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SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Diana Jordan,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Employment and Workforce,)
)
Respondent.)

Docket No. 15-ALJ-22-0138-AP

**ORDER DENYING
MOTION TO REHEAR**

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to a Motion to Rehear (Motion) filed by Dianna Jordan (Appellant) on July 31, 2015. Appellant requests that the Court have oral argument in this appeal because she is not an attorney, does not have access to law books, and cannot produce a brief in compliance with the Rules of Procedure for the Administrative Law Court (ALC Rules). Appellant also stated that she attempted to file a brief and that she can use documents in oral argument to support her position. The South Carolina Department of Employment and Workforce (Department or DEW) has not filed a response to the Motion.

On March 5, 2015, Appellant filed an appeal seeking review of the denial of her request for unemployment benefits by the Department. The case was assigned on April 2, 2015. On April 21, 2015, the Department filed a Motion to Stay Appeal Proceedings Pending Criminal Prosecution (Stay). The Court denied the Stay by order filed and served May 20, 2015. The May 20, 2015 order also set a new deadline for filing the Record on Appeal (Record) and notified the parties that the date for filing briefs would be based on the new date for filing the Record.

On June 5, 2015, the Department filed the Record on Appeal. Also on June 5, 2015, Appellant filed her Brief. The Department filed a Motion to Dismiss on June 26, 2015, asserting that the appeal should be dismissed for failure to file and serve an appellate brief that complies with the ALC Rules. Appellant filed a letter in response to the Motion to Dismiss. The Court granted the Motion to Dismiss by Order filed and served on July 20, 2015. Appellant then filed this Motion on July 31, 2015.

FILED

September 2, 2015

SC ADMIN. LAW COURT

DISCUSSION

Appellant request that the Court grant her Motion in order to have oral arguments in this case. Appellant asserts that because she is not an attorney, she does not have law books to cite relevant cases and cannot submit a brief that complies with the ALC Rules. In addition, Appellant's assertions suggest that this Court should have oral argument so that her legal incompetency can be rectified at the hearing. However, it is not the role of this Court to construct Appellant's legal argument for her. As it did in the previous order in this matter, the Court recognizes that Appellant is pro se. Nevertheless, in South Carolina, pro se litigants are held to the same standards as attorneys. As explained in the ALC's 2014 Revised Notes to ALC Rule 38:

In all cases involving pro se litigants or those without substantial knowledge and experience in administrative matters, the administrative law judge may make reasonable efforts to assure fairness. Nevertheless, such litigants remain responsible for complying with these Rules and all applicable statutes.

See also State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.").

According to ALC Rule 39, an administrative law judge will **not** have oral arguments in appeals from DEW "unless the proceeding involves a novel issue or question of exceptional importance." However, Appellant has not established or alleged facts supporting the position that this Court should have held oral arguments initially, much less upon a motion to rehear a case following a dismissal. Rules of court "are not mere technicalities but provide the parties and [court] with an orderly mechanism through which to guide appeals in this State. . . ." *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). Furthermore, "[i]t is incumbent upon [Appellant] to provide material that complies with the Rules and facilitates appellate review." *Id.*; *see also* ALC Rule 38 (stating that an administrative law judge may, upon his or her own motion, dismiss an appeal for failure to comply with any of the ALC Rules of Procedure for appeals).


Finally, Appellant also did not provide any legal support for the Court to grant the Motion. Appellant's argument is therefore deemed abandoned. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct. App. 2003) ("[S]hort, conclusory statements

made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review.”).

In sum, ALC Rule 40 provides that “[m]otions for rehearing may be allowed in the discretion of the presiding administrative law judge.” Because Appellant’s Motion did not present any legal authority suggesting error in the Court’s July 20, 2015 Order, Appellant failed to establish that a rehearing of this matter is warranted.¹

IT IS THEREFORE ORDERED that the Motion to Rehear is **DENIED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

September 2, 2015
Columbia, South Carolina

¹ Appellant also filed a Motion to Charge Attorney General with Prosecutorial Misconduct on August 20, 2015. That motion is denied because this case is dismissed and the Motion to Rehear is denied, thus making her request moot.