

Angela D. Granderson-Croft

September 16, 2021

SENT VIA EMAIL

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

RECEIVED

Sep 16 2021

SC Court of Appeals

SENT VIA EMAIL

Jana Shealy, Clerk of Court
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

RE: Appeal of South Carolina Administrative Law Court to Not Accept Submission of
an Appeal by Electronic Submission of Angela D. Granderson-Croft

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are:

1. Proof of Service;
2. Motion for Leave to File In Forma Pauperis;
3. Affidavit of Appellant; and
4. Decision of South Carolina Administrative Law Court Not to Accept Filing by Electronic Submission.

This Appeal is being filed pursuant to South Carolina Appellate Court Rule 203(b)(6)

Sincerely,


Angela D. Granderson-Croft

Attachments

RECEIVED

IN THE SOUTH CAROLINA COURT OF APPEALS

Sep 16 2021

SC Court of Appeals

IN RE: APPEAL FROM SOUTH CAROLINA
DEPARTMENT EMPLOYMENT WORKFORCE
AND SOUTH CAROLINA ADMINISTRATIVE COURT
DECISION

ANGELA D. GRANDERSON-CROFT

APPELLANT

VS.

Case No. _____

SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPELLEE

**APPEAL OF DECISION OF
THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT TO REJECT
APPELLANT'S ELECTRONIC SUBMISSION OF APPEAL**

On or about August 12, 2021, Appellant submitted her Appeal to the South Carolina Administrative Law ("SCALC") appealing the decision of the Appellant Panel for South Carolina Department of Employment Work Force dated July 13, 2021 (Exhibit A). This email was sent to the Clerk of SCALC, Jana Shealy ("Shealy"). After failing to receive any acknowledgement of receipt of the Appeal, on August 16, 2021, Appellant contacted Shealy to confirm receipt and filing of the Appeal (Exhibit B). On the same day, Shealy replied

I am including a link from our website that provides instructions for filing an appeal from DEW Appellant Panel Decision to the Administrative law Court.
Emailing does constitute filing with the Court (Exhibit C)

However, there no link attached to the email. Appellant responded to that email as follows:

Thanks for your email but there was not a link in the email. The Appeal was due on April (sic; Claimant meant August) 13, 2021, and I emailed it to you on April (sic; Claimant meant August)12, 2021 as the Clerk of Court. As is the case with all courts, the Clerk of Court is the appropriate party to receive documents for filing for the court. Additionally, if/when a document is erroneously sent to the wrong person or court, the submission should be forwarded to the appropriate person and deemed filed on the date it was received by the erroneously recipient. Lastly, as I am sure you are aware, the State of South Carolina has returned to an emergent state due to a surge in Covid19 diagnoses. As a result, SCALC website indicates special procedures due to this pandemic. My Appeal was submitted electronically

and received by SCALC on April 12, 2021. Surely, there has to be some leeway on this. Had I received an email on April 13, 2021, the day after the filing was submitted via email, I would have had time to correct this issue before time expired for the Appeal to be filed.

Please be so kind as to:

1. Forward the filing to the appropriate person/place for filing; or
2. Provide me with a deficiency notice of my submission so that I may submit it to the appropriate person; and
3. Provide the link that was not included in your previous email.

Exhibit D.

Shealy responded as reflected below but failed to respond to the issues raised in the email, stating, in pertinent part:

The Court does not communicate by emailing particularly with respect to the initial filing of a case with Court. **My previous email should have stated that emailing DOES NOT constitute filing with the Court as is specifically addressed in our Rules of Procedure.**

Exhibit E.

ARGUMENT

South Carolina Appellate Court Rule 203(b)(6) specifically states:

When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision. If a timely petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion. If a decision indicates that a more full and complete decision is to follow, a party need not appeal until receipt of the more complete decision.

