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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINSTRATIVE LAW COURT

Crystal M. Rookard, Administrative Law Judge

Case No. 24-ALJ-30-0315-CC
Appellate Case No.: 2025-000007

Christina M. Mims,

Appellant,

v.

South Carolina Public Employee Benefit
Authority, Employee Insurance Program

Respondent.

BRIEF OF APPELLANT

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March 10, 2025

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STATEMENT OF THE ISSUE ON APPEAL

The issue in this case is whether the Administrative Law Court's decision to grant summary judgment to Respondent on December 6, 2024 was clearly erroneous in view of the substantial evidence in the record showing Appellant's entitlement to disability retirement benefits under S.C. Code Ann. § 9-1-1540(B)(1).

STATEMENT OF THE CASE

Appellant, Christina M. Mims, was an active member of the South Carolina Retirement System for roughly fourteen (14) years. On September 3, 2021, Appellant was forced to cease working to due a disabling medical condition. On September 15, 2021, as required by Santee Cooper policy, Appellant met with the Benefits Administrator to fill out her disability retirement application. On September 15, 2021, Appellant's application was complete and all materials were submitted to Santee Cooper so that the application could be filed. Despite these facts, the application for disability retirement was not received by Respondent until July 5, 2023.

On April 8, 2024, Respondent sent Appellant a Notification of Disability Ineligibility explaining that her application for disability retirement had not been filed in a timely manner. On May 3, 2024, Appellant appealed PEBA's decision and on July 26, 2024, PEBA issued a final agency decision where it determined not to process Appellant's application on the sole basis that it was not timely filed. On August 15, 2024, Appellant challenged Respondent's July 26, 2024 decision by requesting a Contested Case Hearing at the South Carolina Administrative Law Court.

On October 21, 2024, Respondent filed a Motion for Summary Judgment pursuant to Rule 68 of the South Carolina Administrative Law Court Rules and Rule 56 of South Carolina Rules of Civil Procedure. Appellant filed a response in opposition to the Motion for Summary Judgment, arguing that there were genuine issues of material fact in the matter; however, on December 6,

2024, the Administrative Law Court disagreed and granted Respondent's Motion. On January 2, 2025, Appellant filed a Notice of Appeal with this Court.

STATEMENT OF FACTS

Appellant Christina Mims was employed with Santee Cooper as a financial analyst for roughly fourteen (14) years. As an employee of Santee Cooper, Appellant was a member of the South Carolina Retirement System ("SCRS"). Unfortunately, on September 3, 2021, Appellant was forced to cease working due to certain disabling medical conditions from which she suffers. At the time that Appellant ceased working, Santee Cooper had a policy that mandated that all employees who ceased working due to disability and who wished to apply for disability retirement meet with the Benefits Administrator. Applicants, like Appellant, were required to work directly with the Benefits Administrator to complete all of the necessary SCRS forms for disability retirement. Once all of the forms were completed by the applicant, the applicant's duties were fulfilled under Santee Cooper's policy. From there, the Benefits Administrator was solely responsible for submitting the completed application to PEBA.

On September 15, 2021, in accordance with such policies, Appellant met with the Benefits Administrator. On that date, Appellant completed all necessary forms and submitted all documentation for her disability retirement application to the Benefits Administrator, as required by company policy. After completing the disability retirement forms, Appellant left Santee Cooper's offices, trusting that her forms would be submitted to Respondent by the Benefits Administrator. Unfortunately, shortly after Appellant's meeting with the Benefits Administrator, and on that same day, the Benefits Administrator's employment with Santee Cooper was terminated. When the Benefits Administrator was abruptly dismissed, Santee Cooper did not take steps to ensure that the responsibilities of the Benefits Administrator were completed. A June 23,

2023 letter sent to Respondent from Robert Ebling, Senior HR Generalist with Santee Cooper, stated: "neither employees nor managers had sufficient knowledge of the outstanding tasks for the departed benefits administrator." (Ebling Letter, ¶ 5).

