

State of South Carolina  
Court of Appeals

JAMES R. ROBINSON )  
Appellant/Petitioner, )

Docket No 14-ALJ-22-0118-AP

vs. )

GUARDIAN INDUSTRIES )  
CORPORATION )  
Respondent, )

CERTIFICATE OF SERVICE

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JUN 30 2014

SC Court of Appeals

I hereby certify that I am the Appellant/Petitioner (Appellant/Petitioner/Respondent) in the above captioned matter and that on the 27 day of JUNE, 2014, in Rock Hill (city), South Carolina, I served a copy of the forgoing Administrative Law (type of document) on the following persons(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

Office of General Counsel COURT  
SC DEW

Name

Post Office Box 8597

Address

Columbia, SC 29202

City/State/Zip

GUARDIAN INDUSTRIES CORP

Name

160 LAND C RAILWAY DIST. PARK

Address

Richburg S.C 29729

City/State/Zip

JAMES R. ROBINSON

Print Name

James R. Robinson

(Signature)

1058 Winchester Dr

(Street)

Rock Hill S.C 29730

(City, State, Zip Code)



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ROCK HILL S.C 29730

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COLUMBIA, S.C 29201

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**(2) Appeals from Administrative Tribunals.** In appeals from administrative tribunals, the notice of appeal shall contain the following information:

**(A)** The name of the agency and the name of the administrative law judge (if applicable).

**(B)** The docket number of the case before the administrative law court, or if the appeal is from an agency, the docket number before the agency.

**(C)** The date of the decision from which the appeal is taken; and if appropriate for the determination of the timeliness of the appeal, a statement of when the appealing party received the decision from which the appeal is taken, or, if a cross-appeal, when the respondent received appellant's notice of appeal.

**(D)** The name of the party taking the appeal.

**(E)** The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each.

726771A

**Mailing Date: January 21, 2014**

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE  
(SCDEW)  
Columbia, South Carolina

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JUN 30 2014

**SC Court of Appeals**

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**NOTICE OF MAILING OF APPELLATE PANEL DECISION**

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Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (**see the mailing date above**).

**The address of the Administrative Law Court is:**

**S.C. Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton St., Ste. 224  
Columbia, SC 29201**

**Service of the Petition on SCDEW must be addressed and mailed to:**

**Office of General Counsel  
S.C. Department of Employment and Workforce  
Post Office Box 8597  
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.

SUSAN

**SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE**  
**Columbia, South Carolina**

**IN THE MATTER OF THE CLAIM OF:**

James Robinson )  
1058 Winchester Drive )  
Rock Hill, SC 29730 )  
Claimant SSN: XXX-XX-9742 )  
  
Guardian Industries Corporation )  
c/o Lance Clarke, Human Resource Manager )  
610 L and C Distribution Park )  
Richburg, SC 29729 )  
Liable Employer )  
\_\_\_\_\_ )

**APPELLATE PANEL**  
**DECISION**

Appellant: Claimant

The claimant appealed Appeal Tribunal Decision 2013-A-19622 to the Appellate Panel. The Tribunal held the claimant disqualified from benefits for sixteen (16) weeks, upon finding he was discharged for cause. This decision modified the claims adjudicator's determination.

The Appellate Panel issued its decision upon review of the record on appeal.

**DECISION**

Appeal Tribunal Decision 2013-A-19622 is affirmed. The claimant is disqualified from receiving benefits for sixteen (16) weeks, effective September 29, 2013, through January 18, 2014,<sup>1</sup> with a corresponding monetary reduction, upon finding the claimant was discharged for cause connected with the employment.

The claimant worked from May 16, 2011, through September 30, 2013, most recently as a maintenance mechanic. The employer terminated the claimant for displaying inappropriate conduct in the workplace and responding inappropriately to a supervisor. On August 7, 2013, the employer requested the claimant repair a forklift. The claimant wanted to question the forklift operator about the problem and asked the production supervisor where the forklift operator was located. The production supervisor maintains the claimant appeared to be upset, and the production supervisor advised him that the

<sup>1</sup> Appeal Tribunal Decision 2013-A-19622 erroneously listed the disqualification period as September 29, 2013, through January 18, 2013. We find this to be harmless error.

