

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM YORK COUNTY

RECEIVED
Oct 15 2026
SC Court of Appeals

IGOR VOLKOVSKIY,

Appellant,

v.

OLEG PROTSYUK,

Respondent.

Appellate Case No. 2026-001134

RESPONDENT'S RESPONSE TO
MOTION TO REINSTATE APPEAL

Respondent respectfully requests that this Court deny Appellant's Motion to Reinstate Appeal on the grounds that Appellant has failed to show good cause for not complying with the South Carolina Appellate Court Rules. Appellant's failure to adhere to the SCACR is unsupported by good cause given the specific deadlines laid out in correspondence from the Clerk and correspondence providing an additional ten days in which to comply. Appellant, while pro se, is not excused from knowing and adhering to the SCACR filing deadlines. Appellant does not merely ask that an overdue filing be accepted; he requests additional time after reinstatement to prepare filings that were originally due on September 9. Accordingly, the Court of Appeals properly dismissed the Appellant's Appeal and the Motion to Reinstate Appeal should be denied.

I. Procedural History

The trial court entered a final order, denying Appellant's Motion to Alter or Amend Judgment on April 7, 2026. Subsequently, Appellant filed his Notice of Appeal on May 8, 2026. Pursuant to the SCACR, Appellant was required to file his request for the transcript by

May 18, 2026. On May 28, 2026, the Court informed Appellant of his first failure to comply with the SCACR filing deadlines. On June 4, 2026, Appellant filed a motion for additional time to file the transcript. On June 18, 2026, the Court granted Appellant's transcript-related extension request, accepted the transcript order as filed, and directed Appellant to notify the Court immediately upon receipt of the transcript. On August 10, 2026, Appellant informed the Court that he had received the transcript. On August 20, 2026, the Court expressly advised Appellant that his initial brief and designation of matters on appeal were due on September 9, 2026. On September 10, 2026, the Court advised Appellant that the deadline had expired and directed him, within ten days, to file the Initial Brief and Designation of Matter together with a motion requesting permission to file out of time, or the appeal would be dismissed. The tenth day fell on Sunday, September 20, making Appellant's Initial Brief due on September 21, 2026. Appellant failed to file the Initial Brief and the Court dismissed the Appeal on September 22, 2026 for Appellant's failure to file the Initial Brief and Designation as required by Rules 208 and 209 and correspondence from the Court on August 20, 2026 and September 10, 2026. To date, Appellant has still not filed the Initial Brief or Designation of Matter.

II. Standard for Reinstatement

Rule 260(a) requires good cause for reinstatement. Specifically, Rule 260(a) provides

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal... A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.

Rule 260(a), SCACR. The undersigned is unaware of any reported case defining "good cause" in the context of Rule 260(a). In the absence of reported authority specifically defining "good cause" under Rule 260(a), decisions interpreting comparable language under Rule 55(c)

provide useful, though not controlling, guidance. Although Rule 55(c) arises in a different procedural context, South Carolina decisions interpreting comparable “good cause” language provide useful guidance concerning the adequacy of the defaulting party’s explanation, the promptness of corrective action, prejudice, and the interests of justice. In those situations, the appellate courts have required the party seeking relief “to provide an explanation for the default” and why the requested relief would “serve the interests of justice.” *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 383 S.C. 601, 681 S.E.2d 885 (2009).

III. Argument

1. Appellant’s Pro Se Status Does Not Establish Good Cause

Although a pro se party, Appellant has the same obligation for compliance with the Rules as does an attorney. “Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.” *Goodson v. American Bankers Ins. Co. of Florida*, 295 S.C. 400, 368 S.E.2d 687 (1988) (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 400 (2nd Ed.1985) and *McCall v. A–T–O, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981)). This means knowledge of and compliance with all filing requirements, deadlines, and service obligations. Appellant’s pro se status does not, without more, establish good cause for disregarding an expressly stated filing deadline.

2. Appellant’s Reasons for Not Filing the Brief Do Not Constitute Good Cause

Appellant’s asserted grounds for reinstatement principally consist of his claimed misunderstanding of the applicable procedural requirements, his failure to see the September 10, 2026 communication because it was routed to his spam folder, and his stated intent not

to abandon the appeal. Taken individually or collectively, these circumstances do not establish good cause for reinstatement or justify an additional extension.

Appellant's asserted intent not to abandon the appeal does not, standing alone, establish good cause. A litigant may subjectively intend to pursue an appeal while nevertheless failing to comply with applicable filing requirements. The relevant question is whether Appellant has provided an adequate explanation for missing the September 9 deadline and failing to cure the default during the additional period provided by the Court. His stated intent does not supply that explanation.

Even accepting Appellant's allegation that he did not see the September 10 communication, that allegation does not explain why he failed to comply with the September 9 deadline expressly stated in the August 20 letter. The September 10 communication was a cure notice, not the initial notice establishing the deadline. Appellant's allegation explains, at most, why he did not use the additional cure period before dismissal. It explains, at most, why he did not use the additional cure period before dismissal. Appellant does not contend that he failed to receive the August 20 letter. Had Appellant complied with that deadline, the September 10 cure notice would not have been necessary. Accordingly, Appellant has failed to provide an adequate explanation for the original default and has not established good cause for reinstatement.

3. Appellant Previously Obtained an Extension of Time

Appellant previously sought and obtained additional time concerning the transcript order. That prior request demonstrates his awareness that appellate deadlines require timely action and that relief from a deadline may be requested by motion. His prior extension request

therefore undermines any suggestion that he was unaware of the procedure for requesting additional time before a filing deadline expired.

4. Appellant Has Not Cured the Default.

Finally, Appellant has still not cured the default. He does not contend he did not receive the August 20, 2026 letter establishing his deadline for the Initial Brief. As of the filing of this Response, Appellant has filed neither the Initial Brief nor the Designation of Matter. Instead, Appellant asks the Court to reinstate the appeal and grant him an additional period after reinstatement to prepare and file documents originally due on September 9, 2026. Although Appellant timely sought reinstatement, he has not promptly cured the underlying default. He did not tender the overdue Initial Brief and Designation with his Motion and instead requests still more time to prepare filings originally due on September 9, 2026. The Court should not excuse this continuing noncompliance by granting another open-ended extension.

CONCLUSION

For the foregoing reasons, Appellant's Motion should be denied. Appellant has failed to establish good cause for reinstatement. His receipt of the August 20 letter establishing the September 9 deadline, his demonstrated knowledge of the procedure for requesting additional time, and his continuing failure to cure the default all weigh against reinstatement. Alternatively, if the Court reinstates the appeal, Respondent respectfully requests that reinstatement be expressly conditioned upon Appellant's serving and filing a compliant Initial Brief and Designation of Matter within seven days of the reinstatement order, with no further

extension absent extraordinary circumstances, and that failure to comply result in dismissal without an additional cure period.

This the 15th day of October, 2026.

MARCELLINO MOORE, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this date been furnished to the following persons by depositing the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service and/or email, addressed as follows:

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Monroe, NC 28110
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This the 15th day of October, 2026.

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