

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

RECEIVED

Ralph King Anderson, III, Chief Administrative Law Judge JAN 11 2016  
Case No.: ALJ-22-0138-AP

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SC Court of Appeals

Appellate Case No. 2015-001912

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Diana Jordan,

Appellant,

v.

South Carolina Department of Employment  
and Workforce,

Respondent.

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**RESPONDENT'S RETURN IN OPPOSITION TO  
APPELLANT'S "RESPONSE TO ORDER"**

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Respondent South Carolina Department of Employment and Workforce ("DEW" or "Department") respectfully responds to and opposes Appellant Diana Jordan's ("Appellant" or "Jordan") filing entitled "Response to Order," which ostensibly requests this Court to reinstate her appeal, following this Court's Order of Dismissal issued on December 21, 2015.

**Relevant Background**

This matter stems from a final administrative decision of Respondent's Appellate Panel issued on February 27, 2015, which determined that Jordan had engaged in a recurrent scheme of unemployment fraud by creating fictitious businesses and reporting fictitious wages to the Department in order to fraudulently obtain unemployment benefits

to which she was not entitled. (Exhibit 1). In the Department's final decision, the Appellate Panel specifically found that:

[Jordan] created the employer accounts, and created and submitted, or caused to be submitted, paperwork on behalf of the various businesses to the Department, knowing that the entity was not an actual business, that she was not actually working, and that she was not actually being paid wages. We find she knowingly made false statements and knowingly failed to disclose material facts in order to obtain benefits to which she was not entitled.

Consequently, the Appellate Panel held Jordan was ineligible for the benefits that she had fraudulently received and she was required to repay the amount of the overpaid benefits to the Department.<sup>1</sup>

Jordan timely appealed the Department's final decision to the Administrative Law Court ("ALC"), but subsequently failed to file an appellate brief that complied with ALC Rules. DEW filed a motion to dismiss based on Jordan's disregard for the ALC rules. On July 20, 2015, Honorable Ralph King Anderson, III, found that Jordan's "Grounds for Appeal (Brief)" was fatally deficient in a number of respects and issued an Order of Dismissal with prejudice. (Exhibit 2).

Jordan then filed a "Motion to Rehear" with the ALC on July 31, 2015, requesting that the ALC grant her motion to rehear and to allow her to present her appeal solely upon oral argument because she was a *pro se* litigant and was unable to file a brief. Judge Anderson denied Jordan's motion, issuing the ALC's Order Denying Motion to Rehear on September 2, 2015. (Exhibit 3).

Jordan then appealed the ALC's September 2, 2015 Order to this Court. Thus, **the narrow issue on appeal to this Court** does not involve the underlying merits of

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<sup>1</sup> Jordan has been criminally indicted for unemployment insurance fraud. See <http://www.thestate.com/news/local/crime/article13740506.html> (last accessed Jan. 8, 2016).

Jordan's appeal of DEW's decision. Instead, the sole issue properly on appeal to this Court is a limited one, and is confined to determining whether Judge Anderson committed error, as a matter of law, in dismissing Jordan's appeal and denying her petition for rehearing in the ALC.

Jordan's Notice of Appeal was filed with this Court on September 8, 2015, and Jordan was required to file her Initial Brief of Appellant and Designation of Matter within 30 days. *See* Rules 208(a)(1) and 209(a), SCACR. Jordan did not meet this deadline and instead began filing numerous miscellaneous motions on various grounds. For example, on September 21, 2015, Jordan filed a motion "to allow oral argument in lieu of Briefs" because she is not an attorney.

On November 25, 2015, this Court issued an Order which denied a total of ten (10) outstanding motions filed by Jordan, and directed Jordan to file an Initial Brief and Designation of Matter within fifteen days. Therefore, Jordan was required to comply with this Court's Order by filing her Initial Brief and Designation of Matter no later than December 10, 2015.

Jordan failed to meet the deadline set by this Court, and thus, the Court issued its Order of Dismissal on December 21, 2015.

**Jordan's "Response to Order" should be denied because she did not comply with this Court's clear deadline to file an Initial Brief and Designation of Matter. Further, she has not shown any good cause for this Court to reinstate her appeal.**

Jordan's Notice of Appeal was filed with this Court on September 8, 2015. Therefore, Jordan was required to file her Initial Brief of Appellant and Designation of Matter within 30 days. *See* Rules 208 and 209, SCACR.

