

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

SEP 25 2017

SC Court of Appeals

R. Scott Sprouse, Circuit Judge

Case No. 2014-CP-04-01780
Appellate Case No. 2016-000562

Nancy C. Perez

Appellant,

vs

South Carolina Department of Labor,
Licensing and Regulation –
Board of Nursing

Respondent.

APPENDIX

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

The South Carolina Court of Appeals

Nancy C. Perez, Appellant,

v.

South Carolina Department of Labor, Licensing and
Regulation, Board of Nursing, Respondent.

Appellate Case No. 2016-000562

The Honorable R. Scott Sprouse
Anderson County
Trial Court Case No. 2014CP0401780

ORDER

Appellant has failed to serve the record on appeal, as required by Rule 210 of the South Carolina Appellate Court Rules, and as required by this Court's order of June 23, 2017. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Nancy C. Perez
Donnell G. Jennings, Esquire
Darra James Coleman, Esquire
Katherine B. Barroll, Esquire

FILED

July 18, 2017

Appendix i

The South Carolina Court of Appeals

Nancy C. Perez, Appellant,

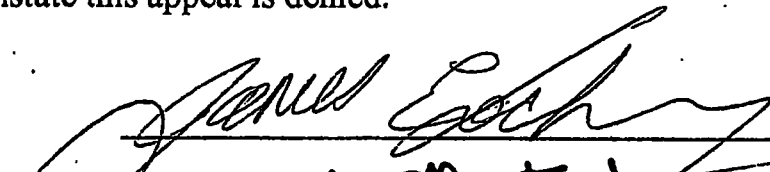
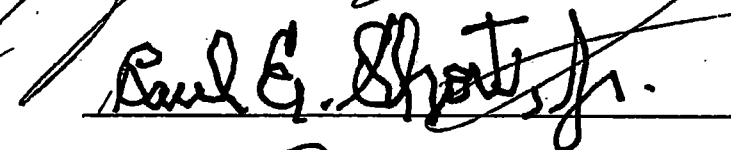
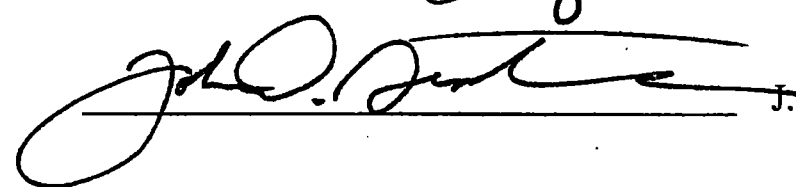
v.

South Carolina Department of Labor, Licensing and
Regulation, Board of Nursing, Respondent.

Appellate Case No. 2016-000562

ORDER

Appellant's motion to reinstate this appeal is denied.


C.J.

J.

J.

Columbia, South Carolina

cc:

Nancy C. Perez

Donnell G. Jennings, Esquire

Darra James Coleman, Esquire

Katherine B. Barroll, Esquire

FILED

September 14, 2017

Appendix 2



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

April 26, 2016

Nancy C. Perez
713 E. Greenville Street - D220
Anderson SC 29621

Re: Nancy Perez v. SCDLLR(3)
Appellate Case No. 2016-000562

Dear Ms. Perez:

The Court has received your appellant's initial brief and designation of matter, as well as the record on appeal. However, these documents are prematurely filed and the original documents are being returned to you.

Within ten days of the date of this letter, you must provide proof that you have ordered the transcript from the court reporter, pursuant to Rule 207, SCACR. It is the appellant's responsibility to order the transcript unless the parties have otherwise agreed in writing. You must also serve and file a motion requesting the Court's permission to order the transcript outside of the timelines established in Rule 207, SCACR.

Respondent's motion for extension is not necessary and no further action will be taken with regard to respondent's request for extension.

Very truly yours,
V. Claire Allen, Deputy
CLERK

cc: Donnell G. Jennings, Esquire

Appendix 3

The South Carolina Court of Appeals

Nancy C. Perez, Appellant,

v.

South Carolina Department of Labor, Licensing and
Regulation, Board of Nursing, Respondent.

Appellate Case No. 2016-000562

ORDER

Appellant's motion to file the record on appeal out to time is granted to the extent that Appellant shall serve the record on appeal on Respondent within twenty days of this order.¹ Pursuant to Rule 210(c), SCACR, the record shall contain all documents listed the parties' designations of matter. Appellant's motion to require Respondent to provide Appellant with a copy of the transcript is denied. Pursuant to Rules 207 and 210, SCACR, Appellant is responsible for ordering the transcript and compiling the record on appeal.

