

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Case No. 2025-CP-46-01222

Appellate Case No. 2025-001843

Tonya R. Blake, Individually and as
Personal Representative of the Estate of
Reco D. Miller,

Appellant,

v.

Brenda Burris,

Respondent.

RESPONDENT’S SECOND MOTION TO DISMISS APPEAL

Respondent hereby moves pursuant to Rules 240 and 260, SCACR, for an order dismissing Appellant’s appeal. In support of this Motion, Respondent states that Appellant has failed to serve and file her initial brief within thirty (30) days after receiving the transcript of the lower court proceedings as required by Rule 208(a)(1), SCACR. Due to Appellant’s continued failure to comply with the requirements of the South Carolina Appellate Court Rules, her appeal must be dismissed pursuant to Rule 260(a), SCACR.

Introduction and Statement of Relevant Facts

This appeal from the York County Court of Common Pleas follows the dismissal of *Pro Se* Appellant Tonya Blake (“Appellant” or “Appellant Blake”)’s complaint pursuant to Rule 12(b)(6),

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SC Court of Appeals

SCRCP. Appellant Blake filed a notice of appeal on September 10, 2025.¹ Appellant filed a Motion to Supplement the Record on Appeal and a Motion to Compel Preparation and Delivery of Transcript on March 31, 2026. Appellant also filed – but failed to serve – her initial brief on March 31, 2026. The Clerk of Court sent a deficiency letter to Appellant on May 14, 2026, identifying multiple deficiencies in Appellant’s motions and declining to take any action on Appellant’s premature initial brief.

In response to the Court’s deficiency letter, Appellant filed a letter, in the form of a Proof of Service, on May 19, 2026, certifying that she had received the transcript of the proceedings in the lower court. See **Exhibit A**, Appellant’s May 19, 2026, Response to Deficiency Letter, at p. 1. This Court denied Appellant’s Motion to Compel Preparation and Delivery of Transcript as moot because Appellant certified she already received the transcript. See **Exhibit B**, Order dated June 24, 2026, at p. 1. More than thirty (30) days have now passed since Appellant received a copy of the hearing transcript.

Argument

Appellant has failed to timely file her initial brief and otherwise comply with the South Carolina Appellate Court Rules and, therefore, her appeal must be dismissed.

Appellant was plainly required, under the South Carolina Appellate Court Rules, to serve and file her initial brief within thirty (30) days after her receipt of the transcript of the proceedings in the lower court. Rule 208(a)(1), SCACR (“Within thirty (30) days after receiving the transcript ... appellant *shall* serve one copy of [her] brief on all parties to the appeal, and file with the clerk

¹ Respondent filed a motion to dismiss for lack of jurisdiction based on Appellant’s failure to timely serve her notice of appeal on Respondent. This Court denied Respondent’s motion to dismiss on Feb. 25, 2026. Respondent maintains that Appellant failed to properly serve her notice of appeal within 30 days of the date on which the circuit court filed its final order of dismissal, and that the Court therefore lacks jurisdiction over the appeal.

of the appellate court one copy of the brief with proof of service.) (emphasis added). Further, dismissal of an appeal is required when an appellant has failed to comply with the Appellate Court Rules. Rule 260(a)(1), SCACR (“Whenever it appears that an appellant ... has failed to comply with the requirements of these Rules, *the clerk shall issue an order of dismissal*”) (emphasis added). *See also Matter of Sheek*, 434 S.C. 259, 263, 862 S.E.2d 903, 905 (2021) (suspending attorney in part for causing *dismissal of appeal* due to the attorney’s failure to timely order the transcript after filing the notice of appeal, misrepresentation regarding the date the transcript was ordered, *failure to serve the appellant’s initial brief*, and filing the initial brief without ordering the transcript).

In *Henning v. Kaye*, the South Carolina Supreme Court addressed an appellant’s failure to comply with the Appellate Court Rules regarding the form and content of an appellant’s initial brief. 307 S.C. 436, 415 S.E.2d 794 (1992). The appellant did not oppose the motion to dismiss as to one of the respondents, and the motion to dismiss as to that respondent was granted. *Id.* at 437, 415 S.E.2d at 794. As to the respondents whose motion the appellant opposed, Chief Justice Harwell noted that dismissal of the appeal “would be completely justified ... based on appellant’s numerous violations of the Rules.” *Id.* The appellant’s violations were formal in nature: failure to correctly organize and label components of his brief; failure to provide distinctive headings for the issues; failure to alphabetize the table of authorities or reference to the body of the brief; inclusion of contested matter in the statement of the case; and omission of required matter from the statement of the case. *Id.* In lieu of dismissing the appeal for these formal deficiencies, the Supreme Court granted leave for the appellant’s counsel to file a brief which complied with the Appellate Rules’ formatting and content requirements. *Id.* at 438, 415 S.E.2d at 794. The Court forbade changes to

the appellant's arguments contained in the filed brief, save for citations to cases in the table of authorities and references to the record. *Id.*