Even though Appellant never received an actual written decision from SCALC rejecting the filing of the Appeal, it is SCALC's position that the Appeal was not timely submitted based solely on the fact that it was submitted via email. This contention is supported by the following facts:

1. Email exchanges between Appellate and Shealy did not reflect any other reason for this issue other than the method of submission;
2. Appellant specifically asked of Shealy on two occasions about a deficiency notice regarding the electronic submission of Appeal to SCALC

Shealy's email dated August 16, 2021 (Exhibit D hereinabove) serves as SCALC's Decision. Thus, establishing this Court has jurisdiction over the parties and the subject matter.

On August 27, 2021, Appellant sent an email to Shealy stating:

Based on your email below, which states, "Emailing does constitute filing with the Court", please:

1. Advise if the filing of my Appeal was deficient in any way;
2. Advise if the administrative law court case number; and
3. Advise of the deadline for submission of a supporting Brief.

Exhibit E

ARGUMENT

Filing with Court. After the request for hearing and filing fee are delivered to the Court, all filings must be made with the administrative law judge assigned to the case and shall contain the docket number assigned. The Court will maintain its official file from the receipt of the request for hearing until a final order is issued by the administrative law judge.

Appellant submitted the filing prior to the deadline which is being rejected based on the fact that the submission was sent via email. The method of filing does not and cannot be the sole reason a filing is rejected during a pandemic.

Pandemic Concessions. On the day the appeal was submitted to SCALC, the City of Columbia was under a state of emergency. During this emergency, clerks of the trial courts may permit documents to be filed by electronic methods such as fax and email. If the clerk elects to do so, the clerk will post detailed information on the court's website regarding the procedure to be followed but the important word is "may". Additionally, Appellant was unable to find any statement on the SCALC which stated filing by email was prohibited. What was reflected on SCALC's website on the day Appellant submitted her Appeal to SCALC was the announcement regarding Covid19 procedures (Exhibit G) that began with the words, "For the duration of the Covid-19 pandemic"... This statement was removed from the website within days of August 12, 2021, but Appellant screenshot it on August 12, 2021. This statement reflects that SCALC acknowledged the seriousness of the pandemic but elected not to make concession for it. Furthermore, the day before the submission of the appeal, SCDHEC issued a statement stating South Carolina had surpassed 10,000 Covid-related deaths. At the time of the submission of Appeal by Appellant to SCALC, the Mayor of the City of Columbia declared the city in an emergency due to the Delta variant of Covid19.

On July 19, 2021, the United States Supreme Court announced:

Out of Concern for the health and safety of public and Supreme Court employees, the Supreme Court Building will be closed to the public until further notice.

Appellant asserts that if the U.S. Supreme Court is making allowances and adopting procedures due to Covid19, so should other courts and tribunals. Additionally, even this Honorable Court

provides an option for electronic filings during Covid19, recognizing and doing its part to limit the danger of Covid exposure and so should the agency whose Appeals come before it.

Lastly, Appellant has multiple cardiac conditions that are completely manageable but become detrimental had she contracted Covid19. These cardiac conditions include an enlarged heart, mitral valve prolapse and Atrial fibrillation which previously caused her to go into cardiac arrest at the age of 43. Appellant took all necessary precautions which included not leaving her residence other than for doctors appointments. She received the first dose of the Covid19 vaccination on March 21, 2021 and the second dose on April 11, 2021. At that time, she diligently began search employment and secured employment in August 2021. However, according to the CDC, those risk factors are still present in the form of breakthrough cases which is when a fully vaccinated person later gets the disease they were vaccinated for. Therefore, Appellant continues to be vigilant by limiting where she goes, wearing gloves as well as a face shield and a face mask simultaneously. The expectation of a litigant physically come to SCALC to submit Appeals is a risk Appellant could not and cannot make.

Even if Appellant had mailed the Appeal to SCALC, there was still a risk that it would have been delivered prior to the deadline. USPS' website reflects that mail and packages require more delivery time due to limited transportation availability brought on by Covid19.

