THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

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SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Deborah Brooks Durden,
S.C Administrative Law Court Judge

Case No. 2202-001433

Wendell D Cooper,

Appellant,

v.

South Carolina Department of Employment of Workforce and School District of Greenville County,

Respondents.

MOTION TO REINSTATE APPEAL

Appellant Wendell Cooper respectfully moves this court for an order to reinstate his appeal. This motion is based on the South Carolina rule of Civil 6(e) allows a 'grace period of five days beyond the normal due date of any action in response to something served via U.S. Mail. (See United Van Lines. V. Anderson, 802 F. Supp 1399 D.S.C. 1992.)

Following the order entered on March 1, 2023, the appellant filed a motion for an extension of time to file a motion to reconsider on March 10, 2023. The Court extended the Appellant's time to file a motion to reinstate the appeal until March 31, 2023.

On January 5, 2023, the Court sent the appellant a notice of deficiencies, including proof of service and designation of matter. (See Exhibit 1). Respondent filed a motion to dismiss for failure to file a timely designation of matter on February 18, 2023. The Appellant filed a motion opposing the respondent's motion to dismiss the appeal, citing the South Carolina rule of Civil 6(e). In calculating the start date, it would begin on January 6 and end on January 20th, 2023. If you omit to count January 16, 2023, because of a federal holiday, the end date would be January 23, 2023. The appellant addresses the Court deficiencies by filing an amended brief, including a matter of designation and proof of service, on January 17, 2023. (See Exhibit 2 U.S. Postal receipt date January 17, 2023) also (See Exhibit 3 Amended Brief.) Thus, the appellant addressed the Court's concerns in a timely manner.

The respondent's motion to dismiss the appellant's appeal also alleges that the appellant's first brief was not filled timely either. Using the same method to calculate his starting and ending time filing his brief. On December 07, 2023, the Court sent the appellant a letter stating that his time to file an initial brief and designation of matter had expired. (See Exhibit 4.) The start date would be December 8, 2022, and conclude on December 22, 2023. The record shows that the Court received the appellant's brief on December 22, 2023, and one would conclude that the brief was mailed before December 22, 2023. Moreover, the Court received the appellant's brief before the date it needed to be postmarked. In addition, the Court's order on January 5, 2023, granted the appellant's motion to file the initial brief out of time and accepted his brief as filed. (See Exhibit 5.)

The appellant requests that this Court consider the reinstatement of his appeal based on the facts supported by the record. Furthermore, the appellant is a layperson of the law and should not be penalized for being ignorant of the appellant procedures. (See People v. Davis (1965) 62 Cal.2nd 806.)

Respectfully submitted,

Wendell Cooper, Pro Se
117 Palm Springs Way
Simpsonville, SC 29681
Phone # 285-230-7049

March 31, 2023

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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January 5, 2023

Wendell D. Cooper
117 Palm Springs Way
Simpsonville SC 29681

Re: Wendell D. Cooper v. SCDEW
Appellate Case No. 2022-001433

Dear Counsel:

Upon reviewing your initial brief of appellant, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter, or this appeal will be dismissed:

- The accompanying proof of service is not in compliance with the SCACR. Your proof of service should be substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. Specifically, to include names and address of those served with the initial brief.
- The initial brief is not accompanied by a designation of matter to be included in the record on appeal.

Very truly yours,

Jenny A. Kitchings
CLERK

cc: Benjamin Thomas Cook, Esquire
School District of Greenville County

Exhibit 1

UNITED STATES POSTAL SERVICE.

KEITH D OGLESBY
100 ORCHARD PARK DR
GREENVILLE, SC 29616-9998
(800)275-8777

1/17/2023 08:58 PM

Product	Qty	Unit Price	Price
2.16 Postage Stamp	3	$2.16	$6.48
Grand Total:			$6.48
Credit Card Remit			$6.48

Card Name: MasterCard
Account #: XXXXXXXXXXX4980
Approval #: 01715P
Transaction #: 250
Receipt #: 000250
AID: A0000000041010 Chip
AL: Mastercard
PIN: Not Required

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All sales final on stamps and postage.
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UPU: 453624-9552
Receipt #: 840-12900491-1-4188243-1
Clerk: 00

Exhibit 2

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Deborah Brooks Durden
S.C. Administration Law Court Judge

Case No. 2202 - 001433

Wendell Cooper, Appellant,

v.

