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Case # 2016-000562

JUL 26 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY, SOUTH CAROLINA
COURT OF COMMON PLEAS

HON R. SCOTT SPROUSE, CIRCUIT JUDGE

Case # 2014-CP-04-01780

NANCY C. PEREZ

Petitioner

Vs

SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION –
BOARD OF NURSING

Respondent

FIRST AMENDED MOTION TO REINSTATE THE APPEAL

Nancy C Perez, respectfully moves to the court to reinstate the appeal pursuant to , inter alia, Rule 260 , SC Rules of Appellate Procedure. She adamantly but respectfully objects to the July 18th, 2017 Order, dismissing her appeal .The Court of Appeals dismissed her appeal purportedly because she “failed to serve the

record on appeal as required by the Court's Order of June 23rd 2017. As grounds for the objection Ms Perez shows:

- 1- By Order dated July 27th 2016 the Court of Appeals stated “ **All timelines for perfecting the Appeal are held in abeyance pending a ruling on your Motion [regarding Ordering the transcript]**”¹.
- 2- Rule 210 (h) , SCRAP, states that the only penalty imposed by the Rules is that the appellate court will not consider any fact which does not appear in the Record on Appeal. The Appellate court did not identify the reason Appellate rule 210(h) is inapplicable
- 3- Ms Perez actions ought to be considered as supported by **good cause** within the meaning of Rule 260, of the SC Rules of Appellate Procedure:
- 4- Firstly, The issue of whether or not Ms. Perez was required to include the Court Reporter's transcript in the Record on Appeal was finally disposed of on May 2nd 2017, when the South Carolina Supreme Court denied Ms. Perez' Petition for a writ of Mandamus
- 5- Secondly, By letter dated May 11th, 2017 Ms. Perez requested that the Court Reporter provide her with a copy of the Transcript. Rule 207 (a)(2) states that the Court Reporter has 60 days within which to comply with the

¹ Attachment 1

request. Accordingly, there is no way that Ms. Perez could have produced a complete Record on Appeal within 10 (ten) days .

6- Thirdly, The Appellate Court's ruling is based upon an error of law ² because (1) the trial court order that Ms. Perez is appealing is written, so the Court Reporter's transcript is unnecessary³; (2)The Court of Appeals has previously ruled that a transcript is required only when a litigant establishes that it is necessary for "meaningful appellate review"⁴ But before a litigant can establish meaningful appellate review he must identify a specific appellate claim that the appellate court would be unable to review effectively without the transcript.⁵ (3) the Court of Appeals have failed or refused to identify the authority to tax Ms. Perez in order to benefit a private third party, i.e., the court reporter. Ms Perez respectfully submits that Court of Appeals may not tax Ms. Perez Federal and State rights to access courts in order to seek redress of grievances⁶. The Texas Supreme Court has ruled that " We hold that filing fees that go to state general revenues -- in other words taxes on the right to litigate that **pay for other programs besides the**

² *State v. Sims*, 405 SE 3d 377, , 380 (1991)).

³ *Woodson v DLI Properties, LLC, et al*, 753 S.E.2d 428 (S.C. 2014) citing *Ford v. State Ethics Comm'n*, , 545 S.E.2d 821, 823 (2001)

⁴ *State v. Ladson*, 644 S.E.2d 271, 373 S.C. 320 (S.C.App. 04/09/2007 citing *In re D.W.*, 615 SE 2d 90, 94 (N.C. Ct. App. 2005)

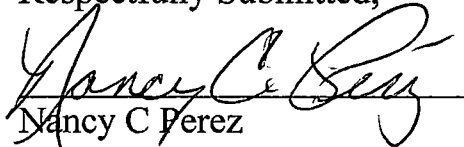
⁵ *State v. Asbury*, 493 S.E.2d 349 (1997) ; *State v. Ladson*, 644 S.E.2d 271, 373 S.C. 320 (S.C.App. 04/09/2007) citing *Sweat v. Crawford*, 356 S.E.2d 147, 149 (Ct. App. 1987)

⁶ *Ryland v. Shapiro*, 708 F.2d 967 (5th Cir. 07/05/1983)

**judiciary -- are unreasonable impositions on the state constitutional
right of access to the courts.”⁷**

WHEREFORE Ms Perez respectfully submits that her appeal ought to be
reinstated.

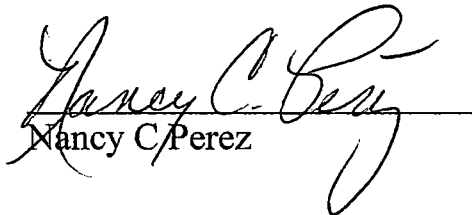
Respectfully Submitted,


Nancy C Perez
713 E. Greenville St – D220
Anderson, SC 29621
281-979-8356

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing “Nancy C Perez’ First
Amended Motion to Reinstate Her Appeal “ was delivered by mailing a copy
thereof on this 24th, day of July 2017 to:

Donnel G. Jennings, Esq
PO Box 11329
Columbia, SC 29211-1329


Nancy C Perez

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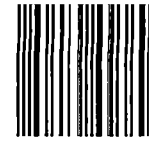
SC Court of Appeals

⁷ LeCroy v. Hanlon, 713 SW 2d 335 342 (Tex. 1986)

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