

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Chief Administrative Law Judge
Case No.: ALJ-22-0138-AP

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OCT 01 2015
SC Court of Appeals

Appellate Case No. 2015-001912

Diana Jordan,

Appellant,

v.

South Carolina Department of Employment
and Workforce,

Respondent.

**RESPONDENT'S RETURN IN OPPOSITION TO
APPELLANT'S MOTION TO ALLOW ORAL ARGUMENT**

Respondent South Carolina Department of Employment and Workforce ("Respondent" or "DEW") respectfully responds to and opposes Appellant Diana Jordan's Motion to Allow Oral Argument on the following grounds.

BACKGROUND AND ARGUMENT

This matter is before the South Carolina Court of Appeals pursuant to an appeal filed by Appellant Diana Jordan ("Appellant" or "Jordan") from an Order of the South Carolina Administrative Law Court ("ALC"). Specifically, Jordan's Notice of Appeal seeks to appeal the ALC's Order Denying Motion To Rehear ("Order") issued by the Honorable Ralph King Anderson, III, on September 2, 2015.

Jordan's 'Motion to Allow Oral Argument' requests that this Court permit her to present her appeal to this Court **solely on oral argument in lieu of submitting a brief.**

Jordan asserts that her motion should be granted because she: 1) is not an attorney; 2) does not have law books to cite relevant cases; 3) is unable to produce a Brief in compliance with South Carolina Appellate Court Rules; and 4) can use the documents contained or which are required to be contained in the record to support her position during oral arguments.

DEW opposes this motion and respectfully requests that this Court deny Appellant's motion, for all of the following reasons.

Appellant's motion to allow oral argument in lieu of submitting a brief is not authorized or permitted under the South Carolina Appellate Court Rules (SCACR). Appellant cites to absolutely no law or authority supporting her motion or argument.

Jordan has filed an appeal to this Court *pro se*, ostensibly seeking reversal of the ALC's Order that denied her Motion to Rehear. It is well settled that a *pro se* litigant who knowingly elects to represent herself "assumes full responsibility for complying with substantive and procedural requirements of the law." *State v. Policao*, 402 S.C. 547, 558, 741 S.E.2d 774, 779-80 (Ct. App. 2013) (quoting *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003)). "Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney." *Goodson v. American Bankers Ins. Co. of Florida*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988); *see also Rouvet v. Rouvet*, 388 S.C. 301, 310, 696 S.E.2d 204, 208 (Ct. App. 2010).

Thus, because of her request for appellate review in this matter, Appellant has the basic obligation to advance her position by filing a brief that complies with the rules of the Court. As the South Carolina Supreme Court declared in *Henning v. Kaye*, 415

S.E.2d 794, 307 S.C. 436 (1992): “the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and the Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with Rules and facilitates appellate review.” The requirement that the parties submit briefs is a fundamental part of the appellate process which enables meaningful appellate review, promotes judicial economy and assures fairness to all parties.

Jordan has knowingly elected to represent herself in this appeal, and therefore, is not relieved of the responsibility to present her appeal in accordance with the South Carolina Appellate Court Rules. An appellant, whether *pro se* or represented by counsel, must present arguments to this Court by first filing an initial Brief of Appellant, which contains the issues on appeal with proper arguments restricted to matters contained within the record, and with citation of legal authority. *See generally* Rule 208, SCACR. Additionally, it is required that Jordan file a designation of matter along with her initial brief. *See* Rule 209, SCACR.

Quite simply, Jordan is not entitled to any special exception to present her case directly and solely by oral argument in lieu of filing a brief simply because she is a *pro se* appellant. *See State v. Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) (“[E]stablished rules of procedure are not to be discarded, either in the trial court or on appeal, merely because the defendant has been his own lawyer.”); *see also State v. Policao, supra; Goodson v. American Bankers Ins. Co. of Florida, supra.*

Accordingly, Jordan, a *pro se* appellant, must be held to the same standard as an attorney and is required to pursue her appeal in strict accordance with this Court’s Rules.

Thus, Jordan's arguments that she should be granted an exception by virtue of her *pro se* status and allowed to present her case on oral argument in lieu of submitting a brief are without merit.

Besides being procedurally improper, the granting of Appellant's motion would prejudice Respondent DEW. Without a Brief of Appellant, Respondent would be deprived of adequate notice of Appellant's grounds for appeal, cannot meaningfully review and respond to her arguments, and is deprived of the opportunity to provide its own arguments in this case.

In sum, there is no justification for this Court to grant Appellant's motion and it should be denied. Indeed, compliance with the Court's well established Rules governing this appeal is crucial to enable meaningful appellate review and is necessitated by the requirement of judicial impartiality, judicial economy and fairness to all parties.

WHEREFORE, Respondent DEW respectfully requests the Court to deny Appellant's "Motion to Allow Oral Argument."

**SOUTH CAROLINA DEPARTMENT OF
EMPLOYMENT AND WORKFORCE**



Sandra Grooms, Assistant General Counsel
S.C. Bar # 640
P.O. Box 8597
Columbia, SC 29202
T – (803) 737-0395
Email: sgrooms@dew.sc.gov

*Attorney for Respondent South Carolina
Department of Employment and Workforce*

September 30, 2015.

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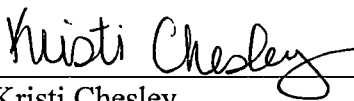
Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent South Carolina Department of Employment and Workforce's Return in Opposition to Appellant's Motion to Allow Oral Argument on the Appellant in this case by depositing a copy of it in the United States Mail, postage prepaid, on September 30, 2015, addressed to the parties at her address of record:

Diana Jordan
104 Woodglen Lane
Chapin, SC 29036

September 30, 2015



Kristi Chesley
Administrative Legal Assistant
SC Dept of Employment and Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124
September 30, 2015

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SC Court of Appeals

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

RE: Diana Jordan v. SC Department of Employment and Workforce
Appellate Case No: 2015-001912

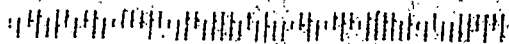
Dear Ms. Kitchings:

Enclosed are an original and six copies of Respondent's Return in Opposition to Appellant's Motion to Allow Oral Argument and a Proof of Service to Ms. Jordan.

Please let me know if you have any questions.

Sincerely,

Kristi Chesley
Administrative Legal Assistant for
Sandra Grooms
Assistant General Counsel



DEPARTMENT OF EMPLOYMENT AND WORKFORCE

P.O. BOX 995

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