

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE  
ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

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Case No.: 13-ALJ-22-0555-AP

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Stephanie Stewart,

Appellant,

v.

South Carolina Department of Employment  
and Workforce and Oconee County,

---

Respondent.

**RESPONDENT'S RETURN IN OPPOSITION TO APPELLANT'S SECOND MOTION  
FOR EXTENSION OF TIME TO FILE INITIAL BRIEF**

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NOTICE IS HEREBY GIVEN that Respondent, the South Carolina Department of Employment and Workforce (DEW) through its undersigned attorney, opposes as moot Appellant's second request for an extension of time to file her initial brief and requests a ruling on *Respondents' Joint Motion to Dismiss* filed July 30, 2014, for lack of jurisdiction pursuant to S.C. Code Ann. § 1-23-610(A)(1).



E.B. "Trey" McLeod, III (SC Bar No. 73642)  
S.C. Dept. of Employment and Workforce  
Post Office Box 8597  
Columbia, South Carolina 29202  
(803) 737-2666  
legal@dew.sc.gov

September 4, 2014

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SEP 08 2014

**SC Court of Appeals**

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**MEMORANDUM IN SUPPORT OF RESPONDENT'S RETURN IN OPPOSITION TO  
APPELLANT'S SECOND MOTION FOR EXTENSION OF TIME TO FILE INITIAL  
BRIEF**

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Respondent, the South Carolina Department of Employment and Workforce ("Department") through its undersigned attorney, submits the following memorandum and points of authority in support of its opposition to Appellant's request for extension of time to file her initial brief:

**I. Appellant's Motion for Extension of Time is Moot as Respondents' Joint Motion to Dismiss Stays the Time Limits for Filing Appellant's Initial Brief. Rule 240(b), SCACR.**

This honorable Court need not grant Appellant's requested extension of time to file her initial brief. Rule 240(b) SCACR sets forth that "A motion to dismiss an appeal or a motion to relieve counsel shall...automatically stay the time limits for perfecting the appeal until the motion is decided." Accordingly, upon the filing of *Respondents' Joint Motion to Dismiss (Respondent's Motion)* on July 30, 2014, the time limits imposed by these Rules were stayed with regard to the filing of Appellant's initial brief. Therefore, Appellant's request for extension

is moot. See Sloan v. Dep't of Transp., 379 S.C. 160, 167, 666 S.E.2d 236, 240 (2008) (“This Court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.” (internal quotation marks omitted)); Curtis v. State, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001) (“A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy.”).

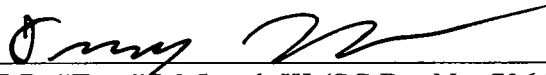
**II. Appellant’s Appeal Should Be Dismissed with Prejudiced Based on the Arguments Submitted in Respondents’ Motion as well as Appellant’s Failure to File a Return to the Motion.**

The arguments and points of law articulated in *Respondent’s Motion* are hereby incorporated by reference herein as if fully copied verbatim. As an additional ground for granting *Respondents’ Motion*, Rule 240(e), SCACR states any party opposing a motion or petition shall have ten (10) days from the date of service of the motion to file a return to the motion and failure to timely file a return may be deemed consent by that party to the relief sought in the motion.

Since the Appellant has been afforded ample time to respond to *Respondents’ Motion*, and has not notified the Court of any extenuating circumstances regarding her failure to file a response, this Court should find that Appellant consents to the relief requested and the case should be dismissed with prejudice.

**CONCLUSION**

WHEREFORE, Respondent prays that the Court declare Appellant’s request for extension moot. FURTHERMORE, Respondent prays the Court dismiss Appellant’s appeal with prejudice for lack of appellate jurisdiction.

  
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E.B. “Trey” McLeod, III (SC Bar No. 73642)  
S.C. Dept. of Employment and Workforce  
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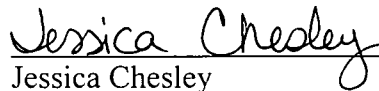
**PROOF OF SERVICE**

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I certify that I have served **Respondent's Return In Opposition To Appellant's Second Motion For Extension Of Time To File Initial Brief** on all parties in this action by depositing a copy of it in the United States Mail, first class postage prepaid, on September 4, 2014, to the following address(es):

**Stephanie C. Stagers Stewart**  
2142 Toccoa Highway  
Westminster, SC 29693

**Reginald M. Gay, Esq.**  
**McNair Law Firm, P.A.**  
132 East Benson Street  
Suite 200  
Anderson, SC 29624

  
\_\_\_\_\_  
Jessica Chesley

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**SC Court of Appeals**

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Cheryl M. Stanton  
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September 4, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Stephanie Stewart v. SCDEW and Oconee County  
Case No.: 13-ALJ-22-0555-AP

Dear Ms. Kitchings:

Enclosed for filing are the original and six copies of the Respondent's Return in Opposition to Appellant's Second Motion for Extension of Time to File Initial Brief and Memorandum in Support of the Respondent DEW in the above case. Also enclosed is a Proof of Service to the parties.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Chesley".

Jessica Chesley  
Administrative Legal Assistant for  
Trey McLeod  
General Counsel

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