

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Judge James J Wegmann, Master-In-Equity

Case No: 2018-CP-07-00804

Appellate Case No:2025-002484

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SC Court of Appeals

BENNY HUDSON SEAFOOD CORP

Respondent,

v.

MARTIN GOVAN

Respondent,

and

MARTIN GOVAN

Respondent,

v

CRAIG WHITE and GERALDINE WHITE
THIRD PARTY DEFENDANT

Of whom Geraldine White is the Appellant.

**SUPPORTING MEMORANDUM OF LAW IN SUPPORT OF MOTION TO
REINSTATE APPEAL**

s://Geraldine White

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SUPPORTING MEMORANDUM OF LAW IN SUPPORT OF MOTION TO REINSTATE APPEAL

INTRODUCTION

Appellant respectfully submits this Memorandum of Law in support of the Motion to Reinstate Appeal. The appeal was dismissed for failure to pay the filing fee while Appellant's timely Motion to Extend Time to Pay the Filing Fee remained pending and undecided. Because the dismissal occurred without resolution of a motion directly affecting compliance with the Court's order, reinstatement is warranted to preserve due process and to permit resolution of the appeal on the merits.

I. AUTHORITY TO REINSTATE APPEAL

Rule 260(a), SCACR, authorizes dismissal for failure to comply with the appellate rules. However, South Carolina appellate courts retain inherent authority to grant relief from procedural defaults upon a showing of good cause. Reinstatement is appropriate where noncompliance was not willful and where fairness and justice favor allowing the appeal to proceed.

II. DISMISSAL WAS PREMATURE BECAUSE A TIMELY MOTION AFFECTING COMPLIANCE WAS PENDING

Appellant filed a Motion to Extend Time to Pay the Filing Fee after the Court denied in forma pauperis status. That motion directly addressed the deadline for compliance. Courts generally avoid imposing dismissal while a timely motion affecting compliance remains pending. Dismissing the appeal without ruling on the motion deprived Appellant of a fair opportunity to comply with the Court's order.

III. SOUTH CAROLINA LAW FAVORS DECISIONS ON THE MERITS

South Carolina courts have consistently emphasized that cases should be decided on their merits rather than on procedural technicalities when fairness permits. See *Ex parte Gregory*, 378 S.C. 430, 663 S.E.2d 46 (2008). Because this dismissal was procedural and not based on the merits, reinstatement promotes judicial efficiency and fairness.

IV. DUE PROCESS REQUIRES NOTICE AND A MEANINGFUL OPPORTUNITY TO COMPLY

Procedural due process requires notice and a meaningful opportunity to be heard before a party is deprived of a legal right. U.S. Const. amend. XIV; S.C. Const. art. I, § 3. See also *Ross v. Medical Univ. of S.C.*, 328 S.C. 51, 492 S.E.2d 62 (1997). By seeking an extension, Appellant provided notice of the need for additional time and reasonably awaited the Court's ruling. Dismissal without adjudicating the pending motion deprived Appellant of a meaningful opportunity to comply.

V. APPELLANT ACTED IN GOOD FAITH AND REINSTATEMENT WILL NOT PREJUDICE RESPONDENT

Appellant acted diligently and in good faith by filing the extension motion and awaiting the Court's decision. Appellant stands ready to pay the filing fee once the Court makes a ruling. Reinstatement will not prejudice Respondents and will allow the appeal to be resolved on its merits.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that the Court vacate the dismissal, reinstate the appeal, grant the extension of time *nunc pro tunc*, and permit the filing fee to be accepted as timely.

Respectfully submitted,

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February 19, 2026

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