South Carolina Department of Employment of Workforce and School District of Greenville County,
, Respondent.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

The appellant proposes the following be included in the Record on Appeal:

1. Order of March 16, 2022;
2. Order of November 6, 2022;
3. Appellant Brief June 1, 2022;
4. Transcript of Proceedings Pgs.,9,26,41,43,55-56,59,64-66,68-69,75,83-84,86,96.
5. Respondents Reply in Opposition to the Appellant's Motion Request To Set Aside The Panel's order and Respondent's Motion To Dismiss the Appellant's Appeal For Mootness.
6. Appellant's February 11, 2011, Reply to Respondents' Motion to Dismiss.
7. Defendant's Exhibits February 1, 2022, 8, and 9.

I certify that this designation contains no matter which is irrelevant to this appeal.

January 16, 2023,

Exhibit 3

Wendell Cooper
117 Palm Springs Way
Simpsonville S. C. 29681
(864) 230-7049

Exhibit 3

Appellant Amended Brief

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Deborah Brooks Durden,
S.C Administrative Law Court Judge

Case No. 2202-001433

Wendell D Cooper,

Appellant,

v.

South Carolina Department of Employment of Workforce and School District of Greenville County,

Respondents

Appellant Amended Brief

Wendell Cooper
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Email: wendelldoncooper@yahoo.com
Attorney Pro Se

Exhibit 3

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II. DID THE COURT MAKE AN ERROR LAW IN RULING THAT THE PANEL WAS AVAILABLE FOR WORK UNDER THE TWO-RULE LAW BECAUSE HE DID NOT APPEAL THE AVAILABLE WORK DECISION BY THE PANEL

III. DID THE COURT MAKE AN ERROR IN LAW FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS BECAUSE HE WAS NOT AVAILABLE FOR WORK?

IV. DID THE COURT MAKE AN ERROR IN LAW IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS BECAUSE HE WAS NOT WORKING ALL AVAILABLE HOURS?

V. DID THE COURT MAKE AN ERROR IN LAW IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS SINCE HE WAS UNEMPLOYED DUE TO A SCHEDULED BREAK IN ACADEMIC TERMS AND HAD A REASONABLE ASSURANCE OF EMPLOYMENT?

Exhibit 3

TABLE OF AUTHORITIES

STATUTES

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Federal

State

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STATEMENT OF ISSUES ON APPEAL
STATEMENT OF THE CASE

I. DID THE COURT MAKE AN ERROR LAW IN RULING THAT THE PANEL WAS AVAILABLE FOR WORK UNDER THE TWO-RULE LAW BECAUSE HE DID NOT APPEAL THE AVAILABLE WORK DECISION BY THE PANEL?

II. DID THE COURT MAKE AN ERROR IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS BECAUSE HE WAS NOT AVAILABLE FOR WORK?

III. DID THE COURT ERROR OF LAW IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS BECAUSE HE WAS NOT WORKING ALL AVAILABLE HOURS?

IV. DID THE COURT MAKE AN ERROR LAW IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS DUE TO A BREAK IN ACADEMIC TERMS AND HAD A REASONABLE ASSURANCE OF EMPLOYMENT?

STANDARD OF REVIEW

"A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1." S.C. Code Ann. § 1-23-380 (Supp. 2013). "The review must be conducted by the court and must be confined to the record." § 1-23-380(4). "The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact." § 1- 23g4-380(5). "The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is . . . clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record ..." S.C. Code Ann. § 1-23-610(B) (Supp. 2013).

