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Nov 13 2024

SC Court of Appeals

FACSIMILE SHEET

FAX : 803-734-1839

DATE: 11/13/24

TO: Catherine Harrison, Deputy Clerk
The South Carolina Court of Appeals

FROM: Clara L. Brockington
Pro Se Appellant
843-616-1317

WE ARE TRANSMITTING 9 PAGES INCLUDING THE COVER SHEET.
PLEASE CONTACT US IMMEDIATELY IF YOU DO NOT RECEIVE ALL THE PAGES OR IF
YOU HAVE TROUBLE READING ANY OF THE INFORMATION. THANK YOU!

Please find this faxed copy of documents
you requested. Also, you should have received
these same documents earlier for your records
by mail.

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Nov 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

Clara L. Brockington,)
)
Appellant,)
)
Vs.)
)
S. C. Department of Employment and)
Workforce and Belk, Inc.,)
Respondents.)
_____)

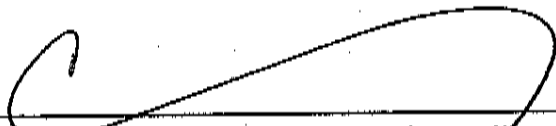
Docket #: 2024-001656

JUDGE'S ORDER (Attached)
NOTICE OF APPEAL

Per Pro Se/Appellant receiving a letter from the Chief Deputy Clerk of the South Carolina Court of Appeals recently, Pro Se/Appellant is attaching a copy of the **NOTICE OF APPEAL and The Honorable Judge Ralph King Anderson, III Order.**

Pro Se/Appellant spoke with the COURT today to confirm the request needed and submitted to all parties listed by the COURT.

Respectfully Submitted,



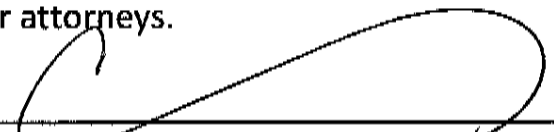
Clara L. Brockington, Pro Se/Appellant
P. O. Box 3232, Florence, SC 29502
Telephone: 843-616-1317

November 12, 2024

Florence, South Carolina

RECEIVED**Nov 13 2024****SC Court of Appeals****CERTIFICATE OF SERVICE**

I, Clara L. Brockington, hereby certify that I have this date, served the **JUDGE'S ORDER AND NOTICE OF APPEAL**, upon all parties to this case by depositing a copy, hereof in the United States mail, postage paid and to the address provided by the parties and/or attorneys.



Clara L. Brockington, Pro Se/Appellant
P. O. Box 3232, Florence, SC 29502
Telephone: 843-616-1317

Attorney Ashtin Kilpatrick, Esquire
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Stephanie Perez, Clerk
Administration Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton St., Columbia, SC 29201
Telephone: (803) 734-0550

Attorney Luther T. Moore
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2801 W. Tyvola Road
Charlotte, NC 28217
Telephone: (704) 357-1000

November 12, 2024

Florence, South Carolina



The South Carolina Court of Appeals

JENNY ABBOTT MITCHELL
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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www.sccourts.org

November 5, 2024

Clara Lewis Brockington
PO Box 3232
Florence SC 29502

Re: Clara Brockington v. SCDEW
Appellate Case No. 2024-001656

Dear Ms. Brockington:

Upon reviewing your deficiency corrections, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The notice of appeal is not accompanied by a copy of the order(s) and/or judgment(s) challenged on appeal.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK

cc: Ashtin Diane Bellamy Kilpatrick, Esquire
Benjamin Thomas Cook, Esquire

RECEIVED

Nov 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Clara L. Brockington,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Employment)
 and Workforce, and Belk, Inc.,)
)
 Respondents.)

Docket No. 24-ALJ-22-0209-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (Court) pursuant to a Motion to Dismiss for Lack of Jurisdiction (Motion) filed by the South Carolina Department of Employment and Workforce (Department) on August 2, 2024. The Department argues this Court does not have jurisdiction because Clara L. Brockington (Appellant) failed to timely file and serve her notice of appeal. As of the date of this Order, Appellant has not filed a response to the Motion.¹ Upon consideration of the parties' filings, the Department's Motion is granted.

BACKGROUND

This matter arose pursuant to an appeal filed by the Appellant challenging the decision of the Department's Appellate Panel (Panel) dismissing her appeal as untimely. The decision was mailed on May 28, 2024. On June 25, 2024, Appellant filed a notice of appeal with the Court. Appellant included a copy of the decision as well as a document that provided the Court with her information and her statement of grounds for appeal. Importantly, Appellant's filing did not include a proof of service. The case was nonetheless assigned on July 3, 2024.

¹ However, on August 16, 2024, Appellant filed a Motion to Continue. In the Motion to Continue, Appellant requests to "continue case until all medical and mental conditions are improved in the near future" and attached an "excuse slip" from Patricia McClerkin, M.D., a dermatologist in support of her request. However, the Court cannot continue a case without a more concrete reason to do so. Therefore, the motion is denied. Moreover, because this order dismisses the matter for lack of jurisdiction, Appellant's motion is rendered moot. *Byrd v. Irmo High Sch.*, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996) ("Mootness has been defined as follows: 'A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.'" (quoting *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973))).

