

STATE OF SOUTH CAROLINA
COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 2013-00158

Tanya A. Vaughan-Youmans

Appellant,

v.

Administrative Law Court,
South Carolina Department of
Employment and Workforce
and Darby Realty Company,
Inc.⁵⁶

Respondent.

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OCT 01 2013
SC Court of Appeals

MOTION TO DENY APPEAL DISMISSAL

Tanya A. Vaughan-Youmans
Pro Se Appellant
Post Office Box 1924
Goose Creek, SC 29445

Ralph K. Anderson, III
Chief Administrative Law Court
Edgar a. Brown Building
1205 Pendelton Street, Suite 224

Pratt-Thomas-Walker
Attorneys At Law
Daniel S. McQuenney, Jr.
John P. Linton, Jr.
16 Charlotte Street
Charleston, SC 29403

Office of General Counsel for
the SCDEW
E.B. "Trey" McLeod, Esq
PO BOX 8597
Columbia, SC 29202

Motion To Deny Dismissal of Appeal By Respondents, Darby Pursuant Rule 203(B), SCACR.

Appellant, Tanya A Vaughan Youmans (Pro Se) hereby request this Court to *Deny the Dismissal of Appeal* filed by the Respondent (“Darby”) base on their assertion that the Appellant failed to timely serve the *Notice of Appeal* on the Administrative Law Court (“ALC”) as required by Rule 203(B), SCACR.

The Appellant complied with Rule 203(B) that states, “*The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served.*”

Respectfully submitted as evidence:

- Exhibit A the Proof of Service indicates on July 23, 2013 that ALC was notified of Notice of Appeal by Appellant.
- Exhibit B is Letter Ordering Transcript for Court Reporter on July 23, 2013 that explains to the Administrative Law Court that the Appellant filed a Notice of Appeal and requesting the Ordering of Transcripts base on Rule 207(b)(1) that states “*Within ten (10) days after the date of service of the notice of appeal, appellant shall, in writing, make satisfactory arrangements with the administrative law court or the agency (administrative tribunal) to obtain a transcript of the proceeding before that body.*”[Due to the limited involvement and NO proceedings or transcripts available from this court.]
- Exhibit C Proof of Service of Notice of Appeal to Respondents.
- Exhibit D The Notice of Appeal
- Exhibit E Motion and Affidavit To Proceed In Forma Pauperis

It is with this evidence that the Appellant request that the Respondents be denied their request for Dismissal. The Appellant is in compliance with Rule 203(B).

I. Appellant's appeal should not be dismissed for failure to timely serve the ALC with the Notice of Appeal, pursuant to Rule 203, SCACR.

The Appellant complied with Rule 203(B) "*The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served.*"

The Appellant, filed Notice of Appeal & Certificate of Service which is her Notice of Appeal on July 18, 2013 exactly thirty (30) days after the Honorable Ralph King Anderson, III signed the filed copy of the Order of Dismissal from the ALC. Certificate of services was served to the Respondents on July 18, 2013. The ALC was served on July 23, 2013 exactly five (5) days after the Appellant filed Notice of Appeal; Certificate of Service was served to South Carolina Court of Appeals and to the Respondents, which also accompanied the Notice Ordering Transcript on the Record.

In response to Respondent's alternative request for **Dismissal of Appellant's Appeal**, based on **Rule 220(c)** should be denied based on Appellant's Notice of Appeal filed on July 18, 2013.

II. Respondent's request should be dismissed based on S.C. Code Ann. 1-23-380(5) and by that has in fact address any and all aspects of the findings in the ALC rendering of Order Of Dismissal; alternatively, the Appellant request under Rule 220 (a) a ruling in her favor reversing the ALC Order of Dismissal.

According to S.C. Code Ann. 1-23-380(5) "*The court may reverse or modify the decision [of an agency] if substantial rights of the appellant been prejudiced because the administrative findings, inferences, conclusions, or decisions are (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record.*" Pfeiffer v. SCDEW. (May 2013)*

The Appellant has addressed ALL matters in the initial Notice of Appeal. On Page 2 in the Notice of Appeal listed in the BACKGROUND, Section 1 (c) thru (f). The Order of Dismissal stated that the Appellant did not comply with the Notice of Assignment that was mailed on March 14, 2013 and the Order of the Procedure that was mailed on March 15, 2013, neither which the Appellant received and as the Order Of Dismissal states on page 2, line 2 it states {(c)} "This Notice was returned to the ALC by the United States Postal Service." This further substantiates the Appellant's truthful claim that she DID NOT receive the fair notice from the ALC. Surely, as proven with this action in this Appellate Court filing, that the rules and the procedures if given proper notification can be followed and complied with.

