

Rebuttal

RECEIVED

DEC 09 2015

SC Court of Appeals

on

Discussion

sent

Dec 3-2015

(1)

The State of South Carolina
In the Court of Appeals

Appeal From The
Administrative Law Court
S. Phillip Lenski, Administrative Judge

Case No. 15-ALJ-22-0328-AP

Appellate Case Number 2015-002056

Edward Spears, Appellant

South Carolina Department
of Employment
and Workforce, and
Food Lion
Respondent

Appellant Rebuttal on
Motion To Dismiss

Discussion

I would like to start from the ~~begin~~ beginning. On April 30-2015 in an Employment benefit hearing I lost out on benefits. I then appeal with the Appellate court which I also lost. The SCDEW sent an circular out with the decision with information about how to appeal.

(2)

I called the SCDFW to get more details about Appeals & the circular I received (See Exb A. record of Appeals). I talked to Kristi Chesley in the Legal Dept. She told me to appeal to the Administrative Court. I also asked about the Office of General Counsel whose address was also on the circular. She told me that the the Counsel handles services for all SCDFW. She also give an address of P.O. Box 995 for SCDFW. She never informed me that I had to send proof of service specific to the Administrative Court. So you can see I was misinformed. From the begining. Being an Old Country Boy, I wanted to do the right thing and make sure the Administrative Court got their Proof of Service. To do so I mailed one to SCDFW and one to Office of General Counsel, thinking about what Ms. Chesley said that the Counsel handles all services of the SCDFW. ~~She~~ I automaticall, ~~hand~~ thought the counsel would forward the proof of service certificate over to the Administrative Court. (See Exb. B record of Appeal). So the mailing mistake was made because I was misinformed by SCDFW.

(3)

I had until July 9-2015 to appeal the Appellate decision. I mailed Certificate of Services on June 30-2015. However being misinformed I sent one to SCDEW and one to General Counsel and not one to Administrative Court, (see Exb's B, C, D).

According to an letter sent to me from Derrick M. Farland (See Exb. E) says he received Certificate(s) on July 1-2015. Mr. M. Farland is director of SCDEW legal dept. The legal dept. is set up to help employees of S.C. get all benefits due to them. They help employees get their rightful benefits by helping or informing them with paper work or misunderstanding on different issues. That's their job that's what the people of S.C. pay them for.

The S.C. DEW made an motion to dismiss my Appeal with the Administrative Court saying I didn't mail certificate of service in a timely manner.

I said the SCDEW was negligent and should have contacted me or in the least remarked the unused mail. They did neither. Remember according to the letter they received certificate on July 1-2015. They could have remarked certificate to Florence

(4)

in 2 days and I could immediately return correct certificate in less than 2 days. Well in time before July 9, 2015. According to their web, which say "if we know of an issue we take ownership of that issue and work to come up with a solution". Is trying to get an case dismiss an solution? (see Exb F) I call this wire fraud. That's exactly what it is. It's like an terrorist act on paperwork. You are hurting innocent people by not letting them get the benefits they rightly deserve. I said terrorist act because there are no telling how many hundreds of people the SCDEN have deceive this way. They seem to try take advantage of people who represent them selves or their lack of legal knowledge. However the letter from Mr. M. Farlane is more than clear & convincing evidence that SCDEN was willful, and deliberately negligent. They had well enough time to contact me & correct the problem, which is what their web advertise. Also the same way they contact me with an motion to dismiss, they could have contacted me about the mailings of the certificates.

(5)

I was told by Administrative Court Clerk Mrs. Morrin the clerk for Judge Lewanski that I could appeal the motion to dismiss in Judge Lewanski Court. This turn out not to be true. Again I was misled. I sent an ~~brief~~ brief to Judge Lewanski (See Exb. G).

In his decision he ~~writes~~ writes that he his court has no discretion in this matter. He also said I requested more time for filing certificates, which is not ~~true~~ true (See brief). How can an clerk of court tell me to file an appeal with the court and the judge decision says it's the wrong court. (See order of dismissal Exb. H). If it were the wrong court it should have been dismissed without prejudice.

In attempt to dismiss the Appeal the SCDPW in a discussion on Dec 3-2015 writes that the filing of my brief does not conform with rule 208 scacr. This is not so. I checked several times with clerks in Court of Appeals to make sure my brief was in compliance with 208(b)(c). ALL my statements on issues were clear and in question forms.

(6)

ALL the Respondent's argument is trying to avoid the real issue is that they were deceiving, dishonest, negligent,

As you can clearly see I was misinformed, con, and lied to by the SCDEW but the Administrative Court as well.

I hope & pray that the Court can see through all this deliberate acts of negligence and deceiving and allow the appeal process to continue

~~Edward R. Spears~~
Edward Spears
503 Roughfork St
Fla. S.C. 29501
(843) 496-3711
edward4920@att.net

Dec 8-2015

Proof of Service

Edward Spears (Appellant)

RECEIVED

DEC 09 2015

SC Court of Appeals

VS
South Carolina Dept. of Employment
& Workforce

I certify I am the Appellant
& have mail by U.S. mail on
10-8-2015 to the following
address

Court of Appeals
1220 Senate St.
Columbia, S.C. 29202

South Carolina Dept. of
Employment & Workforce
P.O. Box 8597
Columbia, S.C.

Edward Spears

Ed Spear
503 Roughfork St.
Flo., S.C. 29544
843-496-3711
Edward4920@att.net

~~XXXXXXXXXXXX~~
1001432
SC 29504
d@4920.net

Edward Spears
503 Roughfork St,
Flo., S.C. 29501



1000



29202

U.S. POSTAGE
PAID
FLORENCE, SC
29501
DEC 08, 15
AMOUNT
\$1.64
R2305K140006-12

RECEIVED

DEC 09 2015

SC Court of Appeals

FIRST CLASS

Court of Appeals
1220 Senate St,
Columbia, S.C. 29202