LAW

The Administrative Procedures Act (APA) provides a party who has exhausted all administrative remedies available within an agency is entitled to judicial review. S.C. Code Ann. § 1-23-380 (Supp. 2013). The APA defines an agency as "each state board, commission, department, or officer, other than the legislature, the courts, or the Administrative Law Court, authorized by law to determine contested cases." S.C. Code Ann. § 1-23-310 (Supp. 2013). Under this definition, the SCDEW is an agency. See Gibson v. Florence Country Club, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding the Employment Security Commission, the predecessor to the SCDEW, was an agency within the APA, based upon its authority to make rules, as well as its ability to hear and decide contested matters). To receive benefits, an unemployed worker must demonstrate, among

Exhibit

other things, the claimant is able to work, available to work, and unemployed through no fault of their own. S.C. Code Ann. § 41-35-110 (Supp. 2013). "The burden is on a claimant to show compliance with benefit eligibility requirements. This includes a duty to show availability for work and a reasonable effort to obtain employment." Wellington v. S.C. Emp't Sec. Comm'n, 281 S.C. 115, 117, 314 S.E.2d 37, 38 (Ct. App. 1984). "[A]vailability implies an applicant's 'unrestricted exposure' to the labor market." Id. The Panel determines whether a claimant has an unrestricted exposure to the labor market by looking at the facts and circumstances of each case. Id. The ALC "may not substitute its judgment for the judgment of the [Panel] as to the weight of the evidence on questions of fact." § 1-23-380(5). "Whether a claimant is available for work is a question of fact for the [Panel]. Murphy v. S.C. Emp't Sec. Comm'n, 328 S.C. 542, 544, 492 S.E.2d 625, 627 (Ct. App. 1997). "

Review of an administrative agency's factual findings is governed by the 'substantial evidence' test of the [APA]." Id. "Substantial evidence under § 1-23- 380 . . . is neither a mere scintilla of evidence nor evidence viewed blindly from one side of a case, but rather is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached." Carroll v. Gaddy, 295 S.C. 426, 428, 368 S.E.2d 909, 911 (1988). "The substantial evidence rule does not allow judicial fact-finding, or the substitution of judicial judgment for agency judgment. A judgment upon which reasonable men might differ will not be set aside." Todd's Ice Cream, Inc. v. S.C. Emp't Sec. Comm'n, 281 S.C. 254, 258, 315 S.E.2d 373, 375 (Ct. App. 1984).

FACTS

The Appellant filed claims for federal; PUA benefits every week from the claim week ending March 21, 2020, through the week ending June 26, 2021, which was the final week of the federal PUA program benefits were available in South Carolina (*See Page 5 of the Respondent's reply in opposition to Appellant's motion to set the Panel's order and Respondent's motion to dismiss Appellant appeal for mootness).*

On November 23, 2020, Appellant stopped accepting substitute teaching positions based on his doctor's advice regarding Appellant's medical conditions and concerns about Covid – 19.

The Appellant's UI benefits year expired on March 13, 2021, and the Appellant continued to be eligible for federal UI benefits under PEUC benefits until June 26, 2021, due to Congress's extension of the program for individuals who could not reach their place of employment due to quarantine imposed by a medical professional for health reasons.

On August 10, 2021, The Panel ruled that the Appellant was ineligible for UI benefits effective June 6, 2021. August 21, 2021 *(R. pg. 2 par 2).*

The Appellant filed a new application for UI benefits on June 9, 2021. The Department determined that the Appellant could receive UI benefits on a new benefits year, effective March 14, 2021, based on his wages with Greenville *(See p. 5 par. 2 of Respondent's Reply to Appellant's*

The claim adjudicators denied the Appellant UI benefit for having a reasonable assurance

Exhibit 3

of returning to work and not accepting all available work hours.

The Appellant filed claims for state UI Benefits from the claim week ending July 3, 2021, through the claim week ending September 4, 2021. Due to the Panel's decision, the Appellant has not received state UI benefits for those weeks.