From September 15, 2021 onward, Appellant continued to believe that her application had been submitted to Respondent by the Benefits Administrator at Santee Cooper. It was not until June 10, 2023 that Appellant realized that was not the case. On June 10, 2023, Appellant was approved for Social Security Disability Benefits. Upon receiving this news, Appellant promptly called Respondent to notify it of the approval only to be told that it did not have an application for disability retirement on file and that the deadline had passed for her to apply for such benefits. Appellant then alerted Santee Cooper. Mr. Ebling responded by writing a letter to PEBA summarizing the foregoing facts and writing:

> "Enclosed are application materials for a disability retirement. The termination date for the employee exceeds the timeframe prescribed for disability retirements. In this instance there are extenuating circumstances that I bring to you for consideration.
>
> The application for disability retirement was prepared after the onset of an illness. The severity of the illness did not permit the employee to continue her duties and her employment was terminated upon approval of long-term disability awards by insurance providers. The effective date of the termination was September 3, 2021.
>
> At the time of her disability filing, Santee Cooper required that employee's work directly with the Benefits Administrator to complete the necessary forms. The Benefits Administrator was also responsible for submission of all documents to PEBA.
>
> The applicant met with the Benefits Administrator on September 15, 2021 retirement (enclosed) as well as a Notice of Election for insurance coverage necessitated by her loss of benefits at termination. Subsequent to the Benefits Administrator's employment with Santee Cooper was terminated. Because of the abrupt departure of the Benefits Administrator, the application for disability retirement was never submitted to PEBA.
>
> Several employees of Santee Cooper provided interim benefits and retirement support, but neither employees nor managers had sufficient knowledge of the outstanding tasks for the departed Benefits Administrator. Thus the omission of the application continued beyond the 1 year prescribed date.

The review process of the applicant's SSDI application lasted nearly 2 years and added to the complexity of the situation. The former employee was unaware that her application was not submitted to PEBA or that a problem existed. When the SSDI approval was received on June 10, 2023, she contacted PEBA and was informed that no application for disability retirement was on file and that the deadline had passed.

The error in this instance rests solely with Santee Cooper. Missing a deadline is inexcusable, but the termination of the employee with the responsibility for submitting the forms caused this error. The employee prepared and presented her required materials to Santee Cooper in a timely manner. The abrupt exit of the Benefits Administrator prevented him from fulfilling his duties.

The applicant alerted me to this matter after her recent conversation with PEBA. I have retrieved her application is prepared on September 15, 2021. It is enclosed along with

- An EES retirement benefit estimate dated September 15, 2021
- and extract from EBS documenting the termination of benefits for the employee effective September 20 at 2021
- An extract from EBS documenting the conversion of the applicant from active to disability retired in September 2021
- a copy of the applicant's SSDI certification

All documents show that the disability retirement process was being followed. But the termination of the Benefits Administrator prevented the submission of the required documents. I respectfully request that the claimant not be penalized for an error for which she bears no responsibility and that her application for disability retirement be approved." (Id).

Shortly thereafter, Appellant requested an administrative review of the denial of her application for disability retirement benefits, contending that she timely submitted a disability retirement application to Respondent by completing and submitting the same to Santee Cooper, as required by Santee Cooper policies. However, Respondent maintained its decision to deny Appellant's disability benefits arguing that she was not a "member in service" with a participating employer at the time her application was filed. Upon receiving this decision, Appellant petitioned the Administrative Law Court for relief. However, the Administrative Law Court upheld Respondent's decision by granting its motion for summary judgment. Appellant now appeals to this Honorable Court.

STANDARD OF REVIEW

"In an appeal of the final decision of an administrative agency, the standard of appellate review is whether the AL[C]'s findings are supported by substantial evidence." *Sanders v. S.C. Dep't of Corr.*, 379 S.C. 411, 417, 665 S.E.2d 231, 234 (Ct. App. 2008); citing S.C. Code Ann. § 1-23-610(C) (Supp. 2007). "Although [the appellate] court shall not substitute its judgment for that of the AL[C] as to findings of fact, [it] may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole." *Id*. "In determining whether the AL[C]'s decision was supported by substantial evidence, [the appellate] court need only find, considering the record as a whole, evidence from which reasonable minds could reach the same conclusion that the AL[C] reached." *Id*.; citing *Durant v. S.C. Dept. of Health and Environmental Control*, 361 S.C. 416, 420, 604 S.E.2d 704, 706 (Ct. App. 2004).

In the matter *sub judice*, "the burden is on [the] appellant to prove convincingly that the agency's decision is unsupported by the evidence." *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). Further, "[t]he review of the administrative law [court]'s order must be confined to the record." S.C. Code Ann. § 1-23-610(B) (Supp. 2020). "In reviewing the grant of summary judgment, [an appellate court] applies the same standard that governs the trial court under Rule 56, SCRCP: summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006). "On appeal, all ambiguities, conclusions, and inferences arising in and from the evidence must be viewed in a light most favorable to the non-moving party." *Id*.

