

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Docket No. 21-ALJ-22-0116-AP

Appellate Case No. 2021-001462

Katrina Daniels,

Appellant

v.

South Carolina Department of Employment and Workforce and 4056
LLC,

Respondents

**MOTION TO DISMISS FOR LACK OF
APPELLATE JURISDICTION**

Respondent the South Carolina Department of Employment and Workforce (the Department) hereby respectfully moves this Court to dismiss Appellant's appeal because this Court lacks appellate jurisdiction due to Appellant's failure to timely serve her notice of appeal on either the Department or 4056 Main, LLC, in this case within thirty (30) days of her receipt of the Administrative Law Court's (ALC) order denying her motion for rehearing. This motion is made on the following grounds.

I. Factual Background

This case originated as an appeal by Appellant from a decision by the Department's Appellate Panel (Panel) denying Appellant unemployment benefits because she refused a reasonable offer of work from 4056 Main, LLC. The ALC issued its final decision in this case on October 21, 2021, affirming the Panel decision and upholding the denial of benefits. (Exhibit 1). Following a petition for rehearing filed by Appellant, the ALC issued an order denying rehearing on November 12, 2021. (Exhibit 2). That decision was sent to Appellant via email on November 12, 2021. (Exhibit 3). Additionally, Appellant admits to receiving a copy of that decision in the mail on November 15, 2021. (Exhibit 4). On December 13, 2021, Appellant sent an email with various attachments to ctappfilings@sccourts.org, Legal@dew.sc.gov, KChesley@dew.sc.gov, and jshealy@scal.net. (Exhibits 5 and 6). On December 22, 2021, Appellant sent another email with various attachments to ctappfilings@sccourts.org, Legal@dew.sc.gov, KChesley@dew.sc.gov, and andee.osell@gmail.com. (Exhibits 7 and 8). Appellant identifies "andee.osell@gmail.com" as the email address of her former employer, 4056 Main, LLC, a party to the ALC case in this matter. (Exhibit 9). As of the date of this motion, the Department has not received service of a notice of appeal by either personal delivery, or by delivery through the U.S. mail. (Exhibit 10).

II. Deadline for Service

S.C. Code Ann § 1-23-610(A)(1) states:

For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil

cases and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge.

Similarly, Rule 203(b)(6), SCACR states:

Appeals From Administrative Tribunals. 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.

Per Rule 263(b), SCACR, the timelines for service may not be extended by the appellate court:

Extending and Diminishing Time Prescribed by These Rules. The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. The time prescribed by these Rules for performing any act or taking any action may not be extended by agreement of the parties.

The ALC issued its decision on November 12, 2021, and transmitted a copy of that decision to Appellant the very same day. (Exhibits 3 and 4). As a result, Appellant had thirty (30) days from her receipt of the ALC decision on November 12, 2021, to properly file and serve the notice of appeal on the Department, the ALC, and all parties of record. *See* § 1-23-610(A)(1); *see also* Rule 203(b)(6), SCACR. Thirty (30) days from November 12, 2021, would have been December 12, 2021; however December 12, 2021, was a Sunday, therefore Rule 263(a), SCACR extended the deadline to Monday, December 13, 2021.

III. Permitted Methods of Service

Rule 262(c), SCACR provides:

Service. Whenever under these Rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the appellate court. Service upon the attorney or upon a party shall be made by:

- (1) Delivering a copy to the person, in which case service is complete upon delivery. Delivery of a copy under this provision means: handing it to the attorney or to the party; or leaving it at the office of that person with a clerk or another person in charge thereof; or, if there be no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving a copy at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing therein;
- (2) Depositing a copy in the U.S. mail, properly addressed to the person at that person's last known address with sufficient first class postage attached, or, if no address is known, by leaving it with the clerk of the appellate court. Service by mail is complete upon mailing; or,
- (3) Serving a copy on the person by electronic means in a manner provided by order of the Supreme Court of South Carolina.

