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Dec 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals
In The Supreme Court

WORKERS COMPENSATION COMMISSION PANEL:

Cynthia C. Dooley, Chair
T. Scott Beck
Melody L. James

WCC No. 1923480

Appellate Case No. 2023-001264

Takara L Stewart

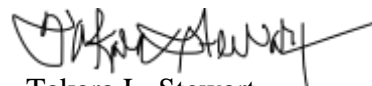
Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,
Employer and
XL Insurance America Inc.,
Carrier

Defendants/Respondents

Return

December 11, 2024



Takara L. Stewart
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(984) 215-1812
Pro Se

In lieu of the October 1, 2024 Order, a direct order as to how the events of this Record on Appeal should proceed, the Respondents have presented yet another frivolous motion in efforts to thwart justice. The indefensible defense of the Respondents and the inability to adhere to the filing times guidelines of the courts, the following requests of the Courts have been petitioned by Motion:

- (a) To strike the Record on Appeal for non-compliance; dismissing the Record on Appeal
- (b) Or in the alternative, striking improper portions of the Record on Appeal for non-compliance
- (c) Compelling the addition of the Respondents Designation of Matter to the Record on Appeal and
- (d) Staying the time for the Respondents to file their Final Brief

Accountability of the Respondents as it pertains to the workplace sexual assault to the third – degree is being interposed by frivolous filings of motions, Pro Se vs Esquire litigation and indefensible defense. This liability is circuitous and emotionally draining as it has propelled the Respondents to deflect with another Motion to dismiss when in all actuality the Motion to Stay of Time is the only relevant motive to move the Courts.

ARGUMENT

October 31, 2024, the letter from the courts notified both parties of the time to file the Record on Appeal and Final Briefs. In efforts to adhere to the timeline of the Courts, to ensure SCACR 267 and SCACR 210 compliance and the timeliness of submission, work of the Appellants Final Brief and Record on Appeal commenced. There was never a prejudice intent, as

the Respondents claim, to dismiss and or not include the Respondents Designation of Matter exhibits. May it please the Courts, the addition of the Respondents Designation of Matter without the need to compel? Please surmise the exclusion of the Respondents Designation of Matter as mere oversight and tunneled vision on completion of the Final Brief and Record on Appeal per Court appointed timelines. Pursuant to SCACR 211, as read, *“the final brief(s) shall be identical to the brief(s) previously served under SCACR 208, except for (1) references to the record and (2) correction of typographical errors and misspellings”*. The aforementioned Court Order of October 1, 2024 orders the respondents to produce their Initial Brief and Designation of Matter. The timeliness of submissions have been greatly hindered by the indefensible defense tactics of the Respondents. In transparency, emotional distress and performance anxiety from the Respondents countless efforts to dismiss and or for a lack of a better phrase not to be held accountable for the highly unusual and extremely extraordinary working conditions subjected to by way of CVS employment. Assuming the Appellant has have thirty-days (30) to submit the final brief per the court appointed letter received on October 31, 2024, submission of the Final Brief on November 20, 2024 pursuant to the twenty day (20) timeframe of SCACR 211. The Record on Appeal was submitted on November 29, 2024. Pursuant to the SCACR 210, was the submission of the Record on Appeal ahead of schedule prompting an impromptu submission excluding the Respondents Designation of Matter? Eager to remain compliant yet the Respondents indefensible defense narration claim it was an attempt to baffle defense which couldn't be further from the truth.

Respondents were ordered to submit the Initial Brief and Designation of Matter on October 1, 2024 for which the Respondents complied on October 30, 2024. The Letter of the Courts Final Brief and Record on Appeal notification was received on October 31, 2024.

Appellants Final Brief was submitted on November 20, 2024 and the Record on Appeal was submitted on November 29, 2024 in efforts to remain within a thirty-day (30) window. On November 25, 2024, the Respondents emails the courts:

“It is my understanding that the final respondents brief is due 20 days after the appellant files the Record on Appeal. Through the email below, the appellant stated she filed the Record on Appeal. Unfortunately, I do not believe the Record on Appeal was filed correctly which prevents me from filing my respondents brief within the 20 day deadline. Could someone address this issue?”

The Courts response to the Respondents emailed correspondence dated on November 25, 2024, received on December 2, 2024:

“.....If you wish to request relief from the Court, you must file a motion pursuant to Rule 240 of the South Carolina Appellate Court Rules”.

The preponderance of petitioning the Courts to Stay of Time seems like the only justifiable provocation of this Motion; to circumvent punctuality. The most time consuming submission, from personal efforts, was the Record on Appeal. The Final Brief, pursuant to SCACR 211, is to be an exact replica of the Respondents Initial Brief submitted on October 30, 2024.

