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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT OF SOUTH CAROLINA

WRIT OF CERTIORARI

APPEAL FROM South Carolina Court of Appeals

PlanetONE Packaging, LLC, Respondent,

v.

Dorothy Pierce, Appellant.

Appellate Case No. 2024-000334

PETITION FOR WRIT OF CERTIORARI

Appellant Dorothy Pierce respectfully petitions the Supreme Court of South Carolina for a Writ of Certiorari to review the decision of the South Carolina Court of Appeals in the above-referenced case.

QUESTIONS PRESENTED

1. Whether prohibiting pro se litigants from using electronic filings constitutes discrimination and violates constitutional rights.
2. Whether the South Carolina Court of Appeals erred in failing to consider the Appellant's Certificate of Service attached to the initial Notice of Appeal.
3. Whether the due process rights of the Appellant were violated during the proceedings in the lower courts when she was only given the option of mailing her Motion to Dismiss

from Uganda while the opposing party was able to file their motions electronically with ease.

4. Whether the procedural requirements for pro se litigants, specifically regarding electronic service, create an unfair disadvantage and impede access to justice.

STATEMENT OF THE CASE

1. This petition arises from the order of the South Carolina Court of Appeals dated June 14, 2024, and the subsequent denial of the Motion for Rehearing on June 14, 2024, in the case of PlanetONE Packaging, LLC, Respondent, v. Dorothy Pierce. The state of South Carolina highlights several benefits of E-Filing on their website, including reduced handling of paper documents and files, saving time and resources for filing documents, and providing quicker access to documents. E-Filing improves efficiency by allowing users to submit filings, pay filing fees, and check the status of filings via the Internet 24 hours a day, 7 days a week, and 365 days a year.
2. These advantages are available to privileged litigants represented by attorneys who can access the Filer Interface around the clock. However, self-represented litigants, or pro se litigants, are excluded from these benefits. Despite already facing the disadvantage of being unable to afford attorneys or attract attorney interest in their cases, pro se litigants are not permitted to E-File and thus cannot take advantage of the efficiencies and conveniences it offers.

STATEMENT OF FACTS

1. **Travel to Uganda and Service of Summons and Complaint:** In early May, the Appellant, Dorothy Pierce, had to travel to Uganda due to the tragic death of her close friend, Col. Charles Okello Engola Macodwogo, the former State Minister for Labor, Employment, and Industrial Relations in the Government of Uganda, who was fatally shot by his bodyguard on May 2, 2023. The Appellant had already made travel plans, and before her departure on May 9, 2023, the Respondent served her with a copy of the summons and Complaint.
2. **Mailing of Motion to Dismiss Appeal:** On June 1, 2023, constrained by the limitations placed on pro se litigants and the inability to utilize electronic service—as allowed for attorneys in South Carolina—the Appellant mailed a copy of the Motion to Dismiss Appeal through Posta Uganda to the Court and the Respondents. This document was returned as undeliverable, a fact discovered through the Clerk of the Court upon the Appellant's return to the United States. The Appellant was unaware of the non-delivery until her return and promptly took corrective action to remedy the service error.
3. **Hearing and Evidence Substantiation:** During a hearing on October 31, 2023, the court directed the Appellant to produce evidence substantiating the mailing to the Respondent, in addition to the receipts already provided. In response, on November 8, 2023, Oscar Ojok, the Appellant's personal assistant who had executed the original dispatch of the Motion to Dismiss on June 1, 2023, emailed the Respondent and the court, attaching a sworn affidavit attesting under oath to the dispatch of the documents. An original copy of the affidavit was subsequently sent to the P.O. box address provided by the Respondent.

