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THE SUPREME COURT OF SOUTH CAROLINA

APPELLATE CASE NO. 2026-001488

S.C. SUPREME COURT

DeQuincey G. Simmons,

Petitioner,

v.

South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,

Respondents.

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 23-ALJ-22-0429-AP

Respondents' Joint Return to Petition for Certiorari

COUNTER STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

- I. SHOULD THIS COURT EXERCISE ITS DISCRETION TO REVIEW THE ONE-PAGE ORDER OF THE SOUTH CAROLINA COURT OF APPEALS DISMISSING PETITIONER'S APPEAL WHEN THERE ARE NO SPECIAL OR IMPORTANT REASONS TO DO SO AND WHEN THE CONSIDERATIONS IN RULE 242(b) ARE NOT PRESENT
- II. DID THE COURT OF APPEALS ERR IN DISMISSING PETITIONER'S APPEAL FOR HIS FAILURE TO CORRECT THE RECORD ON APPEAL

COUNTERSTATEMENT OF THE CASE

This action arises from a decision of the Administrative Law Court ("ALC") dismissing Petitioner Dequincey Simmons' ("Petitioner") appeal of a decision from the

South Carolina Department of Employment and Workforce (the “Department”) holding that Petitioner was disqualified from receiving unemployment insurance benefits (“UI benefits”) for sixteen (16) weeks following his discharge from Respondent Bridgestone Americas Tire Operations (“Bridgestone”).¹

Petitioner filed an initial claim for UI benefits with the Department, and Petitioner filed his application for UI benefits on or about July 3, 2023. The Department held that the Petitioner was disqualified from receiving UI benefits for sixteen (16) weeks based on its conclusion that Petitioner was discharged for cause. On July 25, 2023, Petitioner appealed the claims adjudicator’s decision to the Department’s Appeal Tribunal (the “Tribunal”). The Tribunal held a hearing on August 9, 2023, and ultimately affirmed the claims adjudicator’s determination, in a decision dated August 11, 2023, and affirmed the Department’s initial finding that Petitioner was discharged for cause and therefore found him ineligible for UI benefits.

Petitioner appealed the Tribunal’s decision to the Administrative Law Court on October 23, 2023. On July 29, 2024, Chief Judge Ralph King Anderson III issued an Order dismissing Petitioner’s appeal on the grounds that Petitioner had failed to file an appellate brief in compliance with ALC Rule 37 and dismissed his appeal.

On September 20, 2024, fifty-three (53) days after the ALC’s final decision in this matter, Petitioner filed and served a Notice of Appeal to this Court. Petitioner’s Notice of Appeal states that Petitioner “appeals the decision of the Honorable Ralph King Anderson

¹ The Department and Bridgestone are identified collectively herein as “Respondents.”

III dated September 1, 2006.” Petitioner filed a document which purportedly was an initial brief on the same day.

On September 24, 2024, the Court of Appeals issued a deficiency letter to Petitioner requesting clarification “on the date of the order challenged on appeal,” and which provided ten (10) days for Petitioner to address the deficiency identified. On October 7, 2024, Petitioner filed a correction to his Notice of Appeal and Proof of Service, which identifies an August 22, 2024 decision from Chief Judge Anderson as the subject matter of his appeal.

On October 15, 2024, the Court of Appeals issued a second deficiency letter to Petitioner which provides that Petitioner’s “initial brief is not accompanied by a designation of matter to be included in the record on appeal,” and provided Petitioner ten (10) days to correct the deficiency identified. Petitioner filed a Designation of Matter on November 18, 2024. The Department and Bridgestone filed a Joint Motion to Dismiss for Lack of Jurisdiction for failure to timely file and serve the Notice of Appeal on October 24, 2024, which was denied on December 30, 2024, without prejudice to Respondents presenting the jurisdictional argument in their brief(s). Respondents filed their initial brief on March 12, 2025.

