2020.

s/ Benjamin Limbaugh
Benjamin H. Limbaugh
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
BLimbaugh@scag.gov

last document
Filed By the
STATE
PERIOD...
in 3/1 ON RECORD



ALAN WILSON
ATTORNEY GENERAL

June 18, 2020

The Honorable Julie J. Armstrong
Clerk of Court - Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2210

Re: Joseph Rowland, #290065 v. State of South Carolina
2018-CP-10-4545

Dear Ms. Armstrong:

Enclosed please find the original **Respondent's Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCP** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

s/ Benjamin Limbaugh
Benjamin H. Limbaugh
Assistant Attorney General

BHL/jj
Enclosure

cc: James K. Falk, Esquire