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Nov 28 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No.: 1708689

Appellate Case No. 2021-000778

Vasile Florin Craus, Employee.....Appellant

v.

NUTRA Manufacturing, Inc., Employer, and
Sentry Casualty Company, Carrier,.....Respondents

RESPONDENTS' MOTION TO DISMISS

Respondents, by and through the undersigned attorney, hereby move before this Honorable Court for an order dismissing this appeal based on two arguments. First, Respondents move for dismissal based on Appellant's repeated failure to comply with the South Carolina Appellate Court Rules—most importantly, Appellant's most recent failure to comply with this Court's instructions on filing a supplemental record on appeal. Second, Respondents assert that Appellant's underlying appeal is without merit, as Appellant has failed to demonstrate any clear attribution of legal error. Appellant's allegations have no evidentiary basis, and Appellant has repeatedly made arguments outside of the record, including arguments that were properly persevered on appeal.

With respect to Appellant's failure to comply with the South Carolina Appellate Court Rules, Respondents would first direct this Court's attention to Appellant's most recent failure to comply with Rule 210, SCACR, and this Court's Order and instructions dated September 13, 2022.

On June 20, 2022, Respondents filed a motion to compel Appellant to comply with 201(C) and 209, SCACR, controlling the filling of the Record on Appeal. In support of the motion, Respondents argued that after Appellant’s repeated failures to comply with the South Carolina Appellate Court Rules, this Court sent correspondence to Appellant on May 6, 2022, specifically instructing Appellant to file the record on appeal pursuant to Rule 210, SCACR, within 30 days. According to C-Track, Appellant filed proof of service with this Court, but Appellant failed to file the record on appeal as instructed. Although Appellant failed to file the record on appeal with this Court as instructed, Appellant emailed Respondents a document titled “Record on Appeal” on June 3, 2022—however, the document emailed to Respondents again failed to comply with Rule 210(C) and 209, SCACR, in that it did not include all matter designated to be included by any party. Specifically, Appellant failed to include any and all matter set forth in Respondents’ designation of matter dated March 17, 2022.

On September 13, 2022, this Court issued an Order granting Respondents’ motion to compel and instructed Appellant to serve and file a supplemental record on appeal within thirty (30) days that included all of Respondents’ designated matters that were omitted from the record Appellant filed on August 9, 2022, stating, “[n]amely, the supplemental record should include Respondents’ designated matters 4 through 12, and 15 through 28. Failure to comply may result in dismissal of this appeal.”

On November 8, 2022, Appellant submitted a “record on Appeal” to this Court. Although Respondents acknowledge that Appellant included Respondents’ designated matters 4 through 12, and 15 through 28, Respondents respectfully submit that Appellant has continued to fail to comply with the South Carolina Appellate Court Rules, and as a result, it is practically impossible for Respondents to draft and submit a final brief in compliance with the requirements set forth in the

South Carolina Appellate Court Rules. Specifically, Respondents respectfully submit the following:

1. Appellant has submitted a designation of matter four (4) times in this case. The first designation of matter, received by this Court on February 18, 2022, contained seven (7) numbered items, one of which was not even a designated matter, but instead was an unfounded argument alleging, “Defendants’ exhibits shows concealed evidence, false evidence to obtain financial benefits in violation of, WC Commissioners knowingly making false statements, misrepresentations, to fraud abet, assist, solicit or conspire with person/attorneys to make false representations is violation of Rule 1.8, Rule 3.4(a)(b), Rule 3.5, Rule 4.1, Rule 8.4, First Amendment, Fourteenth Amendment.”. The second designation of matter, received by this Court on March 28, 2022, contained seven (7) items, and for the first time included items identified as proof of service, a request to allow additional evidence, and a “subpoena refused by Defendants to release their email correspondence.” The third designation of matter, received by this Court on April 15, 2022, contained seven (7) items, and now included “subpoena refused by Defendants to release CCTV and email correspondence from W.C. case.mgr Perry Reed.” The fourth designation of matter, received by this Court on August 9, 2022, at the same time as the record on appeal was received, contained five (5) items and included improper argumentative text that is not allowed by the rules. Rule 209(b), SCARC.
2. The first record on appeal received by this Court on August 9, 2022, is numbered pages 1 through 220, and as pointed out in Respondents’ June 20, 2022, motion to compel, failed to include any matters designated by

Respondents in their March 22, 2022, designation of matter. The title page to the record on appeal received by this Court on August 9, 2022, also includes statements by Appellant regarding an allegation that Appellant was not allowed to have legal representation at the request of counsel for Respondents. Not only is this statement unfounded and unsupported by the evidence, but it is in violation of Rule 210(d), SCACR, which states the title page shall contain the caption as set forth in Rule 267, and nothing shall be printed on the title page except the caption.

