

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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MAY 18 2020

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

Appellate Panel of the Full Commission

WCC Number: 1709864
Appellate Case No.: 2019-000460

Sarah Jefferies, Employee, Appellant,

v.

Milliken and Company, Employer,

and

Liberty Insurance Corporation, Carrier, Respondents.

RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL

Respondents, Milliken and Company and Liberty Insurance Corporation, request that Appellant's Motion to Reinstate Appeal be denied. In support, the Respondents state as follows:

1. Appellant is unrepresented. On March 20, 2019, this Court received the initial Notice of Appeal from Appellant.
2. This Court sent the Appellant multiple notices of deficiency regarding the Notice of Appeal.
3. On May 9, 2019, the Respondents received a copy of an Order from this Court, dated May 6, 2019, providing that this matter was dismissed due to the Appellant's failure to serve the South Carolina Workers' Compensation Commission with a copy of the Notice of Appeal pursuant to Rule 203(b)(6) of the South Carolina Appellate Court Rules.
4. Therefore, approximately one year ago, this appeal was dismissed based on the Appellant's inability to comply with the appellate court rules. In response, on May 13, 2019, Appellant filed her initial Motion to Reinstate this appeal.
5. Thereafter, the Respondents received correspondence from the Clerk of this Court, dated May 22, 2019, advising the Appellant of certain deficiencies in her Motion to Reinstate Appeal.
6. Ultimately, this Court granted the Appellant's May 13, 2019 Motion to Reinstate Appeal.
7. Initial briefing followed. Appellant filed her initial brief on August 29, 2019. Subsequently, she received additional deficiency letters regarding her Initial Brief and Designation of Matter.
8. Respondents timely served and filed their Initial Brief and Designation of Matter.
9. This Court sent numerous deficiency letters to Appellant regarding the Record on Appeal. The Appellant failed to correct these deficiencies, and this Court filed the April

23, 2020 Order dismissing the appeal. This is the second time the appeal has been dismissed for failure to follow the appellate court rules.

10. Subsequently, the Appellant filed the pending Motion to Reinstate. Contrary to the Proof of Service, that Motion was served on May 5, 2020 as shown by the envelope on file in this Court's docket. In any event, this Return, served on May 15, 2020, is timely.

11. Respondents respectfully request that the Appellant's Motion be dismissed.

12. Pursuant to Rule 260, Appellant has failed to satisfy the requirement to reinstate the appeal—Appellant has failed to show good cause why the appeal should be reinstated as follows:

- a. To date, the Appellant has failed to timely file and serve the Record on Appeal.
- b. On January 30, 2020, this Court sent Appellant a letter noting that the time for serving the Record on Appeal and filing a proof of service has expired. She was expected to serve the Record on Appeal within 10 days. She was also requested to file a motion requesting permission to serve the Record on Appeal outside the filing deadlines.
- c. Per this Court's electronic case management system, no such motion has been filed.
- d. On February 6, 2020, this Court received a document entitled "Appellant Record on Appeal." However, this document is essentially the designation of matter. It is three handwritten pages.
- e. On March 12, 2020, this Court sent another letter to the Appellant specifically denoting the deficiencies in her Record on Appeal.

- f. On March 23, 2020, Appellant attempted another correction, but the documents again appear to be merely a designation of matter rather than the actual Record on Appeal.
- g. On March 27, 2020, this Court issued a second deficiency letter regarding the Record on Appeal noting that failure to comply with the Court's request within 10 days will result in dismissal of the appeal, and, ultimately, the appeal was dismissed.
- h. Appellant's Motion to Reinstate asks for reinstatement "due to miscommunication." The Appellant does not explain or identify the miscommunication.
- i. Moreover, per South Carolina Appellate Court Rule 240(c)(3), "[w]here the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions." Appellant has filed no such document in support of her position.
- j. Appellant fails to identify any specific facts regarding a miscommunication in the pending Motion. Therefore, there can be no factual support for a finding of "good cause" necessary to reinstate the appeal.
- k. Therefore, without specific factual support necessary to find "good cause," either within the Motion or within an affidavit, Respondents assert that Appellant's Motion fails as a matter of law.

- l. This Court's case file is replete with deficiency letters sent to the Appellant. Appellant's inability to comply with the rules cannot constitute "good cause," or there would be no reason to require adherence to the rules.
- m. Appellant points to no legal authority supporting her contention that contents of the Motion are sufficient for this Court to find "good cause" for reinstatement.

FOR THE FOREGOING REASONS, Respondents respectfully request this Court issue an Order denying the Appellant's Motion to Reinstate.

BY: 

Jeffrey S. Jones, Esquire

SC Bar No. 66292

Willson, Jones, Carter, & Baxley, PA

325 Rocky Slope Rd., Ste 201

Greenville, SC 29607

(864) 527-3273

Attorney for Respondents

Date: May 15, 2020

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Sarah Jefferies, Employee, Appellant,

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Milliken, Employer,

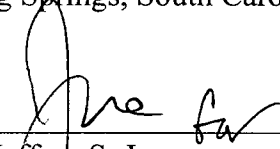
and

Liberty Ins. Co..... Respondents.

PROOF OF SERVICE

I certify that I have served the Respondents' Return to the Motion to Reinstate Appeal on Sarah Jefferies by depositing a copy of it in the United States Mail, postage prepaid, on September 25, 2019, addressed to her at PO Box 161606, Boiling Springs, South Carolina 29316.

May 15, 2020



Jeffrey S. Jones
Willson Jones Carter & Baxley, P.A.
325 Rocky Slope Road, Ste 201
Greenville, South Carolina 29607
(864) 527-3273
Attorney for Respondents

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA MYRTLE BEACH

Jeffrey S. Jones
Direct (864) 527-3273
Fax (864) 235-6015
jsjones@wjlaw.net

325 Rocky Slope Road, Suite 201
Greenville, SC 29607
www.wjcbllaw.com

May 15, 2020

The Honorable Jenny Abbott Kitchings, Clerk
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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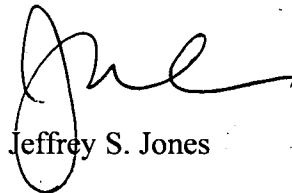
Re: Sarah Jefferies vs. Milliken and Company
Case No. 1709864; Appellate Case No. 2019-000460

Dear Honorable Kitchings:

Enclosed for filing is a Return to Appellant's Motion to Reinstate Appeal with six copies in the above case.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Jeffrey S. Jones

JSJ/tlb

Enclosures

Cc: Sarah Jefferies (with enclosure)

JSJ
Willson, Jones, Carter & Baxley
325 Rocky Slope Rd Suite 201
Greenville, SC 29607

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