FILED

08/28/2024

SC Admin. Law Court

DISCUSSION

Pursuant to section 41-35-750 of the South Carolina Code (2021), a party may appeal an adverse decision of the Department by initiating an action in the Administrative Law court within thirty days from the date of mailing of the Department's decision. And, pursuant to Rule 33 of the Rules of Procedure for the Administrative Law Court (SCALC Rules), the notice of appeal from the Department's final decision "must be filed and served within thirty (30) days of the date of mailing of the decision of the [Department's Appellate Panel]." Additionally, subsection 1-23-380(1) of the South Carolina Code (Supp. 2023) provides "[p]roceedings for review are instituted by serving and filing notice of appeal as provided in the South Carolina Appellate Court Rules within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision is rendered."

The timely filing and service of the notice of appeal is a jurisdictional requirement. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."). Additionally, it is also well-established that an appellate body may not extend the time to appeal. *Allison v. W.L. Gore & Assocs.*, 394 S.C. 185, 714 S.E.2d 547 (2011); see also *Burnette v. S.C. State Highway Dep't*, 252 S.C. 568, 167 S.E. 2d 571 (1969) (holding a court does not have the authority to extend the time for filing an appeal, or for serving notice of appeal, from a decision of an administrative agency).

In this case, the Department mailed its decision to Appellant on May 28, 2024. Therefore, Appellant had thirty days from May 28, 2024, the date of mailing, to file and serve a notice of appeal. See § 41-35-750; § 1-23-380(1); SCALC Rule 33. Thirty days from May 28, 2024, was June 27, 2024. Although Appellant timely served the Department on June 25, 2024, Appellant failed to include a proof of service as required by the Court's Rules. See SCALC Rule 33 (providing the notice "shall contain the following information: . . . E. proof of service of the notice of appeal on all parties.") More importantly, as of the date of this Order, she has not served Belk, Inc. (Employer) with her appeal.

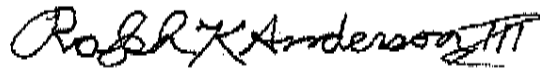
Because Appellant did not timely serve all parties to the appeal, this Court does not have jurisdiction over this appeal and the matter must be dismissed. See *Elam*; 361 S.C. at 14-15, 602

S.E.2d at 775 ("The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."); *Mears v. Mears*, 287 S.C. 168, 337 S.E. 2d 206 (1985) (applying appellate court rules and finding lack of jurisdiction for failure to serve a notice of intent to appeal in a timely manner).

IT IS THEREFORE ORDERED that Appellant's Motion to Continue is **DENIED**.

IT IS FURTHER ORDERED that the Department's Motion to Dismiss is **GRANTED** and that this appeal is **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

August 28, 2024
Columbia, South Carolina

STATE OF SOUTH CAROLINA
In The Court of Appeals

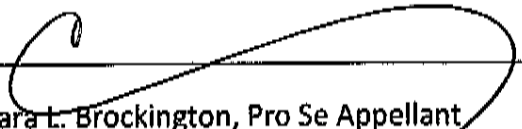
Clara L. Brockington,)
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Appellant,)
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v.)
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S. C. Department of Employment and)
Workforce and Belk, Inc.,)
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Respondents.)
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Docket #: 2024-001656

NOTICE OF APPEAL

RECEIVED
Nov 13 2024
SC Court of Appeals

Pro Se Appellant, Clara L. Brockington, has been involved in an attempted, sexually assault case, two (s) workers compensation cases and refusal of unemployment insurance with the Respondents, which are listed above. Due to extensive counseling, medications, lack of comprehension and thinking skills, continuous heart problems, serious medical conditions, surgery needed next week, etc., I am filing this **Notice of Appeal** since this case has not been handled ethically, properly, truthfully nor by legal standards. Pro Se Appellant trust that this **Notice of Appeal** will bring the truth from the case, apply legal standards to the case that were not applied to the case, pay for all damages (medical, mental and financial), retroactive to this date, and avoid abusing others in the future, which I am faced with every day and have to endure for the remainder of my life. Thanks in advance for your understanding of all the mistreatment, unfair and unethical practices I can attest to, and reasons why I am appealing this case to Higher Court and grant Pro Se Appellant this **APPEAL**.



Clara L. Brockington, Pro Se Appellant
P. O. Box 3232, Florence, SC 29502
Telephone: 843-616-1317

October 9, 2024

Florence, South Carolina

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Nov 13 2024

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

Ralph King Anderson III, Chief Administrative Law Judge

Case No. 2024-001656

South Carolina Department of
Employment and Workforce
and Belk, Inc.,

Respondents,

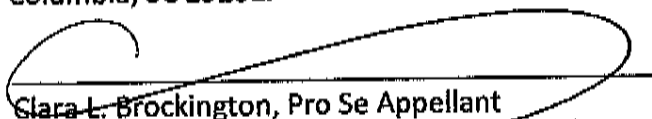
v.

Clara L. Brockington,

Pro Se Appellant.

PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** on South Carolina Department of Employment and Workforce and Belk, Inc., by depositing a copy of it in the United States Mail, postage prepaid, on October 9, 2024, addressed to their attorney(s) of record, Kristi Chesley, Legal Assistant for Attorney Ashtin Kilpatrick, S. C. Department of Employment and Workforce, P. O. Box 8597, Columbia, SC 29202, Luther T. Moore, Attorney for Belk, Inc., 2801 West Tyvola Road, Charlotte, NC 28217 and Stephanie Perez, Clerk, Administrative Law Court, Edgar A. Brown Bldg., 1205 Pendleton St., Suite 224, Columbia, SC 29201.



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Telephone: (843) 616-1317

October 9, 2024

Florence, South Carolina