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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Jessica A. Salvini, Circuit Court Judge
Civil Action No. 2026-CP-23-00430

Appellate Case No.: 2026-000257

Sheereen Mckibben,, Appellant

v.

Plantations At Haywood,, Respondent.

APPELLANT'S MOTION TO REINSTATE APPEAL

TO: THE HONORABLE COURT OF APPEALS

COMES NOW the Appellant, Sheereen Mckibben, appearing pro se, and respectfully moves this Honorable Court pursuant to Rule 240 of the South Carolina Appellate Court Rules and this Court's inherent authority to reinstate her appeal, which is subject to dismissal due to a deficiency in the proof of service. In support thereof, Appellant states as follows:

FACTUAL BACKGROUND

On February 4, 2026, Appellant filed a Notice of Appeal from the Greenville County Court of Common Pleas' Order entered by the Honorable Jessica A. Salvini on February 2, 2026, which

dismissed her appeal from Magistrate's Court. On February 5, 2026, Appellant filed an Emergency Motion to Stay Writ of Ejectment and for Relief from Judgment in the same matter.

On February 5, 2026, Appellant received a Deficiency Letter from the Clerk of the South Carolina Court of Appeals, the Honorable Jenny Abbott Kitchens, stating that the accompanying proof of service was not in compliance with the South Carolina Appellate Court Rules. Specifically, the Clerk noted that the proof of service must include the correct address for the Respondent: 135 Haywood Crossing Drive, Greenville, South Carolina 29607.

Upon receipt of the Deficiency Letter, Appellant immediately reviewed her filings and realized that she had inadvertently used an incorrect address for Respondent on the proof of service. In good faith and with the intent to comply fully with the Court's rules, Appellant promptly prepared and filed an Amended Certificate of Service on February 5, 2026.

Unbeknownst to Appellant at the time, however, she corrected the proof of service attached to her Emergency Motion to Stay but inadvertently failed to correct the proof of service attached to her initial Notice of Appeal. This was a simple, unintentional oversight by a pro se litigant who was attempting to remedy the deficiency as quickly as possible and misunderstood which document required correction. Appellant believed, in good faith, that by filing the Amended Certificate of Service, she had fully cured all deficiencies identified in the Clerk's February 5, 2026, letter.

Appellant has at all times acted diligently and in good faith throughout these proceedings. She appeared at all underlying hearings before the Magistrate's Court and the Circuit Court, timely filed her Notice of Appeal to this Court, and immediately sought to correct the identified error upon notice from the Clerk. The error at issue was isolated, unintentional, and resulted from misunderstanding rather than any disregard for the Court's rules.

ARGUMENT

A. This Court Has Inherent Authority to Reinstate Appeals to Prevent Injustice

While the South Carolina Appellate Court Rules do not contain a specific rule titled "Motion to Reinstate," this Court possesses inherent authority to control its docket and to prevent manifest injustice. Where an appeal is subject to dismissal for a procedural deficiency, the Court may consider whether the error was the result of excusable neglect and whether the opposing party has suffered any prejudice. Rule 240(a) of the South Carolina Appellate Court Rules addresses the effect of noncompliance and grants this Court discretion to impose sanctions other than dismissal. The South Carolina Court of Appeals has long recognized that dismissal is a harsh sanction that should be used sparingly and only when less drastic measures are unavailable or inappropriate. *See In re Estate of Weeks*, 329 S.C. 251, 259, 494 S.E.2d 125, 129 (Ct. App. 1997).

B. Appellant's Error Constitutes Excusable Neglect Warranting Relief

The failure to correct the specific proof of service for the Notice of Appeal was inadvertent and constitutes excusable neglect under South Carolina law. The term "excusable neglect" is understood to encompass situations where a party fails to meet a deadline or comply with a procedural requirement due to oversight, mistake, or circumstances beyond their control, so long as the party acted in good faith

Several factors demonstrate that Appellant's neglect is excusable in this instance. First, Appellant is proceeding pro se and is not trained in the technical intricacies of appellate procedure, which courts have recognized as a relevant consideration when evaluating procedural errors. Second, upon receiving the Deficiency Letter, Appellant acted with remarkable promptness, preparing and filing corrective papers on the very same day she received notice of the deficiency. Third, Appellant mistakenly but reasonably believed that by filing the Amended Certificate of

Service, which corrected the address for the Emergency Motion, she had addressed the Clerk's concerns in their entirety. Fourth, the error was a single, isolated mistake involving a duplicate document, not a pattern of neglect or delay that would suggest indifference to the Court's authority.

