

IN THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA WORKER'S COMPENSATION
FULL APPELLATE PANEL

Case No. 2016-000598

Clarence B. Jenkins, Employee,Appellant

v.

Amazon.Com DEDC, LLC, Employer and
American Zurich Ins. Co., Carrier,Respondents.

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MAY 23 2017

SC Court of Appeals

**APPELLANT'S MOTION TO DECLARE
JURISDICTIONAL ERROR OF
RULE 209(b) SCACR AND RULE 210(c) SCACR**

Appellant is declaring Honorable Judge Stephanie P. McDonald committed jurisdictional error of Rules 209(b) SCACR and Rule 210(c) SCACR.

The May 11, 2017 Dispositional Order by Honorable Judge Stephanie P. McDonald is misleading on its core. To further clarify jurisdictional misconduct by Judge Stephanie P. McDonald at South Carolina Court of Appeals.

Furthermore, Respondents filed their Initial Brief and Designation Of Matter dated February 2, 2017 and filed on February 5, 2017. The COURT has decided that after several months of accepting Appellant's Designation Of Matter has now determined as of May 11, 2017 that Record Of Appeal is incomplete based on a false and misleading

arguments by Respondents and misleading interpretation of Rule 209(b) SCACR and Rule 210(c) SCACR for friendship and association.

Furthermore, this Order dated May 11, 2017 regarding the Amended Record On Appeal after several months of being accepted and filed by South Carolina Court of Appeals dated on March 21, 2017 and filed on March 22, 2017. To further examined the lack of credibility of this COURT is evident by Respondents' motion to correct the Record On Appeal on March 28, 2017 and filed March 30, 2017 after final submission of Appellant's Amended Record On Appeal dated March 21, 2017.

South Carolina Court of Appeals did not place case# 2016-000598 in ABEYANCE after Respondents filed a motion to Correct Record On Appeal dated March 28, 2017 filed on March 30, 2017. Appellant received instructions from the South Carolina Court of Appeals dated March 31, 2017 to provide a paginated Amended Record On Appeal with proof of service therefore Respondents' Motion to Correct Record On Appeal is MOOT therefore May 11, 2017 Dispositional Order is a violation and abuse of process.

To further exposed an intent of South Carolina Court Of Appeals and Respondents to deny justice are expressed in May 11, 2017 Dispositional Order requiring Appellant to include items designated by Amazon.Com DEDC, LLC and American Zurich Ins. Co. after submitting a Final Record On Appeal and without a pre-conference to determine proposed documents that will be presented to the COURT is a disadvantage and undue burden.

Appellant is the lead initiator of this appeal filed with South Carolina Court of Appeals and upon submitting Record Of Appeal must now include documents by Respondents as stipulated from May 11, 2017 Dispositional Order therefore would have not had the ability to meet submission scheduling which leads to a violations of COURT's rules. Rule 210(c) SCACR is based on Rule 209(b) SCACR and for the COURT to ignored or a willful fraudulent bypass is a violation of jurisdictional error and misconduct. Without a pre-conference with all parties to determine documents presentation for Record On Appeal that is relevant therefore a redundancy of process against Appellant since Rule 210(c) SCACR has not been fulfilled according to this May 11, 2017 Dispositional Order which is further evidence of jurisdictional error.

Appellant is declaring that Honorable Judge Stephanie P. McDonald has committed jurisdictional misconduct in her capacity on the BENCH. Amazon.Com DEDC, LLC, American Zurich Ins. Co. and South Carolina Court of Appeals has participated in schemes to harass Appellant with undue burden by adding additional documents that is irrelevant to salient facts alleged in his Initial Brief for a proper defense requiring additional funding which is an attempt to derail justice.