ARGUMENT

Appellant respectfully asks this Court to reverse the decision of the Administrative Law Court (hereinafter "ALC") granting summary judgment to Respondent because it is clearly erroneous given the substantial evidence on the record as a whole. Appellant asserts this for three reasons. First, the ALC incorrectly interpreted the plain language of S.C. Code Ann. § 9-1-1540(B)(1). Second, the ALC's decision is clearly erroneous because it is contrary to legislative intent and violates the public policy of this State. Finally, the ALC improperly relies on *Lazicki-Thomas v. S.C. Budget & Control Board* to deny Appellant's claim for benefits. 378 S.C. 72, 661 S.E.2d 374 (2008). Considering these three points, this Court will find that there are genuine issues of material fact and that the ALC's grant of summary judgment was wholly inappropriate.

I. The ALC incorrectly interpreted the plain language of S.C. Code Ann. § 9-1-1540(b)(1).

In its Order, the ALC, citing *Grier v. AMISUB of South Carolina, Inc.*, wrote "[W]e must follow the plain and unambiguous language in a statute and 'have no right to impose another meaning.'" 397 S.C. 532, 535-36, 725 S.E.2d 693, 695 (2012). (Admin. Law Ct. Order, pg. 4). The ALC continued, "[w]hile Petitioner's application was completed prior to the deadline proscribed by statute, it was not filed with PEBA while she was a "member in service" as the application was not filed with the SCRS within one year from the date she was terminated." (Id. pgs. 4-5). In response, Appellant submits that the ALC has misconstrued the "plain and ambiguous language" of S.C. Code Ann. § 9-1-1540(B)(1). The statute provides:

> "Upon the application <u>of a member in service</u> or <u>of the member's employer</u> received by the system after December 31, 2013, a member in service who has the earned service required for the member's class pursuant to Section 9-1-1510, or who is disabled as a result of an injury arising out of and in the course of the performance of the member's duties regardless of length of membership, may be retired by the board if the member is determined to be disabled pursuant to subsection (B)(2) of this section. For purposes of this section, a member is considered to be in service on the date the application is filed if the last day the

> member was employed by a covered employer in the system occurred not more than one year before the date of filing and, if the member has retired on a service retirement allowance, the member's date of retirement occurred not more than one year before the date of filing."[1]

Appellant submits that the plain language of S.C. Code Ann. § 9-1-1540(B)(1) requires a disability retirement applicant to apply for benefits while the applicant is a "member in service." Appellant understands that an applicant is considered to be a "member in service" as long as the application is filed within one year of the member's date of retirement. The statute provides that an applicant can apply and file the application or the member's employer can undertake those obligations.

Appellant submits that she has complied with the requirements of the statute. The record is clear that Appellant completed an application for disability retirement benefits on September 15, 2021, less than two weeks before she ceased working with Santee Cooper and while she was a "member in service" as required by statute. The record is also clear that on September 15, 2021, Appellant filed the application for disability retirement when she gave it to the Santee Cooper Benefits Administrator as required by company policy and allowed by statute.

While the ALC agrees that Appellant completed a timely application, the ALC and Appellant disagree as to the requirements for filing the application. The ALC submits in its Order that the language, "…received by the system…" in the first sentence of the statute provides plain and unambiguous instructions for filing. The ALC construes "[u]pon the application of a member in service…received by the system…" to mean that an applicant for disability retirement (or their employer) must file the application with the South Carolina Retirement System within one year of the applicant's retirement date. (Admin. Law Ct. Order, pgs. 4-5).

Appellant, however, disagrees with the ALC's conclusions as to how the statute's filing

[1] Emphasis Added.

requirement should be interpreted. The statute provides, "Upon the application of a member in service or of the member's employer received by the system after December 31, 2013… [the member] may be retired by the board if the member is determined to be disabled pursuant to subsection (B)(2) of this section." This sentence does not refer to the act of filing, rather is seemingly only used to signify the change in procedure for obtaining benefits after this statute was amended. Thus, Appellant contends that the plain and unambiguous language of this sentence and frankly, the statute as a whole, does not lead to the conclusion that the ALC reached.

Contrary to the ALC's order, Appellant asserts that a plain reading of S.C. Code Ann. § 9-1-1540(b)(1) strongly supports her entitlement to disability retirement benefits. The word "filed' is not defined in the statute. Looking to the common definition of the word, "filed" is defined as "to initiate (something, such as a legal action) through proper formal procedure" and "to send something to an official authority…giving information or making a request." [2] Appellant believes she satisfies the statute requirement because she completed her application for disability retirement and filed it, pursuant to the common meaning of the word, with Santee Cooper while she was a "member in service."