I. DID THE ADMINISTRATIVE LAW COURT JUDGE (ALCJ) MAKE AN ERROR IN THE INTERPRETATION AND APPLICATION OF THE CORONAVIRUS ACT TITLED II WHEN LOOKING AT THE RECORD AS A WHOLE?

The Appellant's testified on November 11, 2021, that he quit his job because his doctor advised him to self–quarantine due to the surge in COVID – 19 and his risk of developing COVID disease *(See R. pg. 83)*. In addition, The Appellate Panel (Panel) also acknowledges this fact in there finding. This fact is the baseline for determining Appellant eligibility for UI benefits. The Relief for Workers Affected Coronavirus Act, Title II – Assistance for American workers, families, and businesses, Subtitle A – Unemployment Insurance Provisions – Section 2102, Pandemic Unemployment Assistance (A)(3)(ii)(I)(ff), states the following:

> (3) COVERED INDIVIDUAL, the term "covered individual" (A) means an individual who (i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and
>
> (ii) provides self-certification that the individual (I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because –
>
> (ff) the individual is unable to reach the place of employment because a healthcare provider has advised the individual to self-quarantine due to concerns related to COVID - 19.

In this case, the Appellant can self–certify eligibility for COVID – 19 reasons that he is unemployed or unable or unavailable to work as the result of his doctor's advice to self-quarantine for health reasons. Thus, the state is prohibited by law from denying the Appellant UI benefits for

Exhibit 3

the above reasons. (Also, See United States Department of Labor Unemployment Insurance Program Letter (UIPL) 16 -20 Change 6).

Once this fact is established, no further fact-finding is needed. It is undisputed that the Appellant received PUA and FPUC benefits from May 21, 2020, until June 26, 2021. (See, Respondent's Reply in Opposition to Appellant's Motion to Set Aside the Panel's Order and Respondent's Motion to Dismiss Appellant's Appeal for Mootness) (MOA) (pg. 5).

The appellant filed a new application for state UI benefits on June 9, 2021(*See MOA pg. 5)*, but the Panel said that the effective date for the claim was June 6, 2021, which was 3 days before he submitted his application for state UI benefits. The Department denied the Appellant benefits before he made a new application for state UI benefits.

The Department must pay UI benefits to individuals impacted by COVID – 19 Under Section 2104, Pandemic Unemployment Assistance (B)(7)(B) – Emergency Increase in Unemployment Compensation Benefits, the terms and conditions of the State law which apply to claims for regular compensation and the payment (including terms and conditions relating to availability for work, active search for work, and refusal to accept work) shall apply to claims for pandemic emergency unemployment compensation and the payment thereof. Under this law, the Appellant received state UI and federal PUA, FPUC, and PEUC benefits because he was able and available for work because of the impact COVID – 19 would have on his health under the guidelines of the Cares Act. In essence, when the Department paid the Appellant state UI benefits, they acknowledged this law. Since there was no change in the reason the Appellant applied for previous state UI benefits that were approved on May 20, 2020; for that reason alone, he should have been eligible for state UI benefits for his new application for state UI benefits on June 6, 2021,

Exhibit 3

as well. This action by the Department demonstrated that they were not acting in good faith. The ALDJ neglected her duties by not applying the exception to the state law that an Appellant is considered able and available for work when his doctor advised him to self-quarantine for health reasons as a matter of law.

ARGUMENT

I. DID THE COURT MAKE AN ERROR IN USING THE TWO-ISSUE RULE, FINDING THE APPELLANT FAILED TO APPEAL ALL STATUTES THE DEPARTMENT USED, AND THE PANEL AFFIRMED IN DENYING HIM UI BENEFITS?