SCACR noncompliance and or circumventing rulings is characterized by the Respondents hypocritical actions by way of filing this same motion. The Respondents go through the lengths of upholding indefensible defense with a twenty-three page Motion Brief as to why the Courts should dismiss. The Respondents repetitively repeat all unsupported defense

narration after being ordered on October 1, 2024, affirming that same, repetitive indefensible defense narration as being null and void. The Respondents efforts to not defend, mand the Commission into upholding their defenseless tactics with commands such as “...*this court must strike and exclude the improper portions of the ROA*” is yet another confirmation of the Respondents having absolutely no defense. A liability of video surveillance workplace sexual assault to the third-degree is why the Respondents have been relentlessly trying to divert liability which is preposterous, ignoring a direct order to inevitably dismiss justice. Respondents include claims of the Record on Appeal as being (a) *a violation of the content provisions of the Appellate Court Rules* and (b) *improper*, presenting a prejudice in compliance and responding to the Record on Appeal. No response would be justified as there is a for sure liability victimizing the Appellant yet the Respondents have been indefensibly responding to the Record on Appeal with unsupported and now repetitive defense narration projecting Pro Se litigation vs Esquire and or “SCACR non-compliance” as the basis for defense.

The Record on Appeal has been properly assembled; chronologically, numerically, and relevantly bound as all the information included has been presented to the lower courts pursuant to the SCACR 267 and SCACR 210:

- (a) ***Time of Service***, the Record on Appeal was submitted on November 29, 2024.
- (b) ***Time for Filing***, the Record on Appeal was filed with the Clerk of the Appellate Court per SCACR rule 211. Bound and unbound copies filed, electronically and by mail.
- (c) ***Content***, The Index has been updated to portray the inclusion of the Respondents Designation of Matter. Content is comprised of Appellant accessible documents. A

bound and unbound copy resubmitted to reflect inclusion. Where there are portions included, the entire document has been made available and numbered accordingly.

- (d) ***Title***, All pages were titled with appropriate captions and as set forth in SCACR 267
- (e) ***Index***, chronologically, numerically and precisely indexes the matters therein as applicable to the Record on Appeal. Respondents Designation of Matter Pgs. 223-224. Index attached as confirmation.

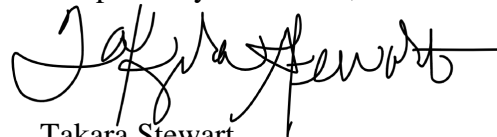
Respondents contest that the page numbers aren't succinctly corresponding within the Record on Appeal by way of stating "...*Full commissioned hearing transcript (ROA Pg. 199-218)*". Respondents deliberately quote the index from the Record on Appeal prior to being notified of the *corrected* Record on Appeal which implicates the Motion to Dismiss further as the Respondents and the Courts received the corrected Record on Appeal detailing a change in page numbers subsequently the Record on Appeal's index. The corrected version was indeed the version submitted by way of certified mail.

- (f) ***Exhibits***, displaying photographs, plats, illustrative diagrams and other paper exhibits including but not limited to data retrieved from electronic devices such as emailed correspondence between attorneys, text messages, photos and pedagogical exhibits for such as charts and or lists.
- (g) ***Certificate of Counsel***, upon the addition of the Designation of Matter, recertification will be consistent with inclusion of both parties and not any other material.
- (h) ***Review limited to Record on Appeal***, Appellate Court will only have to comfortably consider the facts as presented in the Record on Appeal except as provided by Rule 212 and Rule 208(b)(C) and (2). Bound and resubmitted via certified mail.

To circumvent punctuality, the Respondents have petitioned to move the courts for the aforementioned reasons, pointing the blame on Pro Se litigation as a way to avoid accountability. The Respondents Designation of Matter has been included and reflected in the Record on Appeal Index (see index attached below). The Record on Appeal is consistent with the SCACR 210 as promised. The Respondents frivolous attempts to thwart justice by the repetitious narration of “noncompliance” is a direct implication of the October 1, 2024 Court Order. The Respondents efforts to mand justice and the Commission through Motions and Petitions persist. In response to the Motions applicability, the Stay of Time is befitting. The Respondents have deemed the Appellant as to why the Final Briefs and Records on Appeal have not been submitted which I find to be a punctuality scapegoat as we both received the Letter from the Court on October 31, 2024, presenting the same amount of time to produce said documents. Indefensible defense warrants defenseless tactics of averting a more Respondent – centered result; dismissal. The addition of the Respondents Designation of Matter has been included whilst Respondents request for more time. Respondents compel the Courts to strike and or dismiss my hard work on said grounds of form and content, neglecting what it actually took to produce the Record on Appeal is evident that the Respondents don’t have a defense for the video surveillance, work-place sexual assault in the third-degree.