The question and actions falls on South Carolina Court of Appeals to provide a response as to how would the Appellant know of perceived documents that Respondents will include in their Record On Appeal when no documents has been filed other than their designation Of Matter filed by them. Furthermore, May 11, 2017 Dispositional Order has stated Designation Of Matter does not stipulates the contents but 210 SCACR

does, therefore Appellant is at a great disadvantage due to being require to filed a Record On Appeal without any consideration from Respondents. Appellant has no way of determining Respondents' documents for Record On Appeal without a pre-conference, or a motion to declare their submission of documents and/or provided a copy of their Record On Appeal which neither of the process occurred until March 27, 2017.

Appellant has not been provided with a copy of Amazon.Com DEDC, LLC and American Zurich Ins. Co Record on Appeal to determined a complete documents listing because of discrepancies between both parties as to what was/was not presented to South Carolina Worker's Compensation Commission. Furthermore, Respondents has not submitted a Record On Appeal and their Designation of Matter does not show intended documents from Appellant which dispute their argument and exposed a lack of credibility with this COURT.

Appellant was denied an opportunity to cross examine a witness of the Respondents stating their rights May 21, 2015 hearing before single commissioner, Michael Campbell II which was confirmed (see transcript pp. 82-83). South Carolina Court of Appeals now wants to established new evidentiary procedures after May 21, 2015 and December 14, 2015 hearings to satisfy Respondents which is not allowed and against COURT's rules therefore a failure of Due Process under the law. The Designation Of Matter certifies documents To Be Included In The Record On Appeal. The heading "Designation Of Matter To Be Included In The Record on Appeal" appears on every submission and accepted except this case which is a double standard.

Appellant had established his Record On Appeal by the Designation Of Matter which was available and provided to Respondents as required by South Carolina Court Of Appeals. Respondents filed several motion for corrections and/or to strike Designation Of Matter over time but never filed a motion for inclusion regarding Record On Appeal until Appellant final submission of an Amended Record On Appeal on March 21, 2017 is an abuse when there was an established record of intended documents.

The May 11, 2017 Dispositional Order has stated that Designation Of Matter is insignificant and Respondents did not filed a motion to correct record on appeal until March 27, 2017 after Appellant had filed his Amended Record On Appeal on March 21, 2017 therefore is an abuse of process.

The Honorable Judge James E. Lockemy, Chief Justice had already ruled that on August 11, 2016 as to what to be included in the Record On Appeal to support the salient facts alleged in Appellant's Initial Brief. Appellant must include items in the Record On Appeal which has been designated by Designation Of Matter to support salient facts with specificity alleged in his Initial Brief and not of Respondents which was supported by Dispositional Order of Honorable Judge John D. Geathers dated October 25, 2016. By Appellant and Respondents providing legal arguments based on different set of fact for their case before the COURT therefore to submit documents irrelevant to salient facts alleged would be detrimental to appeal. Having items from Amazon.Com DEDC, LLC and American Zurich Ins. Co, that are fraudulent be submitted by Appellant that will not support his salient facts and provide a proper defense.

By Appellant having to submit items from Respondents in its Record On Appeal that is fraudulent according to May 11, 2017 Dispositional Order by Judge Stephanie P. McDonald only muddy the facts and presents an improper defense. South Carolina Court of Appeal is requesting Appellant to willingly submit known fraudulent documents by Respondents as part of his Record On Appeal that is verifiable is a serious jurisdictional error.

Appellant being required to include fraudulent items from Respondents as part his Record On Appeal as stated in this May 11, 2017 Dispositional Order from Judge Stephanie P. McDonald presents documents that is not relevant with any specificity to Initial Brief and Designation Of Matter. Provided that Appellant must submit fraudulent documents in its Record On Appeal by Respondents that is irrelevant to his appeal therefore increases the chances of an unfavorable ruling.

