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Oct 31 2022

SC Court of Appeals

MOTION TO REINSTATE
APPEAL OF CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
Mikell R. Scarborough, Masters-in-Equity

Appellate Case No. 2016-001201

Allen Livingston,

Respondent,

v.

Harold Simmon, Jr.,

Appellant.

Appellant Harold Simmons Jr., Pro Se requests that this Court reinstate the Appeal of this case entered on September 8, 2022. This case was closed without the opportunity to be heard to the Appellant. Therefore, the Appellant makes this motion pursuant to Rule 60(a)(b), SCRPC. **(a) Clerical Mistakes.** Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court. The ending of a term of court or departure from the circuit shall not operate to deprive the trial judge of jurisdiction to correct such mistakes. A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: **(1)** mistake, inadvertence, surprise, or excusable neglect; **(2)** newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); **(3)** fraud, misrepresentation, or other misconduct of an adverse party; **(4)** the judgment is void; **(5)** the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

A. Appellant has suffered serious immediate family crisis issues and natural disaster issues. An immediate family member death occurred on July 2, 2022, Appellant mother was hospitalized on July 29, 2022, Appellant brother was hospitalized on August 8, 2022, Appellant was declared by his doctor to be totally disabled on August 4, 2022, Appellant was in a serious automobile accident on September 8, 2022, returned to Hospital on September 9, 2022, and was diagnosed as having COVID 19 on September 21, 2022. Appellant endured a hurricane natural

disaster on September 28, 2022 , and was declare disabled mentally from injuries on October 4, 2022.

- B. The Appellant was denied a jury trial in the lower courts and this was ignored by the appeals court and the case was never reviewed on the facts but only observed on the technicalities.
- C. The Appellant due process rights were violated numerous times by the lower courts and appeals court based on the ignoring of the facts and evidence that clear revealed fraudulent Judge Orders and defendant filing of fraudulent documents along with not addressing the frivolous actions of the defendant, and ignoring the counterclaim evidence by the lower court Judges, and the ignoring of the supreme court opinion towards the appeals court.
- D. The Appellant was treated bias by the entire court system and its process by the showing of favortism from the lower courts and appeal court systems.
- E. The Appeal Court continued to deny the Appellant the right to argue the case and present the facts and evidence by ordering a dismissal and remitur return and never addressing the evidence and facts. Yet would in return allow the defendant and its counsel to submit evidences and or filings way out of time frame compliance and never address the wrong things done but allowed it and made a false ruling against Appellant based on frivolous information and then when it was pointed out to the Appeal court, it was never corrected. Instead it was used agaist the Appellant by ignoring and continuing the error as if it was correct.
- F. The Appellant re: ests the court reinstate this case.

Respectfully Submitted,

Harold

October 21, 2022



Harold Simmons, Jr.,
3042 North
Carolina Ave
North Charleston, South Carolina
29405
843-480-8694
Pro Se, Appellant



File fee
\$50.00
for mail

Other Counsel of Record:
Allen Livingston
6508 Savannah Hwy
Ravenel, South Carolina 29470
Pro Se, for Respondent

Court of Common Pleas case:2014-cp-100-1635
Honorable Mikel R Scarborough S.C. Master-in-Equity
100 Broad Street, suite 266
Charleston, South Carolina 29401-2258,

South Carolina Court of Appeals
1220 senate street Columbia,
South Carolina 29201
case:2016-001201

Supreme Court of South Carolina
1231 Gervais Street Columbia,
South Carolina 29201
case 2021-001234 memorandum opinion No:2020-mo-008 .



CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION

Pay to *South Carolina Court of Appeal*

KEEP THIS RECEIPT FOR YOUR RECORDS

NOT NEGOTIABLE

Address *Motion to Reinstate*

Serial Number
28368128755

Year, Month, Day *2022-10-24* Post Office *294051* Amount *\$50.00* Clerk *98*



POSTAL MONEY ORDER

Serial Number
28368128755

Year, Month, Day *2022-10-24* Post Office *294051* U.S. Dollars and Cents

\$50.00

Fifty Dollars and 00/100 *****

Amount

Pay to *South Carolina Court of Appeals*

Clerk *98*

Address

From *Harold Simmons Jr*

Address *3042 North Carolina Ave*

Memo *Motion to Reinstate*

North Char S.C. 29405

⑈00000800⑈

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS
28368128755

Patient Status/Disability Form

B.P. Chiropractic
5150 Ashley Phosphate Rd.
N. Charleston, SC 29418
(843) 552-5353 • Fax (843) 553-8105

NAME: Harold Simmons DATE: 10/4/22

This is to certify that the above named patient is under the care of our office. The patient was at our office AM [] PM [] today for treatment.

Physician Report: DIAGNOSES: Post accident trauma : Other _____
And
Therapy Rx [] Physical Therapy Chiropractic [] Orthopedic Evaluation [] Neurologic Evaluation

Frequency [] Daily [] 4 days/week 3 days/week [] 2 days/week

Work/School Recommendations:

Employee may return to work/school without restrictions as of ___/___/___.