As to address the Respondent's assertion of the "two-issue" rule, the Appellant in her Notice of Appeal address both *Notice of Assignment [Rule 37]* and the *Order of Procedure [Rule 38]* both of which were the foundation of the Order of Dismissal of the ALC. The Respondents request for Motion to Dismiss should be denied because it was addressed in the Notice of Appeal and with proof

submitted to both the ALC as well as this Court of Appeals evidence substantiating the aforementioned erroneous circumstances. See Pfeiffer v. SCDEW. (May 2013) *

It is with this plea that the Appellant request that the **Respondent Darby Motion to Dismiss be denied in whole and in it's entirety due to it's erroneous claim based on the same request of this Appellant that this Court reverse the ALC decision.**

{Further proof substantiating Appellant's claim see Notice of Appeal Section (d), (e), and (f)}.

As to address and according to Rule 220 (a) "The court may affirm, reverse, or modify the decision below or remand all or any issues for further proceedings."

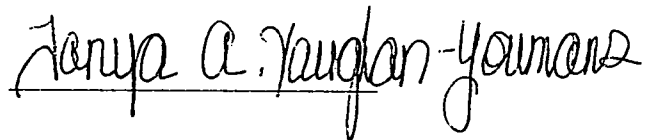
It is with this rule as well as the Denial of the Respondent's Motion to Dismiss the Appellant request, based on the amount of evidence that was presented in the Notice of Appeal, the Appellant pleas with this Court to reverse the decision of the lower court in this case with the ALC.

Conclusion

It is with this submission of evidence: as the Appeal Court requested

- Exhibit A Proof of Service
- Exhibit B Letter Ordering Transcript for Court Reporter
- Exhibit C Proof of Service of Notice of Appeal to Respondents.
- Exhibit D Notice of Appeal
- Exhibit E Motion and Affidavit To Proceed In Forma Pauperis

and with further proof it is the Appellant's plea to this Court that ANY and ALL **Motions to Dismiss** by any Respondent be in its entirety denied. The Appellant respectfully requested that the South Carolina Court Of Appeals will make a decision to reverse the decision of the lower court (ALC) and side with the Appellant base on S.C. Code Ann. 1-23-380(5) "*The court may reverse or modify the decision [of an agency] if substantial rights of the appellant been prejudiced because the administrative findings, inferences, conclusions, or decisions are (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record.*" Pfeiffer v. SCDEW. (May 2013)* The Appellant believes the Court has the authority to accomplish this base on **Rule 220 (a)** "The court may affirm, reverse, or modify the decision below or remand all or any issues for further proceedings."



Tanya Vaughan-Youmans

Submission of Evidence

- Exhibit A Proof of Service
- Exhibit B Letter Ordering Transcript for Court Reporter
- Exhibit C Proof of Service of Notice of Appeal to Respondents.
- Exhibit D Notice of Appeal
- Exhibit E Motion and Affidavit To Proceed In Forma Pauperis

STATE OF SOUTH CAROLINA
COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 13-ALJ-22-0095-AP

Tanya A. Vaughan-Youmans

Appellant,

v.

Respondent.

South Carolina Department of
Employment and Workforce
and Darby Realty Company,
Inc.,

EXHIBIT

A

PROOF OF SERVICE

I hereby certify that I am the Appellant, in the above-captioned matter and that on the 23rd of JULY, 2013, in Summerville, South Carolina, I served a copy of the foregoing Notice Letter Ordering Transcript From Court Reporter on the following parties by depositing the same in the United States Mail, postage, paid, and addressed as follows:

Ralph K. Anderson, III,
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201-3755

Tanya A. Vaughan-Youmans
Tanya Vaughan-Youmans

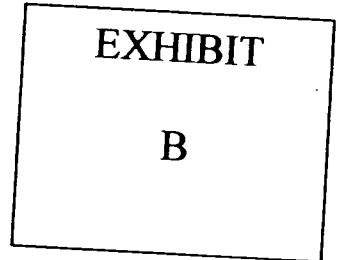
LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

July 23, 2013

Ralph K. Anderson III,
Chief Administrative Law Judge

E. Harvin Belser Fair
Judicial Law Clerk, Administrative Law Court

Edgar A Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201-3755



RE: **Tanya A. Vaughan-Youmans, as Pro Se Appellant, v. South Carolina Department of Employment and Workforce and Darby Realty Company, Inc., Case No. 13-ALJ-22-0095-AP**

Dear Administrative Law Court,

On **July 18, 2013**, I filed a **Notice of Appeal** with the South Carolina Courts of Appeals based on the decision of an **Order of Dismissal** from Honorable Ralph K. Anderson III, Administrative Law Judge, dated on June 18, 2013.

I would like to request that you provide me with the transcript of proceedings; and any and all court procedures that has helped to determine this court (ALC) ruling on the **Order of Dismissal** date on June 18, 2013.