operator was working on another truck. The claimant advised the production supervisor that he was not providing him enough information and began discussing the issue with other employees. The production supervisor contends the claimant responded with profanity and blamed the problem on the operator. He further contends the claimant raised his voice, continued to use profanity, and started slinging the seatbelt in an aggressive manner. At that point, the production supervisor escorted the claimant to his shift manager. The shift manager stated the claimant appeared agitated and would not discuss the incident. He returned to work and later requested a leave of absence citing work-related stress. The employer granted the claimant's leave of absence until September 23, 2013, at that time the claimant was suspended pending an investigation. Upon completion of its investigation on or about September 30, 2013, the employer discharged the claimant for his behavior on August 7, 2013.

The claimant denies he used profanity or acted in an aggressive manner on the date in question. He asserts the production supervisor responded that the operator did not have time to talk to him, and that he felt disrespected by the production supervisor. The claimant denies the production supervisor exercised control over him. He asserts the production supervisor regularly spoke to him in a disrespectful manner, and that his feelings toward the production supervisor built up to the point where he had to seek counseling and treatment. During the Appeal Tribunal hearing, the administrative hearing officer questioned the claimant about his fact-finding statement, in which the claimant acknowledged throwing a seatbelt around. The claimant denied making the statement to a Department representative and stated the seatbelt could only be flapped around because it retracts. He acknowledges he "waved off" the production supervisor and that the production supervisor responded that he did not like his attitude.

S.C. Code Ann. § 41-35-120(2)(a) provides that no finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstances.

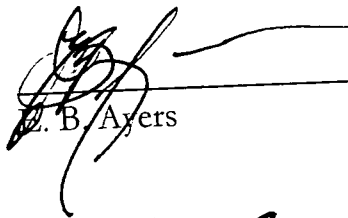
S.C. Code Ann. § 41-35-120(2)(b) requires disqualification from benefits for five to nineteen weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for cause, other than misconduct, connected with the employment. "Cause" may include unintentional violations of policy, an unintentional disregard for the standards of behavior the employer can rightfully expect of an employee, or carelessness or negligence of an employee.

The evidence establishes that the claimant displayed inappropriate conduct in the workplace and responded inappropriately to a supervisor. The claimant knew or should have known that his conduct and reaction in the workplace was inappropriate. While the claimant may not be disqualified from benefits for misconduct due to the extraordinary

circumstances of this case, his conduct nonetheless warrants a significant disqualification. The claimant's inappropriate conduct and inappropriate response to a supervisor constituted a disregard for the reasonable standard of behavior the employer had a right to expect. Therefore, we find the claimant was discharged for cause connected with the employment. The Appeal Tribunal decision is affirmed.

Mr. Kelly absent

**SOUTH CAROLINA DEPARTMENT OF  
EMPLOYMENT AND WORKFORCE**



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E. B. Ayers



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Tim Dangerfield

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Stephen S. Kelly, Jr.

Review Date: 01/21/14  
Date Mailed: 01/21/14  
Mailed By: AG

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Robinson, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 South Carolina Department of )  
 Employment and Workforce and Guardian )  
 Industries Corporation, )  
 )  
 Respondents. )  
 )  
 )  
 )

NOTICE OF ASSIGNMENT

DOCKET NO. 14-ALJ-22-0118-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on February 11, 2014. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2013), the **Honorable Carolyn C. Matthews**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, [www.scalc.net](http://www.scalc.net).

The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the twenty-first day of February, 2014.

Ralph King Anderson, III  
Chief Administrative Law Judge

By: *Jana E. Shealy*  
 Jana E. Shealy, Clerk  
 Edgar A. Brown Building  
 1205 Pendleton Street, Suite 224  
 Columbia, South Carolina 29201

**FILED**

FEB 21 2014

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

James Robinson,	)	DOCKET NO. 14-ALJ-22-0118-AP
	)	
Appellant,	)	
	)	
vs.	)	<b>ORDER GOVERNING PROCEDURE</b>
	)	
South Carolina Department of	)	
Employment and Workforce and	)	
Guardian Industries Corporation,	)	
	)	
Respondents.	)	
	)	

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A Notice of Appeal was filed at the Administrative Law Court on February 11, 2014. The case was assigned to the undersigned judge on February 21, 2014. The purpose of this Order is to state the dates and procedures to follow in presenting this matter. Failure to comply with this Order may result in dismissal of the appeal.

