

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jan 27 2023

SC Court of Appeals

Appeal from Richland County
Clifton Newman, Circuit Court Judge

STATE OF SOUTH CAROLINA,

APPELLANT,

V.

DELRICO EDMONDS,

RESPONDENT

APPELLATE CASE NO. 2022-001716

RESPONDENT'S MOTION TO DISMISS APPEAL

Respondent, through his undersigned counsel, respectfully moves to dismiss the appeal filed by the State of South Carolina based upon the following:

I.

On March 15, 2022, a Richland County jury found Respondent Delrico Edmonds guilty of one count of murder and one count of possession of a weapon during the commission of a violent crime. The Honorable Clifton Newman presided over the trial and sentenced Respondent to concurrent terms of fifty years for murder and five years for the weapon.

II.

On March 25, 2022, Respondent, through his counsel, filed a motion for new trial pursuant to Rule 29(a), SCRCrimP. Judge Newman heard argument on the motion on July 18, 2022. On

November 21, Judge Newman signed an order granting a new trial. The order was filed on November 22, 2022. On December 2, 2022, the state filed and served its notice of appeal.

III.

Pursuant to Rule 207(a)(1), SCACR, “the appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript.” “In appeals from the court of general sessions ..., the transcript must be ordered within thirty (30) days of the date of service of the notice of appeal.” Rule 207(a)(1), SCACR. “Appellant shall contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.” *Id.*

The South Carolina Supreme Court dismissed an appeal where the appellant failed to file the transcript within the time required by the statute. Virginia-Carolina Chemical Corp. v. Mills, 171 S.C. 99, 99, 171 S.E. 477, 478 (1933). The Court explained “a liberal construction should be given the Constitution and statutes in favor of appeal.” *Id.* at 99, 171 S.E. at 477. Nevertheless, the Court explained that it was duty bound to enforce the mandatory requirements which the General Assembly established “as conditions upon which the privilege of appeal may be exercised by a party litigant.” *Id.* at 99, 171 S.E. at 477-478 (internal quotation omitted). In another case, the Court dismissed an appeal where the transcript of record was not served upon the opposing party and filed with the clerk of the appellate court within the time required by the rules. State v. Cottingham, 224 S.C. 181, 186, 77 S.E. 2d 897, 899 (1953). See also Laser Supply and Services, Inc. v. Orchard Park Associates, 382 S.C. 326, 332 n.1, 676 S.E. 2d 139, 143 n.1 (Ct. App. 2009).

IV.

As previously mentioned, the notice of appeal was served on December 2, 2022. Thus, pursuant to Rule 207(a)(1), SCACR, Appellant was required to order the transcript by January 3, 2023. Not only was Appellant required to order the transcript by January 3, 2023, but Appellant was required to furnish Respondent, the Office of Court Administration, and the clerk of this Court with copies of all correspondence with the court reporter, including the correspondence requesting the transcript. According to C-Track, the South Carolina Appellate Case Management System, Appellant failed to order the transcript in the time period prescribed. C-Track shows no record of Appellant having ordered the transcript. In light of the requirement that Appellant furnish copies of correspondence with the court reporter to all parties, the Office of Court Administration, and the clerk of the appellate court, had Appellant ordered the transcript, then there would be a record of such on C-Track. In light of Appellant's failure to order the transcript in the prescribed time, Respondent asks this Court to dismiss the state's appeal.

WHEREFORE, Respondent respectfully requests that this Court dismiss the state's appeal.

Respectfully submitted,


SUSAN B. HACKETT
Appellate Defender

ATTORNEY FOR RESPONDENT

This 27th day of January, 2023.

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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Respondent's motion to dismiss appeal in the above-referenced case has been served upon Christopher Dale Scott, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is Scott.Dale@richlandcountysc.gov, this 27th day of January, 2023.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR RESPONDENT

From: [Stock, Chris](#)
To: [DALE SCOTT](#)
Cc: [Hackett, Susan](#)
Subject: Edmonds, Delrico - Motion to Dismiss - 2022-001716
Date: Friday, January 27, 2023 3:22:00 PM
Attachments: [Edmonds, Delrico - Motion to Dismiss - 2022-001716 - Solicitor Cover Letter.pdf](#)
[Edmonds, Delrico - Motion to Dismiss - 2022-001716.pdf](#)

Mr. Scott,

Please find attached for service the motion to dismiss for Delrico Edmonds' appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock
Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330