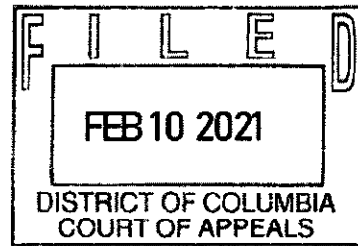


APPENDICES

**District of Columbia
Court of Appeals**



No. 20-CV-748

GEORGIA STEWART,
Appellant,

v.

2019 CAB 6414

MONICA PALACIO,
Appellee.

BEFORE: Glickman and Thompson, Associate Judges, and Nebeker, Senior Judge.

ORDER

On consideration of this court's January 15, 2021, order directing appellant to show cause why her appeal of the denial of her motion to reinstate should not be dismissed as untimely filed, appellant's response thereto, and the record on appeal, it is

ORDERED that this appeal is hereby dismissed as untimely filed. *See* D.C. App. R. 4(a)(1), (5)-(6), 26(a) (providing an outer bound of five business days plus 60 calendar days to note an appeal where the order is entered outside the presence of the parties and inclusive of the 30-day extension period for good cause or excusable neglect). Although appellant urges us to find that circumstances beyond her control, including problems accessing the electronic filing system and correspondence with representatives from the Superior Court Clerk's Office caused the delay, the record does not support her explanations. *See Deloatch v. Sessoms-Deloatch*, 229 A.3d 486, 493 n.11 (D.C. 2020).

PER CURIAM

No. 20-CV-748

Copies e-served:

Honorable Florence Y. Pan

QMU - Civil Division

Georgia Stewart

Loren L. AliKhan, Esquire
Solicitor General for DC

cml

**District of Columbia
Court of Appeals**

JAN 15 2021

No. 20-CV-748

GEORGIA A. STEWART,
Appellant,

v.

2019 CAB 6414


MONICA PALACIO,
Appellee.

ORDER

On consideration of the notice of appeal filed on December 18, 2020, seeking review of a September 24, 2020, order denying a motion to reinstate, it is

ORDERED that appellant shall, within 20 days from the date of this order, show cause why this appeal should not be dismissed for having been untimely filed. See D.C. App. R. 4(a).

BY THE COURT:



ANNA BLACKBURNE-RIGSBY
Chief Judge

Copies e-served:

Honorable Florence Pan

QMU - Civil Division

Georgia A. Stewart

Loren L. AliKhan, Esquire
Solicitor General for DC

cml

**District of Columbia
Court of Appeals**

FEB 26 2021

No. 20-CV-748

GEORGIA STEWART.

Appellant.

v.

2019 CAB 6414

MONICA PALACIO.

Appellee.

BEFORE: Glickman and Thompson, Associate Judges, and Nebeker, Senior Judge.

ORDER

On consideration of appellant's motion for reconsideration, construed as a petition for rehearing from this court's February 10, 2021, order dismissing her appeal as untimely filed, and it appearing that appellant has failed to provide a basis for the court to reconsider its order, it is

ORDERED that the petition for rehearing is denied.

PER CURIAM

Copies e-served:

Georgia Stewart

Loren L. AliKhan, Esquire
Solicitor General for DC

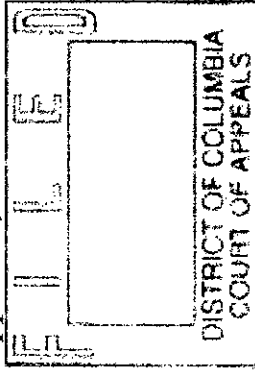
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Palacio

21439

Appellant,



JAN 15 2021

v. 2019 CAB 6414

MONICA PALACIO,

Appellee.

ORDER

On consideration of the notice of appeal filed on December 18, 2020, seeking review of a September 24, ORDERED that appellant shall, within 20 days from the date of this order, show cause why this appeal filed. See D.C. App. R. 4(a).

Copies e-served:

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

GEORGIA STEWART : Case Number: 2019 CA 6414 B
v. : Judge: Florence Y. Pan
MONICA PALACIO :

ORDER

This matter comes before the Court on consideration of plaintiff's Motion to Reinstate ("Pl. Mot."), filed on August 11, 2020;¹ and defendant's Opposition ("Def. Opp."), filed on September 3, 2020.² The Court has considered the papers, the applicable law, and the entire record. For the following reasons, plaintiff's Motion to Reinstate is denied.

