

42977

THE SOUTH CAROLINA COURT OF APPEALS

Coleen R. Kennedy, Appellant

RECEIVED

v.

JUL 20 2020

South Carolina Technical College System & Horry-Georgetown Technical, College, Respondents.

SC Court of Appeals

Appellate Case. No. 2019-001749

The Honorable Benjamin H. Culbertson
Horry County
Trial Case No. 2018CP2601696

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 October 17, 2019 after the final order of dismissal was filed in the lower court on July 24, 2019.
2. The original proceeding in this action dismissed this case on Summary Judgment on July 24, 2019.
3. On November 19, 2019 counsel for Appellant received notice from the Clerk of the Appellate Court through a November 18, 2019 deficiency letter for counsel to Order the Transcript and to file a motion requesting permission to order the transcript outside of the filing deadlines in accordance with Rule 207 of the SCACR. This motion was granted on January 24, 2020 and Plaintiff thereafter timely sent off her transcript request form on February 4, 2020 to the Court Reporter.

4. The clerk's office has indicated that a letter was sent to Appellant's counsel's office on February 7, 2020 requesting an update regarding the status of the transcript, but Appellant's counsel's records do not reflect receipt of this letter.
5. Following the request to the Court Reporter for the transcript, but prior to issuing payment to the Court Reporter, Appellant's counsel's office was shut down due to the Covid-19 crises. As a result of the crises and shut down of the office, Appellant's counsel sent the payment to the Court Reporter on June 18, 2020 and the transcript was received by Appellant's counsel on June 19, 2020.
6. Appellant's counsel sent an email to Appellee's counsel on July 15, 2020 requesting that they consent to a thirty (30) day extension of the time to file initial briefs. On July 16, 2020, Appellee's counsel consented to this request. (See attached emails).
7. Subsequent to the sending of the transcript but prior to Appellant having an opportunity to file her initial brief, this case was dismissed via a letter from the Clerk dated July 16, 2020 which indicated the dismissal was based upon Appellant's failure to respond to the February 7, 2020 letter requesting an update regarding the status of the transcript. Appellant's counsel never received this correspondence and only found out about such correspondence after the case was dismissed.
8. Appellant's counsel is informed and believes that if this Court allows Appellant to reinstate her appeal Appellee will not be prejudiced in anyway as Appellee has consented to an extension of the time to file initial briefs, any delays were caused, in part, by the Covid-19 crises and the shut down of Appellant's counsel's office, and the reinstatement of this Appeal will not substantively impair the merits of the case in any way.

Wherefore, Appellant's counsel respectfully requests that this Honorable Court reinstate Appellant's appeal and allow Appellant to file her initial brief. Appellant respectfully requests that this appeal then be allowed to timely proceed in accordance with the applicable rules of this Court.

Respectfully Submitted,



Donald Gist
Aaron Wallace
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7/20, 2020

EMAIL ATTACHMENTS

From: Emmanuel Ferguson eferguson@clevelandlaborlaw.com
Subject: RE: Coleen Kennedy
Date: July 16, 2020 at 10:53 AM
To: Aaron Wallace aaronwallace.gistlawfirm@gmail.com

Hello Aaron,

We will consent to your request for an extension. Let me know when you have a proposed consent motion to review.

Respectfully,

Emmanuel J. Ferguson
CLEVELAND & CONLEY, LLC
One Seventy-One Church Street
Suite 310
Charleston, South Carolina 29401
Telephone: (843)577-9626
Facsimile: (843) 577-6672

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From: Aaron Wallace
Sent: Wednesday, July 15, 2020 10:14 AM
To: Emmanuel Ferguson
Subject: Coleen Kennedy

Dear Emmanuel:

Good morning.

We just got the transcript back for this appeal not too long ago. Are you ok with a 30 day extension on briefs? There is a lot going on and we are still working remotely. Let me know. Thanks.

-Aaron

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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.

Bob J. Conley, Esquire
Emmanuel J. Ferguson, Sr., Esquire
Cleveland & Conley, LLC
171 St. #310
Charleston, SC 29401



Aaron Wallace

7/20, 2020