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Jul 14 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Ninth Judicial Circuit

Honorable George M. McFaddin, Jr., Circuit Court Judge

Case No.: 2024-CP-10-04530

Appellate Case No. 2025-001313

Scott R. Manna

Appellant

v.

Jack Sinclair

Respondent.

**RESPONDENT'S RETURN TO APPELLANT'S
MOTION TO ALLOW LATE FILING**

Appellant's motion to allow late filing *nunc pro tunc* must be denied because Appellant failed to timely and properly file a notice of appeal with the South Carolina Court of Appeals in accordance with Rule 203(d)(1)(B), SCACR. This failure is not merely procedural, it directly implicates the rules governing appellate initiation and cannot be excused or cured through equitable arguments or *nunc pro tunc* relief, particularly in the absence of any showing of diligence or justification.

Rule 203(d)(1)(B), SCACR, requires that a notice of appeal be filed with the clerk of the appellate court within ten (10) days after service. That rule, by its plain text, imposes an affirmative obligation to file with the Court of Appeals, not merely to file with the circuit court. Where that filing does not occur, Rule 203(d)(3), SCACR, provides that the appeal "shall be dismissed and shall not be reinstated except as provided by Rule 260." Rule 260, SCAR, in turn, states, "Whenever it appears that an appellant or petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon a showing of good cause."

Here, Appellant failed to comply with the filing requirement in any manner until July 2, 2025, more than two months after the circuit court's ruling and 58 days after entering a notice of appeal in that court. Appellant's explanation, that he was misled by the circuit court clerk and unaware of the obligation to file a notice of appeal with the Court of Appeals, is not sufficient to excuse this substantial failure. Ignorance of the appellate rules even by a *pro se* litigant, does not constitute good cause and cannot revive an untimely appeal. The lengthy delay, without any contemporaneous effort to seek guidance, file with the Court of Appeals, or request clarification, reflects inexcusable neglect, not a justifiable or unavoidable mistake.

The record confirms that Appellant took no action to contact the Court of Appeals until June 25, over two months after receiving the underlying judgment on April 24 and did not attempt to file anything with this Court until July 2, almost two months after filing the notice of appeal on May 5. This timeline alone defeats any request for discretionary leniency. Appellate deadlines exist to ensure finality and efficient judicial review, and permitting such a delayed filing would

unfairly prejudice Respondent and contravene the clear and strict requirements of Rule 203, SCAR.

Because Appellant failed to file any appeal with this Court within the timeframe required by Rule 203(d) and because reinstatement is not warranted under Rule 260, SCAR, this Court must dismiss the appeal. Accordingly, the motion to allow late filing *nunc pro tunc* must be denied, and the appeal dismissed.

Respectfully Submitted,

EARHART OVERSTREET, LLC

/s/Robert L. Eaton

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ATTORNEYS FOR RESPONDENT

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PROOF OF SERVICE

I certify that a true copy of Respondent's Return to Appellant's Motion to Allow Late Filing in this case has been served on the following, this 14th day of July, 2025, by emailing a copy to each party listed below using their primary email address, as well as a hard copy using the physical address specified below.

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