

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
9th Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001331

RECEIVED

FEB 21 2017

SC Court of Appeals

Appellant,

Jack Powell,

v.

Medical University
of South Carolina,

Respondent,

APPELLANTS RESPONSE

Attorney John Arthur Jones
Barnwell & Whaley
288 Meeting St. Ste. 200
Charleston, S.C. 29401
(843)577-7700

Appellant Jack Powell
1402 Camp Road Unit 8-A
Charleston, S.C. 29412
(843)952-4762

Respondent filed their motion to dismiss appeal or in the alternative to require compliance with rules and Pro se received the letter on 2-9-2017. As of 2-14-2017 it hasn't been posted on the Clerks Office public docket and the Appellant submits that multiple times in their motion to dismiss Respondent states they didn't receive a copy & service and the Pro se has dealt with this many times before and during this appeal & other appeals that originated on the same night of 6-21-12 when Mr. Powell was injured and arrested at the MUSC Emergency room for Trespassing; Loitering about the Premises.

Pro se submits there has been many mistakes made by the UPS, Clerks office, other Respondents concerning the mailing and receiving of motions, correspondences & deficiencies. See Exh. A, B, C, D and Pro se hasn't any reason to intentionally not mail a service of any kind to Respondent because he wants the case to move forward in a proper manner since this case was filed on 9-12-2013 and appealed on 6-8-2015. Pro submits Exh. E-F where mailed to Attorney John Arthur Jones;

Exh G, on 10-13-2016 Record on Appeal

Exh. H, on 11-2-2016 Deficiency letter sent regarding the record on appeal.

Exh. I, on 11-7-2016 Deficiency letter sent (2nd)

Exh. J, on 11-10-2016 Deficiency correct (correct postage received)..... Note; Pro se submits this wasn't posted correctly because they used 11-7-2016 posted letter

Exh. K, on 12-5-2016 Outgoing (copies of record on appeal returned to Appellant for correction.

Exh. L, on 12-19-2016 Deficiency correction of the record on appeal.

Exh. M, on 1-31-2017 Correspondence - outgoing requesting service of final brief and motion to allow late service.

Therefore the Pro se is confused, because on no. 7 of their motion to dismiss the appeal or in the alternative the Respondent states the Plaintiff has "recently" learned that in Oct of 2016 a proof of service that claims that the Plaintiff mailed the record on appeal to MUSC's counsel at Barnwell & Whaley. Apparently the Respondent made a mistake when failing to submit to the Honorable Court of Appeals that John Arthur Jones never received any of the above letters from the Clerks Office that were mailed specifically to him 7 different times. Pro se submits that he mailed his Record on Appeal on 12-15-16 and furthermore the Respondent knew they were supposed to return their Record within the required time to respond because of the multiple notices from the Clerks Office.

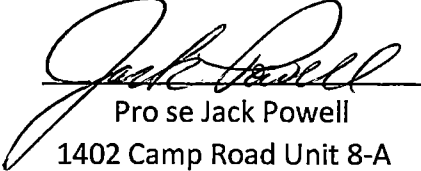
Appellant submits that the Clerks Office posted the Appellants Record on Appeal on 12-19-2016. So why didn't the Clerks Office state that the Respondent failed to properly respond with their Record on Appeal within the required time to respond? See Exh. L, M, N Pro se submits that on the original outgoing requesting service of final briefs and motion to allow late the Clerks Office failed to follow proper compliance rules and this allowed the Respondent to not submit their record on appeal in a timely manner.

This failure also allowed the filing of the Final Brief to expire and therefore this motion by the Respondent would not and should not have been considered or taken place.

CONCLUSION

Pro se requests the Honorable Court to consider the Respondents request for the Pro se to submit more to the Record should be denied, because they had since 10-16-2016 to make a complaint or motion in this matter and Mr. Powell's Appeal be granted & Reversed because the Clerks Office failed to enforce the proper compliance that allowed Respondent to escape not submitting their Final Brief even though they knew they were warned and it would not be considered, if they didn't comply. Exh M.

Mailed on 2-14-2017


Pro se Jack Powell
1402 Camp Road Unit 8-A
Charleston, S.C. 29412
(843)952-4762

cc; V. Claire Allan/Deputy Clerk
John Arthur Jones

A

Carter, Elizabeth A.