Indeed, as of today (January 8, 2016), Jordan has made no attempt to comply with the requirement of filing a written appellate brief which has delayed the orderly progression of this appeal. Moreover, she has repeatedly filed a number of clearly inappropriate and extraneous motions, and has persistently attempted to divert this Court's attention and to mischaracterize the actual nature of the appeal to this Court. Further, Jordan's actions in filing a clearly unmeritorious "Motion to Enlarge" the record on appeal on December 9, 2015, exhibited a deliberate disregard of the Court's November 25, 2015, letter, and continued her dilatory pattern of filing motions right before deadlines.<sup>2</sup> Moreover, Jordan never filed a motion for an extension of time.

Appellant cites to absolutely no law or authority supporting her motion or argument to reinstate this appeal. Further, Jordan's arguments for reinstating her appeal are without merit and do not constitute good cause that would warrant this Court to reinstate her appeal.

For instance, in her "Response to Order," Jordan asserts that to "adequately write a brief it is necessary to know what material can be included." This assertion is wholly without merit. Rule, 209, SCACR, requires the Appellant to designate the matter to be included in the appeal, and Rule 210(c), SCACR, very clearly states that the Record on Appeal is restricted to what has been presented to the lower court or tribunal. *See* Rules 209(a), SCACR.

By proceeding *pro se*, Jordan has knowingly elected to represent herself in this appeal. A *pro se* litigant, however, is not relieved of the responsibility to present her

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<sup>2</sup> In Jordan's motion "to enlarge the record under appeal," filed on December 9, 2015, Jordan attempted to have material that was not presented to the ALC to be included in the appeal. This request, however, showed Jordan's continuous attempts to disregard the rules governing appeals. *See* Rule 210(c), SCACR ("The Record shall not, however, include matter which was not presented to the lower court or tribunal.").

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 written brief, which contains the issues on appeal and proper arguments restricted to matters contained within the record, as well as citation of legal authority. *See generally* Rule 208, SCACR. Additionally, it is required that an appellant file a designation of matter along with the initial brief. *See* Rule 209, SCACR.

Because of her request for appellate review in this matter, Appellant had 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*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (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.

Furthermore, this Court has noted that a “[l]ack 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. Am. Bankers Ins. Co. of Florida*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988). Indeed, the South Carolina Supreme Court has stated that a *pro se* litigant “who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003); *see also State v.*

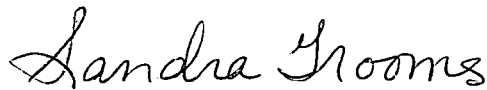
*Hollman*, 232 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) (the “established rules of procedure are not to be discarded, either in the trial court or on appeal, merely because the defendant has been his own lawyer”) *overruled on other grounds by Stevenson v. State*, 335 S.C. 193, 516 S.E.2d 434 (1999).

In sum, Jordan has already been given ample opportunity to present her appeal to this Court, yet she has failed to comply with basic rules to file a proper appellate brief and designation of matter. On November 25, 2015, she was given a final deadline of fifteen (15) days to comply and file her Initial Brief and Designation of Matter, and she chose not to abide by it. Even after this Court’s Order of Dismissal, Jordan’s most recent filings have also evinced a continuing pattern of submitting improper motions which flout the Rules governing appeals.

## CONCLUSION

For all of the reasons above, DEW opposes Jordan's request that this Court reinstate her appeal. Jordan has shown no good cause and there is no justification for this Court to grant reinstatement of this appeal, and DEW respectfully requests that this Court deny Jordan's motion.

### SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE



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

January 8, 2016

**SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE**  
Columbia, South Carolina

**EXHIBIT**  
tabbles  
1 (8 pages)

**IN THE MATTER OF THE CLAIM OF:**

Diana Jordan )  
 )  
 )  
Claimant SSN: )  
 )  
 )  
Appellant: Claimant

**APPELLATE PANEL**  
**DECISION**

The claimant appealed Appeal Tribunal Decision 2014-A-10335 to the Appellate Panel. The Tribunal held the claimant ineligible for benefits and overpaid. The Tribunal also held the claimant ineligible for benefits for an additional fifty-two (52) weeks, upon a finding of fraud. This decision affirmed the claims adjudicator's determinations and the determinations of overpayment mailed on March 4, 2014, holding the claimant ineligible for benefits and overpaid, upon finding her claims for unemployment benefits were established through her use of fictitious employer accounts for the purposes of establishing her right to benefits.