Appellant believes that she complied with the filing requirement contained in the "member in service" portion of the statute because her statutory obligations were extinguished when she filed the application with her employer, a state-owned electric and water utility. Contrary to the ALC's assumptions, the statute does not specify where or how the application must be filed. Further, it does not provide that the application must be filed with PEBA or the South Carolina Retirement System. Instead, the plain wording of the statute merely requires that the application

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[2] https://www.merriam-webster.com/dictionary/file
https://dictionary.cambridge.org/us/dictionary/english/filed

be filed within one year of the date of the applicant's retirement date. Appellant believes that she complied with this requirement by filing the application with her employer, a state-owned entity, which, by its own admission, tasked itself with the responsibility of submitting her application to Respondent. Accordingly, Appellant asks this Court to rule that ALC's application of the statute is clearly erroneous because reasonable minds would not reach the same conclusion based upon a reading of the plain language of the statute.

In the alternative, Appellant asks this Court to hold that the ALC's decision is in clear error because the statute guiding this case is vague and ambiguous. In *Lester v. South Carolina Workers' Compensation Commission*, the Supreme Court wrote:

> "The cardinal rule of statutory construction is for the Court to ascertain and effectuate the intent of the legislature. *Mid-State Auto Auction of Lexington, Inc. v. Altman*, 324 S.C. 65, 476 S.E.2d 690 (1996). If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the Court has no right to look for or impose another meaning. *Miller v. Doe*, 312 S.C. 444, 441 S.E.2d 319 (1994). Where a statute is ambiguous, however, the Court must construe the terms of the statute."
>
> 334 S.C. 557, 514 S.E.2d 751 (1999).

If the legislature had included a sentence in the statute stating in effect, 'A member in service must file his/her application with the South Carolina Retirement System…,' then this would be a much different case; however, there is no such language in the above-referenced statute. In the absence of such language, Appellant and Respondent have reached competing, reasonable conclusions as to the "plain" meaning of S.C. Code Ann. § 9-1-1540(B)(1). Therefore, Appellant submits that the statute in the matter *sub judice* should be construed by the Court in favor of Appellant because it is ambiguous and does not contain a clear and definite meaning. By ascertaining and effectuating the intent of the legislature, Appellant believes that this Court will find that the ALC's decision to effectively deny Appellant's right to disability benefits is clearly

erroneous.

II. The ALC failed to consider the legislative intent behind S.C. Code Ann. § 9-1-1540(b)(1) and the public policy of this State.

This is a case of first impression. To Appellant's knowledge, there is no case on record in this State with facts that mirror the case at hand. Appellant has not found another case on record where a claimant was required to submit a disability retirement application to an employer's Benefits Administrator, per company policy, who tasked itself with submitting the forms to Respondent, only for the administrator to be fired on that same day and the application never submitted. The facts of this case are extraordinary. Accordingly, the facts of this case deserve the additional considerations of legislative intent and public policy, particularly with regard to statutory interpretation. Despite the extraordinary nature of this case, the ALC does not consider legislative intent or public policy in its December 6, 2024 Order.

In the matter *sub judice*, Appellant is not the type of claimant that the legislature was trying to prevent from applying for or receiving benefits. Simply put, because of the uniqueness of Appellant's claim, the legislature could not have anticipated that such a claimant would arise; however, Appellant is certainly not the claimant that the legislature intended to prevent from seeking benefits. It can be assumed that the time limitation set forth in the statute as well as the requirement that a claimant be approved for Social Security Disability before being eligible for disability retirement benefits was put into place to prevent frivolous claims for disability retirement by former state employees who attempted to make claims of disability years after their employment ended.

As such, Appellant believes that the ALC's decision finding her disability retirement application to be untimely violates the public policy of this State. The ALC's decision to grant Respondent's Motion for Summary Judgment ultimately penalized Appellant for the inaction of

her employer. As described in detail above, Appellant ceased working on September 3, 2021, and she completed her application for disability retirement on September 15, 2021. Per Santee Cooper policy, she was required to leave her application with Santee Cooper so that they could submit the forms on her behalf; however, because of Santee Cooper's nonfeasance, the forms were never submitted. The ALC's decision that holds Appellant responsible for her employer's failure, thereby preventing her from obtaining disability retirement benefits to which she was clearly entitled to and for which she clearly applied for within the time specified in the statute, has led to in an unconscionable result for Appellant.