From: Kitchings, Jenny
Sent: Thursday, January 07, 2016 12:50 PM
To: Carter, Elizabeth A.
Subject: FW: Case no. 2015-001331

-----Original Message-----

From: Jack Powell [mailto:carolineschair@gmail.com]
Sent: Thursday, January 07, 2016 12:50 PM
To: Kitchings, Jenny
Subject: Fwd: Case no. 2015-001331

----- Forwarded message -----

From: Jack Powell <carolineschair@gmail.com>
Date: Tue, 5 Jan 2016 15:10:53 -0500
Subject: Case no. 2015-000049
To: JKitchings@sccourts.org

On October 22nd a Deficiency letter was sent to me and on October 31st I responded with the signatures which was also noted on my email that was sent describing an on going situation with my information not being posted, case 2015-001331. I looked at the Remittitur information and I didn't see how and or who to send a motion ? to have this reversed because of a mistake by the Clerks office. Could you please help me with this procedure and how much will this cost me?
Thanks, Jack Powell

RECEIVED
JAN 07 2015
SC Court of Appeals

B

Filed on 11-24-15
INCOMING E-mail
From Appellant

APPELLANTS 2ND NOTICE OF CONCERN ABOUT MISSING
MAILED FILINGS TO THE COURT

The reason I'm contacting you is because on several occasions I have mailed information concerning my cases 2015-49, 2015-1331 and 2015-001511. For some reason they may have been misplaced or lost because the info isn't being posted or responded to when I sent my first concern about this matter.

On 10-13 Appellant mailed his first letter about a concern about letters he had sent to the Clerks Office, that weren't posted. Before I had sent this concern letter I had called about something that wasn't posted and Elizabeth Carter wasn't there and another lady said she would help me. (she didn't identify herself) Now at this time I can't remember exactly what it was I was inquiring about, but she got back on the phone and was basically talking out loud and said no, no, here it is and then it was posted.

Case no. 2015-000049

1. On 8-24-15 Appellant was sent a letter that stated his Designation of Matter wasn't included.
2. Exhibit A. On Oct. 1st -15, Appellant purchased a money order and two stamps and mailed to the Court of Administration and to Attorney's Wall, Templeton and Haldrup for a motion to proceed out of time which included my Designation of Matter. This was written at top of the exhibit at the USPS for my records.
3. Posted on 10-12-15 and mailed is a letter stating Appellant failed to send Designation of Matter.
4. Posted on 10-13-15 and mailed Motion to Allow Late Filing Fee of Appellants Designation of Matter. (construed as a petition to reinstate the appeal) also; DESIGNATION FILED BY APPELLANT (motion pending).
5. Posted Nov. 18th, two letters sent about case being dismissed and Remittitur to Lower Court that should be stopped or revoked ? just like the Remittitur that was stopped after Appellant called and was told they would take care of it and they did.
6. Exhibit B. on Oct. 13 Appellant sent three letters of concern in one envelope of cases 2015-000049, 2015-001331 and 2015-001511 and Appellant was wanting to know why some letters/info weren't being posted and could they please let me know what had happened and what should be done. There never was a response.

- C
7. Posted on Oct. 22 and a letter was sent to Appellant stating I had not signed properly.
 8. Exhibit C on Oct. 31 Appellant signed and returned to the Administration and as of Nov. 20th there wasn't anything posted.

Case no. 2015-001331

9. Posted On 7-23-15, Transcript Ordered.
10. Posted on 9-4-15, Transcript not received.
11. Exhibits D & E is a letter Appellant didn't receive from reporter Ruth Mott and was resent after Appellant had made a complaint to Desiree Allen/court reporters, about her not responding.
12. Exhibits F, on Oct. 1st Appellant called for Elizabeth Carter and asked why wasn't my Relief of Judgement that was mailed on Sept. 24th, not posted?
13. Exhibits B, D, E & G on Oct. 13th Appellant mailed his concern about un-posted information and included in the envelope was my explanation of my doubt of the court reporter, Ruth Mott's accuracy of the cost she had submitted to me. Also Pro se asked for a procedure to follow or a procedure the court may follow to get to the bottom of her improper request. I never got a response.
14. Posted Oct 22. A letter stating Appellant must provide that he had made arrangements and Appellant called and explained all of this and was told they would take care of it and that is and that is why again you see not responding to the Oct 22nd letter because of what I was told they would do again, take care of it.

CASE: 2015-001511

15. Exhibit H, on 8-8-15 Appellant mailed his proof of service for Motion to Proceed In forma pauperis that was in the letter filed on Sept. 3rd that Appellant failed to do this. APPELLANT MAILED LETTER!

