

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Case No. 12-ALJ-22-0503-AP

Appellate Case Number: 2013-001230

Fredrick S. Pfeiffer,

Appellant,

v.

South Carolina Department of
Employment and Workforce,
and, Gleaton Wyatt Hewitt,
PA,

Respondents.

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SC Court of Appeals

**RESPONDENT SCDEW'S RETURN IN OPPOSITION TO APPELLANT'S
MOTION TO REINSTATE APPEAL AND FOR ENLARGEMENT OF TIME**

Respondent, the South Carolina Department of Employment and Workforce (SCDEW), opposes Appellant Fredrick S. Pfeiffer's motion to reinstate his appeal and for enlargement of time. SCDEW requests that the Court deny Appellant's requests, and uphold its July 29, 2013, Order dismissing this appeal.

BACKGROUND

Appellant, although acting *pro se* in this appeal, is an attorney. Appellant was indicted by the State Grand Jury for nine (9) counts of securities fraud and two (2) counts of criminal conspiracy in June 2012. As a result of his indictment, the South Carolina Supreme Court placed

Appellant on interim suspension on June 15, 2012. *In re Pfeiffer*, 398 S.C. 591, 730 S.E.2d 855 (2012). Thereafter, because Appellant was no longer able to work as an attorney for his law firm, he filed for unemployment benefits.¹ SCDEW disqualified him from receiving unemployment benefits for a period of seventeen (17) weeks after finding his employer, Respondent Gleaton Wyatt Hewitt, PA (Employer), terminated his employment for cause connected with work. Appellant appealed SCDEW's final decision to the Administrative Law Court which affirmed SCDEW's disqualification decision in an order dated May 17, 2013.

Appellant filed and served a Notice of Appeal (NOA) with this Court on June 3, 2013. Pursuant to Rules 208 and 209, SCACR, his Initial Brief and Designation of Matter were due 30 days later. SCDEW was not timely served with these materials. Moreover, Appellant failed to timely file these documents with the Court. Accordingly, this Court issued an Order **dismissing** Appellant's appeal on July 27, 2013.

On August 7, 2013, Appellant belatedly filed and served his Initial Brief and Designation of Matter. He also filed a single-page "Motion to Reinstate and Enlarge Time." Appellant suggests that his motion be granted based on "excusable neglect" because he "failed to properly calendar time for filing and serving of the Initial Brief of Appellant." Appellant further moved for the time of filing to be "enlarged to Friday, August 9, 2013."

ARGUMENT

Rule 260, SCACR, states the following:

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. A case

¹ Furthermore, on or around June 21, 2013, Appellant was indicted again by the State Grand Jury on additional charges of forgery, conspiracy and securities fraud. See news articles at <http://www.wspa.com/story/22657933/greenville-attorney-indicted-by-state-grand-jury> and <http://www.thestate.com/2013/06/27/2838189/charges-against-anderson-attorney.html> (last accessed August 19, 2013).

shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.

In the instant case, Appellant has not shown good cause for his failure to comply with the Appellate Court Rules.

Clearly, as an experienced attorney, albeit one who is currently on interim suspension, Appellant is expected to be able to conform to the Court's deadlines as set out by the Appellate Court Rules. Even if leeway is granted to Appellant as a *pro se* litigant, his alleged failure to properly calendar the due dates does not establish "good cause" for setting aside the dismissal. Rule 260, SCACR; *cf. Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct. App. 2001) (where the Court of Appeals found that a party's lack of familiarity with legal proceedings does not constitute excusable neglect which would relieve the party from a default judgment); *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct.App.1988) (a "party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney").

Appellant's admitted oversight cannot be considered "good cause" for his failure to comply with Rules 207, 208, and 209, SCACR. Rule 260, SCACR. Therefore, Appellant's motion to reinstate should be denied.

CONCLUSION

SCDEW therefore respectfully asks this Court to deny Appellant's requests. SCDEW also moves for all other deadlines to be held in abeyance pending the Court's decision on this matter.

Respectfully submitted,

A handwritten signature in cursive script, reading "Debra S. Tedeschi", written over a horizontal line.

Debra S. Tedeschi, SC Bar # 15307
Deputy General Counsel
Department of Employment and Workforce
P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395 (Telephone)
(803) 737-0124 (Facsimile)
legal@dew.sc.gov

Attorney for Respondent SCDEW

August 19, 2013

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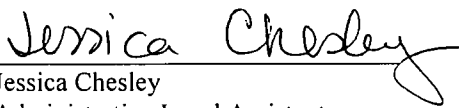
PROOF OF SERVICE

I certify that I have served the Respondent SCDEW's Return in Opposition to Appellant's Motion to Reinstatement Appeal and for Enlargement of Time on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on August 19, 2013, addressed to the parties at their addresses of record:

Frederick S. Pfeiffer
214 Loblolly Lane
Greenville SC 29607

Gleaton Wyatt Hewitt, PA
935 South Main Street,
Suite 203
Greenville, SC 29601

August 19, 2013



Jessica Chesley
Administrative Legal Assistant
SC Dept of Employment and Workforce
Post Office Box 8597
Columbia, South Carolina 29202