Totally disabled. Effective ___/___/___ . Estimated return to work in ___ Weeks; Undetermined time []

The patient has been examined by [] Orthopedic Surgeon [] Neurologist Disability recommendations and report are pending.

The patient is returning to work against medical advice. The patient cites: [] financial necessity [] Employer does not offer light duty work, therefore employee must return to full duty.

Return to work with light duty restrictions listed below: Effective Date ___/___/___

[] Lifting – Occasional 10 / 25 / 50 Max lbs. [] Lifting – Repetitive 5 / 10 / 25 Max lbs.

[] No repetitive bending, twisting at the waist. [] No repetitive movements involving arms/shoulders

[] No reaching above shoulder level [] No repetitive pushing, pulling

[] Hourly breaks (5-10 min) to stretch/rest [] Mixed sitting, standing, walking hourly

Notes: Mr. Simmons is under our care for a car accident for the next 4-6 weeks.

Physician's Signature



Patient: SIMMONS, HAROLD JR
 Account No: D00073441960
 Unit No: D000269727
 Location: SMC EMERGENCY DEPART...
 Physician: Shelley, Neal H MD
 Date: 10/06/22

Patient Visit Information

You were seen today for:

Cervical strain, acute

Staff

Your caregivers today were:

Physician: Shelley, Neal H MD
 Practitioner: WARE, BRANDON M PA

Patient Instructions Reviewed

Neck Sprain or Strain

received 10/06/22 - 1413

Activity Restrictions or Additional Instructions

Rest, warm compress to areas.

Alternate Tylenol and NSAIDs as needed for pain if you can take these medications.

Please return to the ER for fever, numbness, tingling, weakness, bowel/bladder changes, chest pain, abdominal pain or any other concerns.

Expect to be more sore in the next few days.

Please follow-up with your regular physician

Flexeril as needed for muscle spasms, may cause drowsiness, do not take while driving.

Medication Dose and Instructions

CYCLOBENZAPRINE (FLEXERIL) 10 MG TAB
 10 MG ORAL (by mouth) TWICE DAILY AS NEEDED As Needed for spasm #10 TAB REF 0
 10/06/22 2:12pm Status: PENDING
 Walgreens Drugstore #17043 (843)766-5593
 1115 OLD TOWN RD CHARLESTON, SC 294076062

LIDOCAINE 5% (LIDODERM 5%) 1 EACH ADH. PATCH
 1 PATCH TRANSDERMAL DAILY #14 PATCH REF 0
 Instructions: 12 hours on to affected area, then 12 hours off
 10/06/22 2:12pm Status: PENDING
 Walgreens Drugstore #17043 (843)766-5593
 1115 OLD TOWN RD CHARLESTON, SC 294076062

APPOINTMENT CARD

Patient Name: Simmons, Harold

Appointment: Wednesday, September 21, 2022 at 9:40 AM

Provider: Dana L Simpson

Resource: Simpson, Dana L

Facility: TJ Bell Family Health Center
130 VARNFIELD DR Suite 100
SUMMERVILLE, SC-29483-7317
Tel:843-722-4112 Fax:866-285-7156

Reason: Car accident



Fetter Health Care
— NETWORK —

Covid-19 Rapid Covid Test Results (FORM D)

Thank you for entrusting Fetter Health Care Network for your COVID-19 testing needs today. You have received rapid antigen test results.

Please continue to practice social distancing and wearing face coverings to continue to keep yourself and others free of infection.

Your RAPID COVID TEST RESULT IS: **POSITIVE**/NEGATIVE as of

9/21/22

IF NEGATIVE: Continue to socially distance yourself from others and wear a mask to decrease the spread. If symptoms persist or worsen, consider retesting in 1-3 days.

IF POSITIVE: REMAIN ISOLATED AT HOME, for 5 days (tomorrow is day #1). If symptoms are significantly reduced, stop isolation and wear mask for additional 5 days at all times to decrease spread to others. If still symptomatic, then remain on isolation until symptoms are resolved.

Seek immediate medical attention via 911 or nearest emergency department if symptoms worsen.

Should you develop additional questions related to COVID-19 results after your test, please call 843-722-4112 from 8:30am-5:00pm.



Patient: SIMMONS, HAROLD JR
Account No: D00073190002
Unit No: D000269/2/
Location: SMC EMERGENCY DEPART...
Physician: ER, Doctor
Date: 09/09/22

School/Work Excuse

Trident Medical Center
Summerville Medical Center
Moncks Corner Medical Center
Centre Pointe Emergency
Brighton Park Emergency

Print Date: 09/09/22 Time: 2338
ED Visit Date: 09/09/22

SIMMONS, HAROLD JR has been treated and released from the Emergency Department.
The physician's instructions are as follows:

Return to Work(days): off 9/9 - 9/11/22

Return to School(days):

Comment:

ED provider: ER, Doctor

Date 09-08-2022	County 18	City, State & Zip 642 / DORCHESTER RD	City, State & Zip 2 NORTH CHARLESTON
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Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530

