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Mar 11 2025

SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

DeQuincey G. Simmons, Appellant,

v.

South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Respondents.

Appellate Case No. 2024-001608

**MOTION TO STRIKE RESPONDENTS' BRIEF AND FOR SANCTIONS FOR
PROCEDURAL VIOLATIONS AND UNJUSTIFIED EXTENSIONS**

COMES NOW, Appellant DeQuincey G. Simmons, acting pro se, and respectfully submits this Motion to Strike Respondents' Brief and for Sanctions on the grounds that the Respondents have engaged in unjustified delay tactics, and the court has failed to properly address procedural violations and due process issues arising from the court's granting of multiple extensions without proper justification. The court's handling of the extensions has demonstrated procedural inconsistency, bias in favor of the Respondents, and a failure to protect the special procedural rights afforded to a pro se litigant under both state and federal law.

INTRODUCTION

This matter arises from an unemployment benefits dispute initially decided in favor of the Respondents by a hearing officer and subsequently affirmed by the South Carolina Department of Employment and Workforce's Appellate Panel. Despite securing favorable rulings in both the initial and appellate levels, Respondents have engaged in a pattern of delay through repeated, unjustified extension requests—delays which the court has improperly granted, contrary to both legal standards and the court's own prior rulings.

STATEMENT OF FACTS

To establish the extent of the unjustified delays and procedural violations, the following timeline is critical:

1. **July 3, 2023** – Appellant filed a claim for unemployment benefits.
2. **July 19, 2023** – Claims adjudicator determined that Appellant was disqualified from receiving benefits.
3. **August 18, 2023** – Appellant appealed to the Appeal Tribunal.

4. **August 11, 2023** – The Appeal Tribunal affirmed the claims adjudicator’s decision, finding that Appellant was discharged for cause.
5. **September 27, 2023** – Appellate Panel affirmed the Appeal Tribunal’s decision. This amounted to a second favorable ruling for the Respondents.
6. **November 2, 2023** – Case assigned to the South Carolina Court of Appeals.
7. **December 4, 2023** – Respondents filed a Motion for a 10-day Extension to file the Record on Appeal.
8. **March 22, 2024** – The Court granted the December 4, 2023 extension **more than three months** after the request—despite the fact that the Respondents had already won twice and had all necessary information to file their brief.
9. **January 27, 2025** – Respondents requested a 21-day extension to file their initial brief, which was granted, setting the deadline to **February 19, 2025**.
10. **February 18, 2025** – Respondents filed another 21-day extension request, seeking to extend the deadline to **March 12, 2025**—their third extension request.
11. **December 30, 2024** – The court previously ruled that the case would proceed without Respondents’ brief if it was not filed by the deadline—contradicting the later decision to grant additional time.
12. **February 20, 2025** – Appellant filed an objection to the February 18, 2025 extension request, which the court failed to address directly, in violation of due process.

ARGUMENT

I. THE COURT’S JUSTIFICATION FOR GRANTING THE EXTENSION WAS PROCEDURALLY FLAWED

The court’s March 22, 2024 Order acknowledged that the Appellate Panel had already ruled in favor of the Respondents, affirming the hearing officer’s decision. Thus, the Respondents had already won twice. There was no valid strategic reason for them to request additional time to file a brief when the facts had already been resolved in their favor.

Moreover, the court’s justification for granting the December 4, 2023 extension rested solely on a **technical compliance** with the filing deadline. However, technical compliance does not excuse the fact that the Respondents’ request was **substantively unjustified** because they already had the *necessary information to file a brief*.

"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." – *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004).

II. FAILURE TO ADDRESS THE OBJECTION VIOLATES DUE PROCESS

Appellant objected to the February 18, 2025 extension request on February 20, 2025. The court failed to respond to this objection or provide a justification for granting the extension despite the objection. Under established precedent, a court is required to respond to objections and explain its rulings.

“Procedural due process requires that parties be given an opportunity to be heard at a meaningful time and in a meaningful manner.” – *Mathews v. Eldridge*, 424 U.S. 319 (1976).

The court’s failure to respond to Appellant’s objection constitutes a violation of due process and reflects procedural favoritism toward the Respondents.

III. DELAY TACTICS IN UNEMPLOYMENT CASES VIOLATE DUE PROCESS

Unemployment cases are entitled to expedited resolution because they directly affect an individual’s financial stability and livelihood. Federal precedent has established that prolonged delays in cases involving financial support can rise to the level of a constitutional violation.

“Excessive delays in the processing of claims for public assistance may deprive claimants of property without due process of law.” – *Williams v. Reed*, 361 U.S. 349 (1960).

By granting multiple extensions over a period of **over 400 days** in a case involving unemployment benefits, the court has deprived the Appellant of timely resolution, violating his due process rights under the 14th Amendment.

IV. FAILURE TO IMPOSE SANCTIONS REFLECTS INCONSISTENCY

The court granted two out of three of Appellant’s requests in the December 30, 2024 order—it denied the motion to dismiss and granted the surreply—but refused to impose sanctions without providing any explanation. This reflects procedural inconsistency and bias in favor of the Respondents.

"A court's refusal to impose sanctions despite a clear violation of procedural rules may constitute an abuse of discretion." – *In re Snyder*, 472 U.S. 634 (1985).

RELIEF REQUESTED

WHEREFORE, based on the foregoing, Appellant respectfully requests that this Court:

1. **Strike the Respondents' Brief** for procedural violations and unjustified delay.
2. **Impose sanctions** on the Respondents for abuse of the judicial process.
3. **Order the case to proceed without Respondents' brief** in accordance with the Court's December 30, 2024 order.

4. **Provide a written explanation** for the granting of extensions and denial of sanctions, as required under procedural due process protections for pro se litigants.

Respectfully submitted,
DeQuincey G. Simmons
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(706) 495-0738

De Quincey Simmons
3/11/2025

Dated: March 11, 2025

PROOF OF SERVICE

I, DeQuincey G. Simmons, hereby certify that I have served a copy of the foregoing **Motion to Strike Respondents' Brief and for Sanctions** on the following parties by email and U.S. Mail, postage prepaid, on **March 11, 2025**:

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I affirm that the above statements are true and correct to the best of my knowledge.

DeQuincey G. Simmons
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