The Panel and Administration Law Court Judge (ALCJ) have introduced unemployment statutes that were not part of the adjudicator's original decision to deny the Appellant's UI benefits. The Adjudicator (ADJ) denied Appellant UI benefits based on *S.C. Code Ann 41-35-20. (See R. p.45).* The Appellant timely appealed their decision to the Appeal Tribunal (Tribunal), and Tribunal's affirmed their decision *(See R. p. 97).* Following this ruling, the Appellant filed a timely appeal to the Panel, and they affirmed the Tribunal's decision that the Claimant was ineligible for UI benefits effective June 6, 2021, to August 2021, upon finding he had the reasonable assurance of employment in the same capacity for the next school year. *(See R. p. 4).* **Second,** the Adjudicator denied the Appellant UI benefits under S.C. Code Section 41-35-110. *(See R. p. 47).* the Appellant filed a timely appeal to the Tribunal *(See R. p. 149),* and they affirmed the ADJ's decision. Next, the Appellant filed a timely appeal with the Panel, and they affirmed the ADJ's conclusion that the Claimant was ineligible for UI benefits finding he was not accepting all available work.

In this case, the two-issue rule would not be applied as suggested by the ALC for the following reasons: **First**, the ALC may not substitute its finding for the Department's findings,

Exhibit 3

and as stated above, the agency denied Appellant UI benefits for not working all available hours and reasonable assurance of employment; opposed to still working and failure to request the removal of his name from the substitute list none of which were statutes used by the agency to deny the Appellant's UI benefits; **Second,** as the record shows the Appellant correctly appealed both of the statutory reasons the Department used to deny him UI benefits, and there are no unchallenged decisions as supported in the record on appeal. **Third,** the Panel's authority is to review the findings of the Department to determine if there is substantial evidence in the record to support their decision. The two-issue rule cannot be proper in this case because the process prohibits the Appellant from having a jury to decide the issues of his defense. As duly noted in the record, the Department has not filed a complaint with a lower court and asked for a jury trial. The two-rule issue is applied when it comes to verdict forms "where there is no proper objection to the use of the general verdict; reversal is improper where no error is found as to one of two issues submitted to the jury [one of which could be determinative of the case] on the basis that the Appellant is unable to establish that he has been prejudiced." See Whitman, 383 So.2nd at 619.

Moreover, the ADJ's decision to deny Appellant UI benefits in both of his appeals was made on a single defense. Thus, the two-issue rule would not be applicable in this case. The appealed decisions were as follows:

> **First Appeal** *(R. pg. 5, Numbers 23- 30)* and *(R. pg. 6 Numbers 1-8)* Hearing Officer – We are on record with Appeal Number 21-LA-032283) in this case of the claimant Wendell Cooper and the employer School District of Greenville Count. The claimant appealed a determination that was mailed on July the 12th of, 2020, whereby he was held ineligible for benefits based on a break in terms and reasonable assurance of returning to work...
>
> **Second Appeal** *(R. pg. 4, Numbers 20 – 24)* Hearing Officer – The claimant appealed a determination mailed July 12th of 2021, whereby the claimant was held ineligible for benefits effective March 14th of 2021, due to not accepting all available work...

Exhibit 3

As noted in the above testimony, the Appellant was not required by law to appeal the Panel's fact-finding discovery on the question of unavailable for work. Because the ADJ never raised this question and the question was not in the Panel's final written decision, the ALJ exceeded its authority by ruling on a statute not presented at the hearing and not supported by law.

Fourth, Coronavirus Act, Section Title II 2102 (A)(3)(ii)(I)(ff) prohibits the state's ability to deny UI benefits for the following additional reasons:

1. The Care Act Section 2102, Pandemic Unemployment Assistance (A)(3)(ii)(I)(ff), has made an exception that if an individual is required to self-quarantine based on the advice of his physician, he cannot be considered not available for work. The Department followed these guidelines when they approved his weekly UI benefits for $326.00 *(See Respondent Reply in Opposition to Appellant's Motion to Set Aside the Panel's Order and Respondent's Motion to Dismiss Appellant's Appeal for Mootness)* (ROAM), *footnote 3 pg. 4* and *R. pg. 171).* The Department paid Appellant stat UI benefits from March 20, 2020, to March 13, 2021 *(See ROAM pg. 3 and exhibit 8),* in conjunction with PUA and PEUC benefits Under the Covid – 19 Act, Section 2104 (b)(1)(A)(B). Also, the Department paid the Appellant, thereby allowing the Appellant to receive benefits from two different programs simultaneously. Once the Appellant exhausted his state UI benefits, he qualified and received PEUC from March 13, 2021, to June 26, 2021. To receive PEUC benefits, the CARE Act Appellant had to be able to work, available to work, and seeking employment. (United States Department of Labor Unemployment Insurance Program Letter (UIPL) 17 -20 Attachment III (2)(D).

