

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

R. Lawton McIntosh Circuit (10<sup>th</sup>) Court Judge

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Case No: 2012-207852

JERRY HOLTZCLAW, d/b/a  
GREEN THUMB LANDSCAPE &  
IRRIGATION

Respondent

V

DENNIS WALDREP

Appellant

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APPELLANT'S RESPONSE TO RESPONDENT'S RETURN ON  
MOTION TO REINSTATE

**RECEIVED**

FEB 24 2014

**SC Court of Appeals**

Dennis Waldrep  
209 Amethyst Way  
Seneca, SC 29672  
Proceeding Pro Se

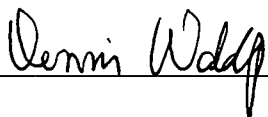
The Appellant submits the following in response to the Respondent's Return on Appellant's Motion to Reinstate. The Respondent opposes appellants Motion to Reinstate and cites 'extraordinary circumstances" mentioned in the Court's earlier correspondence. Appellant submits that the circumstances surrounding dismissal and request for reinstatement do rise to the level of extraordinary circumstances in this case.

First, as Respondent notes the Appellant is proceeding Pro Se and has made every good faith effort to comply with the Court rules in submitting the required documents and information in this matter. This case stems from a relatively simple breach of contract matter wherein the Respondent drafted an agreement that was clear on its face and failed to comply with the terms and conditions of the contract by constructing a wall at Appellant's property that was faulty. The Trial Court erred in finding for Respondent at Trial and Respondent seeks to preserve that error by having the appeal dismissed on procedural grounds rather than having the case decided on its merits.

Appellant received a notice the day before Christmas indicating that certain items on the Record on Appeal required change. Several of these proscribed changes had not been noticed to Appellant prior to this date despite the multiple notices to which Respondent refers. The short return time over what is arguably the most prominent and busiest holiday of the year combined with the notice being received the day before the holiday do amount to "extraordinary circumstances". Simply stated, appellant is seeking that this case be decided on the merits rather than have it dismissed on procedural grounds. Reinstating this appeal amounts to little or no prejudice against Respondent as it delays the case for a short time and in the timeline of the appeal is relatively immaterial to the Respondent.

Next, the Respondent mentions the fact that the Appellant was forced to rely on a colleague to effectuate the mailing of this Amended Record on Appeal. This is also an "extraordinary circumstance" in that the pressures of the holiday season combined with the short return date forced the Appellant to delegate the submission of this document. Unfortunately, this process was plagued with error and resulted in the appeal being dismissed and the subsequent Motion for Reinstatement. Appellant has secured a statement from his colleague that is attached hereto for clarification.

Accordingly, the Appellant requests that his Appeal be reinstated and permitted to proceed to a decision on the merits rather than a dismissal at this juncture for procedural error.

A handwritten signature in cursive script, reading "Dennis Waldrep", is written above a horizontal line.

Dennis Waldrep, Appellant

Pro Se

## Statement For Dennis Waldrep

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1. I, Christopher Ramsey make this statement for Dennis Waldrep in support of his Appeal with the south Carolina Appeals Court.

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2. I have been friends and colleagues with Mr. Waldrep for approximately three years and during that time have had numerous occasions to engage on a personal and professional level.
3. On December 24th of 2013 I had a telephone call with Mr. Waldrep to exchange holiday pleasantries and during that call he advised that he had received a notice from the Court regarding a document that he had to revise and send back to the Court. We discussed that timing of the notice and the fact that it was received by him on Christmas eve.
4. Realizing that Mr. Waldrep had multiple family obligations throughout the holiday season with both his immediate family and his mother and daughter, I made an offer to assist in this undertaking if there was a way I could be of service.
5. He advised that he was requesting additional time to complete this task as the timing could not be worse.
6. Several days later I again spoke with Mr. Waldrep and he asked if I would be able to help with the transmission of the document. He had a busy work and travel schedule and believed he would be cutting it very close and would need help. I agreed to help.

