

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from the Administrative Law Court
Honorable Milton G. Kimpson, Administrative Law Judge

Appellate Case No.: 2023-000441

Stephen Mueller, Appellant,

v.

South Carolina Department of Health and Environmental Control, and
Carla Varn DuPre and Jasper B. Varn, III, Respondents.

**RESPONDENTS' THIRD JOINT MOTION TO REQUEST DISMISSAL FOR FAILURE
TO FILE A RECORD ON APPEAL**

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*Attorneys for the Respondents,
Carla Varn DuPre and Jasper B. Varn, III*

ARGUMENT

Respondents are again moving for dismissal of this appeal for another failure of Appellant, Stephen Mueller, to comply with the Rules of this Court, and in follow up to a letter received by the undersigned from the Clerk of Court on November 29, 2023.

On November 28, 2023, the undersigned alerted the Clerk of Court by email of receipt of a correspondence by Mr. Mueller identified as the Record on Appeal but consisting of only a list of documents intended to be included in the Record on Appeal. As stated in the email to the Clerk, Rule 210 SCACR defines the Record on Appeal as including “all matters designated.” The document provided to the Court does not comply with Rule 210 and instead resembles the Designation of Matters on Appeal that Appellant previously filed.

The letter sent to Appellant on November 17, 2023, which prompted Mr. Mueller to submit the above-mentioned documents to the Court, clearly stated that the appeal would be dismissed unless Mr. Mueller provided the record on appeal with a motion to file the record out of time and a filing fee. Similarly stated letters have been sent to Mr. Mueller numerous times due to his repeated failure to comply with the Appellate Court rules, which has delayed this appeal to the detriment of Respondents Carla Varn DuPre and Jasper B. Varn, III. Respondents have previously requested dismissal of this appeal on this basis. Based on matters raised in this motion, Respondents ask that this Court follow through with dismissal of this appeal as stated in the letter.

CONCLUSION

SCACR RULE 260 provides for dismissal and reinstatement of appeals. In accordance with 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.” Appellant’s conduct throughout this history of his appeal warrants the remedy provided in SCAR Rule 260. Respondents seek an Order from the Clerk dismissing the appeal for continuing failures to follow the instructions of this Court.

In addition, Respondents seek to have all deadlines pending in this matter held in abeyance until this Motion is determined.

s/Mary D. Shahid, Esq.
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December 8, 2023
Charleston, South Carolina



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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1220 SENATE STREET
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November 17, 2023

Stephen Mueller
407 Palmetto Blvd
Edisto Beach SC 29438

Re: Stephen Mueller v. SCDHEC
Appellate Case No. 2023-000441

Dear Mr. Mueller:

According to our records, the time for the record on appeal to be served and filed has expired. Within ten (10) days from the date of this letter; you must provide the record on appeal, a motion to file the record out of time, and the motion's filing fee or this appeal will be dismissed.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy". The signature is written in a cursive style.

CLERK

cc: Bradley David Churdar, Esquire
Mary Duncan Shahid, Esquire
Angelica M. Colwell, Esquire



The South Carolina Court of Appeals

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CLERK

CATHERINE S. HARRISON
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November 29, 2023

Ms. Mary Duncan Shahid, Esquire
PO Box 486
Charleston SC 29402

Re: Stephen Mueller v. SCDHEC
Appellate Case No. 2023-000441

Dear Counsel:

The Court has received your email correspondence. If you wish for the Court to take action, you must file a motion.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy". The signature is written in a cursive style.

CLERK

cc: Stephen Mueller
Bradley David Churdar, Esquire
Angelica M. Colwell, Esquire

RECEIVED

Dec 12 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court
Honorable Milton G. Kimpson, Administrative Law Judge
Case No.: 2023-000441

Appellate Case No.:

Stephen Mueller, Appellant,

v.

South Carolina Department of Health and Environmental Control, and
Carla Varn DuPre and Jasper B. Varn, III, Respondents.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I have this date, December 12, 2023, served this Third Joint Motion to Request Dismissal for Failure to File a Record on Appeal upon all parties to this appeal, and/or their attorneys, by depositing a copy hereof in the United States by electronic mail to the following:

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Attorneys for Respondents
Carla V. DuPre and Jasper B. Varn,
III



Mary D. Shahid
Shareholder

December 12, 2023

VIA EMAIL ONLY

Jenny Adams Kitchings
South Carolina Court of Appeals
Clerk of Court
1220 Senate Street
Columbia, SC 29201

RECEIVED

Dec 12 2023

SC Court of Appeals

Re: Appellate Case No.: 2023-000441

Dear Madam Clerk:

Please find enclosed Respondents' Third Joint Motion to Request Dismissal for Failure to File a Record on Appeal in the above referenced appeal, filed on behalf of Stephen Mueller.

Very truly yours,

A handwritten signature in blue ink that reads "Mary D. Shahid".

Mary D. Shahid

cc: Stephen Mueller (via email)
Bradley Churdar (via email)