2. Department contradicts its ruling on eligibility. The Panel alleged Appellant is not eligible for state UI benefits because he is not available to work. The UIPL 17-20 terms and conditions of state law that apply to claims for regular UC also apply to claims for PEUC. In essence, if the Appellant receives PECU benefits under the CARES Act, he is also eligible for state UI benefits. Moreover, there has not been any change in the Appellant's reason for not being able to work. He was approved for state UI benefits from March 20, 2020, to March 13, 2021. Consequently, the two issues rule could not be used in the ALC's decision that the Appellant did not appeal both issues because, under the CARES Act, the Panel was prohibited from denying benefits to the Appellant for not being available for work as a matter of law if he is unable to reach a place of employment due to his doctor's orders advising him to self-quarantine for health reasons.

Exhibit 3

II. DID THE COURT MAKE AN ERROR IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS BECAUSE HE WAS NOT AVAILABLE FOR WORK?

The COVID Act, Title II– Assistance for American workers, families, and businesses, Subtitle A – Unemployment Insurance Provisions – Section 2102, Pandemic Unemployment Assistance (A)(3)(ii)(I)(ff). This law prohibited the denial of state UI benefits for not being available work for individuals required to self-quarantine at the request of their physician. The panel decided that even though his doctor advised the Appellant to self-quarantine because of the rising in COVID – 19 cases in the school and the impact the contraction of the virus would have on his health, they concluded that the work is suitable. The individual did not have good cause for refusing such work. Pursuit to UIPL 16-20 change 6 states the following:

> "...this COVID – 19 related reason applies only to individuals who have already been receiving unemployment benefits but were determined to be ineligible or disqualified under state law because they refused a job offer at a worksite that was not in compliance with local, state, or national health and safety standards directly related to COVID – 19... Section 2102(a)(3)(A)(ii)(1) of the CARES Act provides eligibility to an individual who quits their job as a direct result of COVID-19.

Based on the law, the Panel was in error for denying the Appellant state UI benefits because he refused to work in an environment that could be critically deadly to his health. For these reasons, the Department agreed with the guidelines in UIPL 16-20 change 6 and paid him unemployment UI benefits, which created another inconsistent eligibility determination on behalf of the Department.

It is undisputed that Respondent paid the Appellant PUA benefits from May 20, 2020, until June 26, 2021, and then denied him state UI benefits for not being available for work on June 6, 2021.

Exhibit 3

The Respondent's denial of eligibility for state UI benefits contradicts the rule of law and walks on its previous ruling on eligibility. As a matter of law, the Appellant could not work any hours because he was unemployed.

III. DID THE COURT MAKE AN ERROR LAW IN FINDING THAT THE APPELLANT WAS INELIGIBLE FOR UI BENEFITS DUE TO A BREAK IN ACADEMIC TERMS AND HAVING A REASONABLE ASSURANCE OF EMPLOYMENT?

To establish reasonable assurance under the federal statute 26 USC Code 3304 (A)(6)(A)(i), the Respondent has to meet all three elements. The one element the Respondent cannot satisfy is the economic conditions of the job offer because his former employer cannot guarantee 90 % of the Appellant's salary as a substitute teacher. A substitute teacher's job depends on teachers missing work for various reasons, which differs from year to year *(See Appellant brief pg. 8, 9, and 10 and UIPL 5-17 pg. 4)*. Second, the Appellant must have a contract *(See R. pg. 13)*.

