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Apr 05 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Appellate Case No. 2019-000369
W.C.C. File Nos. 1322451, 1319203, 1420487

Terry Capone,Appellant,

v.

City of Columbia, Employer, and
Companion Third Party Administrator, LLC, Carrier, Respondents.

**RETURN OF RESPONDENTS IN OPPOSITION TO APPELLANT'S
PETITION/MOTION TO REINSTATE APPEAL**

Respondents City of Columbia, Employer, and Companion Third Party Administrator, LLC, Carrier, ("Respondents") submit this return in opposition to Appellant's Petition/Motion to Reinstate Appeal, filed March 25, 2021.

The Court's March 12, 2021 Order dismissing Appellant's appeal does so on the basis that Appellant has repeatedly failed to comply with applicable provisions of the South Carolina Appellate Court Rules, specifically the Rules pertaining to preparation, service, and filing of the Record on Appeal, as well as multiple Orders from this Court extending and clarifying those deadlines. Rather than explain or attempt to show good cause¹ for excusing his repeated delays and disobedience of the Court's Rules and prior orders, Appellant instead has submitted an 87-

¹ Rule 260(a), SCACR, provides that "[a] case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties."

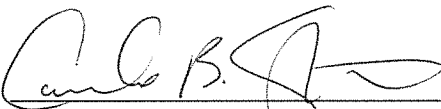
page missive that largely rehashes the same criticisms and unsubstantiated allegations previously leveled against the Commission and opposing counsel.

Appellant has consistently disregarded the Appellate Court Rules and filed multiple requests for extensions, all resulting in significant additional expenditure of resources by the Court and Respondents. Just by way of example, Appellant has yet to serve (or file) an initial brief, designation of matter, or record that complies with the Appellate Court Rules. These are precisely the shortcomings that have been deemed sufficient to warrant dismissal of an appeal. *See Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794 (1992) (“[T]he 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 to provide material that complies with the Rules and facilitates appellate review.”). Given Appellant’s consistent disregard for the Rules and this Court’s orders, his motion should be denied.

CONCLUSION

For the reasons stated herein, Respondents respectfully submit that Appellant’s Petition/Motion to Reinstate Appeal should be denied.

April 5, 2021

By: 
Cynthia C. Dooley (SC Bar No. 13623)
Carmelo B. Sammataro (SC Bar No. 69746)
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ATTORNEYS FOR RESPONDENTS

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PROOF OF SERVICE

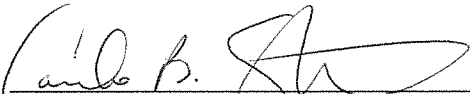
I certify this 5th day of April 2021 that I have served a copy of the **RETURN OF RESPONDENTS IN OPPOSITION TO APPELLANT'S PETITION/MOTION TO REINSTATE APPEAL** by electronic mail addressed to the following:

Terry Capone
130 Summerlea Drive
Columbia, SC 29203
tcapone@liberty.edu

APPELLANT, *PRO SE*

(Signature page to follow.)

April 5, 2021

By: 
Cynthia C. Dooley (SC Bar No. 13623)
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SC Court of Appeals

VIA E-MAIL (ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC
Appellate Case No.: 2019-000369
File No.: 15030.119

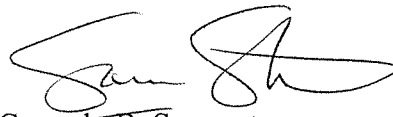
Dear Ms. Kitchings:

Attached for electronic filing are the Return of Respondents in Opposition to Appellant's Petition/Motion to Reinstate Appeal and the Proof of Service regarding the above-referenced matter. Thank you for your assistance with this matter, and please do not hesitate to contact me with any questions.

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Carmelo B. Sammataro

CBS/tj

Enclosures

cc: Terry Capone, Appellant *pro se* (w/enc., via e-mail)