The Supreme Court of South Carolina, by Order dated August 25, 2021, has provided for service by electronic means under very limited circumstances:

(d) Electronic Service Using AIS E-mail Address.

(1) Service on Another Lawyer. A lawyer admitted to practice law in South Carolina may serve a document on another lawyer admitted to practice law in South Carolina using the lawyer's primary e-mail address listed in the Attorney Information System (AIS). For documents that are served by e-mail, a copy of the sent e-mail shall be enclosed with the proof of service, affidavit of service, or certificate of service for that document. Lawyers are reminded of their obligation under Rule 410(g), SCACR, to ensure that their AIS information is current and accurate at all times.

(2) Service by an Appellate Court. An appellate court may send an order, opinion or other correspondence to a person admitted to practice law in South Carolina using that lawyer's primary address in AIS.

(3) Service on Persons Admitted Pro Hac Vice. For attorneys admitted pro hac vice under Rule 404, SCACR, service on the associated South Carolina lawyer using an electronic method permitted by this order shall be construed as service on the pro hac vice attorney; if appropriate, it is the responsibility of the associated lawyer to provide a copy to the pro hac vice attorney.

RE: Methods of Elec. Filing and Serv. Under Rule 262 of the S.C. Appellate Court Rules, S.C. Sup. Ct. Order dated August 25, 2021 (Davis Adv. Sh. No. 30). Appellant Katrina Daniels is neither a lawyer admitted to practice law in South Carolina, nor is she an appellate court. (Exhibit 9). Further, no attorneys have been admitted pro hac vice in this case. As a result, neither the Appellate Court Rules, nor order of the Supreme Court permit Appellant to serve a notice of appeal by email on either the Department or any other parties to the case. Because Appellant is not authorized by rule or order of the Supreme Court to serve by electronic means, her only permissible methods for service were either personal delivery or delivery through the U.S. mail. *See* Rule 262(c), SCACR. As of the date of this motion, Appellant has neither personally delivered a copy of her notice of appeal in this case, nor has she delivered a copy of her notice of appeal through the U.S. mail. (Exhibit 10).

Also, the date of this motion is well past the deadline for serving the notice of an appeal in this case. Thus, any attempt by Appellant to properly serve either the Department or 4056 Main, LLC, at this late date would be untimely and could not confer appellate jurisdiction upon this Court.

IV. Timely Service as Jurisdictional Requirement

“The Court of Appeals shall have such jurisdiction as the General Assembly shall prescribe by general law.” S.C. Const. art. V, § 9.

For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty (30) days after the party receives the final decision and order of the administrative law judge.

§ 1-23-610(A)(1). “[T]he question of compliance with rules, regulations, and statutes governing an appeal is one of appellate jurisdiction” *Allison v. W.L. Gore & Assoc.*, 394 S.C. 185, 188, 714 S.E.2d 547, 549 (2011). “Service of the notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.” *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985); *see also Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (“The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”). “[T]he failure of a party to serve the notice of appeal within thirty days after receiving written notice of the entry of the order divests this court of jurisdiction and requires the dismissal of the appeal.” *Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC*, 413 S.C. 642, 647, 776 S.E.2d 575, 578 (Ct.App.2015) (citing *Canal Insurance Co. v. Caldwell*, 338 S.C. 1, 5, 524 S.E.2d 416, 418 (Ct.App.1999)).

Appellant admitted she did not even attempt to serve 4056 Main, LLC, until December 22, 2021, well after her deadline for service had passed. *See* Exhibits 7, 8, and 9. Further, Appellant has only ever attempted to accomplish service on any party to this case by email and has made no attempt to serve either the Department or 4056 Main, LLC, by either personal service or by service through the U.S. mail. *See* Exhibits 5, 6, 7, and 8. Appellant is a *pro se* litigant and is not permitted by either the Rules of this Court or Order of the Supreme Court to serve by electronic means. *See* Rule 262(c), SCACR; *see also RE: Methods of Elec. Filing and Serv. Under Rule 262 of the S.C. Appellate Court Rules*, S.C. Sup. Ct. Order dated August 25, 2021 (Davis Adv. Sh. No. 30). As a result, any attempted service through email is ineffective and does not confer jurisdiction on this Court.