Following multiple meritless motions from Petitioner which were denied by the Court of Appeals, on October 25, 2025, Petitioner filed a proof of serving the record on appeal, and on October 27, 2025, Petitioner purportedly filed a record on appeal. On October 30, 2025, the Court of Appeals sent another deficiency letter to Petitioner explaining his proof of service for the record on appeal did not comply with the South

Carolina Appellate Court Rules, the record on appeal was not properly formatted, and the record on appeal did not contain all designated matters. The deficiency letter from the Court of Appeals informed Petitioner that his appeal would be dismissed if he did not correct the deficiencies within ten (10) days.

On November 19, 2025, when Petitioner had failed to correct the deficiency identified in the Court of Appeals' October 30th letter, the Department and Bridgestone filed a motion to dismiss Petitioner's appeal based upon his failure to comply with the Court of Appeals' October 30th letter. The Court of Appeals denied that motion by Order dated December 22, 2025 and afforded Petitioner with yet another opportunity to address the defects in his prior filings, and instructed him to do so no later than Friday January 2, 2026. In that order, Judge Hewitt outlined deficiencies in Petitioner's proof of service for the record on appeal, deficiencies in the formatting of that record, questioned the veracity of Petitioner's assertions, and instructed Petitioner to correct those issues. The Court of Appeals once again noted that Petitioner's appeal would be dismissed if he failed to comply with the Court's Order.

Instead of addressing the deficiencies summarized in the December 22, 2025, Order, Petitioner filed a Motion for Reconsideration of the Court of Appeals' on January 5, 2026. On March 13, 2026, the Court of Appeals issued a fifth (5th) deficiency letter to Petitioner, declining to address Petitioner's Motion for Reconsideration and instructing him to file a correct proof of service and correct record on appeal within ten (10) days of that letter. The letter again noted that Petitioner's appeal would be dismissed if he did not comply with the Court's directives.

However, Petitioner failed to do so, and instead submitted a filing that “reaffirmed” his prior filings as purportedly in compliance with the Court of Appeals’ filing requirements, despite the appellate court’s statements to the contrary. Petitioner did not correct the issues summarized in the Court of Appeals’ March 13th letter; accordingly, the Court of Appeals dismissed his appeal on March 31, 2026. On April 14, 2026, Petitioner petitioned the Court of Appeals for rehearing of the Order of Dismissal. On June 5, 2026, the Court of Appeals denied Petitioner’s Petition for Rehearing.

II. ARGUMENT

A. **CERTIORARI SHOULD BE DENIED BECAUSE THERE ARE NO SPECIAL OR IMPORTANT REASONS TO REVIEW THE COURT OF APPEALS’ ONE PAGE DISMISSAL OF THE PETITIONER’S APPEAL AND THE CONSIDERATIONS IN RULE 242(b) SCACR ARE NOT PRESENT.**

Rule 242(a) SCACR specifies that that the South Carolina Supreme Court, or any (2) justices thereof, may *in its discretion* issue a writ of certiorari to review a final decision of the Court of Appeals. *See* Rule 242(a), SCACR. However, under Rule 242(b) SCACR, “[a] writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted *only* where there are special and important reasons.” Rule 242(b), SCACR (emphasis added).

Petitioner fails to identify – or even mention – Rule 242 or any grounds upon which he asks this Court to exercise its discretion under that rule to grant his Petition for Certiorari. This Court should exercise its discretion and *deny* Petitioner’s request because none of the reasons listed under Rule 242(b) SCACR are present. Indeed, there is no novel question of law and no dissent from the Court of Appeals at issue here. Moreover, the

decision of the Court of Appeals is not in conflict with a prior decision of this Court, nor was there a federal question presented to the Court of Appeals in this matter.

Finally, the only *possible* grounds upon which Petitioner may contend that Rule 242(b) SCACR *may* apply here is whether there are constitutional issues involved in this case; however, no such issues actually are at issue here – let alone “substantial constitutional issues” as required under Rule 242(b).