In the instant appeal, Appellant Blake received the transcript of the motion to dismiss hearing sometime between March 31, 2026, and May 19, 2026.² See **Exhibit A** at p. 1 (“I certify that I have a copy of the transcript[.]”). See also **Exhibit B** at p.1 (“[I]n light of Appellant’s indication that she had a copy of the transcript, we deny the motion to compel preparation of the transcript as moot.”). Assuming, *arguendo*, that Appellant received the transcript as late as May 19, 2026, Appellant was required to serve and file her initial brief, along with a proof of service, *no later than June 18, 2026*. Just as the appellant’s failure to comply with the Rules justified dismissal of his appeal in *Kaye*, so too does Appellant Blake’s continued failure to comply with the Rules justify dismissal of her appeal.³ However, unlike the appellant in *Kaye* who timely filed a formally deficient brief that nonetheless still justified dismissal of the appeal, Appellant Blake has utterly failed to timely serve or file her initial brief some fifty-one (51) days since she certified receipt of the transcript on May 19, 2026. Due to her failure to comply with the Appellate Court

² Appellant’s Proof of Service is dated May 18, 2026, and stamped as received by the Court on May 19, 2026. For purposes of the instant Motion, Respondent has utilized the later filing date as the date on which Appellant certified her receipt of the transcript.

³ Appellant’s failure to serve and file her initial brief follows a pattern of non-compliance with the Rules. See Exhibit E to Respondent’s Oct. 14, 2025, Motion to Dismiss (affidavit confirming notice of appeal not served on Respondent); Deficiency Letters to Appellant dated Sept. 11, 2025 (proof of service not provided for notice of appeal and motion to proceed *in forma pauperis*); Deficiency Letter to Appellant dated Oct. 24, 2025 (proof of service not provided and return unsigned); Deficiency Letter to Appellant dated Nov. 18, 2025 (non-compliant proof of service on motion to compel); Clerk’s Correspondence to Appellant dated March 20, 2026 (failure to provide transcript); Deficiency Letter to Appellant dated May 15, 2026 (failure to pay filing fees, failure to provide proofs of service for motions, and improper filing of initial brief); Second Deficiency Letter to Appellant dated May 26, 2026 (failure to pay filing fee and provide proof of service for each motion).

Rules and timely serve and file her initial brief, Appellant's appeal must be dismissed pursuant to Rule 260(a), SCACR.

Conclusion

As Appellant has failed to comply with the South Carolina Appellate Court Rules by failing to timely serve and file her initial brief within thirty (30) days of her receipt of the transcript, Respondent respectfully requests that this Court issue an order dismissing the Appellant's appeal.

MURPHY & GRANTLAND, P.A.



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Attorneys for Respondent Brenda Burris

Columbia, South Carolina
July 10, 2026

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

J. D. Morgan, Jr., Circuit Court Judge

Appellant Case No. 2025-001843
Civil Action Case No.
2025-CP-46-01222

Brenda Burris

Respondent,

v.

Tonya R. Blake, Individually
and as Personal Representative for
The Estate of Reco D. Miller

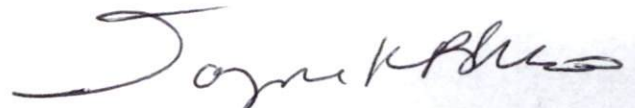
Appellant.

PROOF OF SERVICE

In reponse to the Court's letter written May 14, 2026, I certify that I have a copy of the transcript and has served the court with Exhibit A, a letter to the court asking for compellment, Exhibit B, a copy of the check for compelling fees paid to SC Court of Appeals dated 11/4/2025, and Exhibit C&D copy of receipts for transcript paid to Legal Eagle by depositing a copy of it in the United States Mail, postage prepaid, on May 18, 2026. sent to the South Carolina Court of Appeals, 1220 Senate Street, Columbia, S.C. 29201.

May 18, 2026

Tonya R. Blake
201 Sidney Street
Rock Hill, South Carolina 29730
(803) 371-3324



RECEIVED
MAY 19 2026
SC Court of Appeals

**EXHIBIT
A**

The South Carolina Court of Appeals

Tonya R. Blake, Individually and as Personal
Representative of the Estate of Reco D. Miller,
Appellant,

v.

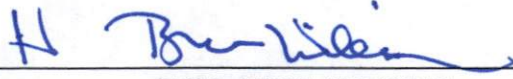
Brenda Burris, Respondent.

Appellate Case No. 2025-001843

ORDER

On March 31, 2026, Appellant filed two motions: a motion to supplement the record with text messages and a letter, and a motion to compel production of the transcript, which she indicated had been ordered many months prior but had yet to be delivered. Respondent filed a return to the motion to supplement the record, arguing the matters Appellant sought to include in the record on appeal were not presented to the circuit court and would not be proper for inclusion in the record on appeal. Appellant filed a reply. On May 19, 2026, Appellant indicated in a proof of service that she had a copy of the transcript.

After careful consideration, we deny the motion to supplement the record. *See* Rule 210(c), SCACR ("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. The Record shall not, however, include matter which was not presented to the lower court or tribunal."). Further, in light of Appellant's indication that she had a copy of the transcript, we deny the motion to compel preparation of the transcript as moot.



FOR THE COURT C.J.

FILED
Jun 24 2026

**EXHIBIT
B**

Columbia, South Carolina

cc:

Tonya R. Blake

Santino Umberto Ambrosini, Esquire

Edward Raymond Moore, III, Esquire

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Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Second Motion to Dismiss on *Pro Se* Appellant Tonya R. Blake by depositing a copy of it in the United States Mail, postage prepaid, on July 10, 2026, addressed to her as follows: 201 Sidney Street, Rock Hill, South Carolina 29730.

July 10, 2026

MURPHY & GRANTLAND, P.A.



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