Respondents' has admitted that Appellant brought four folders of pertinent documentation to May 21, 2015 hearing that was denied because of South Carolina Worker's Compensation Commission R67-611 and R67-612. R67-612 pertains to additional medical expert testimony and documentation which South Carolina Worker's Compensation Commission and South Carolina Court of Appeals has ignored. Appellant's financial records of disability payments from Liberty Mutual, Amazon.Com and Aetna, a doctor appointment reminder letter from assigned case manager and emails from Appellant to Respondents are not medical expert testimony or medical documentations which should have not been dismiss by South Carolina Worker's

Compensation Commission and South Carolina Court of Appeals. A jurisdictional error of South Carolina Worker's Compensation Commission and South Carolina Court of Appeals to uphold as being TRUE.

South Carolina Worker's Compensation Commission R67-611 states that a self-represented claimant are not required to file a pre-hearing brief before a scheduled hearing which Respondents has admitted in their responses to be an error of the Commission but still being denied by South Carolina Court of Appeals. The Law R67-611 of South Carolina Worker's Compensation Commission is not hidden and easily to understand. A jurisdictional error for South Carolina Worker's Compensation Commission and South Carolina Court of Appeals to uphold as being TRUE.


South Carolina Court of Appeals has considers documents from Respondents dating back to year of 2013 and after as part of South Carolina Worker's Compensation's record before this COURT that was not presented at May 21, 2015. Based on South Court of Appeals' Dispositional Order dated May 11, 2017 therefore Appellant has been denied submission of pertinent documentations currently on file as part of South Carolina Worker's Compensation Commission's entire record. A jurisdictional error of South Carolina Worker's Compensation Commission and South Carolina Court of Appeals to uphold as TRUE.

Respondents' motion for correction Appellant's Amended Record On Appeal and Judge Stephanie P. McDonald's Dispositional Order as of May 11, 2017 is improper.

The actions of Judge Stephanie P. McDonald's to vacate Honorable Judge James E. Lockemy, Chief Justice Dispositional Order dated August 11, 2016 is a violation of the COURT to established a second set of standards for the same process.

Appellant's request a reversal of May 11, 2017 Dispositional Order due to a jurisdictional error of the COURT.

May 22 2017


s/Clarence B. Jenkins
Clarence B. Jenkins
945 Wire Rd.
Neeses, South Carolina 29107
(803) 263-4514
Pro Se Appellant

The South Carolina Court of Appeals

Clarence B. Jenkins, Employee, Appellant,


v.

Amazon.Com DEDC, LLC, Employer, and American
Zurich Ins. Co., Carrier, Respondents.

Appellate Case No. 2016-000598

ORDER

After careful consideration, Respondents' motion to strike is granted. Appellant's initial brief and designation of matter are hereby stricken. Within thirty days of the date of this order, Appellant shall serve and file (1) an amended designation of matter that designates matters with specificity, including any applicable dates, and also only designates matters that were actually presented to the lower court pursuant to Rule 210(c), SCACR, and (2) an amended initial brief that provides appropriate references to "support the salient facts alleged." See Rule 208(b)(4), SCACR ("The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript. In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).").



FOR THE COURT

FILED

August 11, 2016

The South Carolina Court of Appeals

Clarence B. Jenkins, Employee, Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and American
Zurich Ins. Co., Carrier, Respondents.

Appellate Case No. 2016-000598

ORDER

On August 11, 2016, we issued an order requiring Appellant to serve and file an amended designation of matter that only designated matter that was actually presented to the court below and an amended initial brief that only contained references to documents that were presented to the court below. Subsequently, Appellant served and filed an amended designation of matter. Respondents have now filed a motion to strike items from Appellant's designation of matter, arguing the items were not presented to the court below. These items include:

#15. A reminder letter from Assigned Nurse Kelly Wells dated June 9, 2014 assigned by Amazon.Com DEDC, LLC regarding June 20, 2014 medical appointment with Dr. Mahmoud Abu-Ata, May 21, 2015;

#17. Medical Records from Dr. Sharon Eden, Dr. Tomachio, Dr. Tonia Gantt and Dr. Gonzalez of Norfiel Medical center regarding Claimant's Medical Condition on form 50 dated February 25, 2015;