In order to grant this Court appellate jurisdiction over an appeal from the ALC's decision in this case, Appellant was required to serve her notice of appeal on both the Department and 4056 Main, LLC, by either personal service or service through the U.S. mail on or before December 13, 2021. *See* § 1-23-610(A)(1); *see also* Rule 203(b)(6), SCACR; *see also* Rule 262(c), SCACR; *see also RE: Methods of Elec. Filing and Serv. Under Rule 262 of the S.C. Appellate Court Rules*, S.C. Sup. Ct. Order dated August 25, 2021 (Davis Adv. Sh. No. 30); *see also Mears*, 287 S.C. at 169, 337 S.E.2d at 207 (1985); *see also Elam*, 361 S.C. at 14-15, 602 S.E.2d at 775 (2004). Appellant has not timely served the notice of appeal on the Department or 4056 Main, LLC, her deadline for service has passed, and, as a result, this Court lacks jurisdiction and must dismiss Appellant's appeal.

[Signature on Following Page]

Respectfully Submitted,



Benjamin T. Cook (Bar # 102216)

SC Department of Employment and Workforce

Post Office Box 8597

Columbia, SC 29202

(803) 737-0395 (phone)

(803) 737-0124 (fax)

Legal@dew.sc.gov

January 11, 2022

Attorney for Respondent

SC Dept. of Employment and Workforce

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Katrina Daniels,

Appellant,

v.

South Carolina Department of Employment
and Workforce and 4056 LLC,

Respondents.

Docket No. 21-ALJ-22-0116-AP

FINAL ORDER

This matter is before the Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed on April 22, 2021, by Katrina Daniels (Appellant). The Appellant seeks review of the South Carolina Department of Employment and Workforce (Department or Respondent) Appellate Panel's decision affirming the Appeal Tribunal's decision holding her ineligible for benefits effective May 10, 2020, upon a finding that she refused an offer of suitable work without good cause.

On June 14, 2021, the Department filed the Record on Appeal (ROA). On June 21, 2021, the Appellant filed a Motion to Supplement the Record on Appeal with additional documents.¹ On June 29, 2021, the Department filed a response to the Appellant's motion, asking the court to deny the motion. On July 16, 2021, the Appellant filed her reply to the Department's response, which included reference to additional documents.² On July 28, 2021, the court issued an Order denying the Appellant's motion to supplement the record on appeal. On August 13, 2021, the Appellant filed her brief. On September 2, 2021, the Department filed a Motion to Dismiss for Appellant's Repeated Disregard of the Rules and the Order of this Court. On September 7, 2021, the Appellant filed the Appellant's Response to Respondent's Motion to Dismiss. On September 16, 2021, the court denied the Respondent's Motion to Dismiss. On October 6, 2021, the Department filed its brief. On October 13, 2021, the Appellant filed her reply. After careful consideration of the parties'

¹ The additional documents were not included with the Appellant's motion filed with the court. On June 29, 2021, the Appellant's father electronically contacted the court and forwarded the documents as an attachment.

² The additional documents were also not included with the Appellant's reply. On July 16, 2021, the Appellant sent another electronic message with the additional documents as attachments. Again, despite being informed that the court required actual (not electronic) copies of the documents to be filed with the court, the Appellant has failed to do so.

State of South Carolina
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OCT 21 2021
Administrative Law Court

briefs, the record, and the applicable law, the court finds that substantial evidence in the record supports the Panel's determination. Accordingly, the Panel's decision is affirmed.

