

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 23-ALJ-22-0429-AP

Appellate Case No. 2024-001608

DeQuincey G. Simmons,

Appellant

v.

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

Respondents

**RESPONDENTS' RESPONSE IN OPPOSITION TO
APPELLANT'S MOTION TO STRIKE**

Respondents South Carolina Department of Employment and Workforce (the Department) and Bridgestone Americas Tire Operations (Bridgestone) hereby submit this Response in Opposition to Appellant's Motion to Strike. On February 18, 2025, Respondents filed a Joint Motion for Extension requesting a routine extension of twenty-one additional days to file Respondents' Joint Initial Brief. On February 19, 2025, Appellant filed a Response to the motion objecting and asking this Court to deny Respondents' request for a routine extension. By Order dated March 7, 2025, this Court

granted Respondents' request and Respondents' deadline to file the Joint Initial Brief was extended until March 12, 2025. On March 11, 2025, Appellant filed a Motion to Strike Respondents' forthcoming brief ("Appellant's Motion"). Appellant's Motion also asked for sanctions against Respondents for alleged delay tactics. On March 12, 2025, Respondents filed their Joint Initial Brief. Appellant's Motion is manifestly without merit and should be summarily denied by this Court.

I. No Rehearing on Motions

Although Appellant styles his motion as a Motion to Strike, his motion is actually an attempt to relitigate Respondents' prior Motion for an Extension to which Appellant already replied and on which this Court has already ruled. Likewise, Appellant's request for sanctions is an attempt to relitigate his prior request for sanctions – which this Court denied – presented in Appellant's Surreply filed on November 22, 2024. This Court's rules state, "[t]he court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." Rule 240(i), SCACR. Because Appellant's motion is functionally a motion to rehear the non-dispositive Order granting an extension to file Respondents' Joint Initial Brief and the non-dispositive Order denying Appellant's prior request for sanctions, this Court should deny Appellant's Motion.

II. Extensions

This Court was well within its rights to grant an extension to Respondents for filing their Initial Brief. This Court's rules provide, "[t]he time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243

may be extended or shortened by the appellate court, or by any judge or justice thereof.” Rule 263, SCACR. Appellant’s argument that this extension violated some sort of procedural rule is manifestly without merit and should be disregarded by this Court. Further, Appellant’s argument that the Court somehow violated due process requirements by not directly addressing Appellant’s objection to Respondents’ motion does not hold up under scrutiny. This Court’s rules provide that “[t]he Court of Appeals need not address a point that is manifestly without merit.” Rule 220(b)(2), SCACR. Appellant’s arguments regarding any alleged violation of his due process rights were meritless, and this Court was under no obligation to address them. This Court should continue to disregard Appellant’s meritless arguments and deny his motion.

III. Appellant’s Lack of Candor to this Court

Appellant’s remaining arguments – in addition to lacking merit - rely on citations to authority that simply do not exist. In Section III of Appellant’s motion, Appellant cites to “*Williams v. Reed*, 361 U.S. 349 (1960)” for the proposition that delays in processing unemployment claims violate due process rights under the 14th Amendment. In furtherance of that argument, Appellant cites the specific quote: “Excessive delays in the processing of claims for public assistance may deprive claimants of property without due process.” Setting aside the fact that this case is well beyond the stage of claims processing which occurs when an individual first files a claim for unemployment benefits, Counsel

for Respondents were unable to locate the cited case or the cited quotation. Appellant appears to have fabricated both the case and the quotation.¹

In Section IV of Appellant's Motion, Appellant cites a real case: "*In re Snyder*, 472 U.S. 634 (1985)." However, Appellant invents the quote: "A court's refusal to impose sanctions despite a clear violation of procedural rules may constitute an abuse of discretion" and attributes that quote to the *Snyder* Court. Once again setting aside Appellant's meritless argument that granting only two out of three of a party's requests in a given motion represents a *per se* procedural inconsistency, bias, and/or abuse of discretion, the *Snyder* Court never made the quoted statement, and that quotation does not exist in the Court's Order. Appellant's arguments regarding this Court's decision to grant Respondents' extension request are meritless and the authority in Appellant's Motion does not support his arguments or contain the language he quotes that he attributes to that authority.

For all the foregoing reasons, Respondents respectfully request this Court deny Appellant's motion and sanction Appellant for his false and misleading citations as the Court deems appropriate. Respondents would ask that the Court, at a minimum, caution Appellant as to the consequences for perjuring himself to the Court.

[Signatures on Following Page]

¹ Furthermore, Appellant's claim that "extensions over a period of **over 400 days**" have been provided in this case is entirely false. Appellant filed his Notice of Appeal on September 23, 2024; therefore, this action has been pending in this Court for a **total** of 169 days as of the date of Appellant's Motion.

Respectfully Submitted,



Benjamin T. Cook (Bar # 102216)
SC Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202
(803) 737-0395 (phone)
(803) 737-0124 (fax)
Legal@dew.sc.gov

Attorney for Respondent
SC Dept. of Employment and Workforce

/s/ Benjamin T. Hepner
Benjamin Hepner (Bar No. 102734)
Littler Mendelson, P.C.
110 E Court St., Suite 201
Greenville, SC, 29601
(864) 775-3200 (phone); (864) 484-8663 (fax)
BHepner@littler.com

Attorney for Respondent
Bridgestone Americas Tire Operations, LLC

March 20, 2025.

RECEIVED

Mar 20 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2024-001608

DeQuincey G. Simmons.

Appellant,

v.

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

Respondents.


PROOF OF SERVICE

I certify that I have served the RESPONDENTS' RESPONSE IN OPPOSITION TO APPELLANT'S MOTION TO STRIKE on the parties in this case by mail on March 20, 2025, addressed to the parties at their addresses of record:

DeQuincey G. Simmons
2503 Hiers Ct
Hephzibah GA 30815

Benjamin Hepner
110 E Court St, Ste 201
Greenville SC 29601

March 20, 2025



Kristi Chesley
South Carolina Department of Employment and
Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

P.O. Box 8597
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

William H. Floyd, III
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

March 20, 2025

RECEIVED

Mar 20 2025

SC Court of Appeals

By Email at ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: DeQuincey G. Simmons v. SCDEW and Bridgestone
Americas Tire Operations LLC
Appellate Case No: 2024-001608

Dear Ms. Kitchings:

Enclosed is the Respondents' Response in Opposition to Appellant's Motion to Strike in the above referenced case. A proof of service is also included in this mailing.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kristi Chesley".

Kristi Chesley
Administrative Legal Assistant for
Ben Cook
Attorney for Respondent South Carolina
Department of Employment and Workforce