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Jun 28 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE S.C. ADMINISTRATIVE LAW COURT

Milton G. Kimpson, Administrative Law
Court Judge

Appellate Case No. 2022-001566

Lavisha N. Green,

Appellant.

v.

South Carolina Department of Employment
and Workforce, and Cellco Partnership,

Respondents,

RESPONDENT'S MOTION TO DISMISS

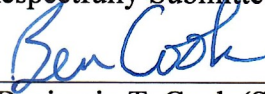
Respondent South Carolina Department of Employment and Workforce (the Department) moves this Court to dismiss Appellant Lavisha Green's appeal because Appellant has failed to comply with this Court's April 12, 2023, Order. On March 6, 2023, the Department filed a motion to strike Appellant's initial brief, designation of matter, and other documents outside the record. On April 12, 2023, this Court issued an Order granting the Department's Motion and requiring Appellant, within thirty (30) days of the Order, to "file a designation of matter and initial brief that comply with Rules 208, 209, and 210 of the South Carolina Appellate Court Rules." Appellant failed to file the required documents within the thirty-day time limit. On May 23, 2023, this Court mailed a letter to the parties noting that Appellant had not yet complied with this Court's April 12, 2023, Order and requiring Appellant to file and serve the initial brief of Appellant and designation of matter within ten days of the letter or have her appeal dismissed. On May 30, 2023, Appellant

filed with this Court an exact copy of the initial brief and designation of matter which had already been stricken by this Court's April 12, 2023, Order and still bearing the previous date stamps from the Court's initial receipt.

Because Appellant has already initially failed to file a proper initial brief and designation of matter that comply with this Court's rules, and has also failed to comply with this Court's April 12, 2023, Order, this Court should dismiss Appellant's appeal pursuant to Rule 260(a), SCACR. *See* Rule 260(a) ("Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court."). The resubmitted copies of the previously stricken documents still do not comply with this Court's rules. *See* Rules 208-210, SCACR. Importantly, Appellant's failure to file an initial brief and designation of matter that comply with this Court's Rules is not the result of her unfamiliarity with those rules. The Court and the Department have drawn Appellant's attention to the rules governing the initial brief and designation of matter multiple times through both a motion to strike and the Court's April 12, 2023, Order. Thus, Appellant is either unwilling or unable to file an initial brief and designation of matter that comply with the Court's rules, and the Court should dismiss this appeal. *See Henning v. Kaye*, 307 S.C. 436, 438, 415 S.E.2d 794, 794–95 (1992) ("Counsel is advised that 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."); *Georganne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990) ("There is a limit beyond which the court should allow a litigant to consume the time of the court and to prolong unnecessarily time, effort, and costs to defending parties.").

Based on the foregoing, the Department moves this Court to dismiss this appeal. Appellant filed an initial brief and designation of matter that did not comply with this Court's rules. After the defects were brought to the Appellant's attention and the Court issued an Order to file a proper initial brief and designation of matter, Appellant merely resubmitted the previously stricken brief and designation of matter rather than make any genuine attempt to comply with this Court's Order. Appellant is unwilling or unable to file a proper initial brief and designation of matter despite the Court and the Department pointing her to the applicable rules multiple times. Thus, the Court should dismiss this appeal. Also, the Department requests this Court hold all timelines in abeyance pending the Court's ruling on this motion.

Respectfully Submitted,



Benjamin T. Cook (S.C. Bar # 102216)
S.C. Department of Employment and Workforce
Office of General Counsel
P.O. Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Email: bcook@dew.sc.gov

Attorney for Respondent
S.C. Department of Employment and Workforce

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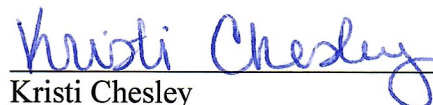
PROOF OF SERVICE

I certify that I have served the Motion to Dismiss of Respondent SC Department of Employment and Workforce on the parties in this case by mail on June 28, 2023, addressed to the parties at their addresses of record:

Lavisha N. Green
154 Buchanan Circle
Goose Creek SC 29445

Cellco Partnership
PO Box 66744
St Louis MO 63166

June 28, 2023



Kristi Chesley
South Carolina Department of Employment and
Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395