BACKGROUND

The Appellant filed an initial application for Pandemic Unemployment Assistance (PUA) benefits on April 26, 2020 and was initially held eligible for benefits effective March 8, 2020. The claims adjudicator's determination, mailed June 12, 2020, found the Appellant indefinitely ineligible for benefits effective May 10, 2020, because she refused an offer of suitable work without good cause. The Appellant appealed and a hearing was held on October 7, 2020. The Employer was not in attendance at the hearing. The Appeal Tribunal decision mailed on October 14, 2020, reversed the claims adjudicator's June 12, 2020 determination, and found the Appellant eligible to receive benefits. The Employer filed an appeal to the Appellate Panel (Panel) and the Panel remanded the case back to the Appeal Tribunal for a hearing regarding the Employer's absence from the October 7, 2020 hearing. On January 19, 2021, the Appeal Tribunal issued a decision finding that the Employer was not afforded a fair opportunity for a hearing and ordered a new hearing on the merits. On January 28, 2021, the Appeal Tribunal held a hearing, and in a determination mailed February 9, 2021, found the Appellant ineligible for benefits effective May 10, 2020, upon a finding that the Appellant refused to accept a suitable offer of work. The Appellant appealed to the Appellate Panel and on March 31, 2021, the Panel issued its decision affirming the Appeal Tribunal's decision finding her ineligible for benefits effective May 10, 2020, because she refused an offer of suitable work without good cause. On April 22, 2021, the Appellant appealed to this court.

STANDARD OF REVIEW

The Department is an "agency" under the Administrative Procedures Act (APA). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding that the Employment Security Commission, a predecessor of the Department, was an agency within the meaning of the APA). Accordingly, the APA's appellate standard governs appeals from decisions of the Department. *See* S.C. Code Ann. §§ 1-23-380 & 1-23-600(D). This court's review in appellate cases is limited to the record. S.C. Code Ann. § 1-23-380(4). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). Substantial rights of the

appellant are prejudiced when, among other things, the agency's decision, including the agency's findings, inferences, and conclusions, are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *Id.* However, the party challenging an agency action on appeal has the burden of proving convincingly that the agency's decision is not supported by substantial evidence. *Waters*, 321 S.C. at 226, 467 S.E.2d at 917 (citation omitted).

In applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996) (citing *Kearse v. State Health & Human Servs. Fin. Comm'n*, 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995)); 73A C.J.S. *Public Administrative Law and Procedure* § 497 (2015). A reviewing court is prohibited from substituting its judgment for that of the agency as to the weight of the evidence on questions of fact for which there is room for a difference of intelligent opinion. *See Byerly Hosp. v. S.C. State Health & Human Servs. Fin. Comm'n*, 319 S.C. 225, 229, 460 S.E.2d 383, 386 (1995) (citation omitted); *Grant*, 319 S.C. at 353, 461 S.E.2d at 391 (citation omitted). As such, "[a] reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark*, 276 S.C. at 136, 276 S.E.2d at 307).

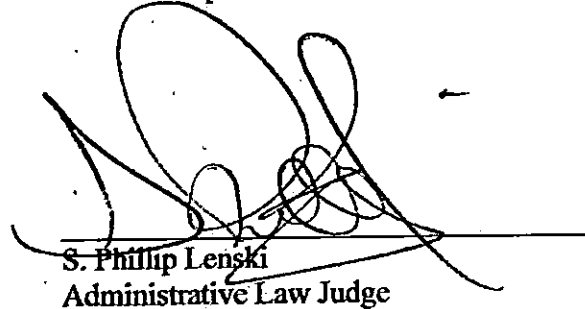
DISCUSSION

The Appellant worked part-time for the Employer's coffee and ice cream shop while attending Clemson University. The Employer closed on March 20, 2020 due to the Covid-19 health emergency. On May 14, 2020, the Employer emailed all staff asking which of them would return to work. The Appellant had left town in March 2020, at the end of the semester. She responded to her Employer that she was looking for full-time employment where she was currently living, to pay for her college residence expenses. She also indicated that she was anticipating returning to her internship in Charlotte later in the summer. The Appellant had secured a summer internship in Charlotte, North Carolina, however, the commencement of the internship was postponed due to the pandemic.