The Appellate Panel notified the parties of its hearing to consider the appeal.

**DECISION**

Appeal Tribunal Decision 2014-A-10335 is affirmed. The claimant is ineligible for benefits and overpaid \$7,592.00 for the claim weeks ending July 9, 2005, through January 7, 2006. She is ineligible for benefits and overpaid \$32,274.00 for the claim weeks ending July 12, 2008, through June 19, 2010. The claimant is ineligible for benefits and overpaid \$8,150.00 for the claim weeks ending July 21, 2012, through March 2, 2013. Additionally, she is ineligible for benefits for fifty two (52) weeks, from March 2, 2014, through February 28, 2015, upon a finding of fraud.

On February 19, 2005, the claimant completed and submitted to the Department an employer status report to determine liability for a business named A Home Improvement Company. Her boyfriend signed the report as owner of the business. The claimant completed and submitted to the Department employer quarterly contribution and wage reports for the business for the fourth quarter of 2004, and the first quarter of 2005. Her boyfriend signed the reports. The claimant indicated on the reports that she received wages from the business in the amount of \$11,388.00 for the fourth quarter of

2004, and in the amount of \$11,388.00 for the first quarter of 2005. She filed a claim for unemployment insurance benefits on July 5, 2005, effective July 3, 2005. The claimant indicated she worked for A Home Improvement Company from December 27, 2004, through April 4, 2005, and she was separated due to a lack of work. She completed and submitted to the Department an employer request for separation information form indicating she was separated from the business due to a lack of work. The claimant's boyfriend signed the form. She was held eligible for benefits effective July 3, 2005, upon finding she was separated due to a lack of work. The claimant filed for benefits for the claim weeks ending July 9, 2005, through January 7, 2006, and she received benefits in the amount of \$7,592.00. She completed and submitted to the Department an employer's report of change in April 2005, indicating the business closed on April 4, 2005. The claimant's boyfriend signed the report.

On February 25, 2008, the claimant completed and submitted to the Department an employer status report to determine liability for a business named eBay Consignment Company, Inc. She indicated on the report that the business was incorporated in South Carolina on September 30, 2006. The claimant's boyfriend signed the report as president of the business. Department records show the claimant completed and submitted to the Department employer quarterly contribution and wage reports for the business for the fourth quarter of 2007, and the first quarter of 2008. The claimant's boyfriend signed the reports. She indicated on the reports that she received wages from the business in the amount of \$12,714.00 for the fourth quarter of 2007, and in the amount of \$12,714.00 for the first quarter of 2008. The claimant filed a claim for unemployment insurance benefits on July 8, 2008, effective July 6, 2008. She indicated she worked for eBay Consignment Company, Inc. from December 28, 2007, through May 2, 2008, and she was separated due to a lack of work. The claimant completed and submitted to the Department an employer request for separation information form indicating she was separated from the business due to a lack of work. Her boyfriend signed the form. The claimant was held eligible for benefits effective July 6, 2008, upon finding she was separated due to a lack of work. She filed for benefits for the claim weeks ending July 12, 2008, through June 19, 2010, and she received benefits in the amount of \$32,274.00. The claimant completed and submitted to the Department an employer's report of change on July 28, 2008, indicating the business closed on May 2, 2008. Her boyfriend signed the report.

Department records show an employer status report to determine liability for a business named Lakewood Service Company was completed on March 27, 2012. The claimant's girlfriend was listed on the report as president of the business. The claimant completed and submitted to the Department employer quarterly contribution and wage reports for the business for the fourth quarter of 2011, and the first quarter of 2012. Her girlfriend

signed the reports. The claimant indicated on the reports that she received wages from the business in the amount of \$12,714.00 for the fourth quarter of 2011, and in the amount of \$12,714.00 for the first quarter of 2012. She filed a claim for unemployment insurance benefits on July 20, 2012, effective July 15, 2012. The claimant indicated she worked for Lakewood Service Company from December 30, 2011, through March 30, 2012, and she was separated due to a lack of work. She completed and submitted to the Department an employer request for separation information form indicating she was separated from the business due to a lack of work. The claimant's girlfriend signed the form. She was held eligible for benefits effective July 15, 2012, upon finding she was separated due to a lack of work. The claimant filed for benefits for the claim weeks ending July 21, 2012, through March 2, 2013, and she received benefits in the amount of \$8,150.00. Department records show an employer's report of change was completed on October 15, 2012, indicating the business closed on March 31, 2012. This information was provided by the claimant's girlfriend.

