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Mar 11 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2024-000961

Ryan McAvoy,Appellant,

v.

The Town of Hilton head Island, South Carolina, Respondent.

APPELLANT’S RETURN TO MOTION TO DISMISS

NOW COMES the Appellant, by his undersigned counsel, and respectfully files this Return to Respondent’s Motion to Dismiss dated March 4, 2025.

1. The Record on Appeal was first due January 16, 2024, and then by a January 23, 2025, letter the Court requested that it be filed within 10 days. Appellant then filed a Motion to File out of Time and Request for Extension, to which Respondent’s counsel consented.
2. Appellant had difficulty acquiring the marked trial exhibits electronically from the Beaufort County Clerk of Court and difficulty in arranging (long distance) for a representative to schedule and pick up photocopies from the Clerk. By the First Motion to File Out of Time and For Extension, Appellant apologized for the delay and inconvenience and requested the Court’s consent to file and serve the Record on Appeal within 20..

3. By order of February 7, 2025, the Court granted this First Motion to File Out of Time and For Extension through February 28, 2025. Accordingly, Appellant timely filed the bound copy of the Record on Appeal on February 28, 2025.
4. However, Appellant's counsel thought the unbound digital copy had also been timely filed and served by email February 28, 2025. (It was complete, just as the hard copy was.) Instead, by letter of the Court 3 days later, on Tuesday, March 3, Appellant learned the unbound digital copy had not been e-filed or e-served.
5. The undersigned counsel takes full responsibility for the misunderstanding and apologizes for the inconvenience and delay after the filing of the bound copy.
6. As a consequence, on March 4, Respondent received a copy of the Court's letter requesting an emailed unbound copy of the record and proof of service.
7. Respondent then filed a Motion to Dismiss March 4, for failure to timely serve the unbound record.
8. The next day, by letter dated March 5, the Court required an unbound copy and granted 10 days to correct the deficiency.
9. Appellant then sent the record by email to the Court and counsel including the unbound digital copy of the record and a proof of service March 4, 2025, well within the Court's Ordered date of March 15.
10. The undersigned counsel takes full responsibility for the misunderstanding and apologizes for this additional inconvenience and delay following the timely filing of the bound copy of February 28.
11. Although Appellant's undersigned counsel respects Respondent's position, she would ask for grace as she has recently returned to regular appellate practice after an 11-year break, and this

is her first appellate matter filing and serving under the electronic filing procedures. The undersigned commits to careful observance of the rules going forward.

Accordingly, Appellant requests that the Court deny Respondent's Motion to Dismiss the appeal.

THE CARPENTER LAW FIRM, PC

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864-235-1269

Attorneys for Appellant Ryan McAvoy

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PROOF OF SERVICE

I certify that I have served Appellant’s Return to Respondent’s Motion to Dismiss upon Respondents, Town of Hilton Head Island, South Carolina, by emailing it to its attorney of record, Curtis L. Coltrane.

March 11, 2025

/s/ Jennifer J. Miller

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