An insured worker is ineligible for benefits if the Department finds that he or she has failed, without good cause to accept available suitable work when offered to him or her by an employer. S.C. Code Ann. § 41-35-120(5)(a)(i)(B). The record establishes that the Employer offered the

Appellant an opportunity to return to work under circumstances similar to her previous employment as a part-time employee. The offer was suitable for the Appellant, but she refused the offer because she had moved at the end of the school semester. Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the decision of the Department is **AFFIRMED**.
AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

October 21, 2021
Columbia, South Carolina

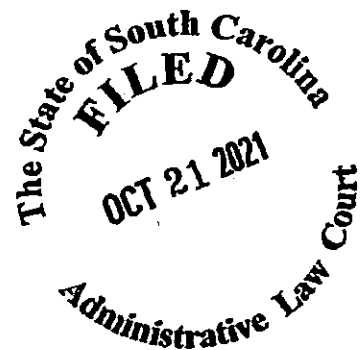
CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

October 21, 2021
Columbia, South Carolina



**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Katrina Daniels,

Docket No. 21-ALJ-22-0116-AP

Appellant,

v.

**ORDER DENYING
APPELLANT'S MOTION**

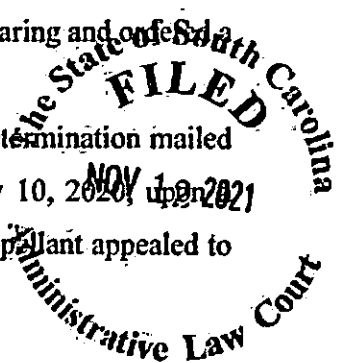
South Carolina Department of Employment
and Workforce and 4056 LLC,

Respondents.

This matter is before the Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed on April 22, 2021, by Katrina Daniels (Appellant). The Appellant seeks review of the South Carolina Department of Employment and Workforce (Department or Respondent) Appellate Panel's decision affirming the Appeal Tribunal's decision holding her ineligible for benefits effective May 10, 2020, upon a finding that she refused an offer of suitable work without good cause.

The Appellant filed an initial application for Pandemic Unemployment Assistance (PUA) benefits on April 26, 2020 and was initially held eligible for benefits effective March 8, 2020. The claims adjudicator's determination, mailed June 12, 2020, found the Appellant indefinitely ineligible for benefits effective May 10, 2020, because she refused an offer of suitable work without good cause. The Appellant appealed and a hearing was held on October 7, 2020. The Employer was not in attendance at the hearing. The Appeal Tribunal decision mailed on October 14, 2020, reversed the claims adjudicator's June 12, 2020 determination, and found the Appellant eligible to receive benefits. The Employer filed an appeal to the Appellate Panel (Panel) and the Panel remanded the case back to the Appeal Tribunal for a hearing regarding the Employer's absence from the October 7, 2020 hearing. On January 19, 2021, the Appeal Tribunal issued a decision finding that the Employer was not afforded a fair opportunity for a hearing and ordered a new hearing on the merits.

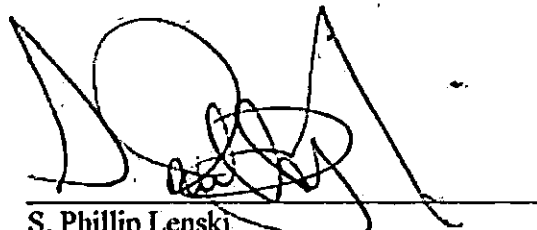
On January 28, 2021, the Appeal Tribunal held a hearing, and in a determination mailed February 9, 2021, found the Appellant ineligible for benefits effective May 10, 2020, upon a finding that the Appellant refused to accept a suitable offer of work. The Appellant appealed to



the Appellate Panel and on March 31, 2021, the Panel issued its decision affirming the Appeal Tribunal's decision finding her ineligible for benefits effective May 10, 2020, because she refused an offer of suitable work without good cause. On April 22, 2021, the Appellant appealed to this court. After careful consideration of the parties' briefs, the record, and the applicable law, this court found that substantial evidence in the record supported the Department's determination and on October 21, 2021 this court issued its Final Order, affirming the Department's decision.