Manlin

FOR THE COURT

Columbia, South Carolina

FILED

March 23, 2017

cc:

Nancy C. Perez

Donnell G. Jennings, Esquire

¹ This court notes that the Appellant is not required to file the record on appeal within twenty days of this order. Pursuant to Rule 210(b), SCACR, Appellant must file fifteen copies of the record on appeal no later than the date her final briefs are due under Rule 211, SCACR.

Appendix 4

The South Carolina Court of Appeals

Nancy C. Perez, Appellant,

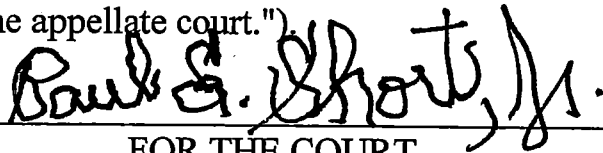
v.

South Carolina Department of Labor, Licensing and
Regulation, Board of Nursing, Respondent.

Appellate Case No. 2016-000562

ORDER

Appellant has filed a motion "objecting to the clerk of court order directing Ms. Perez to order the court reporter's transcript." Appellant's request to proceed without ordering the court reporter's transcript is denied. Pursuant to Rule 207(a)(1), SCACR, Appellant must "make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript." Furthermore, unless both parties "agree in writing, [A]ppellant must order a transcript of the entire proceedings below." Rule 207(a)(1). Accordingly, within ten days of the date of this order, Appellant shall provide proof the transcript has been ordered or written proof showing both parties agree to proceeding without the transcript. Failure of Appellant to comply may result in the dismissal of this appeal. *See* Rule 260(a), SCACR ("Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.")



FOR THE COURT

Columbia, South Carolina

cc:

Nancy C. Perez

Donnell G. Jennings, Esquire

FILED

July 29, 2016

Appendix x 5

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY, SOUTH CAROLINA
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Appellate Case No.: 2016-000562
Lower Court Order No.: 2014-CP-04-01780

RECEIVED

APR 14 2016

SC Court of Appeals
Appellant,

Nancy C. Perez,

v.

South Carolina Department of Labor, Licensing
and Regulation, Board of Nursing,

Respondent.

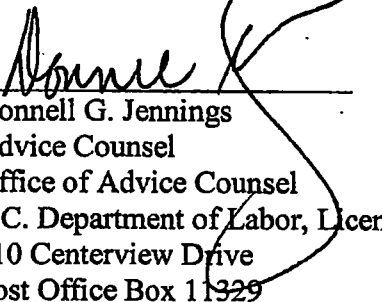
**MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT'S INITIAL
BRIEF**

Pursuant to SCACR Rule 240, Respondent South Carolina Department of Labor, Licensing and Regulation, Board of Nursing requests an extension of time to file its initial brief until 30 days after receipt of the transcript of the trial court's hearing on Respondent's motion to dismiss. The *pro se* Appellant mailed her initial brief on March 24, 2016, only two weeks after mailing the Notice of Appeal. Appellant did not include any portion of the transcript in Appellant's Designation of Matter to be Included in the Record on Appeal, which Appellant mailed on March 28, 2016.

Respondent needs the transcript of the hearing to prepare its initial brief and Respondent's Designation of Matter to be Included in the Record on Appeal.

A copy of Respondent's written request to the court reporter for the hearing transcript is attached hereto as Exhibit A.

Respectfully submitted,



Donnell G. Jennings
Advice Counsel
Office of Advice Counsel
S.C. Department of Labor, Licensing and Regulation
110 Centerview Drive
Post Office Box 11329
Columbia, South Carolina 29211
(803) 896-4199
donnell.jennings@llr.sc.gov
Attorney for Respondent

Appendix 7



South Carolina
Department of Labor, Licensing and Regulation

Office of Advice Counsel



110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-
FAX: (803) 896-1877
www.llronline.com

Nikki R. Haley
Governor

Richele K. Taylor
Director

April 13, 2016

Renee H. Tollison
Post Office Box 4321
Anderson, South Carolina 29622

RE: Nancy C. Perez, Petitioner, v. South Carolina Department of Labor, Licensing and Regulation—Board of Nursing, Case No. 2014-CP-04-01780

Dear Ms. Tollison:

On July 27, 2015, Respondent's Opposition to Pro Se Petition for Writ of Mandamus and Cross Motion to Dismiss Case in the above matter was heard before the Honorable R. Scott Sprouse, Circuit Court Judge, in Anderson County. My records indicate that you were the court reporter for that hearing.