I called and asked for Elizabeth Carter and she wasn't there and the lady that answered said she would help me and never identified herself. I had called originally about another case and asked her was it true that I had a year to appeal this since I was told earlier in another case I had a year to Appeal I thought the case was dismissed and I had a year to do something about it. She asked the case no. and she said I had one more day to send the Form letter to stop the Remittitur from being sent. I explained to her I had sent the letter on 8-8-15 Exhibit and I had a receipt from the USPS to help prove it but apparently the clerks office did not have it. I told her it's about 4:00 and there was no way I could put all this together then drive to the library and type it up and then make it to the post office before 5:00 and mail it overnight, especially since my wife was gone in our car. I told her I don't know what to do and I guess I'm really messed up now because of the USPS not delivering the letter (it was never returned to me) and it looks like my

D

case is going to be dismissed because of the sorry post office. The lady said I don't know what to tell you.

But now I think the letter I sent was there all the time, but what bothers me most about this is about a week later I found out I could have sent it electronically from the library, 262 (A) (2) and she had the opportunity and should have told the Pro se he could do this and it would have not been giving him advice but a procedure that is used by attorneys.

16. Posted Sept 3rd This Matter is Dismissed and Appellant has failed to provide the Notice of Appeal filing fee and I never received anything stating Appellant had been denied his request to proceed In forma Pauperis. Also I sent the proof of service on 8-8-15. So what legal standing and/or procedure can a Pro se take or is this something that the Clerks office needs to fix, please respond. Thank you, Jack Powell at carolineschair@gmail.com or (843) ~~852-1762~~

Jack Powell

South Carolina Appellate Case Management System

CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

Cases
Case Search
Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2015-001331

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Jack Powell v. MUSC	Case Status:	Final Briefing / Record
	View Full Title		
Consolidated:			
Filed Date:	06/18/2015	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2013CP1005351)		

- Party Information












Appellate Role	Party Name	Former	Attorney(s)
Appellant	Jack Powell	N	Self Represented
Respondent	Medical University of South Carolina	N	John Arthur Jones

Views

Display:

Event Information

Filed Date	Event Information	Doc
01/31/2017	Correspondence - Outgoing requesting service of final briefs and motion to allow late service	
12/19/2016	Deficiency - Correction of the record on appeal	
12/05/2016	Correspondence - Outgoing (copies of record on appeal returned to appellant for correction)	
11/10/2016	Deficiency - Correction (correct postage received)	
11/07/2016	Deficiency - Deficiency Letter Sent (2nd)	
11/02/2016	Deficiency - Deficiency Letter Sent regarding the record on appeal	
10/13/2016	Record - Record on Appeal Filed	
09/12/2016	Non-Dispositional Decision - Extension Granted for record on appeal	
09/09/2016	Motion - Extension of Time (2nd) for record on appeal	
08/09/2016	Non-Dispositional Decision - Extension Granted	
08/05/2016	Motion - Extension of Time (1st) for record on appeal	
07/05/2016	Designation of Matter - Designation of Matter Filed by respondent	
07/05/2016	Initial Brief - Respondent	
06/23/2016	Non-Dispositional Decision - Extension Granted for respondent's initial brief	
06/10/2016	Non-Dispositional Decision - Order accepting the appellant's designation of matter	
05/31/2016	Motion - Extension of Time (1st) for respondent's initial brief	
05/19/2016	Motion - Allow Late Filing of the appellant's designation of matter	
05/19/2016	Deficiency - Correction regarding appellant's designation of matter	
05/09/2016	Deficiency - Deficiency Letter Sent regarding appellant's designation of matter	
05/02/2016	Designation of Matter - Designation of Matter Filed by appellant	
05/02/2016	Deficiency - Correction for appellant's initial brief	
04/22/2016	Transcript Documents - Other Correspondence-complaint	
04/22/2016	Deficiency - Deficiency Letter Sent regarding appellant's initial brief	
04/19/2016	Initial Brief - Appellant	
04/18/2016	Correspondence - Outgoing in response to email received 04/15/2016	
04/15/2016	Correspondence - Incoming (Other) email from Jack Powell	
03/18/2016	Non-Dispositional Decision - Reinstatement of Appeal or Matter	