**I. Record on Appeal**

Pursuant to ALC Rule 36, the agency in possession of the Record (the Department of Employment and Workforce) shall file with the undersigned Judge and serve on all parties the Record on Appeal within 20 days after the date of assignment. Under ALC Rule 36(B), the Record on Appeal shall consist of the following:

1. All pleadings, motions, intermediate rulings, and depositions filed with the Agency;
2. All evidence received or considered;
3. A statement of matters judicially noticed;
4. All proffers of proof of excluded evidence;
5. The final decision of the agency;
6. A transcript of the testimony taken during the agency proceeding;

Note that under Rule 36(C) the Record shall be put in order complete with an index and consecutively numbered pages.

**II. Briefs**

The Appellant shall file a Brief of Appellant with the undersigned Judge at the address below within twenty (20) days after the Record on Appeal is filed. The Appellant shall also serve his or her Brief of Appellant on the opposing parties within the same time period. The Respondent must file a Brief of Respondent within twenty (20) days after the date the Brief of Appellant is filed. The Appellant is not required, but may, file a Reply Brief within

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FEB 24 2014

SC ADMIN. LAW COURT

after the Brief of Respondent is filed. All documents shall be filed directly with Judge Matthews at the address below. Please note that the appearance of the briefs, including margin and cover requirements, must comply with ALC Rule 37. The rules of the Administrative Law Court may be found at [www.scalc.net](http://www.scalc.net).

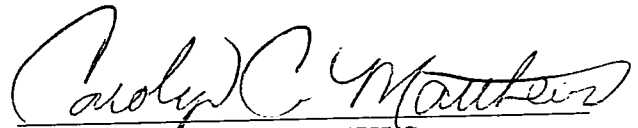
**III. Presentation of the Case by the Parties**

After the Record on Appeal and all Briefs have been received, the parties will be notified of the date, time, and place of the hearing of the case, if the Judge chooses to hold a hearing. The Notice of Hearing will be provided at least twenty (20) days in advance of the hearing date.

**IV. Communication with Judge Matthews' Office**

**Parties are not allowed to contact Judge Matthews' office** or speak with her law clerk or staff attorney **directly** for legal advice or to discuss the merits of the case. This ex parte communication, or communication other than with all parties and their attorneys participating, is strictly prohibited. If you have any questions concerning your appeal, you may call the ALC at (803) 734-0550 and ask to speak with the Clerk.

**AND IT IS SO ORDERED.**

  
**CAROLYN C. MATTHEWS**  
Administrative Law Judge  
Edgar Brown Building  
1205 Pendleton Street, Suite 224  
Columbia, SC 29201

February 24, 2014  
Columbia, South Carolina.

**CERTIFICATE OF SERVICE**  
This is to certify that the undersigned has file date served this order in the above entitled action upon all parties to this cause by depositing a copy thereof, in the United States mail, postage paid, or in the Emergency Mail Service addressed to the party(ies) or their attorney(s).

This 24<sup>th</sup> day of February, 2014  
By: Mary Beth Campbell  
Judicial Law Clerk

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

1C

JAMES R. ROBINSON

Appellant/Petitioner,

vs.

GUARDIAN INDUSTRIES  
CORPORATION  
Respondent.

Docket No. 14-ALJ-22-0118-AP

CERTIFICATE OF SERVICE

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JUN 30 2014

SC Court of Appeals

I hereby certify that I am the Appellant/Petitioner (Appellant/Petitioner/Respondent) in the above-captioned matter and that on the 27 day of MARCH, 2014, in Rock Hill (city), South Carolina, I served a copy of the forgoing BRIEF (name of document) on the following person(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

OFFICE OF GENERAL COUNSEL  
S.C. DEPARTMENT OF EMPLOYMENT AND WORKFORCE

Name P.O. Box 8597  
Address Columbia, S.C 29202  
City/State/Zip

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip \_\_\_\_\_

GUARDIAN INDUSTRIES CORPORATION

Name \_\_\_\_\_ City/State/Zip ON PARK



Certificate of Mail

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.

From: JAMES R. ROBINSON

1058 WINCHESTER DR  
ROCK HILL S.C. 29730

To: GUARDIAN INDUSTRIES CO.

