

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2008-CP-37-0415

RECEIVED

FEB 18 2014

SC Court of Appeals

Jerry Holtzclaw, d/b/a Green Thumb Landscape &
Irrigation.....Respondent,

v.

Dennis Waldrep.....Appellant

RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL

Respondent opposes Appellant's Motion to Reinstate Appeal. Appellant has been repeatedly granted extensions during the course of perfecting this appeal. Most recently, by Order filed January 13, 2014, an extension was granted until January 17, 2014, for filing the second amended record on appeal. That Order specifically provided that "No further extensions will be granted absent extraordinary circumstances."

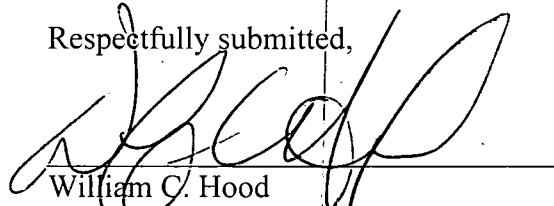
It is noted that the above Order was entered upon Motion of Appellant seeking an extension of ten days from December 30 to file the amended record. The Court actually extended the time for longer than requested in the Motion. It is further noted that Appellant apparently failed to communicate with the Court any further until after a letter from Respondent's attorney, dated January 24, advising the Court that no amended record had been served. Subsequent to that letter, Appellant filed the present Motion to Reinstate.

Respondent submits that Appellant has failed to demonstrate any "extraordinary circumstances" to justify reinstatement. According to his motion, the amended record was completed by January 10, but he relied upon a "colleague" in Florida to transmit the amended record to the Court and counsel. However, the same was never delivered, and it is "surmised" that an error was made in shipping. Appellant has not filed the amended record or any proof of service indicating when or how it was supposedly transmitted on January 10. Appellant clearly failed to take any reasonable steps to assure and verify that the amended record was timely filed, and has also failed to offer any reasonable explanation for the failure to file in a timely manner. It is unlikely that neither the Court nor counsel would receive materials that were actually sent.

This appeal was filed two years ago. First, there were delays in getting the transcript. However, the process of establishing a record on appeal has itself been underway for over a year, during which time there have been multiple extensions. Also, the case has previously been dismissed and reinstated. Recognizing that Appellant has been proceeding pro se, the Court has given Appellant numerous chances to complete a record. The Court's last extension made clear that no further extensions would be allowed absent extraordinary circumstances. Appellant's obvious lack of diligence in assuring that the amended record was timely served pursuant to that

Order cannot be seen as demonstrating "extraordinary circumstances." Accordingly, Appellant's Motion to Reinstate should be dismissed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Hood', written over a horizontal line.

William C. Hood
Attorney for Respondent
South Carolina Bar No. 02601
505 North McDuffie Street
Anderson, South Carolina 29621
Ph. (864) 375-0530

February 11, 2014

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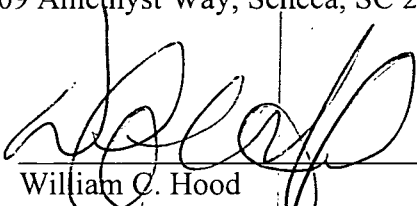
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v.

Dennis Waldrep.....Appellant

PROOF OF SERVICE

I certify that I have served Respondent's Return to Appellant's Motion to Reinstate Appeal upon the Appellant, proceeding pro se, by depositing a copy of the same in the United States Mail, postage prepaid, addressed to him at 209 Amethyst Way, Seneca, SC 29672.



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February 11, 2014

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February 11, 2014

Ms. V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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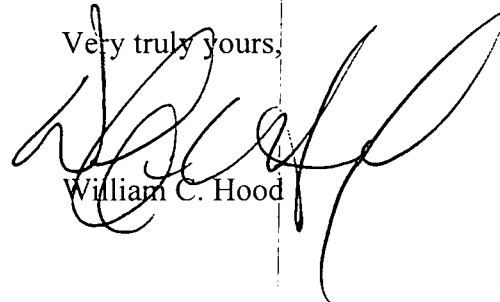
SC Court of Appeals

Re: Holtclaw, Jerry v. Waldrep, Dennis
Appellate Case No. 2012-207852

Dear Ms. Allen:

I have enclosed herewith the original and six copies of the Respondent's Return to Appellant's Motion to Reinstate Appeal, along with proof of service of same upon the Appellant, acting pro se.

Very truly yours,



William C. Hood

WCH
cc Dennis Waldrep