

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
L. Casey Manning, Circuit Court Judge

Appellate Case No.: 2013-001831  
Case No. 2011-CP-40-3642

**RECEIVED**

JUL 23 2014

**SC Court of Appeals**

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Vernon L. McCullough.....Appellant.

vs.

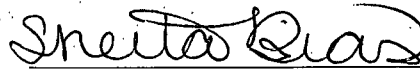
South Carolina Department of Corrections,  
Palmetto Health d/b/a Palmetto Health Richland,  
Jonathon David Taylor, M.D., Poorneema Ramasamy, M.D.,  
William R. Jennings, M.D., William H. Richardson, M.D.,  
and Jennifer A. Adair, M.D., .....Respondents.

**RESPONDENTS' JOINT MOTION TO DISMISS**

Pursuant to Rule 240, SCACR, Respondents South Carolina Department of Corrections, Palmetto Health d/b/a Palmetto Health Richland, Jonathon David Taylor, M.D., Poorneema Ramasamy, M.D., William R. Jennings, M.D., William H. Richardson, M.D., and Jennifer A. Adair, M.D., hereby move before this Court for an Order dismissing the appeal in this matter. The grounds of this Motion are that after almost one year after the filing of the Notice of Appeal, Appellant has yet to prosecute, or otherwise comply with Order of this Court to perfect his appeal. The above stated grounds are more further elucidated in the attached Memorandum of Law as required by Rule 240, SCACR.

*smg*

Respectfully submitted,



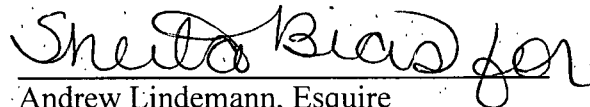
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PALMETTO HEALTH ALLIANCE,  
JONATHON D. TAYLOR, M.D., POORNEEMA  
RAMASAMY, M.D., AND JENNIFER A.  
ADAIR, M.D.**



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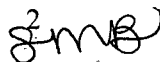
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**ATTORNEYS FOR RESPONDENT SOUTH  
CAROLINA DEPARTMENT OF CORRECTIONS**

July 23, 2014



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APPEAL FROM RICHLAND COUNTY  
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Vernon L. McCullough.....Appellant.

vs.

South Carolina Department of Corrections,  
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Jonathon David Taylor, M.D., Poorneema Ramasamy, M.D.,  
William R. Jennings, M.D., William H. Richardson, M.D.,  
and Jennifer A. Adair, M.D., .....Respondents.

**RESPONDENTS' JOINT MEMORANDUM IN SUPPORT OF THE MOTION TO  
DISMISS THE APPEAL**

Pursuant to Rule 240 SCACR, Respondents move to dismiss the above appeal due to Appellant's failure to prosecute and perfect the appeal.

**INTRODUCTION/BACKGROUND**

The Notice of Appeal in this matter was filed in August of 2013. On September 3, 2013, counsel for Appellant, Mr. Bolen, indicated to this Court that he had received the transcript in this matter prior to the filing of the Notice of Appeal and it was his understanding that the Appellant's Initial Brief was due 30 days after the filing of the Notice of Appeal. On October

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16, 2013, Mr. Bolen requested a 60-day extension in which to file the Appellant's Initial Brief. On October 23, 2013, this Court informed Mr. Bolen that based on Mr. Bolen's September 3, 2013 communication, the Initial Brief was due on September 25, 2013, but had not been filed. This Court gave Mr. Bolen 10 days in which to file the Initial Brief or face dismissal of the appeal. By Order filed November 14, 2013, this Court extended the time for serving and filing Appellant's Initial Brief to November 26, 2013.

On November 22, 2013, Mr. Bolen and Mr. Hale filed a Motion and Notice of Appearance and Extension seeking an extension to allow Mr. Hale, who had recently become associated with the case, the opportunity to familiarize himself with the case. By Order filed December 4, 2013, this Court extended the deadline to file Appellant's Initial Brief until December 27, 2013. This Court's Order specifically indicated that no further extensions would be allowed absent extraordinary circumstances.

On December 27, 2013, Mr. Hale filed a Motion to be Relieved as Counsel. On February 10, 2014, Mr. Bolen moved before this Court to be relieved as counsel. Mr. Bolen's motion indicated that Appellant had not executed a retainer agreement nor had he paid for any of the costs for services or fees for the appeal. Mr. Bolen also indicated that he had been unable to contact Appellant for a month through the usual means of communication. Mr. Bolen further indicated that he was finally able to contact Appellant on January 15, 2014 and Appellant orally consented to the Motion to be Relieved as Counsel.

On May 22, 2014 this Court sent Appellant, Mr. McCullough, correspondence seeking a return to the Motions to be Relieved as Counsel. This Court requested that such a return be filed with the Court no later than 10 days from the date of the letter. The Court further advised that the time limits for perfecting the appeal would be held in abeyance until the motion is decided.

