

Jul 12 2023

SC Court of Appeals

Motion to Grant Appeal

I submitted my appeal on November 4, 2022, within the correct time frame allowed for an appeal. The only deficiency that needed to be corrected was rule 267 (a), per the correspondence the Courts emailed and physically mailed on February 3, 2023. On February 13, 2023, I responded with the correction. March 6, 2023, SC DEW sent correspondence with a Motion to Strike.

This Motion should not have been honored due to me writing it in Layman terms. SC Courts does not have jurisdiction to make that decision.

A determination as to whether a motion, however titled, should be deemed a motion to alter or amend a judgment, a motion, not its title. In order to qualify for treatment as a motion to alter or amend a judgment, a motion must be filed no later than 10 days after the judgment and must seek substantive alteration of the judgment. A motion which merely seeks to correct clerical errors or one seeking relief that is wholly collateral to the judgment is not a motion to alter or amend a judgment, and the time for filing a notice of appeal runs from the date of the judgment. State v Bellamy, 264 Neb. 784, 652 N.W. 2d 86 (2002). Retrieved from://nebraskalegislature.gov.

(8) Form. All briefs shall comply with the requirements of Rule 267, except that the cover of initial briefs may be made of white paper of not less than twenty-pound weight and the initial briefs shall not be bound but shall be securely stapled or fastened on the top left-hand corner. Retrieved from: SCCourts.org.

There is no new evidence being presented, the Lower Courts has the same documentation I sent to SC Courts. I immediately uploaded all the documents that are being discussed in the Initial Brief and Designation of Matter after the initial hearing with Dean Freeman on September 1, 2021. Kristi Chesley is referring to the denial of benefits letter SC Administrative Law Court wrote, on pg. 5 of the denial letter, it states I did not attempt to introduce my evidence during my testimony with Dean Freeman. Before the hearing started, I was unaware that McCrea and Tran would make the accusation they made during the hearing, due to the hearing being conducted for an unauthorized leave of absence and never returning to work. All the evidence being discussed has been presented to the Appellate Lower Court.

Additional Items Included

Pg. 5 is included in this response as proof there is no new evidence being presented and SC DEW and SC Administrative Law Court are referring to the evidence that I did not know needed to be discussed during my initial hearing with Dean Freeman on September 1, 2021.

Deficiency letter from SC Courts included received on February 3, 2023.

Conclusion

At this time I am requesting that the courts grant my appeal due to SC Courts not having the jurisdiction to honor a motion to strike my initial brief being written in Layman terms, Rule 267 (a) was fulfilled, all of the evidence provided was presented to the lower level Courts, the Respondents did not respond to my appeal within the correct timeframe, and my benefits were wrongfully denied.

Sincerely,

Lavisha Green

without good cause. While Appellate presented testimony that she did not want to resign and was coerced into doing so, there is no evidence indicating coercion. The Court finds that the Department's decision was not erroneous in light of the substantial evidence in the record, and that the Record supports the decision. ²

² The Appellate Panel specifically found that Appellant "failed to report to work on January 20, 25 and 26, 2021." In her brief, Appellant disputes that she missed any work and states that she was compensated by her Employer for this time. Moreover, Appellant asserts that she had proof of her attendance on these days but the "Appellate Panel refused to accept the documentation from Payroll that stated I reported to work..." The Appellant attached documents to her brief for the Court's consideration. In its decision, the Appellate Panel noted that Appellant had tried to present additional evidence to it but ruled that such was not allowed because the evidence had not been presented to the Appeal Tribunal. While this Court is likewise bound by the Record, and thus, is unable to consider the documents attached to Appellant's brief, an examination of the testimony before the Hearing Officer reveals the Appellant attempted to introduce documentary evidence of some kind:

Hearing Officer: Since a review of the record indicates that the issue was adjudicated originally as a voluntary quit, I'm going to begin with the claimant's testimony. But before I begin taking testimony, are there any questions about the issue or procedure of today's hearing? Ms. Green, any questions?

Lavisha N. Green: No, but I do want to bring to your attention that I submitted evidence based on what they say I did on behalf of the reason that I was terminated or voluntarily quit. I submitted evidence.

Hearing Officer: As I previously indicated, you will need to bring that to my attention and proffer that as evidence when it becomes relevant to your testimony. Okay?

Lavisha N. Green: Okay.

Unfortunately, Ms. Green did not attempt to introduce her evidence during her testimony and the Hearing Officer did not remind her to do so. In her brief, Appellant suggests that she provided this information "before they made the ineligibility decision." Nevertheless, the information is not included in the Record. The Court can only speculate that the evidence she might have introduced before the Hearing Officer is the same evidence that she attempted to rely upon at the Appellate Panel and the same documents she has attached to her brief. Because of her contention that she did not miss the work days noted by the Appellate Panel, the Court further surmises that this evidence has some bearing on her absences. However, the reason Appellant was found to have voluntarily quit without good cause has more to do with her text seeking to return her equipment and ultimately, her communication of the desire to resign, than any missed work days. Thus, even if it could be argued that the Hearing Officer committed error in not allowing Appellant to introduce her evidence at the time she sought to do so, such an error is harmless in light of Appellant's resignation.

→ This information is not true. From the beginning, I stated I had no recollection of the evidence they made during the initial hearing on Sept 1, 2021.

McCrea & Tran would have made the accusation during the initial hearing on Sept 1, 2021.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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February 03, 2023

Lavisha N. Green
154 Buchanan Circle
Goose Creek SC 29445

Re: Lavisha N. Green v. SCDEW
Appellate Case No. 2022-001566

Dear Mrs. Green:

Upon reviewing your initial brief of appellant, the following deficiency has 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 caption/title does not comply with Rule 267(a), SCACR. Specifically, you must title the document and include the name and addresses of the parties to the appeal.

Very truly yours,

A handwritten signature in cursive script that reads "V. Claire Allen".

CLERK

cc: Steven A Jordan, Jr., Esquire
Cellco Partnership

FORM 7
PROOF OF SERVICE OF Request to Grant Appeal

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Jul 12 2023

SC Court of Appeals

ADMINISTRATIVE LAW COURT
Administrative Law Court Judge

Milton G. Kimpson, Administrative Law Court Judge

Case No. 21-ALJ-22-0461-AP

South Carolina Department of
Employment and Workforce
Cellco Partnership,

Respondent,

v.

Lavisha Green,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice Request to Grant Appeal on South Carolina Department of Employment and Workforce and Cellco Partnership by depositing a copy of it in the United States Mail, postage prepaid, on July 12, 2023, addressed to his attorney of record, Steven Jordan and employer. PO Box 8597 Columbia, South Carolina 29202 and PO Box 66744 St. Louis MO 63166 on July 12, 2023].

July 12, 2023

s/ Lavisha Green
Lavisha Green
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