HEARING OFFICER:	Do the substitutes in Greenville County or Greenville districts, school districts, um, are they required to sign a contract every year to return?
GEORGE WARD	No ma'am. There is no contract for them. They're usually given some correspondence about summer trainings that they have to attend and but there's no contract for substitutes.

Individuals unemployed related to COVID-19 reasons under Section 2102 who provided services to an educational institution or educational service agency and lack a contract or reasonable assurance are not subject to the between and within terms denial provision. The Department acknowledges this rule of law by paying the Appellant state UI and federal UI benefits during a break in school terms during the 2019 – 2020 school year. Therefore, the

Exhibit 3

Appellant is entitled to state UI benefits during the break in school terms during the 2020 - 2021 school year. Furthermore, the Respondent did not argue this point and now waves their ability to do so.

Conclusion

This Court should reverse the administrative law court's decision for its abuse of power not to incorporate the CARES Act in its review of the record as a whole, consolidating the two appeals and substituting its findings for that of the Panel's decision

Shenobell Cooper
117 Palm Springs Way
Simpsonville SC 29681
864-230-7049

Exhibit 3

PROOF OF SERVICE OF AMENDED BRIEF

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

George E. Brown, Circuit Court Judge

Case No. 2022-001433

Wendell Cooper, Appellant,

v.

South Carolina Department of Employment of Workforce and School District of Greenville County, Respondent.

PROOF OF SERVICE

I certify that I have served the Amended Brief on the South Carolina Department of Employment of Workforce and School District of Greenville County by depositing a copy of it in the United States Mail postage prepaid, on January 16, 2023, addressed to their attorney, his attorney of record, Benjamin T. Cook, Post Office Box 8597, Columbia, SC 29202, and General Counsel for School District of Greenville County Post Office Box 2848, Greenville SC 29602.

January 16, 2023,

Wendell Cooper,
117 Palm Springs Way
Simpsonville S.C. 29681
(864) 230 - 7040
Attorney for Appellant

Exhibit 3

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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December 07, 2022

Wendell D. Cooper
117 Palm Springs Way
Simpsonville SC 29681

Re: Wendell D. Cooper v. SCDEW
Appellate Case No. 2022-001433

Dear Mr. Cooper:

Our records reflect that the time for serving and filing the appellant's initial brief and designation of matter has expired. Within ten days of the date of this letter, you must serve and file the appellant's initial brief and designation of matter, along with a motion requesting permission to serve and file the initial brief and designation of matter outside of the filing deadlines set by Rules 208 and 209 of the SCACR. Your appellant's initial brief and designation of matter will not be considered and your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,
V. Claire Allen
CLERK

cc: Benjamin Thomas Cook, Esquire
School District of Greenville County

Exhibit 4

The South Carolina Court of Appeals

Wendell D. Cooper, Appellant,

v.

South Carolina Department of Employment of Workforce, and School District of Greenville County, Respondents.

Appellate Case No. 2022-001433

The Honorable Deborah Brooks Durden
Trial Court Case No. 2021ALJ220448AP

ORDER

Appellant filed a motion to file initial brief out of time. The motion is Granted. The initial brief is accepted as filed.

FOR THE COURT

BY _____
CLERK

Columbia, South Carolina

cc:
Wendell D. Cooper
Benjamin Thomas Cook, Esquire
School District of Greenville County

FILED
Jan 05 2023

Exhibit 5

PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. 2022-001433

Wendell D. Cooper, Appellant,

v.

South Carolina Department of
Employment of Workforce, and
School District of Greenville County, Respondents,

PROOF OF SERVICE

I certify that I have served the Motion to Reinstate Appeal on the South Carolina Department of Employment of Workforce and School District of Greenville County by depositing a copy of it in the United States Mail postage paid on January 30, 2023, addressed to their attorney of record, Benjamin T. Cook, Post Office Box 8597, Columbia, SC 29202, and General Counsel for School District of Greenville County Post Office Box 2848, Greenville SC 29602.

March 31, 2023

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The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
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