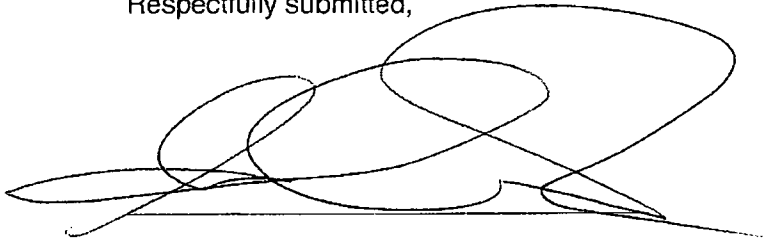
7. In January the day prior to the Court due date, I took the document to the FedEx store along with multiple packages that I had to send for personal and family business. This is a small store in a strip mall located in Orlando Florida.

8. I sent the packages and did not think more about this until I received a call from Mr. Waldrep that the package was not received at the desired destination. I have searched for the paperwork from the transaction in the store but we moved since that time and it has been challenging going through storage to locate the receipts. Admittedly, the transaction in the store was somewhat haphazard. The clerk seemed overwhelmed packing my items and sending the seven packages. Apparently, Mr. Waldrep's package was sent to the improper address and as a result was not filed with the court in time.

9. This error was not due to any fault of Mr. Waldrep and was due to my error at the FedEx store. I apologize for any problem that this may have caused Mr. Waldrep, the court of the other parties and respectfully request that Mr. Waldrep not be penalized for my error.

10. I make this statement to be relied upon by the Court

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Christopher Ramsey

2/20/19

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Court of Common Pleas

SC Court of Appeals

R. Lawton McIntosh, Circuit Court Judge

Case No. 2012-207852

Jerry Holtzclaw, dba  
Green Thumb Landscape  
& Irrigation

Respondent,

v.

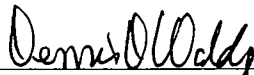
Dennis D. Waldrep,

Appellant.

PROOF OF SERVICE

I certify that I have served the Reply to the Respondent for his Reply for my Motion to Re-instate dated Feb. 11, 2014 by depositing a copy of it in the USPS, postage prepaid, on February 20, 2014 addressed to the Respondent's Attorney of record William C. Hood, 505 N. McDuffie Street, Anderson, South Carolina 29621.

February 20, 2014

  
Dennis D. Waldrep  
209 Amethyst Way  
Seneca, South Carolina 29672  
(864) 230-4020

cc: William C Hood

Dennis D Waldrep  
209 Amethyst Way  
Seneca SC 29672

RECEIVED

FEB 24 2014

SC Court of Appeals

February 20, 2014

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

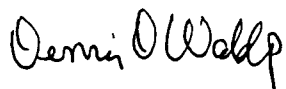
Mail and Fax to 803-734-1839

Re: Holtzclaw, Jerry d/b/a, v. Waldrep, Dennis  
Appellate Case No. 2012-207852

Dear Ms. Allen:

Please find the attached reply that I am submitting regarding the letter from the Respondent's Attorney that I received this week regarding my request to the Courts to have my Appeal reinstated.

Respectfully submitted,

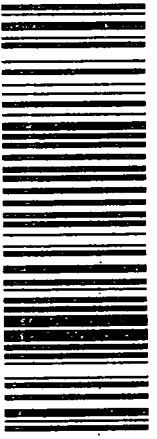


Dennis D Waldrep

cc: William Hood

Dennis Waldrep  
209 Amethyst Way,  
Seneca SC 29672

CERTIFIED MAIL™



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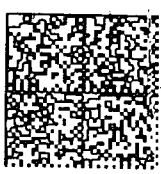
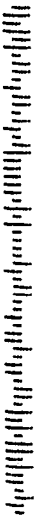
SC Court of Appeals  
Post Office Box 11629  
Columbia SC 29211

REGISTERED

FEB 24 2014

ATT. V. Claire Allen, Deputy SC Court of Appeals

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.