

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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AUG 15 2022

APPEAL FROM THE
ADMINISTRATIVE LAW COURT

SC Court of Appeals

S. Phillip Lenski, Administrative Law Judge

Case No. 22-AL J-22-0098-AP

Appellate Case No: 2022-000982

Miya S. Freeman
v.

Appellant.

South Carolina Department of Employment and Workforce
and Amazon.com Services Inc.

Respondents.

RETURN TO MOTION TO DISMISS

In its August 4, 2022, Motion to Dismiss for Lack of Jurisdiction in the case cited above, South Carolina Department of Employment and Workforce (SCDEW) (the Department) asserted that the Appellant failed to serve her Notice of Appeal on the South Carolina Administrative Law Court (ALC) within thirty (30) days of receipt of the ALC's final decision dated July 15, 2022. And similarly, she did not include the ALC in her submission of Proof of Service.

Although, the Department properly cited the Administrative Procedures Act (APA), S.C. Code Ann. §1-23 610(A)(1) which states:

For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeal as provided in the South Carolina Appellate Court Rules in civil cases and *served on* the opposing party and the *Administrative Law Court* not more than thirty days after the party receives the final decision and order of the administrative law judge. Appeal in these matters is by right.

(emphasis added). Furthermore, Rule 203(b)(6). SCAR states:

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When a statute allows a decision of the administrative law court ... to be appealed directly ... the Court of Appeals, the notice of appeal ***shall be served on the agency, the administrative law court*** ... and all parties of record within thirty (30) days after receipt of the decision.

(emphasis added).

The assertion the Department made in its August 4, 2022, Motion to Dismiss for Lack of Jurisdiction, however, is not accurate as records in the ALC can substantiate. At the time of filing her initial Notice of Appeal and Proof of Service with the Court of Appeals, on July 15, 2022, the Appellant also hand delivered a hard copy of both documents to the ALC. Enclosure No.1 is a date stamped copy of both documents indicating the ALC's receipt of them. To correct administrative errors on her July 15, 2022, documents, on July 25, the Appellant submitted an amended Notice of Appeal and Proof of Service to the Court of Appeals. On the same date, July 25, 2022, as before, she hand-delivered a hard copy of both documents to the ALC. Enclosure 2 is a date stamped copy indicating the ALC's receipt of the documents.

Because copies of both the July 15, 2022, and July 25, 2022, documents, respectively, mailed to the Department communicated they were appealing the ALC's decision; and included the names and addresses of SCDEW and Amazon—the other respondents; the Appellant, in good faith, did not think it necessary to specifically cite that she had provided the ALC with both documents. Enclosures No. 1 and No. 2, show the ALC was duly notified of the Appellant's exercise of her right to appeal its decision.

Enclosure No. 1: (3 pages) Notice of Appeal and Proof of Service, dated July 15, 2022, with ALC date stamp indicating the date it was filed.

Enclosure No.2. (3 pages) Amended Notice of Appeal and Proof of Service, dated July 25, 2022, with ALC date stamp indicating the date it was filed.

August 15, 2022



Miya S. Freeman
405 Grand National Lane
Elgin, SC 29045
803-862-9424
Pro se Appellant

FORM 1

NOTICE OF RETURN TO MOTION TO DISMISS

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEALS FROM RICHLAND COUNTY

Court of Common Pleas

S. Phillip Lenski, Administrative Law Court Judge

Case No. 22-AL J-22-0098-AP

Appellate Case No. 2002-000982

South Carolina Department of Employment
and Workforce (SCDEW) and
Amazon.com Services Inc

Respondents

v.

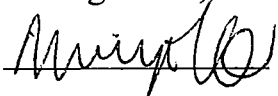
Miya S. Freeman

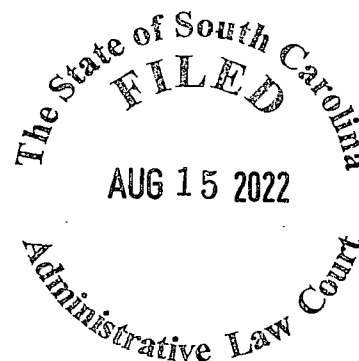
Appellant

NOTICE OF RETURN TO MOTION TO DISMISS

Miya S. Freeman appeal the order for the respondents Motion to Dismiss
for Lack of Jurisdiction in this case mailed on August 4th, 2022

August 15th, 2022


Miya S. Freeman
405 Grand National Lane
Elgin, SC 29045
(803) 862-9424
Pro se Litigant



FORM 7

PROOF OF SERVICE OF A RETURN TO MOTION TO DISMISS

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

S. Phillip Lenski, Administrative Law Judge

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SC Court of Appeals

Case No. 22-AL J-22-0098-AP

Appellate Case No. 2022-000982

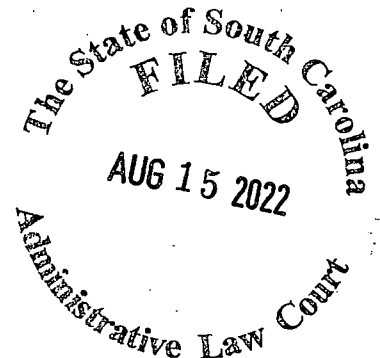
Miya Freeman, Appellant

v.

South Carolina Department of Employment and Workforce (SCDEW) and
Amazon.com Services Inc. Respondents

PROOF OF SERVICE

I certify that I have served a Return to Motion to Dismiss on South Carolina Administrative Law Court (ALC), Carolina Department Employment Workforce (SCDEW), and Amazon.com Service Inc. by depositing a copy of it in the United States Mail, postage prepaid, on August 15, 2022, addressed to: ALC, Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, SC 29201; SCDEW, PO Box 8597, Columbia, SC 29202, and Amazon.com Services Inc. PO Box 16560, Clearwater FL 33766, respectively.



FORM 7

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

S. Phillip Lenski, Administrative Law Judge

RECEIVED

JUL 15 2022

SC Court of Appeals

Case No. 22-AL J-22-0098-AP

South Carolina Department of Employment
and Workforce (SCDEW) and
Amazon.com Services Inc.,

Respondents

v.

Miya S. Freeman

Appellant

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on South Carolina Department Employment Workforce (SCDEW) and Amazon.com Service Inc., by depositing a copy of it in the United States Mail, postage prepaid, on July 14, 2022, addressed to SCDEW, PO Box 8597, Columbia, SC 29202, and Amazon.com Services Inc., PO Box 16560, Clearwater FL 33766, respectively, on July 14, 2022.

July 15, 2022

Miya S. Freeman
Miya S. Freeman
405 Grand National Lane
Elgin, SC 29045
803-862-9424
Pro se Litigant

The State of South Carolina
FILED
JUL 15 2022

ENCL NO. 1

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