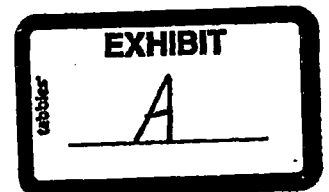
I request that you provide me with a transcript of that proceeding. Please transcribe the entire record. I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,

Donnell G. Jennings
Advice Counsel
Office of Advice Counsel
SC Department of Labor, Licensing and Regulation
110 Centerview Drive
Post Office Box 11329
Columbia, South Carolina 29211
(803) 896-4199
donnell.jennings@llr.sc.gov
Attorney for Respondent

cc: Nancy C. Perez
S.C. Court Administration
Clerk, Court of Appeals

Appendix 8



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Nancy C. Perez, Appellant,

v.

South South Carolina Department of Labor, Licensing
and Regulation, Board of Nursing, Respondent.

Appellate Case No.: 2016-000562

RECEIVED

APR 14 2016

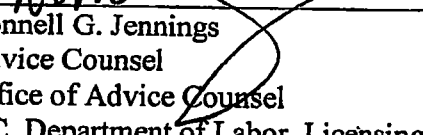
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Respondent's Motion for Extension of Time to File Respondent's Initial Brief by depositing a copy of it in the United States mail, postage prepaid, on April 14, 2016, addressed to:

Nancy C. Perez
713 E. Greenville Street, #D220
Anderson, SC 29621
(864) 209-1509

April 14, 2016



Donnell G. Jennings
Advice Counsel
Office of Advice Counsel
S.C. Department of Labor, Licensing
and Regulation
110 Centerview Drive
Post Office Box 11329
Columbia, South Carolina 29211
(803) 896-4199
donnell.jennings@llr.sc.gov
Attorney for Respondent

Appendix 9

79553

Case # 2016-000562

RECEIVED

MAY 13 2016

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

**MOTION OBJECTING TO THE CLERK OF
COURT ORDER DIRECTING MS . PEREZ
TO ORDER THE COURT REPORTER'S TRANSCRIPT**

Nancy C. Perez hereby objects to the Clerk of Court Order dated April 26,
2016. As grounds therefore she shows:

Appendix 17

- 1- On March 21st, 2016 Ms. Perez submitted to the Appellate Court (a) the initial Appellate Brief and the Record on Appeal. Ms Perez made no reference therein to the court's reporter's transcript.
- 2- By Order dated April 26th, 2016 the Clerk of Court returned Ms. Perez's initial Appellate Brief and the Record on Appeal purportedly because they are premature. It also ordered Ms. Perez to order the Court's Reporter Transcript. Ms. Perez, adamantly, but respectfully objects.
- 3- The Appellate Rules only require Ms. Perez to include in the Appellate Record matters which she believes are relevant to the appeal¹. In Federal Courts Appellants are only required to order the court reporter's transcript if they believe is necessary². Ms. Perez emphasizes that she made no reference to the court reporter's transcript in her initial brief.
- 4- The only penalty imposed by the Appellate Court Rules for failing to include matters relevant to the Appeal is that the appellate court will not consider any fact which does not appear in the Record on Appeal³.

¹ *Forner v. Butler*, 319 S.C. 275, 460 S.E.2d 425 (S.C.App. 07/24/1995) FN1 citing Rule 208 (b), SCACR.

² *United States on Behalf of Cal's A/C and Electric v. Famous Construction Corporation*, 220 F.3d 326 (5th Cir. 05/16/2000) citing Fed. R. App. P. 10(b)(1),

³ *Id* citing former Appellate Rule 209(h) now Appellate Rule 210(h)


Appendix 11

Conclusion

Wherefore, Ms. Perez respectfully submits that the Clerk of Court's Order be quashed and the Appellate case allowed to proceed. Furthermore Ms. Perez respectfully requests pursuant to Rule 60(a)⁴, SCRCF, that the \$25.00 Motion fee be waived.

The Clerk of Court had over 30 days to review Ms. Perez' Initial Appellate Brief in order to determine whether there were any deficiencies. Assuming, arguendo, that Ms. Perez is, somehow, required to pay for the court reporter's transcript then Ms. Perez respectfully submits that the period of time the initial appellate brief was before the clerk of court toll the time to request a transcript pursuant to Rule 207, SCACR.