December 11, 2024

Respectfully Submitted,



Takara Stewart
108 E. York Street
Suite 236
Savannah, Georgia 31401
(984) 215 – 1812
Pro Se

cc: Michelle Deluca Yarbrough, Esquire

The State of South Carolina
In The Court of Appeals
In The Supreme Court

Appeal from the South Carolina
Workers' Compensation Commission

Cynthia C. Dooley, Chair
T. Scott Beck
Melody L. James

WCC. No. 1923480

Appellate case No.: 2023-001264

Record on Appeal Index

I. Orders

- i. January 19, 2023 Single Commissioner Aisha Taylor.....Pg.4
- ii. February 22, 2023..... Defendants Motion to Compel.....Pg.5
- iii. July 10, 2023.....Appellate Panel Reversed Decision.....Pg.6
- iv. August 31, 2023.....Counsel Relief By Default.....Pg.7
(July 10, 2023 Counsel Letter Pg. 229)
- v. March 28, 2024.....Motion to Dismiss.....Pg.8
- vi. July 12, 2024.....Motion New Evidence.....Pg.9
- vii. October 1, 2024.....Declination of Respondents Motion.....Pg.11

II. Judgements

(Strictly per ruling timeline purposes)

- i. January 19, 2023.....Pg.12-29
W.C.C. 1923480
- ii. July 10, 2023.....Pg.30-52
Appellate Case No. 2023-001264

III. Decrees

- i. Single Commissioner Hearing By Commissioner Aisha Taylor
Decision and Order; January 19, 2023.....Pg.12-29
(Per a complete and satisfactory resolution of court case)

IV. Decisions

South Carolina Workers Compensation Commission

- i. January 19 2023.....W.C.C. 1923480..... Pg.12-29
- ii. July 10, 2023.....Appellate Case No. 2023-001264.....Pg.30-52

V. Pleadings

- i. Initial Brief.....Pg.53-82
(August 1, 2024)
- ii. Return Brief.....Pg.83-88
(September 9, 2024)
- iii. Bias Speculation.....Pg.58
(See Initial, Return, Final Brief)
- iv. Unsupported Defense Narration Purported with Inconsistent Sequencing of Events and Socioeconomic Mockery.....Pg.61
(See Initial, Return, Final Brief)
- v. An Inconsistent Workers Compensation Commission Solidarity per Justifiable remedy in Claimant Processing.....Pg.67
(See Initial, Return, Final Brief)
- vi. South Carolina Code 42-1-160.....Pg.73-74
- vii. South Carolina Code 42-1-130.....Pg.74
- viii. South Carolina Code 42-15-20.....Pg.73-74
- ix. South Carolina Code 42-15-60.....Pg.74
- x. South Carolina Code 42-9-10.....Pg.73-74

VI. Transcripts

June 03, 2021 | Timmi A. Parrish

- i. South Carolina Workers’ Compensation Hearing.....Pg.89-199
July 10, 2023 | Creel Reporting, Inc.
- ii. South Carolina Full Commission Hearing.....Pg.200-219

VII. Exhibits

- i. Appellants APA Submissions.....Pg.12
(APA #1, #2, #3, #4, #5, #6, #7, #8, #9, #10 #11)
- ii. Respondents - Defendants Exhibit G.....Pg.13
(Video of Incident)
- iii. CVS Employee Handbook.....Pg.220-222
(Sexual harassment/assault policy)
- iv. Respondents - Defendants APA #12, #13Pg.13
- v. Respondents Designation of Matter.....Pg.223-224

VIII. Other

Materials and Documents

i.	Regulatory Filings.....	Pg.225-241
ii.	Appellant, Respondents Correspondence.....	Pg.242-256
iii.	Other Ad Rem Documents.....	Pg.257-267



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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October 01, 2024

Takara Stewart
108 E. York Street
Suite 236
Savannah GA 31401

Ms. Michelle Deluca Yarbrough, Esquire
PO Box 10589
Greenville SC 29603

Re: Takara Stewart v. SC CVS Pharmacy, LLC
Appellate Case No. 2023-001264

Dear Counsel and Ms. Stewart:

Enclosed is the order of the Court. The respondent's initial brief and designation of matter are due within thirty days of the date of the order.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy". The signature is written in a cursive style.

