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Apr 25 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

The Honorable R. Keith Kelly, Circuit Court Judge
The Honorable Perry Gravely, Circuit Court Judge

Case No. 2017-CP-11-00735
Appellate Case No. 2022-001582

Sharon Brown,

Appellant,

v.

Cherokee County School District One,

Respondent.

**RESPONDENT'S RETURN TO APPELLANT'S
SEVENTH MOTION FOR EXTENSION OF TIME**

By and through its undersigned counsel, Respondent Cherokee County School District submits this return ("Return") pursuant to Rule 240(e), SCACR in response to Appellant Sharon Brown's April 15, 2024, Motion for a 60-day Extension of Time to File her Initial Brief and Designation of Matter to be included in the Record on Appeal ("Motion").

Respondent respectfully requests the Court deny Appellant's Motion seeking a *seventh* request for an extension of time to file and serve her Initial Brief and Designation of Matter and the Court enforce its March 15, 2024, Order.

Despite the outcome of the Court's decision on Appellant's Motion, Respondent respectfully requests all future notices and correspondence dispatched from the Court to Appellant be delivered *via* Certified U.S. Mail, Return Receipt Requested, or similar delivery commercial

tracking, at the address provided to the Court by Appellant. Respondent makes this request due to Appellant's *pro se* appearance and as a solution to Appellant's unexplained and untimely failure to receive adequate notice of Court filings.

On November 8, 2022, Appellant filed a Notice of Appeal of the trial court's September 10, 2021, and October 26, 2022, judgments. On April 23, 2023, Appellant received the transcripts of the testimony from the hearing and trial and has since requested *seven* extensions of time to file her Initial Brief and Designation of Matter.

On March 15, 2024, the Court granted Appellant's *sixth* request for an extension of time to file her Initial Brief and Designation of Matter, setting the deadline as April 15, 2024, and stating, "No further extension will be granted absent extraordinary circumstances." Appellant's *sixth* request, to which Respondent did not object, was based on the recent death and March 1, 2024, funeral of Appellant's mother. On April 15, 2024—the date of the deadline—Appellant filed a Motion seeking her *seventh* request for an extension of time to file her Initial Brief and Designation of Matter. To date, Appellant has not filed or served her Initial Brief or Designation of Matter.

ARGUMENT

A. Appellant's Motion does not stay the April 15, 2024, deadline and her inaction results in a failure to file the Initial Brief and Designation of Matter.

As is pattern and practice with all *seven* requests for extensions, Appellant filed and served her Motion on April 15, 2024, - the current (passed) deadline based on the *sixth* extension. Appellant's Motion does not request the Court stay the April 15, 2024, deadline to file the Initial Brief and Designation of Matter while the Court considers her Motion. Barring a few inapplicable exceptions, under Rule 240(b), SCACR, the filing of Appellant's Motion does not stay the deadlines currently imposed at the time of filing. As such, under Rule 240(b), SCACR, Appellant's

Motion does not relieve Appellant from the April 15, 2024, deadline to file her Initial Brief and Designation.

As such, Appellant has failed to timely file her Initial Brief and Designation. Rule 208(a)(4) provides that if Appellant fails to file the Initial brief within the time prescribed, “the clerk of the appellate court *shall* sign an order dismissing the appeal.” (Emphasis added). As further support for dismissal, the Court has ruled that the right to an appeal may be lost, and an appeal can be dismissed for the failure to serve and file an initial brief and designation of matter. *Roberts v. LaConey*, 375 S.C. 97, 100, 650 S.E.2d 474, 475 (2007). Therefore, Appellant’s failure to request a stay and to file her Initial Brief and Designation of Matter subjects her appeal to dismissal under Rule 208(a)(4), SCACR.

B. Appellant’s seventh request for an extension of time is not based on extraordinary circumstances.

The grounds provided Appellant’s Motion for Appellant’s *seventh* request for an extension are not extraordinary. The Court’s March 15, 2024, Order granting Appellant’s sixth request for an extension contained the following language: “[n]o further extension will be granted absent extraordinary circumstances.” Moreover, without such extraordinary circumstances, it begs the question to the Appellant as to why she cannot provide the Initial Brief or Designation of Matter, despite having more than one year—well over the 30 days allowed under the rule—to file and serve them to the Court and Respondent.