Department records show an employer status report to determine liability for a business named Cedar Cove Service Company was completed on March 27, 2012. The claimant was listed on the report as owner of the business. The claimant completed and submitted to the Department employer quarterly contribution and wage reports for the business for the fourth quarter of 2011, and the first quarter of 2012. She indicated on the reports that she paid her girlfriend wages from the business in the amount of \$12,714.00 for the fourth quarter of 2011, and in the amount of \$12,714.00 for the first quarter of 2012. The claimant's girlfriend filed a claim for unemployment insurance benefits on July 17, 2012, effective July 15, 2012. Her girlfriend indicated she worked for Cedar Cove Service Company from December 30, 2011, through March 30, 2012, and she was separated due to a lack of work. The claimant's girlfriend was held eligible for benefits effective July 15, 2012, upon finding she was separated due to a lack of work. Her girlfriend filed for benefits, and she received benefits. Department records show an employer's report of change was completed on October 15, 2012, indicating the business closed on March 31, 2012. This information was provided by the claimant. Department records also show the claimant indicated her girlfriend was separated from the business due to a lack of work in a letter she wrote to the Department on April 23, 2014, regarding benefit charges.

When this information was discovered by the Department, the Department referred the case to the United States Department of Labor. An investigator for the United States Department of Labor, Office of Inspector General, conducted an investigation. The investigator interviewed the claimant, the claimant's boyfriend, and the claimant's girlfriend. The claimant's boyfriend told the investigator the businesses were a ruse and the claimant may not have actually worked for the businesses. When the investigator

asked him if the claimant was actually laid off from the businesses or if she terminated the businesses to collect unemployment insurance benefits, the claimant's boyfriend told the investigator the claimant probably terminated the businesses to collect unemployment insurance benefits. The claimant's girlfriend told the investigator no money had exchanged hands between her and the claimant. Based upon his investigation, the investigator determined the businesses were fictitious. The Department also contacted the South Carolina Secretary of State. The Director of Business Filings with the office of the South Carolina Secretary of State stated none of the businesses had filed the necessary paperwork to become incorporated in South Carolina. The Director of Business Filings provided documentation to substantiate her statement. The Department also contacted the South Carolina Department of Revenue. The Supervisor of Field Audit with the South Carolina Department of Revenue stated none of the businesses had filed the necessary paperwork with the South Carolina Department of Revenue for withholding taxes. The Department also noted the claimant received wages from the businesses in excess of \$11,000.00 for only a few days of work, based upon her dates of employment. Based upon the totality of the evidence, the Department determined the claimant's claims for unemployment benefits were established through her use of fictitious employer accounts for the purposes of establishing her right to unemployment benefits.

The claimant asserted her boyfriend was the owner of A Home Improvement Company and eBay Consignment Company, Inc., and she was an employee of the businesses. She could provide no specific information on the type of work she performed for the businesses other than she researched potential business opportunities for her boyfriend. The claimant contended she worked for A Home Improvement Company from December 27, 2004, through April 4, 2005, and for eBay Consignment Company, Inc., from December 28, 2007, through May 2, 2008. She maintained she was separated from the businesses due to a lack of work. The claimant stated she received wages from A Home Improvement Company in the amount of \$11,388.00 for work performed from December 27, 2004, through December 31, 2004, and in the amount of \$11,388.00 for work performed from January 1, 2005, through April 4, 2005. She also stated she received wages from eBay Consignment Company, Inc., in the amount of \$12,714.00 for work performed from December 28, 2007, through December 31, 2007, and in the amount of \$12,714.00 for work performed from January 1, 2008, through May 2, 2008.