610 E AND HIGHWAY DIST  
RICHBURG, S.C. 29729



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te/Zip

JAMES R. ROBINSON  
(Print Name)

James R. Robinson  
(Signature)

1058 Winchester Dr  
(Street)

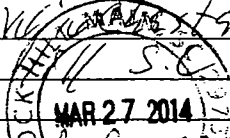
Rock Hill S.C 29730  
(City, State, Zip Code)

PS Form 3817, April 2007 PSN 7530-02-000-9065

1058 WINCHESTER DR  
ROCK HILL S.C. 29730

To: OFFICE OF GENERAL COUNSEL

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SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

2C

James Robinson,

Appellant,

v.

South Carolina Department of  
Employment and Workforce and Guardian  
Industries Corporation,

Respondents.

BRIEF

~~AND~~

GENERAL STATEMENT

DOCKET NO. 14-ALJ-22-0118-AP

Attached

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on February 11, 2014. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2013), the **Honorable Carolyn C. Matthews**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, [www.scalc.net](http://www.scalc.net).

The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the twenty-first day of February, 2014.

Ralph King Anderson, III  
Chief Administrative Law Judge

By: Jana E. Shealy  
Jana E. Shealy, Clerk  
Edgar A. Brown Building  
1205 Pendleton Street, Suite 224  
Columbia, South Carolina 29201

JAMES R. ROBINSON  
James R. Robinson  
27 March 2014

~~FILED~~

~~FEB 21 2014~~

~~SC ADMIN. LAW COURT~~

FILED

FEB 21 2014

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

James Robinson,

Appellant,

vs.

South Carolina Department of Employment  
and Workforce and Guardian Industries  
Corp.,

Respondents.

Docket No. 13-ALJ-22-0118-AP

**ORDER FOR RESPONDENT'S BRIEF**

This matter is before the Administrative Law Court ("ALC") pursuant to an appeal filed by James Robinson ("Appellant") on February 11, 2014. The case was assigned on February 21, 2014. The ALC issued an Order Governing Procedure on February 24, 2014. The South Carolina Department of Employment and Workforce ("SCDEW") filed the Record on Appeal on March 14, 2014.<sup>1</sup> According to ALC Rule 36(A), the Record on Appeal shall be filed by SCDEW "within twenty (20) days of the date of the notice of assignment." According to the Order Governing Procedure and ALC Rule 37, the Brief of Appellant was due within twenty (20) days after the Record on Appeal was filed. The Brief of Respondent was due within twenty (20) days after the date the Brief of Appellant was filed. The Appellant filed his brief on March 27, 2014.<sup>2</sup> However, SCDEW has not filed a Brief with this Court. Therefore, SCDEW shall have ten (10) days from the date of this Order to file Respondent's Brief. Appellant shall then have ten (10) days from the date SCDEW files Respondent's Brief to file a Reply Brief, although a Reply Brief is not required.

<sup>1</sup> 21 days from Date of Assignment

<sup>2</sup> A copy of Appellant's brief is attached

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APR 30 2014

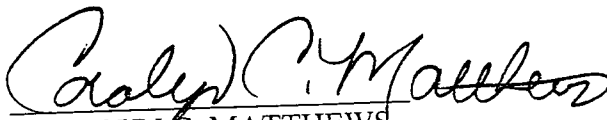
SC ADMIN. LAW COURT

**ORDER**

**IT IS ORDERED** that SCDEW shall have **ten (10) days** from the date of this Order to file Respondent's Brief. Appellant shall then have **ten (10) days** from the date SCDSS files Respondent's Brief to file a Reply Brief, although a Reply Brief is not required.

Failure to comply with this Order may result in dismissal of this case.

**AND IT IS SO ORDERED.**

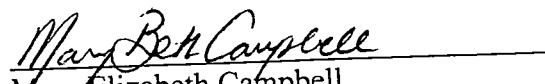
  
CAROLYN C. MATTHEWS  
Administrative Law Judge

April 30, 2014  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Mary Elizabeth Campbell, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

April 30, 2014  
Columbia, South Carolina

  
Mary Elizabeth Campbell  
Judicial Law Clerk

From: James R. Robinson  
1058 Winchester Dr  
Rock Hill, SC 29730

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