Respectfully Submitted,


Nancy C. Perez
713 E. Greenville St - D220
Anderson, SC 29621
281-746-4948

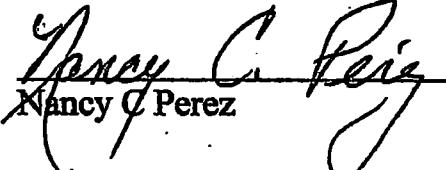
⁴ Collins Entertainment Corp. v. Columbia "20" Truck Stop, Inc., 343 S.C. 257, 343 S.C. 257, 539 S.E.2d 699, 539 S.E.2d 699 (S.C. 11/20/2000)

Appendix 12

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing "Motion Objecting to the clerk of court order directing Ms. Perez to order the court reporter's transcript" was delivered by mailing a copy thereof on May 11th, 2016 to :

Donnell G. Jennings , Esq
South Carolina Department of Labor , Licensing
And Regulation
PO Box 11329
Columbia, SC 29211-1329


Nancy C Perez

RECEIVED

MAY 13 2016

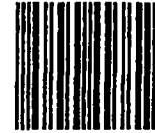
SC Court of Appeals

Appendix 13

Nancy C. Pérez
713 E. Greenville St - D220
Anderson, SC 29621



1000



29211

U.S. POSTA
PAID
ANDERSON
29623
MAY 11 16
AMOUNT
\$1.
R2305K139C

RECEIVED

MAY 13 2016

SC Court of Appeal

Ms Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Appellate (P)

RECEIVED

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

Appendix 15

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

APPENDIX 16

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)

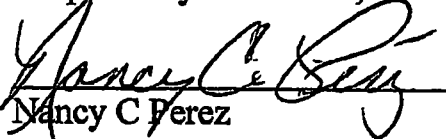
⁶ *Ryland v. Shapiro*, 708 F.2d 967 (5th Cir. 07/05/1983)

Appendix 17

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.

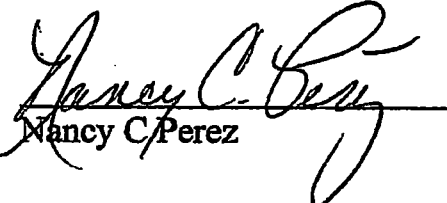
Respectfully Submitted,


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

RECEIVED

JUL 26 2017

SC Court of Appeals

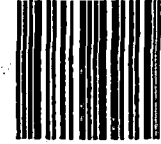
⁷ LeCroy v. Hanlon, 713 SW 2d 335 342 (Tex. 1986)

Appendix 18

Nancy C Perez
713 E Greenville St - D220
Anderson, SC 29621



1000



29211

U.S. POSTAGE
PAID
ANDERSON, SC
29621
JUL 24 17
AMOUNT
\$1.82
R2304n116855-04

RECEIVED
JUL 26 2017
SC Court of Appeals

Hon. Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
PO Box 11629
Columbia SC 29211

APR 19

RECEIVED

AUG 10 2016

SC Court of Appeals

Case # 2016-000562

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

**AMENDED
MOTION FOR REHEARING**

Appellant seeks a rehearing . As grounds therefore she shows:

APPENDIX
20

**THE COURT OF APPEALS HAS
A MINISTERIAL DUTY¹ TO APPLY THE SC
RULES OF APPELLATE PROCEDURE AS WRITTEN
AND TO FOLLOW ITS OWN PRECEDENT**

The South Carolina Supreme Court has exclusive authority to amend and adopt the South Carolina Rules of Appellate Procedure². If a Rule of Appellate Procedure's language is plain, unambiguous, and conveys a clear meaning the rules of statutory interpretation are not needed and the court has no right to impose another meaning³. Furthermore, one panel of the court of appeals cannot overturn prior published precedent of another panel of the court of appeals absent en banc review⁴.

Mrs. Perez respectfully, but adamantly, objected to the Court of Appeals failure or refusal to follow those principles where , as here , Ms. Perez , is a Spanish surnamed American female proceeding pro se⁵.

¹ A ministerial act or duty is one which a person performs because of a legal mandate which is defined with such precision as to leave nothing to the exercise of discretion¹.