3. The second record on appeal received by this Court on November 8, 2022, which Appellant failed to label as “supplemental,” is also numbered beginning with page 1 and goes through page 402. The title page again includes Appellant’s unfounded allegation regarding his inability to have legal representation at the request of counsel for Respondents, in violation of Rule 210(d), SCARC. Appellant’s index for the November 8, 2022, record on appeal includes improper, unfounded, and argumentative statements attached to each item listed in violation of Rule 210(e), SCACR.
4. Since both the August 9, 2022, and November 8, 2022, records on appeal submitted by Appellant are paginated beginning with page 1, Respondents cannot file a brief and properly reference the record on appeal, as both submitted records contain duplicative numbering.

In addition to Appellant’s failure to comply with the South Carolina Appellate Court Rules set forth above, Appellant has repeatedly failed to comply with the South Carolina Appellate Court Rules since the inception of this appeal. Specifically, deficiencies were noted on July 27, 2021; September 28, 2021; December 13, 2021; February 11, 2022; February 24, 2022; April 5, 2022; October 14, 2022; and November 4, 2022.

While Respondents appreciate Appellant's status as a pro se litigant, that fact alone does not give Appellant permission to repeatedly disregard the Appellate Court Rules. Even in light of Appellant's pro se status, his noncompliance with the rules are not inadvertent, technical errors or minor discrepancies. *See Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794 (1992). In sum, "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel [or pro se litigant] to provide material that complies with the Rules and facilitates appellate review." *Id.* at 437, 415 S.E.2d 794.


Notwithstanding the numerous procedural deficiencies upon which this Court would be justified in dismissing the appeal, Respondents also assert the underlying appeal is without merit because Appellant has failed to demonstrate any legal error or proper discussion of the evidence. Appellant's submissions contain allegations without citation to the Commission's file or evidence properly submitted into the record. Further, Appellant argues allegations of wrongdoing outside of Workers' Compensation Commission's limited jurisdiction. (See Respondents' Initial Brief, p. 9).

In sum, Respondents would urge the Court to look at Appellant's pattern of continued deviation from, and disregard for, the South Carolina Appellate Court Rules. Finally, even assuming *arguendo* Appellant was complying with the South Carolina Appellate Court Rules, Respondents point to the underlying argument put forward by Appellant and respectfully request this Court to grant the Motion to Dismiss on the grounds that continuing the appeal is not in the interest of judicial economy. Accordingly, Respondents respectfully request this Honorable Court grant Respondents' Motion to Dismiss.

[Signature Block on Following Page]

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.



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November 25, 2022
Columbia, South Carolina

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APPEAL FROM THE SOUTH CAROLINA
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Vasile Florin Craus, Employee,Appellant,

vs.

NUTRA Manufacturing, Inc., Employer, and
Sentry Casualty Company, Carrier Respondents.

PROOF OF SERVICE

I certify that I have served **Respondents Motion Dismiss** by electronic mail on the Honorable Jenny Abbott Kitchings, Clerk of Court of the South Carolina Court of Appeals at ctappfilings@sccourts.org, and Appellant Vasile Florin Craus at floriano_craus@yahoo.it.

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November 25, 2022

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Re: Vasile Florin Craus v. NUTRA Manufacturing, Inc., et al.
Appellate Case No. 2021-000778

Dear the Honorable Ms. Kitchings:

Pursuant to Rule 240, SCACR, enclosed please find Respondents' Motion to Dismiss, along with proof of service for the same. Please note that due to the Court closing for the Thanksgiving holiday, Respondents will hand deliver the required Fifty and 00/100 Dollar (\$50.00) filing fee for this motion on November 28, 2022.

If you have any questions or concerns, please do not hesitate to contact me. Thank you for your attention to this matter.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.


John Gabriel Coggiola

JGC/jgc

Enclosures: Motion to Dismiss
Proof of Service

cc: Mr. Vasile Florin Craus (via email)