

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY
Perry M. Buckner, III, Circuit Court Judge

Case No. 2016-CP-03-267

RECEIVED
JUL 10 2017
SC Court of Appeals

James L. Padgett, Jr., #229630,.....Appellant,

v.

South Carolina Department of Corrections,..... Respondent.

RESPONDENT’S MOTION TO DISMISS APPEAL

Respondent hereby moves this Court pursuant to Rule 260(a), SCACR, to dismiss the Appellant’s appeal based upon the Appellant’s failure to comply with the Appellate Court Rules and the explicit instructions of this Court.

Specifically, Respondent asserts that Appellant has failed to provide notice that the transcript of the proceedings below has been ordered from the court reporter, and therefore Appellant has failed to comply with Rule 207(a), SCACR. Counsel for Respondent asserts that a transcript of the entire proceeding below is required in this matter, and that Appellant has not contacted counsel for Respondent to discuss these matters. This Court has twice informed

Appellant, in writing, of his duty to order the transcript. See, March 29, 2017 Letter and May 15, 2017 Letter. In both of those letters, Appellant was instructed by this Court that he “must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules.” *Id.* Furthermore, this Court specifically warned Appellant, in both of those letters, that “[y]our appeal will be dismissed if no motion is made”

To date, Appellant has failed to file a copy of the letter showing he has ordered the transcript, and has failed to file a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207, SCACR. As a result Respondent asserts this appeal must be dismissed.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

By: 

DANIEL C. PLYLER, S.C. BAR NO. 72671
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

Counsel for Respondent

Columbia, South Carolina

July 5, 2017

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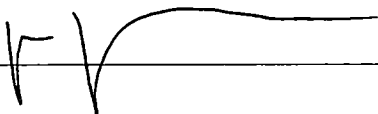
v.

South Carolina Department of Corrections,..... Respondent.

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondent, does hereby certify that service of the **Respondent's Motion to Dismiss the Appeal** in the above-captioned action was made upon the *pro se* Plaintiff by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 5th day of July, 2017, addressed as follows:

James Padgett, Jr., #229630
Orangeburg County Detention Center
Center Pod A-32
Post Office Box 9000
Orangeburg, South Carolina 29116



DAVIDSON & LINDEMANN, P.A.

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*Also Admitted In North Carolina
†Certified Mediator

July 5, 2017

Of Counsel
Kenneth P. Woodington

Writer's E-Mail: dplyler@dml-law.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Post Office Box 11629
Columbia, South Carolina 29211

RE: James L. Padgett, Jr. v. South Carolina Department of Corrections Central Classification and General Counsel (Unknown Individuals), and Allendale C.I. Classification and Records, Mrs. Moore
Appellate Case No. 2017-000644
Civil Action Number: 2016-CP-03-267
Claim Number: A5548
Date of Incident: December 21, 2015
Our File Number: 103.10099

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SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed for filing an original and seven copies of the **Respondent's Motion to Dismiss the Appeal**, in the above referenced matter. Please return a clocked copy to my office via the enclosed, self-addressed stamped envelope. By copy of this letter, I am serving the pro se appellant with a copy of the enclosed. I am enclosing my firm's check for \$25.00 to cover the filing fee.

Thank you for your assistance.

Sincerely,
DAVIDSON & LINDEMANN, P.A.


Daniel C. Plyler

Enclosures

cc: James Padgett, Jr., #229630
Orangeburg County Detention Center
Center Pod A-32
Post Office Box 9000
Orangeburg, South Carolina 29116

THU 06 JUL 2017

DAVIDSON & LINDEMANN, P.A.

Attorneys and Counsellors at Law

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Columbia, South Carolina 29202-8568

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SC Court of Appeals

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