

The State of South Carolina  
In the Court of Appeals

Appeal from the Administrative Law Court (Richland  
County) Ralph King Anderson III, Administrative Law  
Judge Docket No. 15-ALJ-22-0138-AP

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SEP 10 2015

SC Court of Appeals

Diana Jordan Appellant

v

South Carolina Department of Employment and Workforce Respondent

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NOTICE OF APPEAL

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Diana Jordan appeals the decision of the Honorable  
Ralph King Anderson III dated 9/2/15. Appellant received  
a copy of the decision on 9/14/15.

History

- On 3/5/15 Appellant appealed the decision of the Respondent's  
Appellate Panel which had affirmed the Appeal Tribunal's  
finding that Appellant had engaged in fraud and thus been  
ineligible to receive the unemployment insurance (UI) benefits  
she received.
- On 4/11/15 Respondent filed Motion To Stay Appeal Proceedings  
Pending Criminal Prosecution.
- On 6/8/15 Appellant filed a timely but deficient Brief.
- On 6/26/15 Respondent filed a Motion To Dismiss with Prejudice.
- On 7/16/15 Appellant filed a Motion to Continue which was four  
pages long specifically detailing Appellant's ability to use the  
contents, or that which was required to be contained in the  
record on appeal to prove Appellant had not engaged in fraud  
and therefore had not been overpaid UI benefits.
- On 7/21/15 Appellant received an Order of Dismissal.
- On 7/31/15 pro se Appellant filed a Motion To Retear the case

using oral arguments.

- Respondent never filed objection to the case being reheard.
- On 9/2/15 an Order Denying Motion to Retear was issued.

### Discussion

- The issue on appeal is whether Appellant was overpaid ui benefits based on fraud.
- In the Discussion section of Judge Anderson's Order Denying Motion to Retear he quotes 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.
- The four page letter submitted on 7/16/15, PRIOR to the Order of Dismissal issued on 7/12/15 clearly demonstrated to the judge Appellant's ability to use the existing record on appeal to prove pro se Appellant was not overpaid ui benefits based on fraud.
- Court should have held oral arguments initially.
- In the Discussion section of Judge Anderson's Order Denying Motion to Retear he states "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."
- According to the Administrative Court Laws mailed to me on 3/11/15 by Susan C. Dickerson, Assistant Clerk, ALC Rule 39 states 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 question of exceptional importance.
- Since Appellant's appeal is from the South Carolina Department of Employment and Workforce, Appellant reasonably expected oral arguments initially.
- Judge Anderson never dealt with the issue on appeal.

### Conclusion

Pro se Appellant Diana Jordan filed a timely but deficient Brief, followed up by a four page letter demonstrating her ability to use the record on appeal to prove she was not overpaid in benefits based on fraud. Respondent DEW never filed a Motion objecting to the case being Retheard and Judge Anderson incorrectly applied ALC rule 39 for the initial hearing because of his confusion between the DEW and the Office of Motor Vehicle. After weighing the appropriate factors, this court should conclude that Diana Jordan has shown support for allowing the appeal.

September 9, 2015

Diana Jordan  
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Appellant

Other Counsel of Record:

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SCDEW

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Respondent

*Diana B. Jordan*

STATE OF SOUTH CAROLINA  
~~ADMINISTRATIVE LAW COURT~~  
~~THE~~ COURT OF APPEALS

DIANA JORDAN \_\_\_\_\_ )

Appellant/Petitioner, )

vs. )

SC DEPARTMENT OF EMPLOYMENT )  
AND WORKFORCE )  
Respondent. )

PROOF OF SERVICE

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SEP 10 2015  
SC Court of Appeals

I hereby certify that I am the APPELLANT (Appellant) (Petitioner/Respondent) in the above-captioned matter and that on the 9<sup>th</sup> day of September, 2015, in WHITE ROCK (city), South Carolina, I served a copy of the forgoing NOTICE OF APPEAL (type of document) on the following person(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

ADMINISTRATIVE LAW COURT  
Name  
1805 PENDLETON ST, SUITE 224  
Address  
COLUMBIA, SC 29201  
City/State/Zip

SC DEPT. OF EMPLOYMENT & WORKFORCE  
Name  
P.O. Box 8597  
Address  
COLUMBIA, SC 29202  
City/State/Zip

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

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

DIANA JORDAN  
(Print Name)

Diana B. Jordan  
(Signature)

104 WOODGLEN LANE  
(Street)

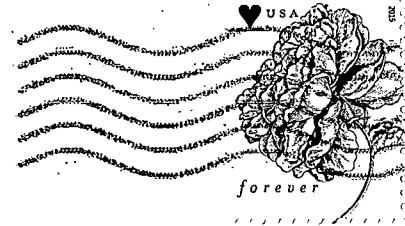
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SC Court of Appeals

South Carolina Court of Appeals

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