On October 29, 2021, the Appellant filed a Motion for Reconsideration¹ with the court requesting the court reconsider its Final Decision because the Appellant's place of employment was closed as a result of Covid-19 and since the Appellant would have been unable to reach the new job as a direct result of Covid-19, she qualifies for Pandemic Unemployment Assistance. On November 8, 2021, the Department filed a response requesting the court deny the Appellant's motion because the Appellant has not properly identified any points which have been overlooked or misapprehended by the court. In accordance with ALC Rule 40, a motion for rehearing must state with particularity the points supposed to have been overlooked or misapprehended by the court, which the Appellant fails to do in her motion. Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the Appellant's Motion for Rehearing is **DENIED**.
AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

November 13, 2021
Columbia, South Carolina

¹ Although the Appellant filed a Motion for Reconsideration, in accordance with ALC Rule 40, the court will address the Appellant's motion as a Motion for Rehearing.

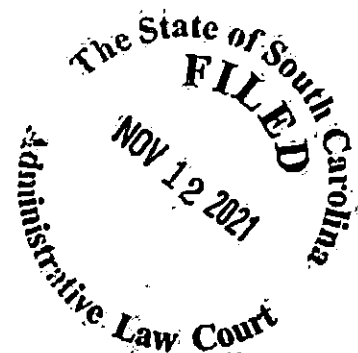
CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

November 12, 2021
Columbia, South Carolina



Cook, Ben

From: Erika S. Easler <eeasler@scalc.net>
Sent: Friday, November 12, 2021 10:11 AM
To: Katrina Daniels; Legal
Cc: Chesley, Kristi
Subject: Order Denying Rehearing-Katrina Daniels v DEW and 4056 LLC 21a0116
Attachments: threat_extractedOrder Deny Rehearing-Katrina Daniels v DEW&4056.pdf

Your attachment(s) were cleaned by Check Point Sandblast Threat Extraction.

[Click here](#) to restore the original(s).

Ladies,

Good morning!

Please find attached the Order Denying the Appellant's Motion in the above referenced case.

Thank you.

V/R,

Erika S. Easler
Judicial Law Clerk to the Honorable S. Phillip Lenski
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

Any views or opinions expressed in this email are those of the author and do not necessarily represent those of the SC Administrative Law Court.

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NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE
LAW COURT
S. Phillip Lenski, Administrative Law Judge

Docket No. 21-ALJ-22-0116-AP

Katrina Daniels,

Appellant,

v.

South Carolina Department
of Employment,

Respondent.

NOTICE OF APPEAL

Katrina Daniels appeals the order of the Honorable S. Phillip Lenski dated October 21, 2021, as well as the order denying the Motion for Reconsideration dated November 12, 2021. Appellant received written notice of the last order by US mail on November 15, 2021, and also by e-mail.

There is no hearing or transcript.

December 13, 2021

s/ Katrina Daniels
Katrina Daniels
3439 Fallowbrook Forest
York, SC 29745
803-810-4498
katrina.daniels16@gmail.com/
jjdaniels36@gmail.com
Appellant

Opposing Counsel:
Ben Cook
Office of General Counsel – SCDEW
PO Box 8597
Columbia, SC 29202
(803) 737-0395
Respondent

Cook, Ben

From: Katrina Daniels <katrina.daniels16@gmail.com>
Sent: Monday, December 13, 2021 4:45 PM
To: ctappfilings@sccourts.org; Jana E. Shealy; Legal; Chesley, Kristi
Subject: Appeal to the SC Court of Appeals
Attachments: threat_extracted102121 Final Order.pdf; threat_extracted111221 - Order Denying Appellant's Motion.pdf; threat_extracted121321 Appeal to SC Court of Appeal.pdf; threat_extracted121321 Letter to the Court of Appeal's Clerk.pdf; threat_extracted121321 Motion to Proceed Without Cost.pdf; threat_extracted121321 Proof of Service.pdf

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Hello,

Attached please find my documents for appeal.

