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Feb 23 2024

SC Court of Appeals

**IN THE SOUTH CAROLINA COURT OF APPEALS**

Greenwich Revolving Trust by Wilmington Savings  
Fund Society, FSB, not in its individual capacity, but  
solely as Owner Trustee, Respondent,

v.

Clinton Justus aka Clinton B. Justus, Brandy L. Justus,  
and The South Carolina Department of Motor Vehicles,  
Defendants,  
of whom Clinton B. Justus is the Appellant.

Appellate Case No. 2023-001225

**MOTION TO REINSTATE**

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Counsel Andrew R. Hart respectfully moves before this Honorable Court for reinstatement of the appeal of Clinton Justus a/k/a Clinton B. Justus, dismissed by order of the Clerk of Court on February 9, 2024.

**STANDARD OF REVIEW**

Pursuant to R. 260 of the South Carolina Appellate Court Rules, upon dismissal by order by the Clerk for failure of a petitioner to comply with the requirements of the Appellate Court Rules, a case may be reinstated by leave of the court upon good cause shown after notice to all parties.

**FACTS**

Counsel for Appellant represented Appellant in the Common Pleas case, *Greenwich Revolving Trust by Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as Owner Trustee v. Clinton B. Justus, et al.* (2023CP4203758). An Order dismissing Appellant's claims in that matter was filed July 3, 2023 by the Hon. Shannon Phillips. Following that Order, Appellant Clinton B. Justus filed his appeal *pro se* without representation from

Counsel. Counsel and Appellant have no agreement to proceed forward with representation in the appeal. Counsel was listed as attorney for Appellant solely due to representation in the Common Pleas case and not due to any filings by Counsel with the Court of Appeals. All filings, aside from the current motion and Counsel's Motion to be Relieved, were drafted and submitted by Appellant with no involvement from Counsel.

A Motion to Dismiss was filed by Respondent on October 26, 2023, arguing that Appellant's initial brief failed to comply with various requirements set forth by Rule 208, SCACR. In denying the Respondent's motion, Appellant was provided with a period of 30 days from the date of the order (January 2, 2024) to submit an amended initial brief that complied with R. 208(b)(1), SCACR. While Appellant was listed in the Order as being copied, Appellant did not receive a copy of the notice. On the assumption that Appellant received a copy of the notice by virtue of being listed as "cc" recipient, Counsel did not forward a copy of the notice to him. As a result, Appellant was not informed that he had a deadline of 30 days to submit an amended initial brief, and unintentionally did not file the brief required within 30 days of the order. As a result of the failure to submit the required amendments, the case was dismissed by Order of the Clerk on February 8, 2024. After receiving a copy of the Order dismissing the case, Appellant immediately took action in contacting the court and counsel. Along with this motion, counsel for Appellant has filed a Motion to be Relieved as Counsel to properly reflect that Appellant is proceeding *pro se* and to ensure that all notices are provided directly to Appellant.

### **ARGUMENT**

The case should be reinstated to allow Appellant an opportunity to amend his initial brief because good cause can be shown.

Appellant inadvertently and with excusable error missed the deadline set by the Court in its January 2, 2024 order to amend his initial brief. Appellant did not receive notice of the Order, even though he was listed as “cc” recipient on the Order. Counsel for Appellant did not forward the communications to Appellant, on the assumption that Appellant received notice as stated on the Order. Further, Appellant was proceeding *pro se* in preparing and filing all documents himself, and Counsel was only listed as Appellant’s attorney due to his involvement with the Common Pleas case. Counsel’s filing of the current motion is done out of an abundance of caution to ensure timeliness of the relief sought, as Appellant cannot file motions directly since he is technically represented by Counsel. Appellant had, prior to this deadline, been diligent in filing required documents. The missed deadline directly causing the dismissal was due to inadvertent and excusable error, as Appellant was acting in good faith and missed the deadline only due to confusion and on the part of Appellant and Counsel. Counsel has filed a Motion to be Relieved to ensure that all notices are served directly to Appellant and to avoid any future confusion or inadvertent error. Granting of the relief would not cause any prejudice to the opposing party.

### **CONCLUSION**

For good cause shown, Appellant’s motion to reinstate this case following dismissal by the Clerk should be granted, and Appellant should be provided with additional time to amend his initial brief to comply with R. 208(b)(1), SCACR.

February 23, 2024

/s/ Andrew R. Hart

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COUNSEL FOR APPELLANT

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**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that he has this date served Appellant's Motion to Reinstatement to the following parties:

Clinton B. Justus  
970 Turning Leaf Lane  
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By electronic service:

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