² Rutherford v. Rutherford, 307 S.C. 199, 414 S.E.2d 157 (S.C. 02/10/1992) citing SC Constitution Article V, § 4.

³ The State of South Carolina and the South Carolina Department of Revenue vs. County of Florence , et al 749 S.E.2d 516(2013) quoting State v. Scott, 351 SC 584, 588, 571 SE 2d 700, 702 (2002)

⁴ State v. Hoyle, 397 SC 622, 627, 725 SE 720, 723 (Ct. App. 2012)

⁵ Hernandez vs Texas , 347 U.S. 475 , 477-478(the Supreme Court held that equal protection under the Fourteenth Amendment extends beyond a "two-class theory" of differences between black and white individuals, but includes protections for any individual who is a member of a group singled out for discriminatory treatment, regardless of national origin or descent) ; Village of Willowbrook v. Olech, 528 US 562 (2000) (class of one) ; Illiberal Construction of Pro Se Pleadings , 159 University of Pennsylvania Law Review 585 , 597 (2011) by Rory K Schneider, Esq.(courts treat pro se litigants disdainfully); The Pro Se Litigant's Struggle for

The South Carolina legislature have stated that those who need and ordered the court reporter's transcript must pay for the same⁶. The General Assembly " has plenary power over all legislative matters unless limited by some constitutional provision."⁷ Actually , the SC Judicial Department website states the same thing : "Anyone who is a party or an attorney interested in obtaining a transcript from a court proceeding in Circuit or Family Court must order the transcript in writing by contacting the court reporter assigned to record the proceedings⁸."

The Rules of Appellate Procedure , 208(a)(1) contemplates the fact that an Appellant may decide not to order the court reporter's transcript : Brief of Appellant. Within thirty (30) days after receiving the transcript or, if no transcript is ordered.

Rule 207 (a)(1) states , "*where a transcript must be prepared*". As stated hereinabove , Ms Perez has concluded that a transcript need not be prepared. The Defendants have failed or refused to show that the Rules of appellate procedure

access to justice – meeting the challenge of bar and bench resistance, 40 Family Court Review 36 (2002) by Jona Goldschmidt, Esq.

⁶ S.C. Code Ann. §1-23-600(C) (2005) . The cost of preparing a copy of a transcript shall be borne by the party requesting the transcript.

⁷ Amisub of South Carolina, Inc., vs. South Carolina Department of Health and Environmental Control, 757 S.E.2d 408 (S.C. - 2014) quoting *Hampton v. Haley*, 403 SC 395, 403,743 SE 2d 258, 262 (2013) and S.C. Const. art. 1, § 8

⁸ <http://www.judicial.state.sc.us/courtreporter/howtoobtaintranscript.cfm>

compel Ms. Perez to pay for the transcript if she concludes that one is not necessary or relevant

The Appellees , on the other hand , have concluded that the transcript must be prepared and **have agreed to pay for the same**⁹. Therefore , the Appellees have waived or forfeited their right, if any, to require that Ms. Perez order the court reporter's transcript¹⁰. Secondly, they have not shown that without the transcript their position would be prejudiced¹¹. The Court of Appeals have provided no explanation for interceding on their behalf.

In Forner v. Butler, 319 S.C. 275, 460 S.E.2d 425 FN1 (S.C.App. 07/24/1995) the SC court of appeals ruled that "the only matter which should not appear in the record are those items a party believes to be "not relevant to the appeal." Citing Rule 208(b), SCACR. The court of appeals failed or refused to disclose the basis for concluding that Ms Perez is not a party to the lawsuit nor the reason its precedent does not apply to Ms. Perez.

The Court of Appeals threatened to dismiss the appeal if Ms. Perez did not pay for the court reporter's transcript. But see, Rule 210(h) , SCACR, the only penalty imposed by the rules of appellate procedure for failing to include relevant matter in

9 Attachment 1, 3 pages

¹⁰ State vs. Boykin, 324 S.C. 552, 478 S.E.2d 689 (S.C.App. 11/04/1996)

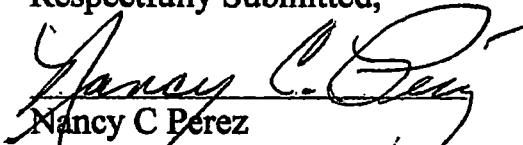
¹¹ State v. Mansfield, 343 S.C. 66, 343 S.C. 66, 538 S.E.2d 257, 538 S.E.2d 257 (S.C.App. 10/02/2000) (Our Supreme Court affirmed the trial court's ruling, finding Asbury failed to establish prejudice from the lack of access to the transcript from the first trial.)

the record on appeal is : *“the appellate court will not consider any fact which does not appear in the Record on Appeal”*.