The claimant's boyfriend asserted he was the owner of A Home Improvement Company and eBay Consignment Company, Inc., and the claimant was an employee of the businesses. He could provide no specific information on the type of work the claimant performed for the businesses other than she researched potential business opportunities for him, and she ran the businesses for him. The claimant's boyfriend contended the

claimant worked for A Home Improvement Company from December 27, 2004, through April 4, 2005, and for eBay Consignment Company, Inc. from December 28, 2007, through May 2, 2008. He maintained the claimant was separated from the businesses due to a lack of work. The claimant's boyfriend stated the businesses earned no income. He asserted he paid the claimant cash from his personal savings account. The claimant's boyfriend contended the claimant received wages from A Home Improvement Company in the amount of \$11,388.00 for work performed from December 27, 2004, through December 31, 2004, and in the amount of \$11,388.00 for work performed from January 1, 2005, through April 4, 2005. He also contended the claimant received wages from eBay Consignment Company, Inc., in the amount of \$12,714.00 for work performed from December 28, 2007, through December 31, 2007, and in the amount of \$12,714.00 for work performed from January 1, 2008, through May 2, 2008. The claimant's boyfriend denied making the statements to the investigator about claimant's terminating the businesses to collect unemployment insurance benefits.

The claimant asserted Cedar Cove Service Company and Lakewood Service Company were businesses she established for herself and her girlfriend. She contended she was the owner of Cedar Cove Service Company and her girlfriend was an employee of the business. The claimant maintained her girlfriend was the owner of Lakewood Service Company and the claimant was an employee of the business. She stated she researched potential business opportunities for her girlfriend at Lakewood Service Company, and her girlfriend researched potential business opportunities for her at Cedar Cove Service Company. The claimant asserted Cedar Cove Service Company and Lakewood Service Company earned no income. She contended she paid her girlfriend's wages from money she obtained from cash advances on her credit card. The claimant maintained she gave her girlfriend money she obtained from cash advances on her credit card and her girlfriend used the money to pay the claimant's wages. She stated she worked for Lakewood Service Company from December 30, 2011, through March 30, 2012, and she was separated due to a lack of work. The claimant asserted she received wages from Lakewood Service Company in the amount of \$12,714.00 for work performed from December 30, 2011, through December 31, 2011, and in the amount of \$12,714.00 for work performed from January 1, 2012, through March 30, 2012.

The claimant's girlfriend was subpoenaed by the Department to testify at the Appeal Tribunal hearing. Her girlfriend appeared for the Appeal Tribunal hearing, and she was sequestered in a room with the other witnesses. However, when the hearing officer called the claimant's girlfriend to testify, she had vacated the premises.

The claimant asserted her claims for unemployment benefits were not established through her use of fictitious employer accounts for the purposes of establishing her right

to benefits. She contended the businesses were legitimate, and she filed the appropriate paperwork for the businesses to include State and Federal tax returns. Although there are no tax returns from A Home Improvement Company, the returns for eBay Consignment Company, Lakewood Service Company, and Cedar Cove Service Company show the claimant reported in such a manner that none of the companies owed state or federal taxes. The claimant presented a series of counter checks made out to her from Lakewood Service Company, which she contends were wages. She also submitted a wage and income transcript showing withholdings for Medicare and social security from wages paid to her by Lakewood Service Company. She did not withhold federal taxes in this Lakewood Service Company tax statement, and Department records show she did not withhold taxes from her unemployment benefit payments. The claimant submitted no other documentary evidence to verify she received wages from the various companies. She acknowledged she completed all of the paperwork for the businesses.

S.C. Code Ann. § 41-41-20(A) mandates that a claimant found by the Department to have knowingly made a false statement or knowingly failed to disclose a material fact when filing a compensable claim to establish the right to or increase the amount of benefits is ineligible to receive benefits for any week for which the claim was filed, and is ineligible to receive further benefits for not less than ten and not more than fifty-two consecutive weeks as determined by the Department according to the circumstances of the case, these weeks to commence with the date of the determination.

Under Public Law 110-252, Emergency Unemployment Compensation is payable to an individual who has exhausted benefit rights for regular compensation with respect to a benefit year that ended on or after May 1, 2007. The individual must have received all regular compensation payable or had his/her rights to regular compensation terminated by reason of expiration of the applicable benefit year. EUC08 is administered through voluntary agreements between states and the U.S. Department of Labor. Continuing eligibility is determined under the requirements of the state law.

S.C. Code Ann. § 41-35-410 requires claims for extended benefits to be subject to the statutory provisions which apply to claims for, or the payment of, regular benefits.

