

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE, ROBERT L. REIBOLD

APPELLATE CASE No. 2024-000471

RANDY MURPHY, #176259,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION FOR DEFAULT

Appellant comes before this Honorable Court Of Appeals pursuant to this motion to for default to request that this appeal be allowed to go forward without consideration of the Respondent's brief or input. Throughout this entire appellate process the Respondent has failed to comply with any rule for filings or Order of the Court. Instead, it simply files numerous excuse motions.

On June 4, 2024, the Respondent wrote the clerk of court, the Honorable Jenny A. Kitchings, and requested a thirty (30) day extension to file its initial brief and designation of matter which was due on that date. It alleged that, "the request is not being made for purposes of delay but is being made to ensure the brief is properly researched and prepared." see Letter Dated June 4, 2024. On June 5, 2024, Catherine Harrison, deputy clerk, acting for the court, granted the extension until July 5, 2024. see Order Dated June 5, 2024. On July 5, 2024, the Respondent again failed to

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file its initial brief and designation of matter, but instead submitted a Motion To Hold Case in Abeyance for sixty (60) days to seek a settlement. On July 9, 2024, Appellant filed a response requesting that the motion be denied. On July 24, 2024, this Court granted the Respondent's motion and Ordered the appeal to be held in abeyance for 60 days to allow for settlement negotiations.

On September 23, 2024, the Respondent has submitted a letter to the Honorable Jenny A. Kitchings, Clerk of Court, providing her with a status update of the case, and informed her that it will continue these updates every sixty (60) days.

Clearly the Respondent has either misconstrued this Court's Order granting the motion to hold the case in abeyance for 60 days as an indefinite order, or it has gotten so comfortable and confident in its ability to manipulate the Court that it now thinks that it dictates the terms of engagement in this matter.

Based on its letter, it is totally clear that the Respondent has no intentions of filing an initial brief or designation of matter. Its sole purpose is to continue to delay the process and use this court as a tool to force Appellant to settle his case for pennies on the dollar.

For instances, the Respondent is attempting to settle this case based on calculations of the Seven and thirty six cents (\$7.36) per hour that was paid to Appellant, opposed to the ten dollars and ninety four cents (\$10.94) not paid out of the eighteen dollars and thirty cents (\$18.30) per hour owed for the job of machine operator. see South Carolina Selected Occupational Average Mean Wage Form (Exhibit A).

Based on Appellant's long term savings of eight thousand five

hundred seventy one dollars and four cents (\$8,571.47), which by state statute, S.C. Code §24-3-40(A)(4), is ten percent (10%) of Appellant's total earnings, we can calculate his total earnings by multiplying the long term by ten (\$8,571.04 x 10), which comes to eighty five thousand seven hundred ten dollars and forty seven cents (\$85,710.47). see Respondent Calculation and Offer Sheet (Exhibit B).

The Respondent is attempting to take all statutory deductions, Twenty percent (20%) Victim Restitution (\$17,142.09), Thirty five percent (35%) Child Support (\$29,998.66) and Ten percent (10%) Long Term Savings (\$8,571.04) from that total of \$85,710.47, and give Appellant the remainder of \$29,998.68 as a settlement.

This is a clear attempt by the Respondent to hold on to his unlawful gains, through continued deceit. It is with criminal intent to defraud Appellant the Respondent has entered into negotiations based on the \$7.36 stance opposed to the \$10.94 stance owed.

Under proper calculations, from the \$10.94 standing, and without interest added, Appellant is owed one hundred twenty seven thousand four hundred and one dollars and sixteen cents (\$127,401.16). Appellant reaches this amount based off the following calculations:

If we take Appellants total earnings of \$85,710.47 and divide it by the \$7.36 per hour he was paid, we will come to eleven thousand six hundred forty five point 44 hours worked. Then if we multiply the \$10.94 by the 11,645.44 hours worked, we will come to a sum of one hundred twenty seven thousand four hundred one

dollars and sixteen cents(\$127,401.16). If we calculate the interest owed on this money, the Respondent's offer of 29,998.68, is over one hundred thousand dollars less than what it owes Appellant.

