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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Full Commission Appellate Panel Order

WCC File No.:1315719

Appellate Case No.: 2019-001851

Nathaniel Spann, Employee.....Appellant,

v.

Professional Systems, Employer,

AND

Liberty Mutual, Carrier.....Respondents.

MOTION TO DISMISS

Appellants, by and through the undersigned attorney, hereby move before this Honorable Court for an order dismissing this appeal based on two arguments. First, Appellant’s repeated failure to comply with the South Carolina Appellate Court Rules. Second, Appellant’s underlying appeal is without merit as this case, and accompanying appeals, have already been adjudicated.

Since Appellant’s Notice of Appeal was filed on November 4, 2019, Appellant has repeatedly failed to comply with the South Carolina Appellate Court Rules. Specifically, deficiencies were noted on November 27, 2019; December 10, 2019; January 15, 2020; and April 24, 2020. Moreover, this Honorable Court has granted Appellant’s Motion for Extension for filing his Record on Appeal on April 1, 2020, as well as two extensions for correcting numerous

deficiencies in Appellant's Record on Appeal, on May 20, 2020, and June 16, 2020, respectively. In this Court's last Order filed June 16, 2020, the Court allowed Appellant to have until July 6, 2020, to file a corrected Record on Appeal. The Court also determined "no further extension will be granted absent extraordinary circumstances." On July 6, 2020, Appellant filed yet another motion requesting an extension to file a corrected Record on Appeal. Significantly, Appellant used the same reason given in his second motion for an extension, with virtually identical wording, as grounds for requesting another 60 days to file a corrected Record on Appeal. Respondents contend Appellant's repeated ground does not constitute extraordinary circumstances and as such, does not warrant an additional extension be granted. Accordingly, Respondents respectfully request this Court deny Appellant's Motion for an Extension and dismiss this appeal.

In addition to the foregoing, Respondents submit Appellant's Initial Brief does not comply with Rule 207, SCACR.

While Respondents appreciate Appellant's status as a pro se litigant, that fact alone does not give Appellant permission to repeatedly disregard the Appellate Court Rules. Even in light of Appellant's pro se status, his noncompliance with the rules are not inadvertent, technical errors or minor discrepancies. *See Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794 (1992). In sum, "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel [or pro se litigant] to provide material that complies with the Rules and facilitates appellate review." *Id.* at 437, 415 S.E.2d 794.

Notwithstanding the numerous procedural deficiencies upon which this Court would be justified in dismissing the appeal, Respondents also assert the underlying appeal is without merit because it has already been adjudicated. *Id.* Accordingly, Respondents submit to continue to adjudicate the appeal once again, fraught with procedural deficiencies, would not be in the interest of judicial economy as it would waste numerous resources.

The case is about a work-related injury that occurred almost 7 years ago, on September 12, 2013. Since that time, Appellant's workers' compensation claim has been heard multiple times by a single Commissioner and has gone before a Full Commission at least two different times. Perhaps most significant, however, is the fact that this Honorable Court has dismissed this appeal twice before, due to Appellant's failure to comply with the South Carolina Appellate Court Rules. *See* Appellate Case No. #2015-001677, Appellate Case No. #2016-001117. Respondents argue Appellant has had ample time—and multiple opportunities to correct procedural deficiencies—over the past several years to have his argument heard. Respondents' Initial Brief argues the appeal should be denied on the basis of the legal doctrine *Res Judicata*, because the issues have been fully adjudicated. *See* Respondents' Initial Brief. Therefore, even without the repeated deficiencies in Appellant's filings, adjudicating the appeal again would not be in the interest of judicial economy.

In sum, Respondents submit Appellant has not demonstrated extraordinary (or new) circumstances upon which to be granted an additional extension to correct deficiencies that he has had sufficient time to correct. On this ground alone, Respondents would respectfully request this Court deny Appellant's Motion for an Extension of Time and grant Respondents' Motion to Dismiss. As additional grounds to support Respondents' request for an Order granting the Motion to Dismiss, Respondents would urge the Court to look at Appellant's pattern of continued deviation from, and disregard for, the South Carolina Appellate Court Rules despite abundant time and opportunity to take notice of such over the last several years of pursuing the same appeal. Finally, even assuming *arguendo* Appellant was complying with the South Carolina Appellate Court Rules, Respondents point to the underlying argument put forward by Appellant and respectfully request this Court to grant the Motion to Dismiss on the grounds that continuing the appeal is not in the interest of judicial economy as the case has been fully and appropriately previously adjudicated. Accordingly, Respondents respectfully request this Honorable Court grant Respondents' Motion to Dismiss.

Respectfully submitted,

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