03/02/2016	Transcript Documents - Other Correspondence from the court reporter	
02/24/2016	Correspondence - Incoming (Other)- response to Court's order	
02/19/2016	Non-Dispositional Decision - Order / petition to reinstate to be considered at the expiration of ten days	
02/09/2016	Correspondence - Outgoing in response to email received 02/05/2016	
02/05/2016	Correspondence - Incoming (Other)-email from appellant	
02/03/2016	Correspondence - Outgoing in response to appellant correspondence received 02/01/2016	
02/01/2016	Correspondence - Incoming (Other) email from appellant	
01/11/2016	Correspondence - Outgoing in response to email received from appellant	
01/07/2016	Correspondence - Incoming (Other)-email from appellant	
12/03/2015	Motion - Reinstate	
12/03/2015	Deficiency - Deficiency Letter Sent regarding the motion to reinstate	
11/24/2015	Correspondence - Incoming (Other)-email from appellant	
11/18/2015	Dispositional Decision - Order	
10/22/2015	Correspondence - Outgoing requesting proof of payment arrangements with the court reporter	
09/04/2015	Transcript Documents - Notification that Transcript has not been Received	
08/03/2015	Deficiency - Correction	
07/23/2015	Deficiency - Deficiency Letter Sent regarding the transcript request	
07/23/2015	Transcript Documents - Transcript Ordered	
07/23/2015	Deficiency - Correction regarding transcript request	
07/08/2015	Deficiency - Deficiency Letter Sent regarding transcript request	
07/07/2015	Deficiency - Correction for transcript update (copy of e-mail)	
07/07/2015	Deficiency - Correction for the notice of appeal	
07/06/2015	Correspondence - Outgoing-requesting transcript update	
06/25/2015	Deficiency - Deficiency Letter Sent (Notices of Appeal)	
06/25/2015	Correspondence - Outgoing (Notice of Appeal Initial Letter)	
06/19/2015	Correspondence - Incoming (Other)	
06/19/2015	Notice of Appeal (Civil) - Initial	

October 11, 2016

G

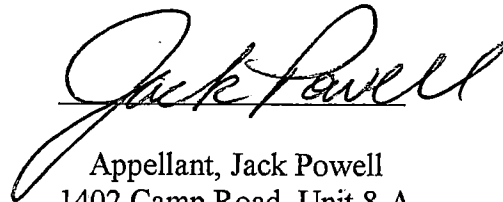
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

RE; Jack Powell v MUSC
Appellate case no; 2015-001331

Dear Ms. Kitchings,

This is Pro se, Appellant Jack Powell in the above case 2015-001331 and I have enclosed 15 copies of my Record on Appeal and I was unable to mail these 15 copies on 10-5-16, because of the complications with hurricane Matthew and the evacuating, along with closures of the USPS. I was also unable to make the copies on 10-10-16, because the Charleston County Public Library was still closed.

Oct. 11th, 2016



Appellant, Jack Powell
1402 Camp Road, Unit 8-A
Charleston, S.C. 29412
(843)952-4762

cc; V. Claire Allen/Deputy Clerk
Barnwell & Whaley, John "Jay" Jones,



H.

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 02, 2016

Jack Powell
1402 Camp Road
Unit 8-A
Charleston SC 29412

Re: Jack Powell v. MUSC
Appellate Case No. 2015-001331

Dear Mr. Powell:

Upon reviewing your record on appeal, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected in their entirety within ten (10) days of the date of this letter or your record on appeal may not be considered:

- The binding does not comply with Rule 267(d), SCACR. You have provided copies of the record on appeal that are loosely placed in three-ring binders, and documents are stapled separately in the upper left corner. The record on appeal should be bound as a single document. The title page for the record on appeal should be the first page of the original and each copy. The cover of the record on appeal shall be of a material not less than 50 pound weight and not glassine. The cover does not comply with Rule 267(e), SCACR.
- If you would like to pick up the copies to have them properly bound, you may do so within ten days. At the end of the ten day period, the copies will be discarded.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: John Arthur Jones, Esquire



I

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 07, 2016

Jack Powell
1402 Camp Road
Unit 8-A
Charleston SC 29412

Re: Jack Powell v. MUSC
Appellate Case No. 2015-001331

Dear Mr. Powell:

A box was received by the Court on November 4, 2016. The box you have provided does not include the correct postage. You must provide the correct postage if you would like all copies of the record on appeal returned to you. The correct postage is \$29.35. The deficiencies outlined in the Court's letter of December 21 must be corrected in their entirety before this appeal can proceed. This is the Court's second request for these corrections. Failure to comply with the Court's request within ten days will result in the dismissal of this appeal.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

cc: John Arthur Jones, Esquire

J

The letter mailed by Appellant wasn't posted properly.



K

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 05, 2016

Jack Powell
1402 Camp Road
Unit 8-A
Charleston SC 29412

Re: Jack Powell v. MUSC
Appellate Case No. 2015-001331

Dear Mr. Powell:

The copies of the record on appeal are being returned to you via US Mail today.
You are requested to correct all deficiencies within ten days of this letter.