The evidence in this case is in direct dispute. However, we find the greater weight of the credible evidence establishes the claimant's claims for unemployment benefits, including emergency unemployment compensation and extended benefits, were established through her use of fictitious employer accounts for the purposes of establishing her right to unemployment benefits. She created the employer accounts, and created and submitted, or caused to be submitted, paperwork on behalf of the various businesses to

the Department, knowing that the entity was not an actual business, that she was not actually working, and that she was not actually being paid wages. We find she knowingly made false statements and knowingly failed to disclose material facts in order to obtain unemployment benefits to which she was not entitled. Therefore, we find sufficient evidence to warrant a finding of fraud, and the claimant is ineligible for benefits and overpaid during the weeks in question. The claimant is also ineligible for benefits for an additional fifty (52) weeks as an administrative penalty.


S.C. Code Ann. § 41-41-40 provides that any person who has received benefits during a period of disqualification or ineligibility must repay to the Department a sum equal to the amount received.

The evidence establishes the claimant received benefits during a period of ineligibility. Therefore, she must repay the benefits in question.

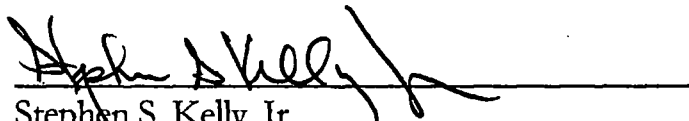
The Appeal Tribunal decision is affirmed.

**Mr. Kelly on review.**

**SOUTH CAROLINA DEPARTMENT OF  
EMPLOYMENT AND WORKFORCE**

  
\_\_\_\_\_  
E. B. Ayers

  
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Tim Dangerfield

  
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Stephen S. Kelly, Jr.

Hearing Date: 02/25/15  
Date Mailed: 02/27/15  
Mailed By: AG

**Mailing Date: February 27, 2015**

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE  
(SCDEW)  
Columbia, South Carolina

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**NOTICE OF MAILING OF APPELLATE PANEL DECISION**

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Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (see the mailing date above).

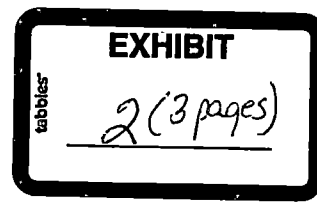
**The address of the Administrative Law Court is:**

**S.C. Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton St., Ste. 224  
Columbia, SC 29201**

**Service of the Petition on SCDEW must be addressed and mailed to:**

**Office of General Counsel  
S.C. Department of Employment and Workforce  
Post Office Box 8597  
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.



STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Dianna Jordan, )  
)  
Appellant, )  
)  
vs. )  
)  
South Carolina Department of Employment )  
and Workforce, )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. 15-ALJ-22-0138-AP

**ORDER OF DISMISSAL**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Motion to Dismiss filed by the South Carolina Department of Employment and Workforce (DEW). DEW seeks to dismiss Appellant Dianna Jordan’s (Appellant) appeal from the decision of the South Carolina Department of Employment and Workforce’s (DEW) Appellate Panel. The Appellate Panel had affirmed the Appeal Tribunal’s finding that Appellant had engaged in fraud and had thus been ineligible to receive the unemployment insurance (UI) benefits she received.

**DISCUSSION**

On June 8, 2015, Appellant filed a document entitled “Grounds for Appeal (Brief),” to which she attached a number of documents to support her version of the facts.<sup>1</sup> However, Appellant’s “Grounds for Appeal (Brief)” is fatally deficient in a number of respects and must, therefore be dismissed.

Rule 37(B) of the Rules of Procedure for the Administrative Law Court (ALC Rules) states that “[e]ach brief **shall** contain” (emphasis added) a Statements of the Issue(s) on Appeal, Statement of the Case, Argument containing “**a discussion and citation of authority**” (emphasis

<sup>1</sup> On July 6, 2015, Appellant filed a “Motion to Continue.” However, this case is not at a stage where it can be continued. At this point, Appellant could have filed a motion to enlarge time to file a reply brief, but not to continue the appeal. Additionally, Appellant’s document mostly contains factual arguments and allegations to support her case. The document even ends with a request for the Court to “consider issuing an immediate ruling in [Appellant’s] favor,” because DEW “has no credible evidence to support their position.” Appellant does mention that her prepared her brief prior to receipt of the record on appeal. However, ALC Rule 37(A) clearly states in pertinent part that “the appellant shall file its brief with the Court within twenty (20) days after the Record on Appeal is filed.” Appellant is responsible for reading the Court’s rules. For all of these reasons, Appellant’s motion is denied.