The South Carolina appellate courts have consistently held that procedural rules should be interpreted to promote, not defeat, justice, and that dismissal is a drastic sanction that should be reserved for cases where a party demonstrates willful disobedience or a pattern of neglect.

C. The Error Was Not Made in Bad Faith and Has Caused No Prejudice to the Respondent

There is no evidence whatsoever, nor could there be, that Appellant's error was intentional or designed to mislead the Court or Respondent. Appellant has consistently identified Respondent correctly throughout these proceedings and has properly served Respondent with all other pleadings, including the Emergency Motion to Stay which contained the corrected address. Furthermore, Respondent has suffered no prejudice as a result of this isolated error.

Respondent was properly served with the Emergency Motion to Stay, which contained the corrected address, and the Clerk's Office copied Respondent on the February 5, 2026, Deficiency Letter, thereby providing actual notice of the pending appeal and the deficiency issue. The substance of the appeal is entirely unaffected by this technical deficiency, and Respondent remains fully able to respond to the merits of Appellant's arguments once the appeal proceeds.

Where no prejudice exists, dismissal is an inappropriate sanction. The South Carolina Court of Appeals has consistently held that dismissal is improper where there is no showing of prejudice to the opposing party. Here, Respondent cannot credibly claim any prejudice from Appellant's inadvertent failure to correct one of two proofs of service, particularly given that

Appellant has now fully cured the deficiency by filing this motion and serving Respondent at the correct address.

D. The Strong Policy Favoring Disposition on the Merits Compels Reinstatement

It is a fundamental tenet of South Carolina jurisprudence that cases should be decided on their merits whenever possible, rather than disposed of on procedural technicalities. The South Carolina Supreme Court has long held that "it is a sound legal principle that a cause should be tried on its merits rather than disposed of on technical grounds." *Fraday v. Smith*, 247 S.C. 353, 357, 147 S.E.2d 412, 414 (1966). This principle applies with equal force to appellate proceedings.

Appellant has a meritorious appeal that deserves to be heard on its merits. The Circuit Court dismissed her underlying appeal due to her failure to appear at a bond hearing, which failure was caused by a severe and widespread ice storm on January 25, 2026, that made travel impossible and disrupted communications throughout the Greenville and Anderson County region. Dismissing this appeal on the technical ground that Appellant corrected the wrong proof of service would permanently foreclose Appellant's opportunity to present that meritorious claim, all because of a single, good-faith mistake by a pro se litigant who was attempting in good faith to comply with the Court's directives.

E. Appellant Has Now Substantially Complied with All Appellate Rules

Appellant has now properly served Respondent at the correct address for all purposes. The correct address for Respondent is reflected in the Amended Certificate of Service filed with the Court on February 5, 2026, and in the Certificate of Service attached to this Motion. Any technical violation of the appellate rules has been fully cured, and the Court's docket is no longer encumbered by any outstanding deficiency. The interests of judicial economy and fundamental

fairness both favor allowing this appeal to proceed to a resolution on its merits rather than dismissing it based on an error that has been fully corrected.

CONCLUSION

Appellant respectfully submits that her failure to correct the specific proof of service for the Notice of Appeal was an unintentional, good-faith error by a pro se litigant who was attempting to comply with the Court's deficiency notice. The error has caused no prejudice to Respondent, and Appellant has now fully complied with all service requirements. The interests of justice require that this appeal be reinstated and decided on its merits, not dismissed on a technicality that has been fully cured.

WHEREFORE, Appellant, Sheereen Mckibben, respectfully requests that this Honorable Court:

1. Reinstate her appeal in Appellate Case No. 2026-000257;
2. Accept the Notice of Appeal as properly served and filed nunc pro tunc;
3. Direct the Clerk of Court to process the appeal in the normal course; and
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,
By: s/ Sheereen Mckibben
Sheereen Mckibben
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March 4, 2026
Greenville, South Carolina

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of March 2026, I served a true and correct copy of the foregoing Appellant's Motion to Reinstate Appeal upon the Respondent, Plantations At Haywood, by depositing a copy in the United States Mail, postage prepaid, and properly addressed as follows:

Plantations At Haywood
135 Haywood Crossing Drive
Greenville, South Carolina 29607

By: s/ Sheereen Mckibben
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Greenville, South Carolina 29607
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