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Sep 24 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

The Honorable Allison Renee Lee, Circuit Court Judge

Case No. 2020-CP-40-01980
Appellate Case No. 2021-000804

Johnnie Cordero Appellant (pro se),

v.

Matthew Kisner, in his official capacity as Chair of the Richland County Democratic Party; the Richland County Democratic Party; Trav Robertson, Jr., in his official capacity as Chair of the South Carolina Democratic Party; and the South Carolina Democratic Party Respondent.

**RESPONDENTS' JOINT RETURN TO
APPELLANT'S MOTION FOR REINSTATEMENT OF APPEAL**

On September 16, 2021, the Clerk of this Court issued an Order dismissing this appeal because Appellant Johnnie Cordero ("Appellant") failed to provide a proof of service for the transcript request form, as required by Rule 207, SCACR. Appellant now asks the Court to reinstate his appeal for "good cause shown," pursuant to Rule 260(a), SCACR. Respondents Matthew Kisner, the Richland County Democratic Party, Trav Robertson, Jr., and the South Carolina Democratic Party (collectively, "Respondents") respectfully object to reinstatement and urge this Court to deny Appellant's Motion.

The South Carolina Appellate Court Rules set forth specific, unambiguous procedural requirements with which a party intending to appeal must comply. It is well-settled that “failure to comply with procedural requirements for an appeal divests a court of appellate jurisdiction.” State v. Brown, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004).

Rule 207(a)(1), SCACR, requires the appellant to order a transcript of the entire lower court proceeding within ten days after the date of service of the notice of appeal. Rule 207(a)(1), SCACR, also requires the appellant to contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter and to file a proof of service evidencing the same.

On August 18, 2021, the Clerk’s office issued a deficiency letter instructing Appellant to serve and file a proof of service certifying service of the transcript request form on Respondents and the Office of Court Administration, as required by Rule 207, SCACR, within ten days of the date of the letter. The Court’s letter warned Appellant that his failure to correct the identified deficiency within the time provided would result in the dismissal of this appeal.

On September 16, 2021, the Clerk issued the subject Order of dismissal for Appellant’s failure to comply with Rule 207, SCACR, and the Court’s deficiency letter.

Appellant argues that the Court should reinstate his appeal because he allegedly complied with the requirements of Rule 207, SCACR, and the Court’s deficiency letter by depositing copies of the proof of service in the U.S. mail within the prescribed time. However, more than a month has passed since the date Appellant claims to have mailed the subject documents, and neither Respondents nor this Court have received a proof of

service for the transcript request form. Respondents also never received a copy of the transcript request form that is the very subject of the contested proof of service. Thus, Appellant's failure to comply with the procedural requirements of the South Carolina Appellate Court Rules is now two-fold.

Appellant's attempt to blame the United States Postal Service for failing to deliver *three* critical documents allegedly mailed by Appellant in little more than a month is dubious at best, especially when supported only by Appellant's own affidavit. Respondents have received no mail from Appellant in the timeframe in which Appellant claims to have mailed the documents at issue.

For these reasons, Appellant cannot show good cause for this Court to reinstate this appeal. The Court should deny Appellant's Motion for Reinstatement, accordingly.

Respectfully submitted,



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ATTORNEYS FOR RESPONDENTS

Columbia, South Carolina

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PROOF OF SERVICE

I do hereby certify that I have served a copy of **RESPONDENTS' JOINT RETURN TO APPELLANT'S MOTION FOR REINSTATEMENT OF APPEAL** upon Appellant by mailing a copy of the same via USPS first-class mail, addressed to the following:

Johnnie Cordero
4204 Mandel Drive
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Amy L. Abercrombie, Paralegal
BURNETTE SHUTT & McDANIEL, P.A.

September 24, 2021
Columbia, South Carolina