The ALC's decision finding Appellant's disability retirement application to be untimely has also resulted in Appellant being punished for doing everything she was statutorily required to do to apply for and receive benefits. Appellant's employer, Santee Cooper, required that she complete the forms with the Benefits Administrator and provided that the Benefits Administrator would submit the forms to PEBA for her. The record shows that Appellant abided by these rules perfectly and as any other reasonably prudent person would have. She met with the Benefits Administrator, filled out an application for disability benefits, and filed those forms with the administrator with the express understanding that her employer would submit the application.

Having followed Santee Cooper's policy and state law to a tee, Appellant is simply not aware of anything else she could have done differently to get approved for disability retirement with PEBA. Robert Ebling, a representative of Santee Cooper, acknowledged these facts and the unconscionable result by stating among other things, "The error in this instance rests solely with Santee Cooper" and "I respectfully request that the claimant not be penalized for an error for which she bears no responsibility…." (Ebling Letter, ¶ 7). Even though Appellant bears no responsibility for what Respondent describes as an untimely application, the ALC maintains that this is simply

an unfortunate situation where the law requires what Appellant would characterize as an extremely unjust outcome.

The ALC concluded its Order denying disability retirement to Appellant by stating, "[w]hile this Court recognizes the harsh result of this decision, it is constrained by the rules and legal precedent of this State." (Admin. Law Ct. Order, pg. 5). In response, Appellant contends that the law does not require such an outcome. First, Appellant contends that she complied with the plain meaning of the statute at issue. Second, Appellant submits in the alternative that if the Court must construe the statute as a result of its ambiguous nature, that legislative intent would support construing the statute in her favor. Third, Appellant believes that any decision finding her disability retirement application to be untimely in view of the record as a whole would violate the public policy of this State. The ALC's decision to grant summary judgment to Respondents violates public policy and runs contrary to the legislative intent of the statute at issue; thus, this Court must hold that the ALC's decision was clearly erroneous.

III. The ALC improperly relies on *Lazicki-Thomas v. S.C. Budget & Control Board* to deny Appellant's claim for benefits.

In its Order, the ALC cites *Lazicki-Thomas* to support its decision to grant summary judgment to Respondent. 378 S.C. 72, 661 S.E.2d 374 (2008). In this practice area, Appellant recognizes that *Lazicki-Thomas* is the principal case used to deny claims for disability retirement when a disabled retired state employee fails to timely make an application. The ALC's decision to rely on this case is clearly erroneous because the facts and law as applied in *Lazicki-Thomas* are not consistent with the facts in the matter *sub judice*. Accordingly, Appellant submits that the decision should not be considered by this Court because it lacks precedential value in this case.

In *Lazicki-Thomas*, the applicant was employed as a City of North Charleston firefighter. In April 2004, the applicant was injured on the job, and on January 28, 2005, her city employment

was terminated. The applicant filed an application for disability retirement on August 16, 2025, and respondent notified her that she was ineligible to apply because she was not "in service" when the application was made. This case is inapplicable to the matter *sub judice* for two central reasons. First, in *Lazicki-Thomas*, the applicant was ineligible to apply for benefits because she was not "in service" when the application was made. Lazicki-Thomas did not make an application for benefits until over a year after she was injured on the job. In contrast, Appellant, made an application for disability retirement only two weeks after she ceased working and while she was a "member in service."

Second, the facts in *Lazicki-Thomas* do not indicate that there was any procedure requiring that the applicant file the application for benefits with their employer's benefits administrator and there are no facts indicating that the applicant's employer was responsible for submitting the application. This is a clear difference from this case in which the Appellant was required to make her application with the Benefits Coordinator at Santee Cooper. Appellant was required to file her completed application with Santee Cooper, with Santee Cooper having the sole responsibility of submitting the application. In sum, in *Lazicki-Thomas,* the applicant was completely responsible for the late submission of her application, whereas, in the matter *sub judice*, Appellant bears no responsibility for her application not being submitted to the South Carolina Retirement System in a timely manner.

Appellant submits that *Lazicki-Thomas* has no bearing on the issues that will guide the outcome of this case because the facts of that case are so dramatically different from the matter at hand. Accordingly, Appellant submits that the ALC's reliance on this case in granting summary judgment to Respondents is clearly erroneous.

CONCLUSION

For the foregoing reasons, Appellant Christina M. Mims respectfully requests that this Court set aside the December 6, 2024 Order of the Administrative Law Court granting Summary Judgment to Respondents.

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