SA-551853 Driver/Pedestrian's Full name SIMMONS HAROLD				SA-561854 Driver/Pedestrian's Full name BURGESS TRACY R			
Unit # 1	Sex	Race	Street 1182 KING ST	Unit # 2	Sex	Race	Street 5414 CLEARVIEW DR
# Occ 1	Birth Date		City, State & Zip CHARLESTON SC 294033426	# Occ 1	Birth Date		City, State & Zip N CHARLESTON SC 294207804
State SC	Driver's License # 0002502272		Class D	Insurance Company AARP	State SC	Driver's License # 00C1870670	
Year 2004	Body PK	Vehicle Make FORD	VIN 1FTPW12594KB90466	Year 2017	Body UT	Vehicle Make MERZ	VIN WDC0G4KB0HF162988
State SC	Year 2023	License Plate # QZG309	Owner's D.L. # 0025022272	State SC	Year 2023	License Plate # FFR490	Owner's D.L. # 001870670
Home Telephone			Owner's Full Name SIMMONS HAROLD N	Home Telephone			Owner's Full Name BURGESS TRACY R
Bus. Telephone			Street 1182 KING ST	Bus. Telephone			Street 5414 CLEARVIEW DR
Contributed To Collision Yes <input type="radio"/> No <input checked="" type="radio"/>			City, State & Zip CHARLESTON SC 294033426	Contributed To Collision Yes <input checked="" type="radio"/> No <input type="radio"/>			City, State & Zip N CHARLESTON SC 294207804

Driver/Pedestrian's Full name				State	Year	License Plate #	Owner's D.L. #
Unit #	Sex	Race	Street	Home Telephone		Owner's Full Name	
# Occ	Birth Date		City, State & Zip	Bus. Telephone		Street	
State	Driver's License #		Class	Insurance Company	Contributed To Collision Yes <input type="radio"/> No <input type="radio"/>		City, State & Zip
Year	Body	Vehicle Make	VIN	Accident Insurance Information for Unit # 2			
All Units Insurance Information (to be completed by Investigating Officer)				Company Name PROGRESSIVE		Area Code/Phone Number	
				Agency Name		Policy Number 938765509	
Accident Insurance Information for Unit # 1				Accident Insurance Information for Unit #			
Company Name AARP		Area Code/Phone Number		Company Name		Area Code/Phone Number	
Agency Name		Policy Number 55PHG759983		Agency Name		Policy Number	

Automobile Liability Insurance Information

Notice of Requirement Accepted <input type="checkbox"/>	Signature	Y <input type="checkbox"/> N <input type="checkbox"/> Refused to Affix Signature?
		Y <input type="checkbox"/> N <input type="checkbox"/> Vehicle Subject to Registration in SC?
To Be Completed Below or Entered at WWW.SC-ALIR.com By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically. Reference to Unit #: _____. I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated Insurance company on the date of the collision.		The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is imputed into the above mentioned insurance as I have listed herein.
Insurance Company	Policy #	Signature
Beginning Date	Ending Date	Title
	Policy Holder	NAIC # (Assigned by S.C. Dept. of Ins)
		Bus. Telephone ()

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion				Form FR-10 Not Issued: Section 56-10-520			
Check here if a Form SR-23 Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle				No FR-10 issued to Operator/Owner of Unit #: _____			
Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____				Summons Issued To:			
Check here if liability insurance was not in effect to comply with South Carolina statutory requirements.				Signature		Date	
				For operating or allowing the operation of an uninsured vehicle		Summons Number:	
						Signature	
Investigating Officer's Name J.D. TUTEN	Rank LCPL	SCCJA# 2408-7502	Jurisdiction Code HP06	Review Date	Reviewer's Name	Rank	Internal Agency Code CHTC22CAD107900

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SC Court of Appeals

FORM 7
PROOF OF SERVICE OF A NOTICE OF
APPEAL

THE STATE OF SOUTH CAROLINA
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[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
Mikell R. Scarborough, Masters-in-Equity

Appellate Case No. 2016-001201

Allen Livingston,

Respondent,

v.

Harold Simmon, Jr.,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Allen Livingston, Honorable Mikel R Scarborough S.C. Master-in-Equity, South Carolina Court of Appeals. And Supreme court of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on October 21 2022, addressed to all above mentioned at their respectable addresses stated below on October 21 2022

October 21, 2022

Harold
Simmons, Jr.,
3042 North
Carolina Ave
North Charleston, South Carolina
294059
843-480-8694
Pro Se, Appellant

Other Counsel of Record:
Allen Livingston
6508 Savannah Hwy
Ravenel, South Carolina 29470
Pro Se, for Respondent

Court of Common Pleas case:2014-cp-100-1635
Honorable Mikel R Scarborough S.C. Master-in-Equity
100 Broad Street, suite 266
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case:2016-001201

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South Carolina 29201
case 2021-001234 memorandum opinion No:2020-mo-008 .