

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley Price, Circuit Court Judge

Case No. 2017-CP-10-5427
Appellate Case No. 2021-000793

RECEIVED
Nov 24 2021
SC Court of Appeals

Family Services, Inc., as Conservator for Muriel W. Clarkin.....Respondent,

v.

Patricia Clarkin Smith and Wells Fargo Bank, NA., Defendants,
Of whom Patricia Clarkin Smith is the Appellant.

NOTICE OF MOTION AND MOTION
TO DISMISS

Respondent, Family Services, Inc., as Conservator for Muriel W. Clarkin by and through its undersigned counsel, hereby moves before this Court for an order dismissing Appellant’s appeal for failure to prosecute. The grounds for the motion are as follows:

- 1) On July 22, 2021, Appellant filed this appellate matter seeking an appeal of the Master’s Order granting summary judgement to Respondent filed on June 21, 2022, based upon the hearing on Respondent’s Motion for Summary Judgement held before the Master on May 11, 2021.
- 2) On August 3, 2021, Appellant filed a Notice of Transcript Request requesting a copy of the transcript for the May 11, 2021 hearing from the court reporter Christine Smith (hereinafter “Court Reporter”).

- 3) On October 1, 2021, Appellant filed a motion with this Court stating: “I respectfully request an extension of the transcript due date.”
- 4) Counsel for Appellant recently spoke with the Court Reporter who stated she provided Appellant a copy of the May 11, 2021, hearing transcript (hereinafter “Transcript”) on October 20, 2021 (See Exhibit “A” attached hereto and incorporated herein by reference).
- 5) On October 29, 2021, this Court filed and served an Order stating: “Appellant has filed a motion for extension of time to order the transcript. This motion is Granted. *Appellant must notify the Court upon receipt of the transcript so that the time for serving and filing the appellant's initial brief and designation of matter may be calculated.*”
- 6) On October 29, 2021, Appellant had already been in possession of the May 11, 2021, hearing transcript for nine days.
- 7) Respondent has not been served with a notice from Appellant, notifying this Court that she received the Transcript.
- 8) Respondent has not been served with Appellant’s initial brief and designation of matter, nor a notice of service stating those items have been filed with the Court.
- 9) Rule 208(a), SCACR states: “(1) Brief of Appellant. Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service. . . (4) Failure to File. Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper.”

10) More than thirty (30) days has passed since Appellant received the Transcript from the Court Reporter, and Appellant has not served a copy of her initial brief on Respondent, nor filed with the clerk of the appellate court one copy of the brief with proof of service.

WHEREFORE, based on the grounds stated herein above, Respondent requests that this Court issue an order dismissing Appellant's appeal of the Order filed June 21, 2021.

November 24, 2021.

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC
s/ D. Conor Keys
D. Conor Keys (100148)
P.O. Box 14225
Charleston, SC 29422
Phone: 843-906-3998
conor@dconorkeyslaw.com
Attorney for Respondent

RECEIVED

Nov 24 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley Price, Circuit Court Judge

Case No. 2017-CP-10-5427
Appellate Case No. 2021-000793

Family Services, Inc., as Conservator for Muriel W. Clarkin.....Respondent,

v.

Patricia Clarkin Smith and Wells Fargo Bank, NA., Defendants,
Of whom Patricia Clarkin Smith is the Appellant.

CERTIFICATE OF SERVICE

I certify that on this 24th day of November 2021, I have served Respondent’s motion to dismiss upon Appellant by first class mail addressed as follows:

Patricia Clarkin Smith
602 Atlantic St.
Mount Pleasant, SC 29464

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC
s/ D. Conor Keys
D. Conor Keys (100148)
P.O. Box 14225
Charleston, SC 29422
Phone: 843-906-3998
conor@dconorkeyslaw.com
Attorney for Respondent

THE LAW OFFICE OF
DAVID CONOR KEYS LLC
PO Box 14225 CHARLESTON, SC 29422
CONOR@DCONORKEYSLAW.COM
843-906-3998

November 24, 2021

Jenny Abbott Kitchings
Clerk of Court, Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org.

RECEIVED
Nov 24 2021
SC Court of Appeals

**RE: Family Services, Inc., Conservator for Muriel W. Clarkin v. Patricia
Clarkin Smith, Et al.
App. Case No. 2021-000793**

Madam Clerk:

Enclosed please find in regard to the above referenced matter the following:

- 1) Respondent's Motion to Dismiss
- 2) Proof of Service for the Motion; and

I kindly request that you file the same

With kind regards,

RESPECTUFLLY SUBMITTED,

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC



D. Conor Keys (100148)
P.O. Box 14225
Charleston, SC 29422
Phone: 843-906-3998
conor@dconorkeyslaw.com
Attorney for Appellant

Enclosures:
(as stated)
CC:
Patricia Clarkin Smith