#18. Documentations from Amazon.Com DEDC, LLC Human Resources (Michelle Boyle) placing Claimant on a leave because of medical condition/restrictions dates August 14, 2013, May 21, 2015 Transcript;

#19. Medical Records by Dr. Paysigner, Dr. Stickler and Dr. Jervey on form 50 dated February 25, 2015;

#21. A letter from Amazon.Com DEDC, LLC Legal Representation, Attorney Elizabeth Render confirming appointment with Dr. Charles Jervey dated November 4, 2013 stated on form 50 filed February 25, 2015;

#22. A Health care Provider Certificate for FMLA completed by Dr. Mahmoud Abu-Ata, assigned worker's compensation doctor regarding claimant medical condition a/restrictions dated March 9, 2014;

#26. Short-Term and Long-Term Disability Payments from Liberty Mutual Insurance, May 21, 2015 Transcript;

#31. A letter from Phadrea Butler, Amazon former employee dated May 18, 2015, May 21, 2015 Transcript;

#32. Received a letter from Regina Mohammed mailed November 12, 2013 as witness account to claimant physical condition, an Amazon former employee dated, May 21, 2015 Transcript;

#33. Disability Payments from Amazon.Com DED, LLC dated March, 2014 to April, 2014;

#34. Long-Term Disability Payments from Aetna Insurance, May 21, 2015 Transcript;

#35. An email from Attorney, Russell J. Goudelock on April 24, 2014 stating Claimant will not receive worker's compensation benefits; May 21, 2015 Transcript;

#36. A letter from Amazon.Com DEDC, LLC requesting a RMI because of work injury and disability dated August 14, 2013, May 21, 2015 Transcript;

#37. An email to Legal Counsel, Elizabeth Render dated September 23, 2013 regarding neglect of Amazon.Com DEDC, LLC and Sedgwick to provide medical care from Dr. Mahmoud Abu-Ata;

#38. An email from Attorney Russell J. Goudelock on July 11, 2014 potentially scheduling another appointment other than Dr. Mahmoud Abu-Ata, May 21, 2015 Transcript;

#40. Exhibit from South Carolina Worker's Compensation Commission Traumatic Brain Injury Training dated May 2, 2014;

#41. Exhibit from South Carolina Brain Injury Leadership Council dated April 22, 2014.

In response, Appellant filed a motion to dismiss Respondents' request to strike, which we construe as a return.

After careful consideration, Respondents' motion to strike is granted to the extent that Appellant shall serve and file an amended designation of matter which excludes the designations set forth above. *See* Rule 210(c) (providing the record on appeal shall not "include matter which was not presented to the lower court or tribunal"). Appellant shall also serve and file an amended initial brief which excludes all references to the items stricken by this order. *See* Rule 208(b)(4), SCACR ("The brief shall contain references to the transcript, pleadings, orders, exhibits, or other material which may be properly included in the Record on Appeal to support the salient facts alleged.").

 J.
FOR THE COURT

Columbia, South Carolina

cc:

FILED
October 25, 2016

The South Carolina Court of Appeals

Clarence B. Jenkins, Employee, Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and American
Zurich Ins. Co., Carrier, Respondents.

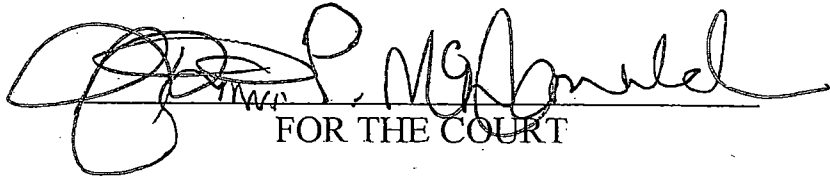
Appellate Case No. 2016-000598

ORDER

Appellant has filed a "Motion to Declare a Violation of Rule 4.1 and Rule 8.4" of the South Carolina Rules of Professional Conduct, arguing Respondents' attorneys made false statements in their initial brief in an attempt to defraud this court. The motion is denied.