Based on the above information, it is clearly advantageous for the Respondent to prevent this appeal from going forward. Therefore, it will continue to submit information that will allow for it to delay the appellate process indefinitely. There is no doubt that its latest filing will be followed by an excuse that it misconstrued this Court's Order to hold the case in abeyance for 60 days and it needs more time to prepare and present its initial brief and designation of matter.

In all, the Respondent has filed three consecutive excuse motions with this court. The latest will have an indefinite effect if this Honorable Court doesn't put an end to it. Respondent's actions are clearly prejudicial to Appellant as he is due to be released from prison on November 27, 2024, and won't be able to keep up with this process from the private sector. The Respondent actions are a clear attempt to deny Appellant's due process rights by preventing this appellate process from going forward.

CONCLUSION

Respondent's case should be defaulted and it not be allowed to present any briefs for consideration in this matter as it goes forward.

This 4 day of October, 2024,

BY: Randy Murphy
PRO SE
POST OFFICE BOX 580
UNA, S.C. 29378

SOUTH CAROLINA SELECTED OCCUPATIONAL
AVERAGE MEAN WAGE FORM
(EXHIBIT A)

South Carolina Selected Occupational Average Mean Wage, May 2022

Occupation	SOC code	Hourly mean wage
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	37-2011	\$13.44
Office Clerks, General	43-9061	\$16.32
Maintenance and Repair Workers, General	49-9071	\$20.75
Sawing Machine Setters, Operators, and Tenders, Wood	51-7041	\$17.09
Woodworking Machine Setters, Operators, and Tenders, Except Sawing	51-7042	\$18.30
Grinding and Polishing Workers, Hand	51-9022	\$20.79
Inspectors, Testers, Sorters, Samplers, and Weighers	51-9061	\$20.53
Industrial Truck and Tractor Operators	53-7051	\$19.02

Source: U.S. Bureau of Labor Statistics

RESPONDENT CALCULATION AND OFFER SHEET
(EXHIBIT B)

51-7042	OVERTIME		33.00	\$10.95	\$10.88	\$20.69	\$321.26
	11/01/2016 -						
51-7042	04/30/2017	794.25		\$7.30	\$7.25	\$13.66	\$5,051.43
51-7042	OVERTIME		26.50	\$10.95	\$10.88	\$20.49	\$252.81
51-7042	07/01/2016 -10/31/2016	368.00		\$7.25	\$7.25	\$13.66	\$2,358.88
51-7042	OVERTIME		0.00	\$10.88	\$10.88	\$20.49	\$0.00
	TOTAL	10481.75	833.00				\$85,710.47
	Amount Due						

DEDUCTIONS

20% Victim Restitution	\$17,142.09
35% Child Support	\$29,998.66
10% LT Savings	\$8,571.04
Total Deductions	\$55,711.79
NET-TOTAL	\$29,998.68



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APPEAL FROM THE ADMINISTRATIVE LAW COURT
ROBERT L. REIBOLD, ADMINISTRATIVE LAW JUDGE

ALC CASE No. 23-ALJ-04-0481-AP

APPELLATE CASE No. 2024-000471

RANDY MURPHY.....APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.....RESPONDENT.

PROOF OF SERVICE

I, Randy Murphy (Appellant), do hereby certify that I did serve the "MOTION FOR DEFAULT" on the Respondent, by depositing one copy of the same in the U.S. mail, postage prepaid, and addressed as follows:

CHRISTINA CATOE BIGELOW
DEPUTY GENERAL COUNSEL
4444 BROADRIVER ROAD/P.O. Box 21787
COLUMBIA, S.C. 29221-1787

This 4 day of July, 2024,

BY: Randy Murphy
PRO SE
POST OFFICE BOX 530
UNA, S.C. 29378

October 3, 2024

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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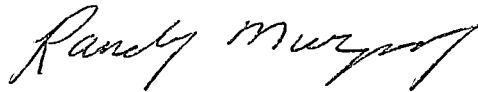
RE: Randy Murphy, #176259 v. South Carolina Department of Corrections Appellate Case No. 2024-000471

Dear Ms. Kitchings,

Please find enclosed one "MOTION FOR DEFAULT" along with proof of service. A copy of the same is being mailed to Respondent.

Truly

cc: Christina Catoe Bigelow



Randy Murphy #116259
PO Box 580
Univ, S.C. 29378

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The Honorable Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