CLERK

The South Carolina Court of Appeals

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL
Insurance America, Inc., Carrier, Respondents.

Appellate Case No. 2023-001264

ORDER

On August 1, 2024, Appellant filed an amended initial brief and designation of matter. On August 29, 2024, Respondents moved to dismiss this appeal because Appellant's amended initial brief and designation of matter do not comply with the South Carolina Appellate Court Rules. In the alternative, Respondents moved to strike Appellant's amended initial brief and designation of matter. On September 9, 2024, Appellant filed a return, opposing dismissal and striking. After careful consideration, we deny Respondents' motion to dismiss or, in the alternative, to strike.



FOR THE COURT

Columbia, South Carolina

cc:

Takara Stewart
Michelle Deluca Yarbrough, Esquire

FILED
Oct 01 2024



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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October 31, 2024

Takara Stewart
108 E. York Street
Suite 236
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Ms. Michelle Deluca Yarbrough, Esquire
PO Box 10589
Greenville SC 29603

Re: Takara Stewart v. SC CVS Pharmacy, LLC
Appellate Case No. 2023-001264

Dear Counsel and Ms. Stewart:

Our records reflect the time is approaching to file the record on appeal and final briefs. The Supreme Court issued an order reducing the number of copies required in appellate matters. See *Re: Reduced Number of Copies Required in Appellate Matters* (S.C. Sup. Ct. Order dated August 25, 2021). As permitted by the order, the Court of Appeals has determined a need exists for one additional bound copy of the record on appeal and all final briefs. The additional copies must comply with any binding or cover color requirements specified by Rule 267 of the South Carolina Appellate Court Rules (SCACR).

Accordingly, each party must file an original record on appeal and/or final brief, in either electronic or unbound paper form, as well as one bound paper copy, at the time the record on appeal and final briefs are due to be served and filed in accordance with the SCACR.

Additionally, please review the following guidelines as you prepare your record on appeal and final briefs:

Pursuant to Rules 209, 210, and 267, SCACR, the record on appeal must include the following:

1. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
2. The name and contact information for all counsel representing the parties to the appeal. Please do not include names of counsel that have not previously made an appearance in this case.
3. A certificate of counsel, pursuant to Rule 210(g), SCACR.
4. A proof of service of the record on appeal, if one has not already been filed with this Court.
5. All matters designated by the parties pursuant to Rule 209, SCACR, in compliance with Rule 210(c) and (e), SCACR.
6. The binding for the copies of the record on appeal must be in compliance with Rule 267(d), SCACR.

Pursuant to Rules 211 and 267, SCACR, all final briefs must include the following:

1. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
2. The name and contact information for counsel filing the brief. If you are filing your final brief pro se, you must include your name and contact information on the cover of the brief.
3. The signature of the person filing the brief should be on the conclusion page.
4. A certificate of counsel for the final brief, pursuant to Rule 211, SCACR.
5. A proof of service of the final brief. Mail receipts will not be accepted in lieu of proper proof of service.
6. The binding for the copies of all final briefs must be in compliance with Rule 267(d), SCACR.

According to our records, the correct caption for this appeal should read as follows on the record on appeal and all final briefs:

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL Insurance America, Inc.,
Carrier, Respondents.

We request large parcels such as bound paper copies of final briefs and the record on appeal be sent directly to the Court via the street address: 1220 Senate Street, Columbia, S.C. 29201. Thank you for your attention. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Hannison, deputy". The signature is written in a cursive style with a large initial 'C'.

CLERK




RE: Takara Stewart v. SC CVS Pharmacy, LLC, 2023-001264 [IMAN-IMANMAIN.FID791965] [View](#)

 Michelle Yarbrough
m.yarbrough@sccourts.org, Tawnya, me

It is my understanding that the final respondent's brief is due 20 days after the appellant files the Record on Appeal. Through the e-mail below, the appellant stated she filed the Record on Appeal. Unfortunately, I do not believe the Record on Appeal was filed correctly which prevents me from filing my respondent's brief within the 20-day deadline. Could someone please address this issue?

Thank you,

Michelle Yarbrough

Mon, Nov 25, 10:31AM




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The South Carolina Court of Appeals

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December 06, 2024

Ms. Michelle Deluca Yarbrough, Esquire
PO Box 10589
Greenville SC 29603

Re: Takara Stewart v. SC CVS Pharmacy, LLC
Appellate Case No. 2023-001264

Dear Counsel:

The Court received your email dated November 25, 2024 and correspondence dated December 2, 2024. If you wish to request relief from the Court, you must file a motion pursuant to Rule 240 of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy".

CLERK

cc: Takara Stewart