

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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NOV 25 2015
SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

Appellate Case No. 2015-002174

Patricia CraigAppellant,

v.

E. Earl Jenkins, Jr., also known as
Everett Jenkins, Jr., M.D., Amisub of South Carolina,
d/b/a Piedmont Medical Center, and York Pathology
Associates, LLC.....Respondents.

**RESPONDENT JENKINS' and YORK PATHOLOGY'S MOTION TO DISMISS
OR IN THE ALTERNATIVE MOTION TO REQUEST EXTENSION OF TIME
TO FILE INITIAL BRIEF**

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Attorneys for Respondents

MOTION TO DISMISS

Respondents Jenkins and York Pathology (hereinafter "York") hereby move to dismiss this appeal on the grounds that Appellant has failed to request a copy of the transcript of the hearing of the lower court within the time required under Rule 207(a)(1), SCACR.

MOTION TO REQUEST EXTENSION OF TIME TO FILE INITIAL BRIEF

In the alternative, Respondents Jenkins and York hereby move to request an extension of time to file the initial brief on the grounds that Appellant failed to consult with Respondents Jenkins and York with regard to requesting a copy of the transcript of the hearing and instead unilaterally notified the court that a transcript of the proceeding was not needed for the appeal.

**MEMORANDUM FOR MOTION TO DISMISS OR IN THE ALTERNATIVE
MOTION TO REQUEST EXTENSION OF TIME TO FILE INITIAL BRIEF**

Under Rule 207(a)(1), SCACR, "Where a transcript of the proceeding must be prepared by the court reporter, appellant *shall*, within the time provided for ordering the transcript, make satisfactory arrangements in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas...the transcript must be ordered within ten (10) days after the date of service of the notice of appeal." (Emphasis added). Further "Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below."

Appellant's counsel filed the Amended Notice on Appeal on October 28, 2015. Pursuant to Rule 207(a)(1), SCACR Appellant was required to order the transcript from the court reporter by November 9, 2015. Instead, Appellant notified the South Carolina Court of Appeals on November 9, 2015 that "the Appellant does not need the transcript for perfection of the above-captioned appeal. Therefore, no transcript will be ordered in this matter." Prior to filing that notification on November 9, 2015, Appellant's counsel did not consult with Respondents' counsel with regard to ordering a transcript. Rule 207(a)(1), SCACR mandates that Appellant order a copy of the transcript of the proceedings below unless the parties otherwise agree in writing. As

Appellant's counsel never communicated with Respondents' counsel regarding the transcript, obviously there is no agreement in writing between the parties not to order all or a portion of the transcript.

Therefore, Respondents Jenkins and York respectfully move this Court to dismiss Appellant's appeal based on Appellant's blatant disregard of the rule mandating the Appellant to order a transcript of the proceedings below unless there is a written agreement between the parties to the contrary within ten days of the date of service of the notice of appeal.

In the alternative, Respondents Jenkins and York respectfully move this court for an extension of time to file Respondents' initial brief until 30 days after a transcript of the proceedings below is produced by the court reporter.

Respectfully Submitted,



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November 25, 2015

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Patricia Craig,Appellant,

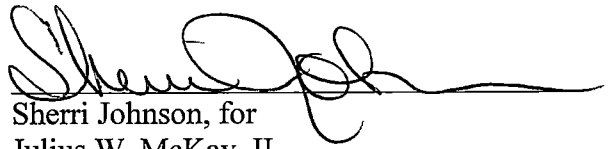
v.

E. Earl Jenkins, Jr. also known as
Everett Jenkins, Jr., M.D., Amisub of South Carolina,
d/b/a Piedmont Medical Center, and York Pathology
Associates, LLC.,Respondents.

CERTIFICATE OF SERVICE

I certify that I have served the *Respondent Jenkins' and York Pathology's Motion to Dismiss or in the Alternative Motion to Request Extension of Time to File Initial Brief* upon Counsel for Appellant, Patricia Craig, by depositing a copy of it in the United States Mail, postage prepaid, on November 19, 2015, addressed to Glenn Waters, Esquire, Post Office Box 1346, Orangeburg, SC 29116 and Counsel for Respondent, Amisub of South Carolina, d/b/a Piedmont Medical Center, addressed to William U. Gunn, Esquire, Post Office Box 1897, Spartanburg, SC 29304.

Signature on Following Page



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Of Counsel:
C. E. Hardin, Jr.

November 25, 2015

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of the Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
NOV 25 2015
SC Court of Appeals

Re: Patricia Craig v. E. Earl Jenkins, Jr., M.D., et al
Case No: 14-CP-46-00508
Our File No: 390-428

Dear Ms. Kitchings:

Enclosed are the original and nine copies of *Respondent Jenkins' and York Pathology's Motion to Dismiss or in the Alternative Motion to Request Extension of Time to File Initial Brief* along with our check in the amount of \$25.00 to cover the filing fee. Please return three clocked copies to our courier.

Thank you for your assistance in this matter.

Yours very truly,



Kelli L. Sullivan

KLS/saj
Enclosures