SMA

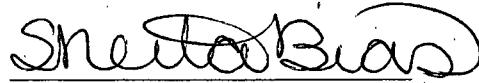
Currently, the Motions to be Relieved as Counsel are pending before this Court. Importantly, Mr. McCullough has not filed any documentation in return to the Motions to be Relieved as Counsel nor any further documentation in the attempt to perfect his appeal.

Consequently, Respondents move to dismiss the appeal for Mr. McCullough's failure to prosecute this appeal. See Varn v. Williams, 30 S.C. 608, 10 S.E. 390 (1888) (granting a motion to dismiss appeal for failure to prosecute appeal or file brief and assign error in regard thereto); see also State v. Adams, 244 S.C. 323, 137 S.E.2d 100 (1964) (recognizing that the moving party in an appeal has a duty to prosecute the appeal with due diligence and have it promptly disposed of); State v. Crenshaw, 30 S.C. 607, 10 S.E. 390 (1888) (granting the motion to dismiss the appeal where appellant failed to file his case). Mr. McCullough has not filed any documentation with this Court in response to this Court's request for a return to the Motions to be Relived as Counsel or in any other fashion. Additionally, the pending Motions to Be Relieved as Counsel from Mr. Bolen and Mr. Hale indicate that Mr. McCullough has no interest in prosecuting this appeal. Accordingly, Respondents respectfully request an Order from this Court dismissing this Appeal.

[SIGNATURES TO FOLLOW]

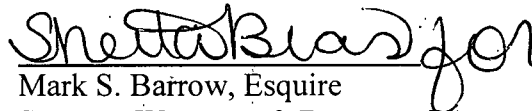
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Respectfully submitted,



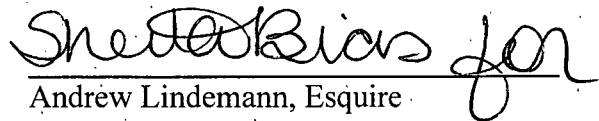
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William R. Jennings, M.D., William H. Richardson, M.D.,  
and Jennifer A. Adair, M.D.,.....Respondents.

**CERTIFICATE OF SERVICE**

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., attorneys for Respondents South Carolina Department of Corrections, Palmetto Health Richland a/k/a Palmetto Health Alliance, Jonathon David Taylor, M.D., Poorneema Ramasamy, M.D., and Jennifer A. Adair, M.D., do hereby certify that I have this date served the foregoing Joint Respondents' Motion to Dismiss and Memorandum in Support of Motion by personally depositing a copy of the same in a United States Postal Service mailbox, postage prepaid, addressed to the following:

Richard L. Bolen  
The Bolen Law Firm, LLC  
600 Columbia Avenue, Suite 7  
Lexington, South Carolina 29072

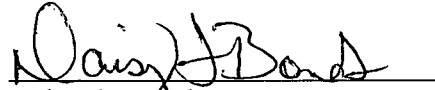
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Daisy F. Bonds

Dated: July 23, 2014

Reply to: Columbia  
Direct Dial: (803) 576-3718  
sbias@RichardsonPlowden.com

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**SC Court of Appeals**

July 23, 2014

**VIA HAND DELIVERY**

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

**Re: Vernon Lee McCullough vs. South Carolina Department of Corrections, Palmetto Health Richland a/k/a Palmetto Health Alliance, Jonathon David Taylor, M.D., Poorneema Ramasamy, M.D., William R. Jennings, M.D., William H. Richardson, M.D., and Jennifer A. Adair, M.D.**  
**Civil Action No.: 2011-CP-40-3642**  
**Appellate Case No.: 2013-001831**

Dear Ms. Kitchings:

As counsel for Respondents Palmetto Health Richland a/k/a Palmetto Health Alliance, Jonathon David Taylor, M.D., Poornema Ramasamy, M.D., and Jennifer A. Adair, M.D., and on behalf of counsel for Respondents South Carolina Department of Corrections, William R. Jennings, M.D., and William H. Richardson, M.D., I have enclosed for filing an original and seven copies of our Joint Motion to Dismiss and supporting Memorandum of Law in the above referenced matter, along with our original Certificate of Service. I would request that the additional copy of our Motion to Dismiss and Supporting Memorandum be file stamped and returned to our courier. Also enclosed is a check for \$25.00 for the filing fee.

We are this day serving a copy of our Motion to Dismiss on all counsel of Record and Mr. Vernon McCullough.

Thank you for your assistance.

Sincerely,



Sheila M. Bias  
SC Bar # 100005

SMB/

Enclosures

cc: Vernon McCullough  
William C. McDow, Esq.  
Mark S. Barrow, Esq.  
Andrew Lindemann, Esq.  
James E. Parham, Jr., Esq.  
Richard Bolen, Esq.  
Eric C. Hale, Esq.