**FILED**  
July 20, 2015  
SC ADMIN. LAW COURT

added) addressing the issues, Conclusion, and Proof of Service. Though Appellant's document contains a Proof of Service<sup>2</sup> and some facts, it contains little else; crucially missing from this document are any issues on appeal and citation to, and discussion of, legal authority to support her argument, which is merely conclusory. Appellant's argument is therefore deemed abandoned. See *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct. App. 2003) ("[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review."); see also ALC Rule 38 (stating that an administrative law judge may, upon his or her own motion, dismiss an appeal for failure to comply with any of the ALC Rules of Procedure for appeals). The Court recognizes that Appellant is pro se. However, in South Carolina, pro se litigants are held to the same standards as attorneys. See *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law."). Furthermore, this Court should not construct Appellant's legal argument for her.

**ORDER**

**IT IS THEREFORE ORDERED** that DEW's Motion to Dismiss is **GRANTED**, and that Appellant's appeal is **DISMISSED WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



\_\_\_\_\_  
Ralph King Anderson, III  
Chief Administrative Law Judge

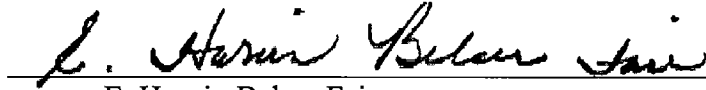
July 20, 2015  
Columbia, South Carolina

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<sup>2</sup> Appellant also notes at the end of her "Grounds for Appeal (Brief)" that she served the DEW with a fourteen-page document via fax. However, pursuant to the 2013 Revised Notes to ALC Rule 5, "[t]he method of service is by delivery or mailing, but not fax."

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in cursive script, reading "E. Harvin Belser Fair", is written over a horizontal line.

E. Harvin Belser Fair  
Judicial Law Clerk

July 20, 2015  
Columbia, South Carolina

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

**EXHIBIT**  
tabbles  
3 (4 pages)

Diana Jordan, )  
)  
Appellant, )  
)  
vs. )  
)  
South Carolina Department of )  
Employment and Workforce, )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. 15-ALJ-22-0138-AP

**ORDER DENYING  
MOTION TO REHEAR**

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to a Motion to Rehear (Motion) filed by Dianna Jordan (Appellant) on July 31, 2015. Appellant requests that the Court have oral argument in this appeal because she is not an attorney, does not have access to law books, and cannot produce a brief in compliance with the Rules of Procedure for the Administrative Law Court (ALC Rules). Appellant also stated that she attempted to file a brief and that she can use documents in oral argument to support her position. The South Carolina Department of Employment and Workforce (Department or DEW) has not filed a response to the Motion.

On March 5, 2015, Appellant filed an appeal seeking review of the denial of her request for unemployment benefits by the Department. The case was assigned on April 2, 2015. On April 21, 2015, the Department filed a Motion to Stay Appeal Proceedings Pending Criminal Prosecution (Stay). The Court denied the Stay by order filed and served May 20, 2015. The May 20, 2015 order also set a new deadline for filing the Record on Appeal (Record) and notified the parties that the date for filing briefs would be based on the new date for filing the Record.

On June 5, 2015, the Department filed the Record on Appeal. Also on June 5, 2015, Appellant filed her Brief. The Department filed a Motion to Dismiss on June 26, 2015, asserting that the appeal should be dismissed for failure to file and serve an appellate brief that complies with the ALC Rules. Appellant filed a letter in response to the Motion to Dismiss. The Court granted the Motion to Dismiss by Order filed and served on July 20, 2015. Appellant then filed this Motion on July 31, 2015.

**FILED**  
September 2, 2015  
SC ADMIN. LAW COURT

## DISCUSSION

Appellant request that the Court grant her Motion in order to have oral arguments in this case. Appellant asserts that because she is not an attorney, she does not have law books to cite relevant cases and cannot submit a brief that complies with the ALC Rules. In addition, Appellant's assertions suggest that this Court should have oral argument so that her legal incompetency can be rectified at the hearing. However, it is not the role of this Court to construct Appellant's legal argument for her. As it did in the previous order in this matter, the Court recognizes that Appellant is pro se. Nevertheless, in South Carolina, pro se litigants are held to the same standards as attorneys. As explained in the ALC's 2014 Revised Notes to 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. Nevertheless, such litigants remain responsible for complying with these Rules and all applicable statutes.

