

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
9th Judicial Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2015-000049

RECEIVED

FEB 16 2016

SC Court of Appeals

Jack Powell,

Appellant,

v.

Carolina Center for Occupational Health,

Respondent.

**RESPONDENT'S RETURN TO APPELLANT'S
MOTION TO REINSTATE**

The Respondent, Carolina Center for Occupational Health, pursuant to Rule 240, SCACR, files this Return in response to Appellant's Motion to Reinstate. Appellant's motion seeks to "Vacate the Dismissal that was filed by the Court of Administration/Clerks Office of the South Carolina Court of Appeals on 11-18-2015."¹ Appellant's Motion, p. 1. Appellant's motion should be denied because the motion was filed outside the time permitted under the South Carolina Appellate Court Rules. Accordingly, Appellant's Motion to Reinstate should be dismissed.

"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,

¹ Appellant mistakenly refers to the date of the Remittitur, not date of the Order dismissing the appeal.

356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9 n. 5 (2003). The clerk shall dismiss the appeal of a party who fails to comply with the Rules, and the case “shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.” Camp v. Camp, 378 S.C. 237, 240, 662 S.E.2d 458, 459 (Ct. App. 2008) rev’d, 386 S.C. 571, 689 S.E.2d 634 (2010)(citing former Rule 231, SCACR); Rule 260, SCACR. “The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).” Rule 26, SCACR.

Appellant has failed to comply with the Appellate Court Rules, and admits the same in his motion, as well as admits receiving notice of these deficiencies by the Court. Appellant states in his motion that “Appellant agrees that he has made simple mistakes and Appellant is glad he was reminded of his responsibilities.” Appellant’s Motion, p. 6. Appellant failed to comply with the Appellate Court Rules and failed to correct the deficiencies identified by the clerk’s office. As a result, the Court filed an Order on October 12, 2015, dismissing the appeal for failing to comply with the Appellate Court Rules.

Pursuant to Rule 260, SCACR, “[t]he clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen days (15) of filing the order of dismissal (the day of filing being excluded).”

Pursuant to the Appellate Court Rules, Appellant was required to file his motion to reinstate by October 31, 2015. Appellant’s Motion to Reinstate is dated February 9, 2016. Appellant prepared his motion 119 days after filing of the Order dismissing the appeal, and

well beyond the fifteen day deadline under the Appellate Court Rules.

Appellant has failed to comply with the Appellate Court Rules throughout this appeal, and again failed to comply by filing the Motion to Reinstate outside the time permitted.

WHEREFORE, Respondent requests that the Court issue an order denying Appellant's Motion to Reinstate, and for such other and further relief as the court deems just and appropriate.

February 11, 2016



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Charleston, South Carolina 29402

-AND-

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PROOF OF SERVICE

The undersigned hereby certifies that on this 11th day of February 2016, she mailed a copy of **Respondent Carolina Center for Occupational Health's Return to Appellant's Motion to Reinstate** by placing a copy in a postpaid envelope for collection and processing for mailing. On the same day correspondence is placed for collection and mailing, it is deposited with the United States Postal Service in the ordinary course of business and addressed to the following, which is the last known address, in Charleston, South Carolina:

ADDRESSEE(S)

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*Co-counsel for Carolina Center for
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February 11, 2016

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

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Re: *Jack Powell vs. Carolina Center for Occupational Health, et al* FEB 16 2016
Appellate Case No.: 2015-000049
Insured: Carolina Center for Occupational Health, LLC SC Court of Appeals
Claim No.: 72-444-2014

Dear Ms. Allen:

Enclosed please find an original and copy of Respondent's Return to Appellant's Motion to Reinstate. Please return a file-stamped copy of the notice to this office in the enclosed, self-addressed, stamped envelope.

If you have any questions, please feel free to contact me.

Sincerely,

WALL TEMPLETON & HALDRUP, P.A.

Peden Brown McLeod, Jr.

PBM,jr.:are

Enclosures

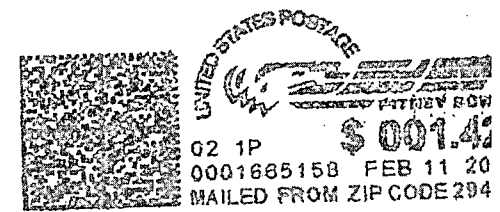
cc: Mr. Jack Powell (w/ enc.)
G. Wade Cooper, Esq. (w/ enc.)

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Wall Templeton
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145 King Street, Suite 300
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The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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