The Court of Appeals , failed or refused to disclose the reason it concluded that , Rules 209 (b) and (c) , SCACR which provides that *“A party shall not include any matter in his Designation which is not relevant to the appeal.”*, does not apply to Ms. Perez.

Wherefore, Ms. Perez adamantly, but respectfully objects to the blatantly discriminatory July 29th, 2016 order. And respectfully requests that the July 29th, 2016 order be vacated. Or, in the alternative, that valid reasons be identified for not applying the SC Rules of Appellate Procedure to Ms. Perez

Respectfully Submitted,



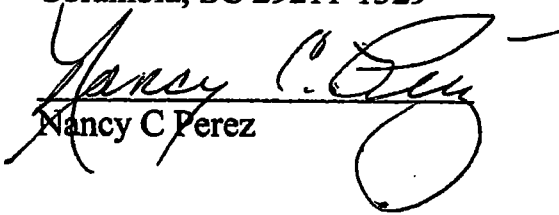
Nancy C Perez
713 E. Greenville St -- D220
Anderson, SC 29621
281-746-4948

Approved
24

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing " Amended Motion for rehearing "was delivered by mailing a copy thereof on August 8th, 2016 to :

Donnell G. Jennings , Esq
South Carolina Department of Labor , Licensing
And Regulation
PO Box 11329
Columbia, SC 29211-1329


Nancy C Perez

Amended
25



South Carolina
Department of Labor, Licensing and Regulation

Office of Advice Counsel

Nikki R. Haley
Governor

Emily H. Farr
Interim Director



110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329

Phone: (803) 896-4199
Fax: (803) 896-1877

December 5, 2016

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

RECEIVED

DEC 07 2016

SC Court of Appeals

RE: Nancy C. Perez, Appellant, v. South Carolina Department of Labor, Licensing and Regulation, Board of Nursing, Respondent, Appellate Case No. 2016-000562

Dear Ms. Kitchings:

Respondent hereby informs the Court of Appeals that Appellant has failed to timely serve Respondent with a record on appeal compliant with Rule 210, SCACR. Respondent cannot proceed with filing its final brief until Appellant serves a record on appeal containing the material designated by Respondent in its October 17, 2016, Designation of Matter to be Included in the Record on Appeal. Respondent brings this noncompliance to the attention of the Court and Appellant before Appellant undertakes the additional expense of producing and filing the required additional fifteen copies of the Record on Appeal.

On March 21, 2016, Appellant prematurely served by mail both her initial brief and a document purporting to be a record on appeal, both of which the Court of Appeals received on March 24, 2016. Appellant prematurely served by mail her Designation of Matter to be Included in the Record on Appeal on March 24, 2016, which the Court of Appeals received on March 29, 2016. The purported record on appeal contained no part of the transcript of the hearing on the lower court's Order of Dismissal, which is the subject of the appeal, or the March 8, 2016, Order Denying Plaintiff's Motion for Reconsideration. Also, that purported record on appeal did not contain the June 4, 2015, trial court order that Appellant included in her March 24, 2016, Designation of Matter to be Included in the Record on Appeal. The Clerk returned all three documents to Appellant.

By order dated October 14, 2016, the Court of Appeals reinstated the appeal and directed Respondent to file its initial brief by October 14, 2017. By order of the South Carolina Supreme Court, that deadline was extended to October 17, 2016, because of the Hurricane Matthew emergency.

On October 17, 2016, Respondent filed its initial brief and its designation of matter to be included in the record on appeal. That designation included material not included in Appellant's prematurely filed "Record on Appeal," including, but not limited to, sixteen pages of the transcript and two lower court orders. A copy of Respondent's Designation of Matter is enclosed

Appended
26

Jenny Abbott Kitchings, Clerk of Court
Page Two
December 5, 2016

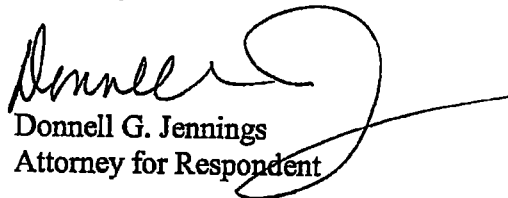
for convenience, and clearly identifies the material not included in the prematurely filed record on appeal. Appellant filed her reply brief, which was the last brief served. Appellant did not designate any further material to be included in the Record on Appeal, nor did Appellant object to any of the material designated by Respondent.