Respondents have filed a motion (1) to strike portions of Appellant's initial reply brief that raise new arguments and reference items not presented to the Workers' Compensation Commission, and (2) to strike or order clarification of several items in Appellant's designation of matter. Respondents' motion is granted with respect to Appellant's initial reply brief. Appellant shall, within twenty days of entry of this order, serve and file an amended initial reply brief that excludes the following issues and related arguments: "III. Did Single Commissioner Michael Campbell II. erred with instructions and declaring Appellant lacks credibility from May 21, 2015 hearing?"; "VIII. Did The Commission Appellate Panel erred by not accepting medical evaluations from Dr. Carol Benoit and Dr. James Way that verifies a direct and casual relationship to work injury on February 10, 2013 under R67-707"; and "VIII. Did The Commission Appellate Panel erred by refusing and rejecting a medical assessment by SCWCC Legal Counsel, J. Keith Roberts in J.R. Brock's report of Lexington County Sheriff Office under R67-707?" *See State v. Hewins*, 409 S.C. 93, 118 n.9, 760 S.E.2d 814, 827 n.9 (2014) ("It is well settled appellants may not make new arguments for reversal in their reply brief."). In addition, Appellant shall strike from his amended initial reply brief all references

to the medical evaluations by Dr. Carol Benoit & Dr. James Way and any disability payments from Liberty Mutual Insurance or Aetna Insurance. Respondents' motion is denied with respect to Appellant's designation of matter; however, Appellant shall not include any items in the record on appeal that were not presented to, and accepted by, the Workers' Compensation Commission. See Rule 210(c), SCACR ("The Record shall not . . . include matter which was not presented to the lower court or tribunal."). Failure to comply with this order and the South Carolina Appellate Court Rules may result in dismissal of this appeal.


FOR THE COURT

Columbia, South Carolina

cc: Clarence B. Jenkins
J. Russell Goudelock, II, Esquire
Helen F Hiser, Esquire

FILED

February 2, 2017

The South Carolina Court of Appeals

Clarence B. Jenkins, Employee, Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and American
Zurich Ins. Co., Carrier, Respondents.

Appellate Case No. 2016-000598

ORDER

Respondents have filed a motion to dismiss this appeal or, alternatively, to strike Appellant's amended reply brief, arguing the brief was untimely filed following this court's February 2, 2017 order, and contains references to disability payments from Liberty Mutual Insurance and Aetna Insurance in contravention of that order. In his return to the motion, Appellant acknowledged inadvertently including these references and agreed to submit an amended brief. Appellant shall serve and file an amended reply brief that omits all references to these disability payments within thirty days of this order.

Respondents have also filed a motion to correct the record on appeal, arguing Appellant failed to include any items from Respondents' designation of matter in the record. Respondents' motion to correct the record is granted. Within thirty days of this order, Appellant shall serve an amended record on Respondents that includes all items from both Appellant's and Respondents' designations of matter and corrects all deficiencies listed in this court's March 31, 2017 deficiency letter. *See* Rule 210(c), SCACR ("The Record on Appeal shall include all matter designated to be included *by any party . . .*" (emphasis added)); Rule 210(a)-(b), SCACR (requiring the appellant to serve and file the record on appeal).¹ Appellant

¹ We take this opportunity to clarify that although Rule 209, SCACR, does not require a party to designate matters for an opposing party, that rule does not determine the contents of the record on appeal—Rule 210, SCACR, is the relevant

shall also file a proof of service of the amended record on Respondents with this court within thirty days.

Appellant has filed a "Motion to Dismiss Respondents' Dismissal," arguing this court should not dismiss this appeal because he intends to serve and file an amended reply brief. This motion is denied; however, this court will defer ruling on Respondents' motion to dismiss until thirty days have passed or it has received Appellant's amended filings.