According to Rule 207, Section (b)(1) Within ten (10) days after the date of service of the notice of appeal, appellant shall, in writing, make satisfactory arrangements with the administrative law court or the agency (administrative tribunal) to obtain a transcript of the proceeding before that body.

** According To Rule 607 (h) Fees for Transcription and Other Services. (1) By Judicial Department Court Reporter. A court reporter shall receive the following fees.*

**** I have been denied unemployed benefits which is the basis of my case with your courts. I also filed a Motion and Affidavit To Proceed in *Forma Pauperis* in the SC Court of Appeals under SC ARC RULE 240 *in extraordinary cases, the appellate court may relieve a party from paying the filing fee.***

Sincerely,

Tanya A. Vaughan-Youmans
Tanya A. Vaughan-Youmans
PO BOX 1924
Goose Creek, South Carolina, 29445
(843) 813-1848
Pro Se Appellant

cc: Jenny Kitchings
Clerk of Court, Court of Appeals

***Pending SC Court of Appeals Approval**

****Included in this submission is Motion and Affidavit To Proceed In *Forma Pauperis***

STATE OF SOUTH CAROLINA
COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 13-ALJ-22-0095-AP

Tanya A. Vaughan-Youmans

Appellant,

v.

Respondent.

South Carolina Department of
Employment and Workforce
and Darby Realty Company,
Inc.,

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JUL 18 2013
SC Court of Appeals

EXHIBIT

C

PROOF OF SERVICE

I hereby certify that I am the Appellant, in the above-captioned matter and that on the 18th of JULY, 2013, in Summerville, South Carolina, I served a copy of the foregoing Notice of Appeal on the following parties by depositing the

same in the United States Mail, postage, paid, and addressed as follows:

And including with this filing is the MOTION TO PROCEED
in Forma Pauperis

Pratt-Thomas/Walker
Attorneys At Law
Daniel S. McQueeney, Jr.
John P. Linton, Jr.
16 Charlotte Street
Charleston, SC 29403

Office of General Counsel for the SC
Department of Employment and Workforce
E.B. "Trey" McLeod, Esq.
Post Office Box 8597
Columbia, SC 29202

Tanya A. Vaughan-Youmans
Tanya Vaughan-Youmans

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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JUL 18 2013
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 13-ALJ-22-0095-AP

EXHIBIT

Tanya A. Vaughan-Youmans

Appellant,

v.

Respondent.

**South Carolina Department of
Employment and Workforce
and Darby Realty Company,
Inc.,**

NOTICE OF APPEAL

**Tanya A. Vaughan-Youmans appeals the decision of the Honorable Ralph K. Anderson III dated June 18, 2013. Appellant received a copy of this decision on June 19, 2013.
July 17, 2013**

**E.B. "Trey" McLeod, Esquire
Legal Department-Dept. of
Employment and Workforce
PO Box 8597
Columbia, South Carolina 29202
(803) 737-3168
Attorney for Respondent**

**John P. Linton, Jr., Esquire
16 Charlotte Street
Charleston, South Carolina 29403
(843) 727-2256
Attorney for Employer**

EXHIBIT

E

STATE OF SOUTH CAROLINA
COURT OF APPEALS

Tanya Vaughan-Youmans)

Appellant,)

v.)

South Carolina Department of)
Employment and Workforce)
Darby Realty Company, Inc.,)

Respondents.)

Case No 13-ALJ-22-0095-AP

**MOTION AND AFFIDAVIT
TO PROCEED IN FORMA PAUPERIS**

I, Tanya A. Vaughan-Youmans, the Appellant and I am filing this Motion of Forma Pauperis in the SC Court Of Appeals under SC ARC Rule 240 *in extraordinary cases, the appellate court may relieve a party from paying the filing fee.* I do not have the funds available to pay the costs of filing and service in this case due to the fact that I have been denied unemployed benefits. I request that the Motion of Appeal be made without cost to me.

Tanya A. Vaughan-Youmans
Tanya A. Vaughan-Youmans

STATE OF SOUTH CAROLINA
COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Case No. 2013-001548

Tanya A. Vaughan-Youmans,

Appellant,

v.

Administrative Law Court,
South Carolina Department of
Employment and Workforce
and Darby Realty Company,
Inc.,

Respondent.

RECEIVED

OCT 01 2013

SC Court of Appeals

PROOF OF SERVICE

I hereby certify that I am the Appellant, in the above-captioned matter and that on the 30th of September 2013, in Summerville, South Carolina, I served a copy of the foregoing **Motion To Deny Dismissal** on the following parties by depositing the same in the United States Mail, postage, paid, and addressed as follows:

Ralph K. Anderson, III
Chief Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201-3755

Pratt-Thomas/Walker
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E.B. "Trey" McLeod, Esq.
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Tanya A. Vaughan-Youmans
Tanya Vaughan-Youmans