Very truly yours,


CLERK

cc: John Arthur Jones, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY

9th Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

DEC 19 2018

SC Court of Appeals

Case No. 2013-CP-10-5351
Appellate Case; 2015-001331

Jack Powell,

Appellant,

V

Medical University
of South Carolina

Respondent,

RECORD ON APPEAL

Appellant Jack Powell
1402 Camp Road Unit 8-A
Charleston, S.C. 29412
(843)952-4762

Barnwell & Whaley
288 Meeting St. Ste. 200
Charleston, S.C. 29401
(843)577-7700
Attorney John Arthur Jones



M

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 31, 2017

Jack Powell
1402 Camp Road
Unit 8-A
Charleston SC 29412

Mr. John Arthur Jones, Esquire
PO Drawer H
Charleston SC 29402-0197

Re: Jack Powell v. MUSC
Appellate Case No. 2015-001331

Dear Counsel and Mr. Powell:

Our records reflect that the time for serving and filing the final briefs has expired. Within ten days of the date of this letter, each of you must serve and file your respective final briefs, along with a motion requesting permission to serve and file your final brief outside of the filing deadlines set by Rule 211 of the SCACR. If Mr. Jones does not serve and file the respondent's final brief and motion, his final brief will not be considered. If Mr. Powell does not serve and file the appellant's final brief and motion, the appeal will be dismissed.

Very truly yours,

Handwritten signature of Jenny A. Kitchings in cursive script.
CLERK

FORM 7
PROOF OF SERVICE FOR REQUEST
LEAVE TO FILE OUT OF TIME

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Civil Case 2013-CP10-5351
Appeal Case 2015-001331

Jack Powell,

Appellant.

v.

Medical University of
South Carolina

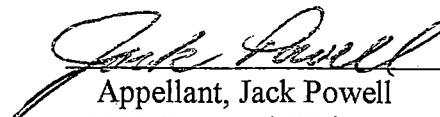
Respondent

PROOF OF SERVICE

I certify that I have served this motion requesting the Honorable Court to accept my Final Brief out of time and Appellant mailed via USPS on Feb. 10th, 2017. Addressed to the attorney of record; John Arthur Jones of Barnwell & Whaley, located at 288 Meeting St. Ste. 200, Charleston, S.C. 29401

Feb. 10th 2017

cc; V. Claire Allan, Deputy Clerk
Attorney John Jones


Appellant, Jack Powell
1402 Camp Rd. Unit 8-A
Charleston, S.C. 29412
(843) 952-4762

FORM 7
PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001331

Jack Powell

Appellant.

V

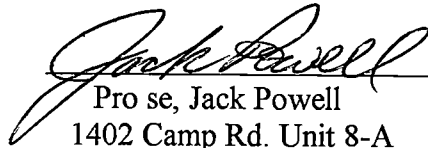
Medical University
of South Carolina

Respondent,

PROOF OF SERVICE

I certify that I have served my Response to the Respondents motion to dismiss Appeal or in the alternative to require compliance with rules on the Medical University of South Carolina by depositing a copy in the United States Mail, postage prepaid on 2-14-2017 and mailed it to their attorney of record, Barnwell & Whaley located at 288 Meeting Street Ste. 200, Charleston S.C. 29401.

Signed & mailed on 2-14-17


Pro se, Jack Powell
1402 Camp Rd. Unit 8-A
Charleston, South Carolina 29412
(843) 952-4762

CC; V. CLAIRE ALLEN
ATTORNEY BENJAMIN DAVIS
BARNWELL & WHALEY (843)577-7700

RECEIVED

FEB 21 2017

SC Court of Appeals

February 14th, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

RE; Jack Powell v MUSC
Appellate case no; 2015-001331

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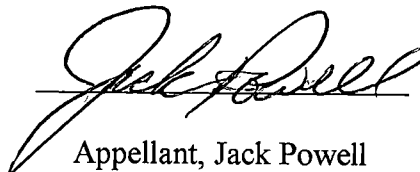
FEB 21 2017

SC Court of Appeals

Dear Ms. Kitchings,

This is Pro se, Appellant Jack Powell in the above case 2015-001331 and I have enclosed my Response to Respondents motion to dismiss appeal or in the alternative to require compliance with rules.

Feb 14,th 2017



Appellant, Jack Powell
1402 Camp Road, Unit 8-A
Charleston, S.C. 29412
(843)952-4762

cc; V. Claire Allen/Deputy Clerk
Barnwell & Whaley, John "Jay" Jones,

1402 Camp Rd. Unit 8-A
Charleston, SC 29412



1000



29211

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CHARLESTON, SC
29412
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FEB 21 1987

SC Court of Appeals