

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE FIFTH JUDICIAL CIRCUIT
Honorable Alison Renee Lee, Presiding

RECEIVED
NOV 10 2016
SC Court of Appeals

Case No. 2016-000491

Crystal Faye ClarkAppellant,

v.

Housing Authority of the City of ColumbiaRespondent

RESPONDENT'S AMENDED MOTION TO DISMISS

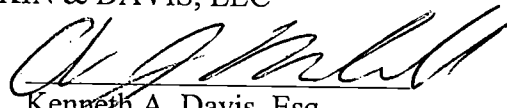
Respondent, Housing Authority of the City of Columbia, respectfully requests the clerk to issue an order of dismissal pursuant to Rule 260(a), SCACR, for Appellant's failure to timely serve a copy of the Record on Appeal on Respondent within thirty (30) days after service of Appellant's Initial Reply Brief pursuant to Rule 210(a), SCACR. Appellant served her Initial Reply Brief on September 26, 2016, has not requested an extension, and the Court has not granted any such extension to the deadline set forth under Rule 210(a), SCACR. Because it appears that Appellant has failed to comply with the requirements of Rule 210(a), SCACR, Appellant's case should be dismissed with prejudice.

[Signature on Next Page]

Respectfully Submitted,

BOYKIN & DAVIS, LLC

By:



Kenneth A. Davis, Esq.
Shawn D. Eubanks, Esq.
Adam J. Mandell, Esq.

P.O. Box 11844
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Attorneys for Housing Authority of the City
of Columbia

November 10, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE FIFTH JUDICIAL CIRCUIT
Honorable Alison Renee Lee, Presiding

Case No. 2014-CP-40-07011

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Crystal Faye Clark.....Appellant,

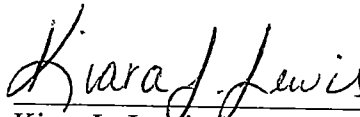
V.

Housing Authority of the City of Columbia.....Respondent

PROOF OF SERVICE

I certify that I have served the **RESPONDENT'S AMENDED MOTION TO DISMISS** in the above-referenced matter on all opposing counsel of record, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 10th day of November:

Johnny Elliot Watson, Sr., Esq.
P.O. Box 2305
Columbia, South Carolina 29202



Kiara L. Lewis, Paralegal

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Chief Judge

Case No.: 2016-000491

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SC Court of Appeals

Crystal Faye Clark, Appellant,

v.

Housing Authority of The City of Columbia Respondent.

MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS

Kenneth A. Davis
Shawn D. Eubanks
Adam J. Mandell

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STATEMENT OF THE FACTS

This matter is on appeal from the Court of Common Pleas of the Fifth Judicial Circuit. On March 8, 2016, Appellant filed her Notice of Appeal. Appellant subsequently filed her Initial Brief on July 14, 2016, with Respondent filing its Initial Brief on September 14, 2016, thereafter. On September 26, 2016, Appellant served upon Respondent her Reply Brief. (Exhibit 1: Initial Reply Brief of Appellant). To date, Appellant has not served the Record on Appeal on Respondent. Respondent filed this Motion to Dismiss on November 2, 2016, and its Amended Motion to Dismiss on November 10, 2016.

ARGUMENT

Pursuant to Rule 260(a) of the South Carolina Appellate Court Rules, “[w]henver it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” SCACR 260. An appellant is required to “serve a copy of the Record on Appeal on each party who has served a brief” within thirty (30) days of service of her last brief, with proof of service being filed immediately with the clerk. SCACR 210(a). “The South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this 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) (finding that the Court would be justified in dismissing the appeal due to appellant’s violations of the South Carolina Appellate Court Rules).

In the present case, Appellant served her last brief upon Respondent on September 26, 2016, making service of the Record on Appeal due on October 26, 2016. At no such time prior to October 26, 2016, did Appellant request an extension of the thirty-day deadline set forth under

Rule 210(a) nor did this Court grant such an extension. Because the Appellant has failed to comply with Rule 210(a), this Court should dismiss this appeal under Rule 260(a).

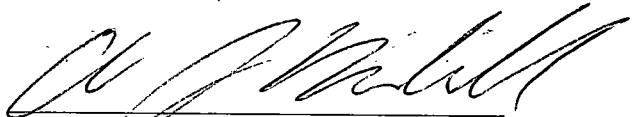
CONCLUSION

For the aforementioned reasons, this appeal should be dismissed with prejudice.

Respectfully Submitted,

BOYKIN & DAVIS, LLC

By:



Kenneth A. Davis, Esq.
Shawn D. Eubanks, Esq.
Adam J. Mandell, Esq.

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Attorneys for Housing Authority of the City of
Columbia

November 10, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
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APPEAL FROM THE FIFTH JUDICIAL CIRCUIT
Honorable Alison Renee Lee, Presiding

Case No. 2014-CP-40-07011

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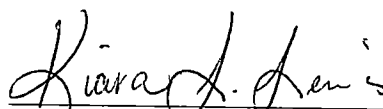
V.

Housing Authority of the City of Columbia.....Respondent

PROOF OF SERVICE

I certify that I have served the **RESPONDENT'S MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS** in the above-referenced matter on all opposing counsel of record, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 10th day of November:

Johnny Elliot Watson, Sr., Esq.
P.O. Box 2305
Columbia, South Carolina 29202



Kiara L. Lewis, Paralegal

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law

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Adam J. Mandell
amandell@boykinlawsc.com

November 10, 2016

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VIA HAND-DELIVERY

The Honorable Jenny Kitchings
Clerk of Court
1220 Senate Street
Columbia, South Carolina 29211

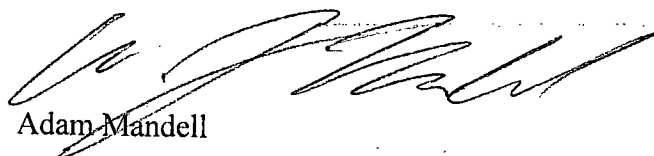
Re: Crystal Faye Clark vs. Housing Authority of The City of Columbia
C.A. No.: 2014-CP-40-07011

Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of the Respondent's Amended Motion to Dismiss and Memorandum of Law in Support of Respondent's Motion to Dismiss in the above-referenced matter. Please return a time-stamped copy to our courier.

Thank you for your assistance in this matter.

Sincerely,



Adam Mandell

/kl

Enclosures

cc: Johnny E. Watson, Esq. (w/ encls.)
Kenneth A. Davis, Esq. (w/o encls.)
Shawn D. Eubanks, Esq. (w/o encls.)