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Jan 20 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Debra R. McCaslin, Circuit Court Judge

Case No. 2025-002455

The State,

Respondent,

v.

Mark A. Winchell,

Appellant.

MOTION TO REINSTATE

INTRODUCTION

Appellant Mark Winchell, by and through undersigned counsel, respectfully moves this Court pursuant to Rule 260(a), SCACR, to reinstate his appeal, which was involuntarily dismissed by order of the Clerk dated January 16, 2026. For the reasons set forth below, good cause exists for reinstatement, and the appeal should be reinstated consistent with South Carolina's longstanding policy of resolving cases on their merits.

FACTUAL AND PROCEDURAL BACKGROUND

On December 9, 2025, Appellant filed a Notice of Appeal in this matter. By correspondence dated December 12, 2025, the Clerk of Court notified undersigned counsel of a

deficiency in the filing—specifically, that the Notice of Appeal was not accompanied by the order(s) and/or judgment(s) challenged on appeal. The correspondence informed counsel that the deficiency must be corrected within ten (10) days or the matter would be dismissed.

Undersigned counsel received this correspondence; however, counsel regrettably failed to recognize it among the numerous other messages in his inbox during that time period. This failure occurred during a particularly demanding period in counsel’s professional and personal life. Counsel was preparing for an attempted murder trial originally scheduled to commence on December 15, 2025—just three days after the Clerk’s correspondence was sent. That trial ultimately resolved through a last-minute plea agreement, requiring counsel to navigate the complexities and uncertainties inherent in such late-stage negotiations. Simultaneously, counsel was arranging multiple medical appointments for his wife during this same period.

On January 16, 2026, this Court entered an order dismissing the appeal due to the uncorrected deficiency. This motion is timely filed within fifteen (15) days of the order of dismissal.

ARGUMENT

Good cause exists to reinstate this appeal. Rule 260(a), SCACR, provides that an involuntarily dismissed case “shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.” South Carolina courts have consistently recognized that good cause determinations should be guided by “the policy of our state to resolve cases on the merits.” *Caldwell v. Wiquist*, 402 S.C. 565, 575, 741 S.E.2d 583, 588 (Ct. App. 2013). Good cause exists here for several reasons.

First, undersigned counsel’s failure to timely respond to the Clerk’s correspondence, while regrettable, was not the product of willful disregard or deliberate indifference to the Court’s

processes. Rather, it resulted from an inadvertent oversight during an unusually demanding period that included imminent trial preparation and family medical concerns. Counsel does not offer these circumstances as an excuse, but rather as context demonstrating that the failure was an isolated mistake rather than a pattern of neglect or disrespect for the appellate process.

Second, the deficiency at issue is readily curable. The Notice of Appeal itself was timely filed. The only deficiency was the failure to attach the challenged order(s) and/or judgment(s)—documents that exist and can be immediately provided to the Court upon reinstatement. This is not a case where the underlying appeal was untimely or where the deficiency reflects a fundamental jurisdictional defect that cannot be remedied.

Third, reinstatement will not prejudice the Respondent. The appeal was only recently dismissed, and this motion has been filed promptly within the fifteen-day period prescribed by Rule 260(a). Respondent will have full opportunity to participate in the appellate process and will suffer no disadvantage from reinstatement.

Fourth, and most importantly, South Carolina's strong policy favoring resolution of cases on the merits weighs in favor of reinstatement. As this Court recognized in *Caldwell v. Wiquist*, procedural rules should serve the interests of justice, not become barriers to the adjudication of substantive rights. *See* 402 S.C. 565, 575, 741 S.E.2d 583, 588 (Ct. App. 2013). Dismissing this appeal permanently based on counsel's inadvertent failure to recognize correspondence during a hectic period would deprive Appellant of any appellate review of issues that have substantial merit. Such a result would elevate procedural technicality over the substantive administration of justice.

The purpose of Rule 260(a)'s reinstatement provision is to allow the Court to exercise discretion in circumstances such as these—where an inadvertent error can be corrected, where no

party is prejudiced, and where the interests of justice favor permitting the appeal to proceed. Good cause exists to reinstate this appeal.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant this motion and reinstate his appeal. Upon reinstatement, Appellant will immediately file the required order(s) and/or judgment(s) and diligently prosecute this appeal in full compliance with the South Carolina Appellate Court Rules.



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Columbia, South Carolina
January 20, 2026

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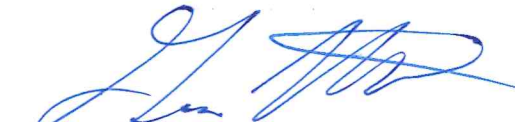
Appellant.

PROOF OF SERVICE

I certify that I have served this Motion to Reinstate by depositing through Electronic Mail,
on January 20, 2026, addressed to the following:

The Honorable Melody Brown
Assistant Attorney General
mbrown@scag.org

The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
ctappfilings@sccourts.org



Grace Moscoso, Paralegal to Jack B. Swerling