FOR THE COURT

Columbia, South Carolina

FILED

cc: Clarence B. Jenkins
J. Russell Goudelock, II, Esquire
Helen F Hiser, Esquire

May 11, 2017

rule. We also note Respondents have agreed to provide Appellant, upon his request, any necessary documents not in his possession.

1 what witnesses he wants to as part of his defense.

2 MR. JENKINS: Okay. I'd like to call --

3 THE COURT: We're going to take a five minute
4 break real quick.

5 (Off the record at 5:31 p.m.)

6 (On the record at 5:42 p.m.)

7 THE COURT: We'll go back on the record.

8 MR. GOUDELOCK: Thank you, sir. I would object
9 to him calling Ms. Keisler, she was listed as my
10 witness. I didn't present her, he hasn't filed a
11 Prehearing Brief listing anybody as a witness, so I
12 think it's a bit improper for him to be able to call
13 her as part of his direct examination. She hasn't
14 been presented direct by me.

15 THE COURT: Okay. Mr. Goudelock is correct in
16 that, Mr. Jenkins. You didn't have any witnesses that
17 you wanted to present, Mr. Jenkins?

18 MR. JENKINS: No. I would -- well, I think -- I
19 think Ms. Keisler is more than able to testify. She's
20 been working with comp especially for Amazon, so she
21 has knowledge of a lot of things that is in his legal
22 Brief. So I -- I think she's -- you know, she's here.
23 You know even though she's here for the Defendants,
24 but she's here. And I ask the Court that he allow her
25 to testify.

1 there's no medical record of me going to a pharmacy
2 getting prescriptions, so I was pretty much a healthy
3 person up until this injury, and that can be proven.

4 MR. GOUDELOCK: Your Honor, that's all I have.
5 Thank you.

6 THE COURT: You can step down, sir. Thank you.
7 I appreciate it.

8 THE WITNESS: You're quite welcome.

9 THE COURT: Well, that will conclude -- do you
10 have anything more?

11 MR. GOUDELOCK: Nothing more, Your Honor.

12 THE COURT: Okay. Well, that will conclude this
13 proceeding. Mr. Jenkins, thank you for being here
14 today.

15 MR. JENKINS: I would like to question Ms.
16 Keisler, she worked for Amazon.

17 THE COURT: You can call her if you want to call
18 her.

19 MR. JENKINS: Okay. I'd like to call Ms.
20 Keisler. I see where Mr. Goudelock has some other
21 people down as witness. I don't see them here either.
22 He has Kelly Wells, he had my former -- one of my
23 former supervisor, Mike Sumina, he's not here either,
24 so I was just wondering what happened to them.

25 THE COURT: Well, he reserves the right to call

May 22, 2017

Jenny Kitching, Clerk of Court
PO Box 11629
Columbia, SC 29211

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MAY 23 2017

SC Court of Appeals

Clarence B. Jenkins Jr
945 Wire Rd
Neeses, SC 29107

REF: Case # 2016-000598 Clarence B. Jenkins Employee vs.
Amazon.com DEDC, LLC, Employer and American
Zurich Co. Ins., Carrier, Respondents

Mr. Kitching:

Please find enclosed one (1) original Appellant's Motion
and six (6) copies. A copy was sent to Respondents.

Clarence B. Jenkins
May 22, 2017

Clarence Jentzsch
945 White Rd
Neeses, SC 29107

SC. Court of Appeals
PO Box 11629
Columbia, SC 29211

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MAY 23 2017

SC Court of Appeals

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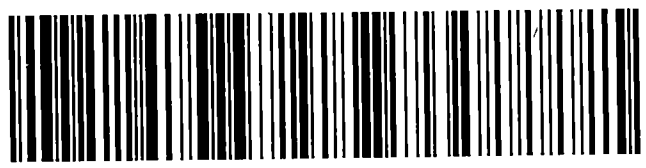
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