Rule 210, SCACR states:

(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party that has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

Appellant's certificate of service of her reply brief indicates she served it by mailing a copy to Respondent on October 21, 2016. Both Respondent and the Court of Appeals received that reply brief on October 25, 2016. More than 30 days have elapsed since Appellant served her reply brief and Appellant has not yet served a compliant Record on Appeal on Respondent. The prematurely filed and returned document purporting to be the record on appeal does not comply with Rule 210(c) because it does not include all matter designated to be included by any party under Rule 209.

Sincerely,


Donnell G. Jennings
Attorney for Respondent

cc w/enc:
Nancy C. Perez
713 E. Greenville St--D220
Anderson, SC 29621

Appendix 27

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Appellate Case No.: 2016-000562
Lower Court No.: 2014-CP-04-01780

Nancy C. Perez,

Appellant,

v.

South Carolina Department of Labor,
Licensing and Regulation Board of
Nursing,

Respondent

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Respondent proposes the following to be included in the Record on Appeal. Those items marked with an asterisk were already designated by Appellant and were included in the Record on Appeal prematurely filed by Appellant (ROA), with page numbers of that premature ROA noted for convenience:

1. March 8, 2016, Order Denying Plaintiff's Motion for Reconsideration; ?
- ② Order of Dismissal filed August 10, 2015, ROA 1-3;*
3. Order of June 4, 2015, entered June 5, 2015;
- ④ Rule 59(e) motion for reconsideration of August 10, 2015, Order, ROA pp. 14-65;* 1-3
- ⑤ First Amended/Supplemented Petition for A Writ of Mandamus and Declaratory Judgment, or in the Alternative, Inverse Condemnation Proceedings, filed September 4, 2014, ROA pp. 4-13;*
- ⑥ Opposition to Pro Se Petition for Writ of Mandamus and Cross Motion to Dismiss Case, filed September 15, 2014 ("Motion to Dismiss"), ROA pp 88-91;*
- ⑦ Affidavit of Kathryn Nedovic in Support of Respondent's Motion to Dismiss, ROA 92-129;*
- ⑧ Petitioner's Motion to Add Indispensable Party And Motion to Adjudicate, in the Alternative, Whether Ms. Perez' Property Has Been Taken and/or Seized Within the Meaning of US Constitution Fourth and Fifth Amendments, filed October 8, 2014;

RECEIVED

DEC 07 2016

SC Court of Appeals

RECEIVED


OCT 17 2016

SC Court of Appeals

- 9 November 5, 2014, Opposition to Petitioner's pro se Motion to Add Indispensable Party and Motion to Adjudicate, in the Alternative, Whether Ms. Perez' Property Has Been Taken and/or Seized Within the Meaning of US Constitution Fourth and Fifth Amendments, including Exhibit A thereto, a copy of the Board's October 28, 2014, Order, and November 6, 2014, filing and service letter;
- 10 November 6, 2015, letter from the South Carolina Court of Appeals to Ms. Perez;
- 11 November 16, 2015, Motion to Dispense with the Trial Court's decision on the motion for reconsideration;
- 12 February 17, 2016, remittitur of Appellate Case No. 2015-002237, with attached January 13, 2016, Order of the South Carolina Court of Appeals dismissing the second set of notices of appeals;
13. Transcript of Record, July 27, 2015 hearing, pp.1-16 and cover page.

I certify that this designation contains no matter which is irrelevant to this appeal.

October 17, 2016


Donnell G. Jennings
Office of Advice Counsel
S.C. Department of Labor, Licensing
and Regulation
Post Office Box 11329
Columbia, South Carolina 29211
(803) 896-4199
Attorney for Respondent

RECEIVED
OCT 17 2016
SC Court of Appeals

Appadik
28



South Carolina Department of Labor, Licensing and Regulation
Office of Advice Counsel
Post Office Box 11329
Columbia, SC 29211-1329

Hasler FIRST-CLASS MAIL
12/05/2016 PSRT
US POSTAGE \$000.45²



ZIP 29210
011E12650545

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

RECEIVED
DEC 07 2016
SC Court of Appeals

KYY-SMP 29211



Handwritten: 22 Appeal