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Mar 28 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Deborah Brooks Durden, Administrative Law Judge

18-ALJ-22-0409-AP

Appellate Case No. 2019-001033

Cortez M. Jiles,

Respondent,

v.

South Carolina Department
Of Employment and Workforce and
House of Raeford Farms, Inc.,

Appellants,

Of Which South Carolina Department of Employment and Workforce is the Appellant.

MOTION FOR REHEARING

Benjamin T. Cook, Esquire
Paul Famolari, Esquire
P.O. Box 8597
Columbia, SC 29202
(803) 737-0395
Attorneys for Appellant

Appellant hereby moves this Court, pursuant to Rule 221, SCACR, to rehear and reconsider its March 16, 2022, Order granting costs to Appellant in the amount of \$2,562.20 pursuant to Rule 222, SCACR. Appellant hereby incorporates and reiterates all issues, arguments, and citations to authority raised to the Court in its February 11, 2022, Response to Respondent's Motion for Costs. The Court's order granting Appellant's motion made no ruling on any of the specific issues raised in Appellant's Response to Respondent's Motion for Costs, particularly:

1. This Court has discretion over whether to award fees and costs under Rule 222 and counsel for Respondent has made no argument as to why fees and costs should be awarded in this case. Therefore, Respondent has not met even the lowest of burdens to show why a Motion for Costs under Rule 222 should be granted. As a result, the Court should reconsider its order awarding fees and deny Respondent's Motion;
2. Counsel for Respondent has not shown that any fees or costs were actually incurred by Respondent and recovery under Rule 222 is limited to costs actually incurred in pursuing the appeal;
3. The Department had substantial justification for filing an appeal with this Court and the Department had strong legal justification for believing the appeal was not interlocutory. Therefore, it would be inequitable to tax the Department (a public agency) for costs and attorneys' fees. The Court should reconsider its order awarding fees and costs and deny Respondent's Motion for Costs; and
4. The issue upon which this Court based its decision to dismiss the Department's appeal in this case was neither raised nor argued by counsel for Respondent and this

Court should not tax the Department (a public agency) to reward Respondent for a winning argument that Respondent never made.

Because this Court has overlooked or misapprehended these issues, the Department respectfully requests the Court rehear this matter, reconsider its March 16, 2022, Order, and deny Respondent's Motion for Costs.

Respectfully Submitted,



Benjamin T. Cook (SC Bar # 102216)

Paul Famolari (SC Bar # 076723)

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

**Attorney for Appellant SC Department of
Employment and Workforce**

March 25, 2022

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Respondent,

v.

South Carolina Department of Employment and
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Of Which South Carolina Department of Employment and
Workforce is the Appellant

Appellant

PROOF OF SERVICE


I certify that I have served the Appellant's Motion for Rehearing on the parties in this case by mail, addressed to the parties at their addresses of record:

Jack Cohoon
PO Box 1929
Columbia SC 29202

House of Raeford Farms
PO Box 21456
Columbia SC 29221

Rick Faulks
316 W Cambridge Rd
Greenwood SC 29646

March 25, 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

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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

RE: SCDEW v. Cortez Jiles
Appellate Case No: 2019-001033

Dear Ms. Kitchings:

Enclosed is the Appellant's Motion for Rehearing 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 blue ink that reads "Kristi Chesley".

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