“Procedural due process requirements are not technical, and no particular form of procedure is necessary. Rather, due process is flexible and calls for such procedural protections as the particular situation demands” and simply requires that a party be afforded an “opportunity to be heard at a meaningful time and in a meaningful manner.” *Olson v. S.C. Dep't of Health & Envtl. Control*, 379 S.C. 57, 69, 663 S.E.2d 497, 503-04 (Ct. App. 2008). The Court of Appeals issued no less than five (5) deficiency letters to Petitioner, each instructing him to correct defects in his filings so that those filings complied with the Court of Appeals’ filing requirements. Petitioner was afforded *numerous* opportunities to correct his filings such that his appeal could proceed, but he ultimately failed to timely do so. Simply put, there is no procedural due process issue presented in this case, let alone “substantial constitutional issues” as required under Rule 242(b). As a result, this Court should deny the petition because there are no special or important reasons that it should be granted.

B. THE COURT OF APPEALS DID NOT ERR IN DISMISSING PETITIONER’S APPEAL.

Importantly, “[t]he appealing party has the burden of furnishing a sufficient record from which this court can make an intelligent review.” *Hamilton v. Greyhound Lines E.*, 281 S.C. 442, 444, 316 S.E.2d 368, 369 (1984). When the appealing party fails to do so, dismissal of an appeal is proper. *Id.* (affirming dismissal of appeal for failure to carry burden of furnishing a sufficient record on appeal for the appellate court to undertake appellate review of matter).

Here, Petitioner failed to provide an adequate record on appeal – and to correct other deficiencies in his appellate filings, and he never provided the Court of Appeals with a complete, corrected record on appeal. His failure to do so is sufficient grounds to warrant dismissal of his appeal. *See Hamilton*, 281 S.C. at 444, 316 S.E.2d at 369.

The Petition offers no legitimate basis to question the Court of Appeals’ decision to dismiss Petitioner’s appeal. Indeed, Petitioner completely overlooks the fact that he failed to timely and correctly file the record on appeal *with the Court of Appeals*, which is the sole basis upon which that court relied to dismiss his appeal. Instead, he offhandedly (and incorrectly) cites the law of the case doctrine, which does not apply to the matter at hand. Petitioner is likewise incorrect that there is any documented denial of any due process rights here – quite the contrary, the Court of Appeals gave Petitioner *numerous* opportunities to be heard, and he still failed to properly pursue this appeal.

Moreover, Petitioner incorrectly contends that the “factual findings” from the Court of Appeals are a logical impossibility. As noted above, the Court of Appeals never received Petitioner’s correct filings – a claim which he does not seem to make in the Petition – which was the basis for the denial of his appeal. Instead, he quizzically contends that the Court

of Appeals could not make this claim because it stated the court had never received Petitioner's corrected filings. This argument is nonsensical since that is precisely why the Court of Appeals dismissed Petitioner's appeal.

Further, the Court of Appeals manifestly never had proper jurisdiction over Petitioner's appeal. The ALC issued the Order under appeal to the Court of Appeals on July 29, 2024 ("ALC Order"). Petitioner failed to appeal to the Court of Appeals until September 20, 2024, a full fifty-three (53) days after the ALC Order was issued. Petitioner's Motion for Rehearing was ruled untimely by the ALC's August 22, 2024, Order and thus did not extend the time for filing an appeal to the Court of Appeals. *See* S.C. Code Ann. 1-23-610(A)(1) ("For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge."); *see also* Rule 203(b)(6), SCACR ("If a *timely* petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion."). Although the Court of Appeals denied Respondents' Motion to Dismiss based on Lack of Jurisdiction, they did so without prejudice to Respondents' ability to present the jurisdictional argument in their brief, and never actually ruled on whether the Court of Appeals had jurisdiction over the case. Thus, this case should have been dismissed by the Court of Appeals in 2024 and should not be considered by the Supreme Court now.

When laid bare, Petitioner categorically failed to timely and properly file an appeal of the ALC Order dismissing his appeal and then failed to file a proper Record on Appeal at the Court of Appeals, after being given numerous chances to do so. Accordingly, the Court of Appeals committed no error in dismissing the matter; therefore, this Court should deny the present petition.

III. CONCLUSION

For the foregoing reasons: because there are no special or important reasons to review the Court of Appeals' order and because the appeal lacks merit, this Court should deny the Petition.

Respectfully Submitted, this 3rd day of August, 2026.

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