Filing Defined. The date of the filing is the date of delivery or the date of mailing. A document is deemed filed with the Court by: (1) delivering the document to the Court; (2) by depositing the document in the U.S. mail, properly addressed to the Court, with sufficient first class postage attached; or (3) as otherwise approved by the Court through administrative order. Based on this premise, Appellant asserts that her August 12, 2021 Appeals submission to SCALC should be deemed filed on that day.

Final Decision or Order in a Contested Case. A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accomplished by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by email of any decision or order.

Appellant did not receive any such finding of fact, but an email stating submission of email does not constitute a filing. It is also important to note that, had Appellant had not initiated communication via email on August 16, 2021 (Exhibit D hereinabove), she never would have known her Appeal was rejected by SCALC and could have lost her right to appeal to this Honorable Court.

Judicial Review Upon Exhaustion of Administrative Remedies. A party who has exhausted all administrative remedies available within the agency and who is aggrieved by the final decision in a contested case is entitled to judicial review pursuant to statute and does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or immediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide any adequate remedy. Except as provided by law, an appeal is to the Court of Appeals.

Appellant asserts that all administrative option have been exhausted which is supported by her email to Shealy in which she stated:

My Appeal was submitted electronically and received by SCALC on April 12, 2021. Surely, there has to be some leeway on this. (Exhibit D hereinabove).

Shealy failed to address this portion of Appellant's email, leaving Appellant out of administrative options.

Signature Affixed to Pleadings. A lawyer may sign documents using "s/[typed name of lawyer]," a signature stamp, or a scanned or other electronic version of the lawyer's signature. Regardless of form, the signature shall still act as a certificate under Rule 11, SCRPC, that the lawyer has read the document; that to the best of the lawyer's knowledge, information, and belief there is good ground to support it; and that the document is not interposed for delay. The same premise holds true for pro se parties.

Clerk Rejection/Deficiency Notices. Most courts send deficiency notices to the party, rather than rejecting the document outright, which allows the E-Filer to correct any errors and "save" the time of filing or service. Appellant inquired about a deficiency notice to Shealy (Exhibits D and F hereinabove) but she failed to address it. A document is deemed received at the exact time the document was submitted by an E-Filer, regardless of when that document is reviewed by the Clerk of Court. This ensures that documents which are timely submitted are deemed timely served and filed, regardless of whether they are reviewed and formally accepted by the Clerk of Court that day or on a subsequent day. Furthermore, had Appellant not initiated contact with Shealy on August 15, 2021, she never would have known her filing was rejected.

Respectfully submitted,


Angela D. Granderson-Croft, Pro Se Appellant
614 Harbour Pointe Drive
Columbia, SC 29222
(803) 570-6047
angdengracro@gmail.com

September 16, 2021

Columbia, SC

RECEIVED

Sep 16 2021

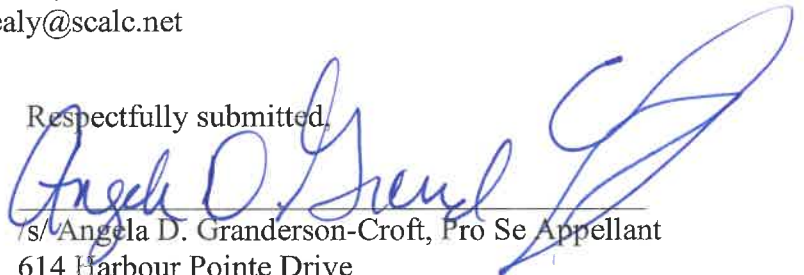
SC Court of Appeals

Certificate of Service

The undersigned hereby certifies that a copy the Motion for Leave to File In Forma Pauperis was hereby served, via electronic mail, to the following:

Clerk of Court
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201
jshealy@scalc.net

Respectfully submitted,



/s/ Angela D. Granderson-Croft, Pro Se Appellant
614 Harbour Pointe Drive
Columbia, SC 29222
(803) 570-6047
angdengracro@gmail.com

September 16, 2021

Columbia, SC

From: **Angela Granderson-Croft** <angdengracro@gmail.com>

Date: Thu, Aug 12, 2021, 10:33 PM

Subject: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT

Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

To: <jshealy@scal.net>

As SCALC Clerk ;of Court, i am submitting the attached Appeal of Panel Decision to you for filing with the court.