Thanks!
Katrina Daniels

PROOF OF SERVICE OF A NOTICE OF APPEAL

APPEAL FROM ADMINISTRATIVE LAW
COURT

S. Phillip Lenski, Administrative Law Judge

Docket No. 21-ALJ-22-0116-AP

Katrina Daniels,

Appellant,

v.

South Carolina Department
of Employment,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal and the Motion to Proceed Without Cost by email to both the Department of Workforce (Legal@dew.sc.gov, KChesley@dew.sc.gov), and to the Administrative Law Court, Clerk of Court, Ms. Jana Shealy (jshealy@scalc.net) on December 13, 2021.

December 13, 2021

s/ Katrina Daniels

Katrina Daniels

3439 Fallowbrook Forest

York, SC 29745

803-810-4498

katrina.daniels16@gmail.com

jjdaniels36@gmail.com

Appellant

Cook, Ben

From: Katrina Daniels <katrina.daniels16@gmail.com>
Sent: Wednesday, December 22, 2021 1:06 PM
To: ctappfilings@sccourts.org; Legal; Chesley, Kristi; Andee O'Sell
Subject: Motion for Extension of Time and Motion to Amend
Attachments: threat_extracted122221 Proof of Service.pdf; threat_extracted122221 Letter to the Court of Appeal's Clerk.pdf; threat_extracted122221 MOTION FOR EXTENSION OF TIME.pdf; threat_extracted122221,MOTION TO AMEND.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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Hello,

Attached please find my documents for a Motion for Extension of Time and a Motion to Amend.

Thanks!
Katrina Daniels

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Docket No. 21-ALJ-22-0116-AP
Appellate Case No. 2021-001462

Katrina Daniels,

Appellant,

v.

South Carolina Department
of Employment and Workforce
and 4056 LLC,

Respondents.

**PROOF OF SERVICE OF MOTION FOR AN
EXTENSION AND MOTION TO AMEND**

I certify that I have served the Motion for an Extension and a Motion to Amend by e-mail to both South Carolina Department of Employment and Workforce (Legal@dew.sc.gov, KChesley@dew.sc.gov) and to 4056 Main, LLC (andee.osell@gmail.com) on December 22, 2021.

I also certify that I have served the e-mail sent on December 13, 2021 (which initially served the Notice of Appeal, the letter to the Court, a copy of the Administrative Law Court final two orders being challenged, dated October 21, 2021 and November 21, 2021, the original Proof of Service and the Motion to Proceed Without Cost to both the Department of Workforce (Legal@dew.sc.gov, KChesley@dew.sc.gov), and the Administrative Law Court, Clerk of Court, Ms. Jana Shealy (jshealy@scalc.net)) by forwarding the e-mail with all the correspondence to 4056 Main, LLC (andee.osell@gmail.com) on December 22, 2021.

December 22, 2021

s/ Katrina Daniels
Katrina Daniels
3439 Fallowbrook Forest
York, SC 29745
803-810-4498
katrina.daniels16@gmail.com/
jjdaniels36@gmail.com
Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Docket No. 21-ALJ-22-0116-AP
Appellate Case No. 2021-001462

Katrina Daniels, Appellant,

v.

South Carolina Department of Employment and Workforce
and 4056 LLC, Respondents.

MOTION TO AMEND

The Appellant had contacted the Court with questions, after receiving a letter from the Deputy Clerk regarding a change in the title to read as follows:

Katrina Daniels, Appellant, v.

South Carolina Department of Employment and Workforce and 4056 LLC, Respondents

Initially, the Appellant only listed the South Carolina Department of Employment and Workforce (SC DEW) as the respondent because SC DEW was representing the employer in this case. The Appellant has changed the title as requested. However, the employer's business name (Spill the Beans) is legally referred to as 4056 Main, LLC. It appears that the Administrative Law Court made an error in the Final Orders, as all other records shows the employer as 4056 Main, LLC, not 4056 LLC. Since Court staff is on vacation, Appellant was asked by another member of the Court to submit this motion for review, to forward the appeal correspondence to the employer, and then to wait for the Court's decision as to whether or not a caption change is required.