*See also State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.").

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." However, Appellant has not established or alleged facts supporting the position that this Court should have held oral arguments initially, much less upon a motion to rehear a case following a dismissal. Rules of court "are not mere technicalities but provide the parties and [court] with an orderly mechanism through which to guide appeals in this State. . . ." *Henning v. Kaye*. 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). Furthermore, "[i]t is incumbent upon [Appellant] to provide material that complies with the Rules and facilitates appellate review." *Id.*; *see also* ALC Rule 38 (stating that an administrative law judge may, upon his or her own motion, dismiss an appeal for failure to comply with any of the ALC Rules of Procedure for appeals).

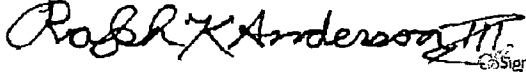
Finally, Appellant also did not provide any legal support for the Court to grant the Motion. Appellant's argument is therefore deemed abandoned. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct. App. 2003) ("[S]hort, conclusory statements

made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review.”).

In sum, ALC Rule 40 provides that “[m]otions for rehearing may be allowed in the discretion of the presiding administrative law judge.” Because Appellant’s Motion did not present any legal authority suggesting error in the Court’s July 20, 2015 Order, Appellant failed to establish that a rehearing of this matter is warranted.<sup>1</sup>

**IT IS THEREFORE ORDERED** that the Motion to Rehear is **DENIED**.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink that reads "Ralph King Anderson, III". The signature is written in a cursive style. To the right of the signature, there is a small, faint logo that appears to say "eSign".

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Ralph King Anderson, III  
Chief Administrative Law Judge

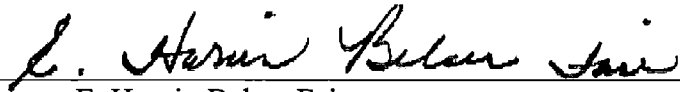
September 2, 2015  
Columbia, South Carolina

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<sup>1</sup> Appellant also filed a Motion to Charge Attorney General with Prosecutorial Misconduct on August 20, 2015. That motion is denied because this case is dismissed and the Motion to Rehear is denied, thus making her request moot.

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



E. Harvin Belser Fair  
Judicial Law Clerk

September 2, 2015  
Columbia, South Carolina

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JAN 11 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph King Anderson, III, Chief Administrative Law Judge  
Case No. 15-ALJ-22-0138-AP

JAN 11 2016

SC Court of Appeals

Appellate Case No. 2015-001912

Diana Jordan,

Appellant,

v.

South Carolina Department of Employment ,

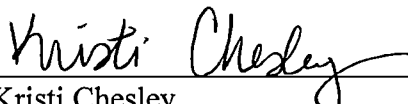
Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's Return in Opposition to Appellant's "Return Order" on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on January 8, 2016, addressed to the Appellant at her address of record:

Diana Jordan  
104 Woodglen Ln  
Chapin, SC 29036

January 8, 2016

  
\_\_\_\_\_  
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

RECEIVED

Post Office Box 8597  
Columbia, SC 29202  
Telephone: (803) 737-2666  
Fax: (803) 737-0124

JAN 11 2016  
SC Court of Appeals

January 8, 2016

The Honorable Jenny Abbott 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 is the original and six copie of the Respondent's Return in Opposition to Appellant's "Response Order". Also enclosed is a Certificate of Service to the Appellant, Ms. Jordan.

Please let me know if you have any questions.

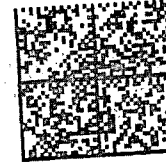
Sincerely,

Kristi Chesley  
Administrative Legal Assistant for  
Sandra Grooms  
Attorney for Respondent SCDEW

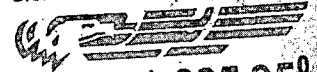
**SOUTH CAROLINA  
DEPARTMENT OF EMPLOYMENT AND WORKFORCE  
COLUMBIA SC 29202**

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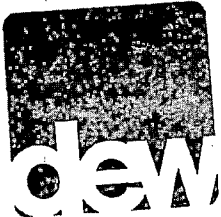
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**OFFICIAL BUSINESS**

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ADDRESS SERVICE REQUESTED

RECEIVED

JAN 11 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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Columbia, South Carolina 29211