

92398
92397

THE SOUTH CAROLINA COURT OF APPEALS

John Kennedy, Appellant

v.

City of Myrtle Beach Police Department and Amy Prock, Angela Kegler, and John Pederson (In their Individual Capacities), Respondents.

Appellate Case. No. 2019-001556

RECEIVED
MAR 09 2020
SC Court of Appeals

The Honorable Benjamin H. Culbertson
Horry County
Trial Case No. 2017CP2605913

Motion to Reinstate Appeal Pursuant to SCACR 240 and 260

Comes now Appellant, by and through the undersigned counsel, and respectfully moves to reinstate this Appeal in accordance with Rule 240 and 260 of the South Carolina Appellate Court Rules. In support of this motion, Appellant states as follows:

1. Appellant timely filed this action on September 13, 2019 after the final order of dismissal was filed in the lower court on July 16, 2019.
2. The Appellate Court sent a letter dated November 7, 2019 for counsel to Order the Transcript for the case in accordance with the South Carolina Appellate Court Rules.
3. As this case was decided without any oral arguments, there was no transcript in the case, thus Appellant's counsel, in accordance with the South Carolina Appellate Court Rules was not required to order a transcript.
4. In addition, a second letter dated November 7, 2019, was also sent from the Court apparently indicating that a designation of appeal needed to be provided with the Initial Brief which Appellant filed with the Court on October 29, 2019.

5. Appellant's counsel was preparing for an out of town Federal trial during the week of November 7, 2019 and was in trial from November 13 through November 15, 2019 and, therefore, did not see the November 7, 2019 correspondence.
6. The Appeal in this case was therefore, improvidently dismissed. Appellant's counsel moved that the Appeal be reinstated and this Court granted counsel's motion on January 30, 2020. Unfortunately the granting of this motion was unbeknownst to Appellant's counsel as Appellant's counsel never received notice that the motion had been ruled on.
7. On February 28, 2020, this Court again dismissed this case indicating that Appellant failed to file a designation of matter to be included in the record on appeal as ordered in the Court's January 30, 2020 order which Appellant's counsel did not receive. Appellant's counsel, therefore, had no notice of the January 30, 2020 order nor any notice that this appeal had been reinstated prior to the February 28, 2020 order dismissing it.

Wherefore, Appellant's counsel respectfully requests that this Honorable Court reinstate Appellant's appeal. Respondents will not be prejudiced by the reinstatement of this Appeal nor by Appellant including the designation of Appeal as Respondent has in its possession and there is public record of all of the documents to be included in the designation. Appellant, therefore, respectfully requests that this appeal be allowed to timely proceed in accordance with the applicable rules of this Court.

[Signature on Following Page]

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Aaron Wallace', is written over a horizontal line.

Donald Gist

Aaron Wallace

Gist Law Firm, PA

4400 North Main Street (29203)

Post Office Box 30007

Columbia, South Carolina 29230

Tel. (803) 771-8007

Fax: (803) 771-0063

Email: aaronwallace.gistlawfirm@gmail.com

March 9, 2020

THE SOUTH CAROLINA COURT OF APPEALS

John Kennedy, Appellant

v.

City of Myrtle Beach Police Department and Amy Prock, Angela Kegler, and John Pederson (In their Individual Capacities), Respondents.

Appellate Case. No. 2019-001556

The Honorable Benjamin H. Culbertson
Horry County
Trial Case No. 2017CP2605913

RECEIVED

MAR 09 2020

SC Court of Appeals

Motion to Reinstate Appeal Pursuant to SCACR 240 and 260

CERTIFICATE OF SERVICE

I, the undersigned employee of the Gist Law Firm, P.A., attorneys for the Appellant in the above action, do hereby certify that I have served the foregoing, Motion to Reinstate Appeal Pursuant to SCACR 240 and 260 on Counsel for Appellee by causing a copy of the same to be personally deposited in a United States Postal service mailbox, postage prepaid, with the return address clearly visible, addressed to the attorneys for Appellee as indicated below.

Durwood L. Adyette, Esquire
T. Foster Haselden, Esquire
900 Elmwood Avenue, Suite 100
Columbia, South Carolina 29201



Shana Evans
Paralegal

March 9, 2020