Here, Appellant’s Motion includes Appellant’s illness, medical treatment, and the burial of her mother which occurred on March 1, 2024. In her Motion, Appellant fails to provide any details or justification as to the extent of any illness, degree of treatment or how her illness and treatment are “extraordinary circumstances” that would prevent her from filing and serving her Initial Brief and Designation of Matter. Taken as true, Appellant’s grounds for her Motion seeking the *seventh*

extension offer no specific detail of how an “illness” and “medical treatment” are extraordinary in the sense that she would be foreclosed from complying with the Court’s March 15, 2024, Order.

Furthermore, while the undersigned has great sympathy for the loss of Appellant’s mother, the March 1, 2024, funeral, was previously provided as grounds in her *sixth* request for an extension and would not interfere with the Court’s March 15, 2024, Order and April 15, 2024, deadline. As such, Appellant’s seventh Motion for Extension of Time should be denied.

C. Appellant’s Motion lacks the requirements to file motions in this Court.

Rule 240(c), SCACR indicates all motions or petitions filed in an appellate court shall be accompanied by supporting documentation. In her Motion, not only does Appellant fail to assert any factual circumstances as to why her illness or treatment would interfere with her ability to provide the Initial Brief and Designation, but she also does not file any affidavits, medical certifications, or documentation stating the extent of her illness and treatment would otherwise interfere with the 30 days the Court provided in the *sixth* extension.

SCACR and Appellant’s Motion does not comply with the requirements of Rule 240, SCACR, and should be treated as an abandonment of the Motion.

D. Appellant seeks only to delay the progress of the case due to the unfavorable outcome at the trial court.

As of the date of this filing, it has been 533 days since Appellant filed a Notice of Appeal of and 367 days since Appellant’s receipt of the trial transcript. Since receiving the transcripts, Appellant has managed to file seven requests for extensions of time yet has failed to proffer even the most preliminary stages of the appeal under Rules 208-209, SCACR. In each of Appellant’s requests for an extension of time, Appellant, and in other matters unrelated to extension requests, caused delay in filing her Initial Brief and Designation of Matter. Appellant's failure to file and serve, even partially, her Initial Brief or Designation of Matter amounts to a blatant effort to delay

the inevitable unflattering outcome and to deprive Respondent of its right to notice of the issues on appeal.

Therefore, based on Appellant's repeated delays to seek extensions the Court should deny her *seventh* Motion for an extension of time to file her Initial Brief and Designation of Matter on Appeal.

CONCLUSION

It is the Respondent's position that the Appellant's Motion for a *seventh* extension of time be denied by this Court in accordance with Rule 208(a), SCACR. In consideration of the foregoing Appellant's appeal should be subject to Rule 208(a), SCACR and at minimum, the Court enforce its deadline for Appellant to file her initial brief and designation by the previously ordered date of April 15, 2024.

Furthermore, despite the outcome of the Court's decision regarding Appellant's Motion, Respondent respectfully requests the Court to direct the Clerk to dispatch all filings and notices to Appellant *via* U.S. Certified Mail, Return Receipt Requested by Email. This request is merely in an effort to combat Appellant's on-going issues regarding timely notice of matters in this case, and in consideration of her status as a *pro se* appellant.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

WHITE & STORY, LLC



By: _____

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April 25, 2024
Columbia, SC

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Sharon Brown,

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CERTIFICATE OF COUNSEL

This is to certify that Respondent Cherokee County School District One's Return to Appellant's Seventh Motion for Extension complies with Rule 240(c), SCACR.



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PROOF OF SERVICE

I certify that I have served *Respondent Cherokee County School District One's Return to Appellant's Seventh Motion for an Extension of Time* and, by emailing a copy to Appellant, Sharon Brown, to Sharon.Brown21@yahoo.com, and mailing a copy via First-Class U.S. Certified Mail (#7021 2720 0000 6120 4235).



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April 25, 2024

VIA EMAIL FOR FILING

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**Re: Sharon Brown v. Cherokee County School District One
C/A No. 2017-CP-11-00735 / Appellate Case No. 2022-001582**

Dear Ms. Kitchings:

In response to the Appellant's Seventh Motion for a 60-day Extension of Time to file Initial Brief and Designation of Matter dated April 15, 2024, regarding the above-referenced matter, please find the following documents for filing:

- 1) Respondent's Return to Appellant's Seventh Motion for a 60-day Extension of Time to file Initial Brief and Designation of Matter to be included in the record on appeal;
- 2) Respondent's Proof of Service; and
- 3) Respondent's Certificate of Counsel.

If we need to submit an original copy to the Court or if there are any issues with the filings, please let me know and I will take care of it before the close of business today.

Thank you for your assistance in this matter.

Sincere regards,

J. Alexander Sherard

Enclosures

c: Andrea E. White, Esq. (w/o enclosures)