

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-12563-CC

CORLA JACKSON,

Plaintiff - Appellant,

versus

GMAC MORTGAGE CORPORATION,

Defendant - Appellee.

Appeal from the United States District Court
for the Southern District of Alabama

Before: WILLIAM PRYOR and JORDAN, Circuit Judges.

BY THE COURT:

Appellant's motion to reinstate her appeal is DENIED.

The (Judge Refused To Sign This Recorded Order Filed) That Someone Defrauded The Supreme Court With and More! This (Judge Better Be Glad He Didn't Sign This Order) Because, It Get's Worse Than This Guaranteed!

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

April 16, 2018

Charles R. Diard Jr.
U.S. District Court
113 SAINT JOSEPH ST
STE 123
MOBILE, AL 36602

Appeal Number: 17-12563-CC
Case Style: Corla Jackson v. GMAC Mortgage Corporation
District Court Docket No: 1:12-cv-00111-KD-B

The enclosed copy of the Clerk's Entry of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4. Pursuant to 11th Cir. R. 42-2(c) and 42-3(c), when an appellant fails to timely file or correct a brief or appendix, the appeal shall be treated as dismissed on the first business day following the due date. This appeal was treated as dismissed on 04/13/2018.

Counsel and pro se parties are advised that pursuant to Fed.R.App.P. 25(a)(2)(A), a motion to set aside the dismissal and remedy the default "is not timely unless the clerk receives the papers within the time fixed for filing."

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Julie F. Cohen, CC
Phone #: (404) 335-6170

Enclosure(s)

DIS-2CIV Letter and Entry of Dismissal

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ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R. 42-2(c), this appeal is DISMISSED for want of prosecution because the appellant Corla Jackson failed to file an appendix within the time fixed by the rules, effective April 16, 2018.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Julie F. Cohen, CC, Deputy Clerk

FOR THE COURT - BY DIRECTION

TITLE VII. GENERAL PROVISIONS

FRAP 25. Filing and Service

(a) Filing.

(1) Filing with the Clerk. A paper required or permitted to be filed in a court of appeals must be filed with the clerk.

 (2) Filing: Method and Timeliness.

(A) In general. Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.

(B) A brief or appendix. A brief or appendix is timely filed, however, if on or before the last day for filing, it is:

(i) mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or

(ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days.

(C) Inmate Filing. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25(a)(2)(C). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(i) it is accompanied by:

- a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or
- evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or

(ii) the court of appeals exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25(a)(2)(C)(i).

(D) Electronic filing. A court of appeals may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A local rule may require filing by electronic means only if reasonable exceptions are allowed. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules.

- (B) for electronic filing in the court of appeals, at midnight in the time zone of the circuit clerk's principal office;
 - (C) for filing under Rules 4(c)(1), 25(a)(2)(B), and 25(a)(2)(C)—and filing by mail under Rule 13(a)(2)—at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system; and
 - (D) for filing by other means, when the clerk's office is scheduled to close.
- (5) "Next Day" Defined. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.
- (6) "Legal Holiday" Defined. "Legal holiday" means:
- (A) the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day;
 - (B) any day declared a holiday by the President or Congress; and
 - (C) for periods that are measured after an event, any other day declared a holiday by the state where either of the following is located: the district court that rendered the challenged judgment or order, or the circuit clerk's principal office.

(b) Extending Time. For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file:

- (1) a notice of appeal (except as authorized in Rule 4) or a petition for permission to appeal; or
- (2) a notice of appeal from or a petition to enjoin, set aside, suspend, modify, enforce, or otherwise review an order of an administrative agency, board, commission, or officer of the United States, unless specifically authorized by law.

(c) Additional Time after Certain Kinds of Service. When a party may or must act within a specified time after being served, 3 days are added after the period would otherwise expire under Rule 26(a), unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule 26(c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service.

(As amended Mar. 1, 1971, eff. July 1, 1971; Mar. 10, 1986, eff. July 1, 1986; Apr. 25, 1989, eff. Dec. 1, 1989; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 25, 2005, eff. Dec. 1, 2005; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016.)

forthwith. The clerk shall not dismiss an appeal during the pendency of a timely filed motion to file documents out of time or otherwise remedy the default which is accompanied by the brief or other required papers, but if the court denies such leave the clerk shall dismiss the appeal forthwith.

If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.

11th Cir. R. 42-2 Dismissal in a Civil Appeal for Appellant's Failure to File Brief or Appendix by Due Date.

(a) Applicability of Rule. The provisions of this rule apply to all civil appeals, including Tax Court appeals, bankruptcy appeals, appeals in cases brought pursuant to 28 U.S.C. §§ 2254 and 2255, review of agency orders, and petitions for extraordinary writs when briefing has been ordered, but not including appeals of orders revoking supervised release or of orders entered pursuant to Rule 35 of the Federal Rules of Criminal Procedure or 18 U.S.C. § 3582.

(b) Notice of Due Date for Filing Brief and Appendix. Eleventh Circuit Rules 30-1(c) and 31-1 establish the due dates for filing the brief and appendix. To facilitate compliance, the clerk will send counsel and pro se parties a notice confirming the due date for filing appellant's brief and appendix consistent with 11th Cir. R. 30-1(c) and 31-1. However, delay in or failure to receive such notice does not affect the obligation of counsel and pro se parties to file the brief and appendix within the time permitted by the rules.

(c) Dismissal Without Further Notice. When an appellant has failed to file the brief or appendix by the due date as established by 11th Cir. R. 30-1(c) and 31-1 and set forth in the clerk's notice, or, if the due date has been extended by the court, within the time so extended, an appeal shall be treated as dismissed for failure to prosecute on the first business day following the due date. The clerk thereafter will enter an order dismissing the appeal and mail a copy of that order to counsel and pro se parties. If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.

(d) Effect of Pending Motion to Extend Time. The clerk shall not dismiss an appeal during the pendency of a timely filed motion for an extension of time to file appellant's brief or appendix, but if the court denies such leave after the expiration of the due date for filing the brief or appendix, the clerk shall dismiss the appeal.

(e) Motion to Set Aside Dismissal and Remedy Default. An appeal dismissed pursuant to this rule may be reinstated only upon the timely filing of a motion to set aside the dismissal and remedy the default showing extraordinary circumstances, accompanied by the required brief or appendix. Such a motion showing extraordinary circumstances, accompanied by the required brief or appendix, must be filed within 14 days of the date the clerk enters the order dismissing the appeal. The timely filing of such a motion, accompanied by the required brief or appendix, and a showing of extraordinary circumstances, is the exclusive method of seeking to set aside a dismissal entered pursuant to this rule. An untimely filed motion to set aside dismissal and remedy default must be denied unless the motion demonstrates extraordinary circumstances justifying the delay in filing the motion, and no further filings shall be accepted by the clerk in that dismissed appeal.

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