4. **Motion to Reconsider and Default Finding:** On January 16, 2024, despite diligent efforts, the court found the Appellant in default. The Appellant filed a Motion to Reconsider, which was ultimately denied by Judge McIntosh on February 6, 2024. The Appellant received notice of this denial on February 10, 2024, which pertained to the Appellant's initial Motion for Reconsideration filed on January 16, 2024.
5. **Filing Notice of Appeal:** In pursuit of appellate relief, on March 6, 2024, the Appellant filed a Notice of Appeal with the Court and served the Respondent via the same email.
6. **Court of Appeals Directive and Proof of Service:** On March 12, 2024, the Court of Appeals informed the Appellant that her filing was missing proof of service and gave the Appellant 10 days to cure the deficiency. This was incorrect as the filing had a Certificate of Service attached to it, indicating service on March 6, 2024.
7. **Compliance with Court Directive:** The Appellant adhered to the Court's directive, mailing another physical Proof of Service to the Respondent on March 19, 2024, thereby aligning with the Court's service requirements. This mailing specifically indicated the actual date of mailing in juxtaposition with the electronic service initially performed on March 6, 2024. This was not the original proof of service but a fulfillment of the Court of Appeals' directive.
8. **Error in Dismissal Order:** On March 28, 2024, the Court of Appeals issued an order dismissing the Appellant's appeal for filing Proof of Service outside the 30 days requirement. This was an error because a Certificate of Service was already provided with the original filing on March 6, 2024, at the initial filing of the appeal.
9. **Motion for Rehearing and dismissal:** On April 16, 2024, the Appellant filed a Motion for Rehearing, which was denied on June 14, 2024.

REASONS FOR GRANTING THE WRIT

I. Disallowing Electronic Filings for Pro Se Litigants Constitutes Discrimination and Violates Constitutional Rights

10. Prohibiting pro se litigants from using electronic filings creates an inherent disparity between represented and unrepresented parties, amounting to discrimination. The Equal Protection Clause of the Fourteenth Amendment ensures that no state shall deny any person within its jurisdiction the equal protection of the laws. By restricting E-Filing to represented litigants, South Carolina effectively discriminates against pro se litigants, undermining their constitutional right to equal protection and access to justice. Granting the writ would allow the Court to address this systemic inequality and ensure that all litigants, regardless of representation, have equal access to the benefits of modern technology in the legal system.
11. Furthermore, if the Appellant had been allowed to file motions and notices electronically in an inclusive system, she would have automatically served the opposing counsel with the proof of filing via the system. This automatic service feature would have ensured that the opposing party received timely and accurate notice of all filings, preventing any procedural missteps and ensuring a more efficient and equitable process. Additionally, the Appellant would not have been required to mail the Motion to Dismiss from Uganda, which cost her significantly in terms of time, money, and travel expenses, including lodging for her personal assistant who traveled to the capital office in Kampala. The filing fee of \$25 could not be paid via electronic means, and mailing a check from

another country resulted in further delays as the check and postage never arrived on time through USPS.

II. South Carolina Supreme Court Erred when they Failed to Consider Certificate of Service

12. The South Carolina Court of Appeals erred in dismissing the Appellant's appeal by failing to consider the Certificate of Service attached to the initial Notice of Appeal on March 06, 2024. This oversight resulted in an unjust dismissal of the appeal, denying the Appellant the opportunity to have her case heard on its merits. The prompt consideration of the attached Certificate of Service is crucial for maintaining procedural fairness. Granting the writ would rectify this procedural error and allow for a fair review of the Appellant's case based on its substantive merits.

III. South Carolina Supreme Court Erred When They Failed to Consider Certificate of Service

13. The South Carolina Court of Appeals erred in dismissing the Appellant's appeal by failing to consider the Certificate of Service attached to the initial Notice of Appeal on March 6, 2024. This oversight resulted in an unjust dismissal of the appeal, denying the Appellant the opportunity to have her case heard on its merits. The prompt consideration of the attached Certificate of Service is crucial for maintaining procedural fairness. Granting the writ would rectify this procedural error and allow for a fair review of the Appellant's case based on its substantive merits.

14. Furthermore, if the Appellant had been allowed to file motions and notices electronically in an inclusive system, she would have automatically served the opposing counsel with

the proof of filing via the system. This automatic service feature would have ensured that the opposing party received timely and accurate notice of all filings, preventing any procedural missteps and ensuring a more efficient and equitable process. Additionally, the Appellant would not have been required to mail the Motion to Dismiss from Uganda, which cost her significantly in terms of time, money, and travel expenses, including lodging for her personal assistant who traveled to the capital office in Kampala. The filing fee of \$25 could not be paid via electronic means and mailing a check from another country resulted in further delays as the check and postage never arrived on time through USPS.