The Appellant also had questions concerning filing that contains redacted information which was also presented in the letter received from the Court. SC DEW had

provided the original Record on Appeal and had redacted information, as required. The correspondence from the Court stated that "A filing that contains redacted information may be filed together with a confidential reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed." The Appellant, who knows she is responsible to submit the new Record on Appeal, which will include SC DEW's Record on Appeal, asked if a confidential reference list is required, but in this case, thankfully, is not.

The Appellant is pro se with no prior knowledge of court proceedings, is trying to be very diligent to make sure she is following the rules correctly so that her case can be fairly heard and is appreciative of your services.

December 22, 2021

Respectively submitted,

s/ Katrina Daniels

Katrina Daniels

3439 Fallowbrook Forest

York, SC 29745

803-810-4498

[katrina.daniels16@gmail.com/](mailto:katrina.daniels16@gmail.com)

jjdaniels36@gmail.com

Appellant

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

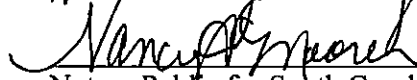
AFFIDAVIT

PERSONALLY appeared before me, the undersigned Notary, is Kristi Chesley, who is employed in Richland County, South Carolina, and makes this her statement and affidavit upon oath and affirmation of belief and personal knowledge that the following is true and correct to the best of her knowledge:

1. I am the Office Manager for the South Carolina Department of Employment and Workforce (Department). I am responsible for receiving, opening, and processing mail addressed to: Office of General Counsel, S.C. Department of Employment and Workforce, Post Office Box 8597, Columbia, SC 29202.
2. There has been no Notice of Appeal to the South Carolina Court of Appeals (COA) received by mail or hand delivery from Katrina Daniels to the Department's Office of General Counsel in the case of Katrina Daniels v. South Carolina Department of Employment and Workforce and 4056 LLC, Appellate Case No. 2021-001462.


 Signature of Affiant
 Kristi Chesley

DATED AND SWORN to before me this the
11th day of January, 2022.

 (LS)
 Notary Public for South Carolina
 My Commission Expires: April 22 2031

RECEIVED

JAN 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No.: 21-ALJ-22-0116-AP

Appellate Case No. 2021-001462

Katrina Daniels,

Appellant,

v.

South Carolina Department of Employment and
Workforce and 4056 Main LLC

Respondent(s)

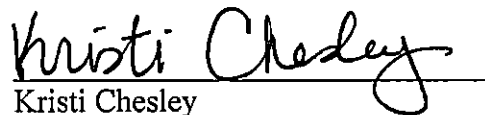
PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss for Lack of Appellate Jurisdiction on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, and by email on January 11, 2022, addressed to the parties at their addresses of record:

Katrina Daniels
3439 Fallowbrook Forest
York SC 29745

4056 Main LLC
404 Oak St
Clemson SC 29631

January 11, 2022


Kristi Chesley
South Carolina Department of Employment and
Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

P.O. Box 8597
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

G. Daniel Ellzey
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

January 11, 2022

RECEIVED

JAN 14 2022

SC Court of Appeals

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

RE: Katrina Daniels v. South Carolina Department of Employment and
Workforce and 4056 LLC
Appellate Case No: 2019-001462

Dear Ms. Kitchings:

Enclosed is the Respondent's Motion to Dismiss for Lack of Appellate Jurisdiction in the above referenced case. A proof of service is also included in this mailing.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kristi Chesley". The signature is written in a cursive, flowing style.

Kristi Chesley
Administrative Legal Assistant for
Ben Cook
Attorney for Respondent South Carolina
Department of Employment and Workforce

SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
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COLUMBIA, S.C., 29202

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SC Court of Appeals

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



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