Angela Granderson Croft

Exhibit A

From: Angela D. Granderson-Croft <agrandersoncroft@collinsandlacy.com>

Sent: Monday, August 16, 2021 8:32 AM

To: Jana E. Shealy <jshealy@scal.net>

Subject: FW: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

Below is an email transmitting an Appeal emailed to you for filing on August 12, 2021. Please confirm receipt and docketing of this Appeal. FYI, I am employed at Collins & Lacy and Collins & Lacy is **NOT** representing me in this matter.

Exhibit B

From: Jana E. Shealy <jshealy@scalcal.net>

Sent: Monday, August 16, 2021 9:23 AM

To: Angela D. Granderson-Croft <agrandersoncroft@collinsandlacy.com>

Cc: Susan C. Dickerson <sdickerson@scalcal.net>

Subject: RE: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

Good morning,

I am including a link from our website that provides instructions for filing an appeal from the DEW Appellate Panel Decision to the Administrative Law Court. E-mailing does constitute filing with the Court.

Please let me know if you have any questions.

Jana E. Cox Shealy
Clerk of Court
S.C. Administrative Law Court
1205 Pendleton St., Suite 224
Phone: 803.734.0550
Fax: 803.734.6400

Exhibit C

From: Angela D. Granderson-Croft <agrandersoncroft@collinsandlacy.com>

Sent: Monday, August 16, 2021 10:14 AM

To: Jana E. Shealy <jshealy@scalc.net>

Cc: jdickerson@scalc.net

Subject: RE: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

Thanks for your email but there was not a link in the email.

The Appeal was due on April 13, 2021, and I emailed it to you on April 12, 2021 as the Clerk of Court. As is the case with all courts, the Clerk of Court is the appropriate party to receive documents for filing for the court. Additionally, if/when a document is erroneously to the wrong person or court, the submission should be forwarded to the appropriate person and deemed filed on the date it was received by the erroneously recipient. Lastly, as I am sure you are aware, the State of South Carolina has returned to an emergent state due to a surge in Covid19 diagnoses. As a result, SCALC website indicates special procedures due to this pandemic. My Appeal was submitted electronically and received by SCALC on April 12, 2021. Surely, there has to be some leeway on this. Had I received an email on April 13, 2021, the day after the filing was submitted via email, I would have had time to correct this issue before time expired for the Appeal to be filed.

Please be so kind as to:

1. Forward the filing to the appropriate person/place for filing; or
2. Provide me with a deficiency notice of my submission so that I may submit it to the appropriate person; and
3. Provide the link that was not included in your previous email.

Thank you.

Exhibit D

From: Jana E. Shealy <jshealy@scalp.net>

Sent: Thursday, August 19, 2021 9:27 AM

To: Angela D. Granderson-Croft <agrandersoncroft@collinsandlacy.com>

Cc: Susan C. Dickerson <sdickerson@scalp.net>

Subject: RE: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

Ms. Granderson,

The Court does not communicate by emailing particularly with respect to the initial filing of a case with the Court. My previous email should have stated that e-mailing DOES NOT constitute filing with the Court as is specifically addressed in our Rules of Procedure. If you need questions answered other than what is included in the link I provided, and the Court's Rules, again, you need to call and speak with myself or Susan Dickerson at (803) 734-0550.

Further, in your below email you stated that you emailed the appeal on April 12 and it was due on April 13. I am presuming that because you emailed it on August 12, that you meant August instead of April. However, that does not change our Rules in that a case cannot be filed by email.

