

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No.: 15-ALJ-22-0328-AP

Appellate Case No. 2015-002056

Edward Spears,

Appellant,

V.

South Carolina Department of Employment
and Workforce,

Respondent.

FINAL BRIEF OF ~~APPLICANT~~

Appellant

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STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE JUDGE ERROR IN HIS DECISION IN THE ADMINISTRATIVE COURT TO DISMISS THE APPEAL?
- II. SHOULDN'T THE JUDGES DISMISS WITHOUT PREJUDICE?
- III. SHOULDN'T THE SCDEW BE HELD ACCOUNTABLE FOR NEGLIGENCE AND FRAUD?

STATEMENT OF THE CASE

On June 9, 2015, the South Carolina Department of Employment and Workforce mailed a final decision denying me of employment benefits. I had until July 9th or 30 days to appeal the decision with the Administrative court (see decision R.P.1).

I asked a request for an appeal on the appellant panel decision on June 9th also and had 30 days or until July 9th to get the request in and also serve certificate of services to all parties involved (see request R.P.2) and (R.P.3). As you look at R.P.3 you will see I made a simple mistake and mailed one to the SCDEW as well as the office of General Counsel two of them same places and none to the ALC. Mr. Derrick McFarland, the Director of Legal Services for SCDEW, himself deliberately waited until July 14th to notify me that he indeed received the documents on July 1, 2015 (see R.P.4). As director he had to see that a mistake was made because one was to SCDEW and the general counsel; two to the same place and none to the ALC. Again I believe this was a deceitful and deliberate act by SCDEW and Mr. McFarland to have the case dismissed and the proof of notification of the documents support my statement.

If they would have contacted me on the 14th saying you have he documents then why wouldn't you have contacted me on the 1st saying I have gotten two of the same documents and one should go to the ALC. After all he is the director of the legal department for SCDEW. In the statement of facts by the respondents they tried to get around the incidents that were leading up to July 9th. These incidents are the core of my arguments. The SCDEW undoubtedly failed in the legal department to do what they are paid to do. And that is to correct mistakes that include appeals. To deliberately not return unused U.S. mail that didn't belong to you (the two documents), to not notify an appellant of wrong doing, to stall a court hearing deliberately is not only wrong but can be looked at as an illegal or criminal act.

The SCDEW in this case could also be charged with fraud; please look at (R.P.5). This website pages tells under the heading, see it, own it, and deal with it. It assures employees that if they recognize an issue they take ownership of that issue then resolves the problem. It also says the same under the heading our mission and our vision. It assures workers that they've got their back if something goes wrong. To me and my incident that is a bold face lie! To me the courts shouldn't have to rely on any evidence beyond July 9th in this case. It is clear and convincing evidence the SCDEW was not only deceitful but guilty of wire fraud as well as U.S. Mail fraud.

FACTS

1. The SCDEW failed their obligations as a Government Organization to help employees get their rightful benefits according to their web page. (see R.P.5)
2. According to the postmarked dated envelopes, June 30th, 2015, (see R.P.P. 6 & 7) it would only take one day for mail to travel back and forth from Florence to Columbia. If Mr. McFarland would have notified me on July 1st the day he received the documents I would have had time to return one to the Administrative Court in a timely manner.

3. The SCDEW received two copies of appeal request by mistake on July 1st, 2015 (see R.P.3). According to the U.S. Postal website unused mail that doesn't belong to someone, a company, or an organization should be returned to sender or put back in the mail or else they be charge with mail fraud. To date neither piece of mail has been returned. There fore SCDEW and Mr. McFarland clearly committed mail fraud. No court should favor a party engaged in an illegal act.

ARGUMENTS

The Administrative Court improperly dismissed this case because it should have been dismissed without prejudice. The judge claimed the court had no discretion in the matter. There fore he should not have dismissed it with prejudice. However an Administrative judge can reverse the decision if he found the SCDEW was arbitrary, capricious in nature, or they used an unwarranted exercise of discretion in this matter.

The judge's decisions were very confusing. He claimed I asked for extended time for filing appeal. This is certainly not true (see R.P. 8 & 9). No where have I requested more time that makes his statements very deceiving or plain untrue as well as arbitrary and capricious.

CONCLUSION

The ALC's decision was wrong, arbitrary, and should have been dismissed without prejudice.

The SCDEW should indeed be held accountable for negligence and fraud. Evidence on Record of Appeals gives clear and convincing evidence that the SCDEW was deceitful, negligent, and non caring. Review Record of Appeals page 1-9.

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