IV. Violation of Due Process Rights

15. The due process rights of the Appellant were violated during the proceedings in the lower courts when she was only given the option of mailing her Motion to Dismiss from Uganda, while the opposing party could file their motions electronically with ease. This created a significant procedural disadvantage for the Appellant, compromising her ability to participate effectively in her legal proceedings. The disparity in filing methods not only delays the Appellant's ability to respond but also increases the risk of lost or delayed documents, further prejudicing her case. Granting the writ would address this due process violation and ensure that pro se litigants are afforded the same procedural opportunities as their represented counterparts. Additionally, the Appellant would not have been required to mail the Motion to Dismiss from Uganda, which cost her significantly in terms of time, money, and travel expenses, including lodging for her personal assistant who traveled to the capital office in Kampala. The filing fee of \$25 could not be paid via electronic means and mailing a check from another country resulted in further delays as

the check and postage never arrived on time through USPS. Appellant was found in default due to unequal the system created by the state of South Carolina.

V. Prose litigants are subjected to Unfair Disadvantage and Impediment to Access to Justice

16. The procedural requirements for pro se litigants, specifically regarding electronic service, create an unfair disadvantage and impede access to justice. Pro se litigants are often already disadvantaged due to their lack of legal representation and resources. By denying them access to E-Filing, the system imposes additional hurdles that can delay their cases and complicate their ability to comply with procedural requirements. Allowing pro se litigants to utilize E-Filing would streamline the filing process, reduce the risk of errors, and promote a more efficient and equitable legal system. Granting the writ would encourage necessary procedural reforms to ensure equitable treatment of all litigants, regardless of their representation status.

VI. Promotion of Judicial Efficiency

17. E-Filing enhances judicial efficiency by reducing the handling of paper documents, expediting the filing process, and providing quicker access to documents. These benefits are critical for maintaining a streamlined and effective judicial system. By excluding pro se litigants from these efficiencies, the court system faces increased burdens in managing paper filings and delays associated with traditional mail. Granting the writ would support the implementation of uniform E-Filing practices that benefit the entire judicial system, promoting efficiency and reducing administrative burdens.

18. Granting the writ of certiorari is essential to address the systemic inequalities faced by pro se litigants in South Carolina. By allowing pro se litigants to access E-Filing, the

Court can ensure equal protection under the law, uphold due process rights, eliminate procedural disadvantages, and promote judicial efficiency. These reforms are necessary to create a fair and just legal system for all litigants, regardless of their representation status.

REQUEST FOR RELIEF

On the basis of the arguments presented above, the Appellant respectfully requests that this Honorable Court grant the following relief:

1. **Grant the Writ of Certiorari:** Review the decision of the South Carolina Court of Appeals and address the procedural and constitutional issues raised by the Appellant.
2. **Rectify the Procedural Error:** Recognize and consider the Certificate of Service that was attached to the initial Notice of Appeal on March 6, 2024, thereby reinstating the Appellant's appeal for a fair hearing on its merits.
3. **Ensure Equal Access to E-Filing for Pro Se Litigants:** Amend the South Carolina Court Rules to allow pro se litigants to utilize electronic filing systems, ensuring that they have the same access to efficient, cost-effective, and timely filing methods as represented litigants. This includes the automatic service of documents to opposing counsel via the electronic filing system, which would prevent the procedural disadvantages currently faced by pro se litigants.
4. **Address the Due Process Violation:** Recognize the undue burden placed on the Appellant when she was forced to mail her Motion to Dismiss from Uganda, resulting in significant costs in terms of time, money, and travel expenses, including lodging for her personal assistant who traveled to Kampala to facilitate the mailing. Additionally,

acknowledge the issue with the inability to pay the filing fee electronically and the delays caused by mailing a check internationally. Grant appropriate remedies to address these due process violations and ensure fair treatment in future proceedings.

5. **Promote Judicial Efficiency:** Implement uniform E-Filing practices for all litigants, regardless of their representation status, to enhance judicial efficiency, reduce administrative burdens, and streamline the filing process.
6. **Award Any Other Appropriate Relief:** Provide any other relief that the Court deems equitable, fair, and in the interest of justice, particularly for those navigating the complexities of the legal system without professional representation.

Respectfully subject, July 12, 2024



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