

July 3, 2015

Diana Jordan, Appellant

Docket # 15-ALT-23-C138-AP

vs

South Carolina Department
of Employment and Workforce
(DEW), Respondent

MOTION TO CONTINUE

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SC Court of Appeals

Dear Judge Anderson,

Appellant, Diana Jordan, moves the Court to Continue the Appeal.

1) On May 28, 2015 Your Honor issued an Order setting June 5, 2015 as the DUE DATE for DEW to file the record on appeal.

2) On June 4, 2015 I received the record on appeal by US mail. The cover letter enclosed was dated June 5, 2015 and stipulated an electronic copy was sent to Your Honor's Clerk, Ms Fair, on June 5, 2015. The paper copy sent via US mail could not have arrived at Your Honor's office until June 6, 2015.

3) If Your Honor were to disallow faxed or electronically submitted documents then the DEW missed timely filing for submission of the record on appeal and would be grounds to reverse their decision.

4) Appellant was required to file a brief with the Court by June 25, 2015. DEW's counsel acknowledges receipt of the document on June 8, 2015.

5) The brief was prepared by Appellant prior to receipt of the record on appeal in this matter.

6) On page 117 of the record lines 11-13 the Hearing Officer stipulates that the State and Federal tax records for ALL of the businesses be included in the record.

7) Page 133 Office Assistant Inc, fourth quarter wages for 2007 shown as \$10,843. On page 312 line 13 salaries and wages are reported as \$10,843. The required 2003 Federal tax return is not included in the record.

8) Page 175 A Home Improvement Company's required State and Federal tax returns for both 2004 and 2005 are not included in the record.

9) Page 187 E-Pay Commission fourth quarter 2007 wages show are \$12,714. On page 323 line 8 salaries and wages are shown as \$12,714. Page 190 shows the same wages.

10) Page 191 E-Pay Commission shows first quarter 2008 wages of \$12,714. On page 335 line 8 salaries and wages shows \$12,714.38. The excess of \$40.38 was second quarter wages.

11) Page 217 Lakewood Service Company shows wages of \$12,714 for fourth quarter of 2011. On page 401 my W2 shows wages of \$12,714 for 2011. Page 223 also shows the fourth quarter 2011 wages plus wages of \$12,714 for first quarter 2012. The required 2012 Federal tax return is not included in the record but pages 391 through 397 contain checks totalling \$12,714.

12) Page 272 is a claim filed by Kim Scarbo, not me and the required 2011 and 2012 Federal tax returns are not included in the record.

13) Page 283 duplicates item 11 above.

14) Page 284 duplicates items 9 and 10 above.

15) Page 285 duplicates item 8 above.

16) Page 286 duplicates item 7 above.

17) Page 285 contains the wrong name. There are no required Federal and State tax returns and needs to be stricken from the record.

18) Page 289 shows no corporation using the name Office Assistant Inc. on July 17, 2014. Please turn to page 315. Office Assistant Inc. filed 2003 state tax returns and on line 28 paid the \$25 license fee. The business was closed prior to 7/17/14.

19) Page 300 Bellentine Service Company. No required State and Federal tax documents were included in the record. It needs to be stricken.

20) Page 301 A Home Improvement Company. The required

State and Federal tax documents were not included in the record and needs to be stricken.

21) Page 303 EBay Commission Company. Please see pages 339 and 341. The business filed 2007 and 2008 ^(corporate) State tax returns and paid the license fee. The business was closed prior to 11/7/14.

22) Page 304 Cedar Cove Service Company. Please see pages 353 and 357. The business filed 2011 and 2012 ^(corporate) State tax returns and paid the business license fees. The business was closed prior to 11/7/14.

23) Page 304 Lakewood Service Company. Please see pages 341 and 349. The business filed 2011 and 2012 ^(corporate) State tax returns and paid the business license fees. The business was closed prior to 11/7/14.

24) Pages 305-308. Please turn to page 103 lines 1-3 where I testified under oath that I had claimed tax exemption. The statement is corroborated on page 401. My W2 shows no withholding of Federal or State taxes. A withholding account is not required when the only employee claims exemption but contributions to the Employment Security Commission are mandatory for wages of \$1500 or more paid to an employee in a calendar quarter.

25) Page 417 states the issues in this case are fraud and overpayment.

26) Page 428 last paragraph through page 429 first paragraph. "The evidence in this case is in direct dispute. However, we find the greater weight of the credible evidence..." There is no credible evidence. The original tax documents contained in the record are all in my handwriting proving I did work for the companies. On page 96 line 25 and page 98 line 4 James Wallerhouser testified under oath that he paid me cash. Pages 307-318 contain the checks I received from Lakewood. The businesses' ^(corporate) Federal tax returns corroborate

the wages reported to the DEW. The businesses filed ^(computer) State tax returns and paid to be licensed.

07) The wages and Social Security record I submitted with the Brief on 11/15 prove that all of the missing business Federal and State ^(computer) tax documents do exist and were not included in the record as instructed by the Hearing Officer on page 117 lines 11-13.

08) The Appellant is proceeding pro se. Not only did the DEW withhold unemployment benefit checks but in February 2015 they seized Appellant's Federal tax refund of \$6,460 before the completion of the appeals process. Proof attached.

Appellant respectfully requests that Your Honor consider issuing an immediate ruling in my favor as the DEW has no credible evidence to support their decision. If however the request is inappropriate I apologize and respectfully request that Your Honor continue the case as soon as possible.

Sincerely,
Lana A. Jordan
104 Woughten Lane
Chippin, SC 29524
(803) 732-1762
Appellant

proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain as a minimum, the following information: the date of the commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of the service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal. Any matters stated or alleged in a party's statement shall be binding on that party.

- (3) **Argument.** The brief shall be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize that party's contentions.
- (4) **Conclusion.** A short conclusion stating the precise relief requested.
- (5) **Certificate of Service.** A certificate showing the service of the brief on all parties of record.

- C. **Service of Brief.** At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.
- D. **Cover of Brief.** The cover of the appellant's brief shall be blue; that of the respondent red; that of an intervenor or amicus curiae green; and that of any reply brief gray. The cover of a brief shall contain only the caption and the names, addresses, telephone numbers and e-mail addresses of counsel. This subsection shall not apply to briefs filed by pro se litigants.
- E. **Margins and Bindings.** Typewritten papers or reproductions must have a blank margin of an inch and a half on the left and must be securely fastened on the left margin.

2010 Revised Notes

The appellant's brief must be filed within thirty days after the filing of the Record on Appeal, and the respondent's brief must be filed within thirty days after the appellant's brief is filed. These deadlines provide a readily ascertainable time for the submission of the briefs. Statements of fact set forth in the briefs are binding upon the proponent of the statement. The format of the briefs is similar to that used in the South Carolina Appellate Court Rules. The requirements of subsection (D), which specify the colors to be used for the cover of the briefs, do not apply to briefs filed by pro se litigants. The original and one copy of each brief must be filed with the Court.

38. **Dismissal of Appeal for Failure to Comply with the Rules.** Upon motion of any party, or on its own motion, an administrative law judge may dismiss an appeal for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section.

2009 Revised Notes

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.

39. **Oral Argument.** The administrative law judge shall provide at least twenty (20) days notice of oral argument. The oral argument shall follow the procedure in Rule 218, SCACR. In the discretion of the administrative law judge, oral argument may not be required. Oral argument will ordinarily not be ordered by the Administrative Law Judge in appeals from the Office of Motor Vehicle Hearings unless the proceeding involves a novel issue or a question of exceptional importance.