Jana E. Cox Shealy
Clerk of Court
S.C. Administrative Law Court
1205 Pendleton St., Suite 224
Phone: 803.734.0550
Fax: 803.734.6400

Exhibit E

From: Angela D. Granderson-Croft
Sent: Friday, August 27, 2021 8:59 AM
To: Jana E. Shealy <jshealy@scalcalc.net>
Cc: Susan C. Dickerson <sdickerson@scalcalc.net>
Subject: RE: SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT WORKFORCE ANGELA GRANDERSON-CROFT Clamant SS#: XXX-XX-2682 Claimant ID: 10987918 Appeal #: 21-HA-001973

Based on your email below, which states, "E-mailing does constitute filing with Court", please :

1. advise if the filing of my Appeal is deficient in any way;
2. advise of the Administrative Law Court case number; and
3. advise of the deadline for submission of a supporting Brief.

If I do not hear back from you today, have a great weekend. Thanks in advance.

Exhibit F



SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224 COLUMBIA, SC 29201 VOICE: (803) 734-01



- Home
- ALC Rules
- Forms
- Decisions
- Judges
- Organizational Listing
- OMVH
- Annual Report

For the duration of the COVID-19 pandemic, please call the Clerk's Office first before visiting in person to see if your question or request can be answered over the phone. You may ask to speak with Jana Shealy, Clerk of Court, or Susan Dickerson, Assistant Clerk at (803) 734-0550. You may email questions to either at jshealy@scalcn.net or sdickerson@scalcn.net. Instructions for walk-in filings will be posted at the Court's entryway.

May 25, 2021 COVID Memorandum - Hearing Procedure

Mission of the Administrative Law Court

The mission of the Administrative Law Court is to provide a neutral forum for fair, prompt and objective hearings for any person affected by an action or proposed action of certain agencies of the State of South Carolina.

Creation of the Administrative Law Court

The Administrative Law Court is an agency and court of record within the executive branch of state government. The Court was created by the South Carolina General Assembly by Act No. 181 of 1993, to provide an independent forum for hearing the contested cases of state agencies. Previously, citizens desiring an evidentiary hearing to challenge the action of a State agency were heard by hearing officers employed by that particular agency.

Jurisdiction

The Court's jurisdiction is statutory in nature. Because the Court is an agency within the executive branch of state government, its power to hear a particular type of case from a particular agency is derived exclusively from the legislative branch of state government, the General Assembly.

Exhibit G



RECEIVED

IN THE SOUTH CAROLINA COURT OF APPEALS

Sep 16 2021

SC Court of Appeals

IN RE: APPEAL FROM SOUTH CAROLINA
DEPARTMENT EMPLOYMENT WORKFORCE
AND SOUTH CAROLINA ADMINISTRATIVE COURT
DECISION

ANGELA D. GRANDERSON-CROFT

APPELLANT

VS.

Case No. _____

SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

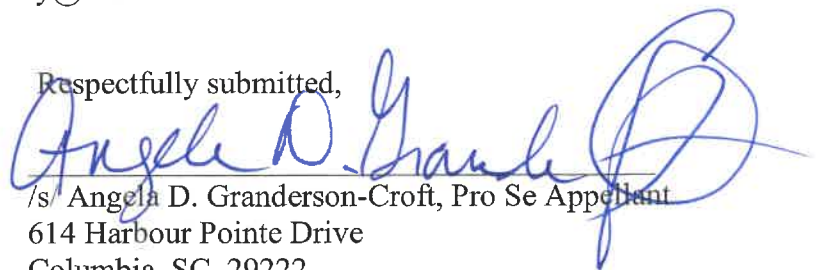
APPELLEE

NOTICE OF SERVICE

The undersigned hereby certifies that the Appeal to the South Carolina Court Appeals was hereby served, via electronic mail, to the following:

Clerk of Court
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendelton Street, Suite 224
Columbia, SC 29201
jshealy@scalc.net

Respectfully submitted,



/s/ Angela D. Granderson-Croft, Pro Se Appellant

614 Harbour Pointe Drive
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angdengracro@gmail.com

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Sep 16 2021

SC Court of Appeals

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