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Jul 20 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE S.C. ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2020-001506

Tamika E. Howard,

Appellant.

v.

South Carolina Department of Employment
and Workforce, and United Cerebral Palsy
of South Carolina,

Respondents,

**RESPONDENT'S REPLY TO APPELLANT'S RETURN TO MOTION TO
STRIKE AMENDED RECORD and DISMISS APPEAL**

Respondent South Carolina Department of Employment and Workforce (Department), respectfully files this Reply to Appellant's Return to Respondent's Motion to strike Appellant's "Amended Record on Appeal" and dismiss Appellant's appeal. The Department reasserts this Court should grant its motion for the following reasons.

The Department's motion should be granted because this Court's Order issued June 7, 2021, clearly and specifically ordered Appellant to file and serve an amended record on appeal which "**must include all items listed in Respondent's designation of matter.**" (Emphasis added.) The Order explicitly advised Appellant that "[f]ailure to comply with this order may result in the dismissal of this appeal." Appellant directly disregarded this Court's Order by filing an amended record on appeal on June 8, 2021, that was again incomplete and did not contain the items in Respondent's designation of

matter, in violation of this Court's Order and in violation of the SCAC Rules governing this appeal.

The Court has been lenient and accommodating to Appellant in recognition of her *pro se* status. This Court has graciously granted Appellant leniency with ample notice and opportunities to correct her deficiencies in this appeal to comply with fundamental appellate rules governing this matter, but Appellant again failed to comply with SCAC Rules and the clear and specific directives in this Court's June 7, 2021, Order.

The Court has consistently held, "[A] party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney." *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988). Appellant's failure to understand the procedures to be followed in pursuing an appeal cannot excuse her lack of compliance with the rules. *See Hill v. Dotts*, 345 S.C. 304, 547 S.E.2d 894 (Ct. App. 2001) (finding that a party's lack of familiarity with legal proceedings does not constitute excusable neglect which would relieve the party from a default judgment). There is a limit beyond which the court should allow a litigant to consume the time of the court and to prolong unnecessarily time, effort, and costs to defending parties." *Georganne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990) quoting *Therens v. Faircloth*, 291 S.C. 451, 354 S.E.2d 54 (Ct.App.1987).

Appellant's failures to comply with the Rules and to disregard the clear and specific written directives from this Court in its June 7, 2021 Order justify dismissal of her appeal. Accordingly, the Department's Motion to Strike Appellant's "Amended Record on Appeal" and dismiss this appeal should be granted.

In the alternative, if the Court declines to dismiss this appeal, the Court should strike Appellant's "Amended Record on Appeal" and require Appellant to fully comply with this Court's June 7, 2021, Order and to file and serve a proper Record on Appeal in accordance with all the requirements of SCAC Rules. Pursuant to Rule 210 (c), SCACR, Appellant is required to include in the Record on Appeal all matter designated in the Respondent's Designation of Matter. Further, Rule 210 (c), SCACR, details specific requirements regarding the content and proper formatting of the Record on Appeal.

Appellant has the burden of providing an adequate record on appeal. *Solley v. Navy Fed. Credit Union, Inc.*, 397 S.C. 192, 723 S.E.2d 597 (2012). The Department objects to Appellant's request that the Department compile the documents necessary to complete the Record on Appeal and to her request that the Department submit the required Record on Appeal to the Court and the parties, instead of Appellant. Appellant has been provided a copy of all documents necessary for the compilation of the Record on Appeal in this case by the S.C. Administrative Law Court and the Department.

Appellant has chosen to represent herself and is not relieved of the duty to provide a proper Record on Appeal that complies with this court's orders and rules. *See State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003). ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law."). Pursuant to SCAC Rules, Appellant bears responsibility for completing the Record on Appeal and for filing and serving a proper Record on Appeal upon the parties. This responsibility should not be shifted to the Department.

For the foregoing reasons, the Department respectfully moves that its motion be granted and that Appellant's "Amended Record on Appeal" be stricken and the appeal be dismissed. In the alternative, if the Court declines to dismiss the appeal, the Court should require Appellant to fully comply with its June 7, 2021 Order and to file and serve a proper Record on Appeal in accordance with all the requirements of SCAC Rules governing this appeal.

Respectfully submitted,



Sandra Grooms (S.C. Bar # 640)
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S.C. Department of Employment and Workforce

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Respondents.

PROOF OF SERVICE

I certify that I have served the Respondent's Reply to Appellant's Return to Motion to Strike Amended Record and Dismiss Appeal on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, and by email on July 20, 2021, addressed to the parties at their addresses of record:

Tamika E. Howard
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July 20, 2021



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VIA EMAIL AND US MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Tamika E. Howard v. South Carolina Department of Employment and
Workforce
Appellate Case No: 2020-001506

Dear Ms. Kitchings:

Enclosed is the Respondent's Reply to Appellants Return to Motion to Strike Amended Record and Dismiss Appeal, in the above referenced case. A Proof of Service is also included in this packet.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kristi Chesley".

Kristi Chesley
Administrative Legal Assistant for
Sandra Grooms
Attorney for Respondent South Carolina
Department of Employment and Workforce