

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No.: 21-ALJ-22-0047-AP

Appellate Case No. 2024-001795

RECEIVED

Jan 14 2026

SC Court of Appeals

James M. Harley, Appellant,

v.

South Carolina Department of Employment
and Workforce and Bradshaw Automotive Group, Inc., Respondents.

Motion to Dismiss

Respondents South Carolina Department of Employment and Workforce (the Department) and Bradshaw Automotive Group, Inc. (Bradshaw) move this Court to dismiss this appeal because Appellant has failed, after multiple extensions of time, to file a record on appeal that complies with the Court's rules and sufficient to allow this Court to review and make determinations on the alleged issues on appeal.

Factual Background

Appellant filed On October 21, 2024. After a series of extensions, Appellant filed and served his Initial Brief and Designation of Matter on August 11, 2025. On September 10, 2025, Respondents filed and served their Initial Brief and Designation of Matter. On October 22, 2025, Appellant filed his first motion requesting an extension of time to file and serve the record on

appeal, which was granted through November 21, 2025. On November 21, 2025, Appellant filed his second motion requesting an extension of time to file and serve the record on appeal, which was granted through January 6, 2026. On January 6, 2026, Appellant filed and submitted a six-page packet purporting to be a record on appeal.

Argument

Appellant failed to file and serve a proper record on appeal, where his purported record includes no designated documents. Appellant is required to properly format their record on appeal and include therein all matter properly designated by the parties. *See* Rule 210(c), SCACR (explaining the record on appeal "shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267.") Neither Rule 210(c) nor any of the other appellate court rules are "mere technicalities;" instead, they "provide the parties and this Court with an orderly mechanism through which to guide appeals in this State." *Henning v. Kaye*, 307 S.C. 436, 438, 415 S.E.2d 794, 794–95 (1992). It is the appellant who "ha[s] the burden of providing a sufficient record." *Helms Realty, Inc. v. Gibson-Wall Co.*, 363 S.C. 334, 339, 611 S.E.2d 485, 487–88 (S.C. 2005). When there is an inadequate record, courts "have traditionally held the appealing party accountable for failing to present the court with an adequate record on appeal for review." *Johnson v. S.C. Dept. of Probation, Parole, and Pardon Services*, 372 S.C. 279, 283, 641 S.E.2d 895, 897 (S.C. 2007) (finding Court of Appeals "properly" upheld trial court's decision where appellant fail[ed] "to present an adequate record on appeal." *See also Polson v. Burr*, 235 S.C. 216, 218-219, 110 S.E.2d 855, 856 (S.C. 1959).

[T]he appeal here is not in such shape as to enable us to properly consider the merits. Owing to the failure to incorporate in the record the order from which the appeal is taken, we are not advised as to the grounds upon which the motion was

denied or the reasons assigned by the Court below for the refusal to make Gainey and Tyner parties. Appeal dismissed.

Id. These requirements apply regardless of whether the appellant is represented by counsel or appears *pro se*. See e.g. *State v. Burton*, 589 S.E.2d 6, 9, n. 5 (S.C. 2003) (dismissing appeal because appellant failed to preserve issue for appeal and explaining that “[a] *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”).

Here, on January 6, 2026, Appellant filed and served a six-page packet titled “Record on Appeal and Statement of Authorities.” This document appears to contain a list of items for a table of contents, a list of items for a record on appeal split between three volumes, a table of authorities, and a summation of the arguments from Appellant’s initial brief. The packet omits all documents designated by Respondents.¹ Notably, Appellant also failed to include all matter identified in his designation of matter. With no designated documents included, the purported record on appeal does not comply with the South Carolina Appellant Court Rules, does not allow the Court to properly evaluate the alleged issues on appeal, and warrants dismissal of the appeal.

Appellant has failed to file a proper record of appeal, despite multiple extensions to do so. As presented, the record on appeal denies this Court the ability to review the alleged issues on appeal, for which appellant is solely responsible. This Court should dismiss Appellant’s appeal pursuant to Rule 260(a), SCACR. See Rule 260(a) (“Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order

¹ Specifically, the documents designated by Respondents’ designation of matter are: 1) Appellant’s Notice of Appeal to the Administrative Law Court (ALC) dated February 19, 2021; 2) The ALC notice of assignment dated February 24, 2021; 3) The ALC Record filed with the ALC on March 16, 2021; 4) Appellant’s Brief to the ALC filed on February 22, 2023; 5) The Joint Brief of Respondents to the ALC filed on March 14, 2024; and 6) The ALC’s Order Affirming the Panel filed September 19, 2024.

of dismissal, which shall have the same force and effect as an order of the appellate court."). Appellant's failure to include a single matter designated by either Appellant or the Respondents, even after multiple extensions, reflects Appellant's ongoing failure to prosecute his appeal and/or to file a record on appeal that complies with the Court's rules. Accordingly, this Court should dismiss the appeal.

If the Court declines to dismiss this appeal, the Court should strike Appellant's "Record on Appeal and Statement of Authorities" because it omits the documents designated by parties for inclusion. This complete omission is a serious defect and would prevent the Court from fully reviewing the issues the parties presented in their initial brief. Accordingly, if the Court declines to dismiss the appeal, the Court should strike the "Record on Appeal and Statement of Authorities" and order Appellant to file a proper record on appeal.

Based on the foregoing, Respondents move this Court to dismiss this appeal. Appellant, after multiple extensions has failed to file and serve a record on appeal in compliance with the Court's rules. Appellant has failed to file a proper record on appeal despite the Court providing multiple extensions to do so. Thus, the Court should dismiss this appeal. If the Court declines to dismiss the appeal, Respondents request the Court strike the "Record on Appeal and Statement of Authorities" as it is fatally deficient and order Appellant to file a record on appeal in compliance with the Court's rules. Finally, Respondents request the Court hold all timelines in abeyance pending the Court's ruling on this motion.

[signatures on following page]

Respectfully Submitted,

s/ Valerie McMellan

Valerie McMellan (SC Bar # 101080)
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 Department of
Employment and Workforce*

s/ Sarah M. Gable

Sarah M. Gable (SC Bar # 101810)
Ogletree Deakins
2142 Boyce Street, Suite 401
Columbia, SC 29201
Telephone: (803) 252-1300
Email: sarah.gable@ogletreedeakins.com

*Attorney for Respondent Bradshaw Automotive Group,
Inc.*

January 14, 2026.

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Respondents.

PROOF OF SERVICE

I certify that I have served the MOTION TO DISMISS on the parties in this case by mail on September 10, 2025, addressed to the parties at their addresses of record:

James M. Harley
238 Woods Rd
Greer SC 29650

Sarah Gable, Esq.
Ogletree Deakins
2142 Boyce Street, Ste 401
Columbia SC 29201
Sarah.gable@ogletree.com

January 14, 2026



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

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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: James M. Harley v. South Carolina Department of Employment and
Workforce and Bradley Automotive Group Inc.
Appellate Case No: 2024-000251

Dear Ms. Kitchings:

Enclosed is the Motion to Dismiss in the above referenced case. A proof of service is also included in this mailing indicated service upon the parties.

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
Valerie McMellan
Attorney for Respondent South Carolina
Department of Employment and Workforce