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FLORENCE SC Court of Appeals

OCT 22 2015  
SC Court of Appeals

BRIEF OF APPELLANT

The state of South Carolina in the Court of Appeals

Appeal from Administrative Court

Phillip Lewinski, Circuit Court Judge  
Case No. 2015-002056

Edward Spears

South Carolina Department of  
Employment & Workforce (Initial) Brief of Appellant

vs.

Appellant

Respondent

Edward R. Spears

Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
843-496-3711

10-11-15

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### ARGUMENTS

1. The judge ruling in the Administrative Court was wrong and very confusing. The judge claimed I requested extended time to file a late appeal. This is untrue. I requested that the SCDEW motion to dismiss my appeal to be thrown out because the SCDEW was involve with fraudulent act (wire fraud). The judge had the discretion to do so but failed to do so.
2. The judge's ruling should have been that the appeal process continue because the SCDEW was negligent and committed fraud. . . . . 2

Conclusion..... 2

## STATEMENT OF ISSUES ON APPEAL

1. Did the judge error in his decision in the Administrative Court to dismiss the appeal?
2. Shouldn't the judge dismiss without prejudice?
3. Shouldn't the SCDEW be held accountable for negligence and fraud?

## STATEMENT OF THE CASE

On June 30, 2015, in an appeal against the SCDEW I sent out a certificate of service to my former employer (Food Lion), South Carolina Department of Employment and Workforce, and by mistake sent one to the USGA office.

They received both certificates on July 1, 2015. I had until July 9<sup>th</sup> to submit the documents to every party involve.

In a letter I received, Mr. Derrick McFarland head of the legal department with the SCDEW admitted the SCDEW indeed received the proof of service certificates (both of them) on July 1, 2015 well in enough time to correct any mistakes that may have occurred.

It is without question that the head of the legal department of the SCDEW, Derrick McFarland, had to have known (after admitting he received the documents) that one was missing from the Administrative Court. Instead of notifying me in order to continue the appeal process the SCDEW willfully and deliberately withheld notification or withheld the needed proof of service just to make a motion to have my appeal dismissed. To me not only is this deceitful, negligent, but down right an act of fraud. Their website said and I quote "If we know of an issue, we take ownership of that issue and work to come up with a solution."

The SCDEW and its legal department are paid to ensure workers in South Carolina are honestly given all their rightful benefits that includes appeals. In this case the failed because they were deceitful and fraudulent. No courts or judge can favor a respondent who is involved in an illegal act.

## FACTS

I have and will provide clear and convincing evidence on the Record of Appeals....

1. Copies of post dated envelopes showing mailing of certificates June 30, 2015.
2. Copies of certificates mailed to SCDEW and the general counsel on June 30, 2015
3. Letter from Mr. McFarland admitting he received certificates on July 1, 2015
4. Decision by the Administrative Court
5. Web information

## ARGUMENTS

1. Because the SCDEW has an obligation to the state of South Carolina and employees to see that they get a fair shake in the workforce the judge in this case should have allowed the appeal to go forward
2. Because the SCDEW admitted they received two certificates instead of one on July 1, 2015, they had an obligation to immediately return one of the certificates with notification of the mix up.
3. By returning the certificates immediately it would have only take two days to get to me and new certificates could have been mailed by the sixth or seventh of July 2015 well in time before the ninth.
4. Because the SCDEW deliberately and willfully committed wire fraud and mail fraud as well (with holding US mail) and to date they have not returned the unused certificate then this appeal should go forward.


## CONCLUSION

The SCDEW legal department was created to correct problems employees may have in paper work, legal procedures, and other problems. To deliberately be deceitful and to have a court (Administrative Court) or a judge to favor them is beyond me.

For that reason I hope and <sup>pray</sup> ~~say~~ that the Administrative Court decision is reversed and my appeal against the SCDEW appellate panel is to go forward.

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Phillip Lewnski, Court Judge  
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Edward Spears

Edward Spears

Appellant

Appellant

vs.

Respondent

South Carolina Department

of Employment & Workforce PROOF OF SERVICE

I certify that I have served a copy of proof of service and initial brief and designation of matter by U.S. mail to the following addresses:

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