BACKGROUND

On September 30, 2019, plaintiff filed a *pro se* Complaint against defendant Monica Palacio, alleging defamation. *See generally* Compl. Plaintiff was formerly employed by the District of Columbia Office of Human Rights ("OHR"), and defendant was her supervisor. *See id.* ¶¶ 4-5. Plaintiff alleges that on September 30, 2016, defendant knowingly published false statements concerning plaintiff's work performance, and that plaintiff was injured by these statements. *See generally id.*

¹ Plaintiff initially attempted to file her Motion to Reinstate on March 9, 2020, but the Motion was not docketed due to a "typographical error [r]eflected in the address and filing fees." *See* Pl. Mot. at 1.

² Defendant initially filed a Response to the Motion to Reinstate on March 17, 2020, believing that the Motion had been docketed. Defendant represents that she was not served with plaintiff's instant Motion to Reinstate until August 13, 2020, when she received it via email, and that she attempted to file an opposition on August 27, 2020, but inadvertently failed to do so because the case was not available on the Superior Court's case management system. *See generally* Def. Mot. to File Response to Pl. Mot. to Reinstate *Nunc Pro Tunc*, filed on September 3, 2020. Defendant's Motion to File a Response to plaintiff's Motion to Reinstate is therefore granted due to defendant's excusable neglect, and because plaintiff has not opposed the Motion. Defendant's Opposition to the Motion to Reinstate, attached as "Exhibit A" to her Motion, is accepted for filing. *See generally id.*, Ex. A (Defendant's Opposition to Plaintiff's Motion to Reinstate) ("Def. Opp.").

On January 13, 2020, defendant filed a Motion to Dismiss ("Def. MTD"), arguing that (1) the statute of limitations has run on plaintiff's defamation claim; and (2) plaintiff failed to exhaust her administrative remedies under the District of Columbia Comprehensive Merit Personnel Act ("CMPA"). *See generally* Def. MTD. In response, plaintiff raised new allegations, not contained her Complaint, concerning when she discovered defendant's alleged defamation. *See* Pl. Opp. MTD, filed on February 6, 2020, at 2 (asserting that plaintiff did not learn about the alleged defamation until May 10, 2019). Plaintiff further alleged that she exhausted her administrative remedies under the CMPA by filing a petition with the Office of Employee Appeals that was subsequently dismissed for lack of jurisdiction. *See id* at 1.

On February 28, 2020, plaintiff failed to appear for the initial scheduling conference, and the Court dismissed the case for want of prosecution. *See* Order, dated February 28, 2020. On August 11, 2020, plaintiff filed the instant Motion to Reinstate, representing that she missed the scheduling conference because she believed that "the Court would have rescheduled the conference and ruled on the motion to dismiss before any further proceedings." *See generally* Pl. Mot. at 2. In response, defendant argues that reinstating plaintiff's Complaint would be futile because the Motion to Dismiss would be refiled and granted on its merits. *See generally* Def. Opp.

ANALYSIS

Pursuant to Rule 41(b)(3), an order of dismissal does not take effect until 14 days after the date on which it is docketed, and "must be vacated upon the granting of a motion filed by the plaintiff within the 14-day period showing good cause why the case should not be dismissed." Plaintiff represents that she attempted to timely file her Motion to Reinstate, and that she mistakenly failed to appear at the February 28, 2020. *See generally* Mot. Although these

representations ordinarily would have supported a finding of good cause to grant Plaintiff's Motion to Reinstate, due to plaintiff's *pro se* status, the Court is nevertheless constrained to deny plaintiff's Motion. Defendant filed a meritorious Motion to Dismiss, and it therefore would be futile to reinstate the case.

Defamation claims accrue upon publication and are subject to a one-year statute of limitations. See D.C. Code §12-301(a)(4); *Maupin v. Haylock*, 931 A.2d 1039, 1041-1042 (D.C. 2007) ("A claim for defamation must be filed within one year of accrual of the cause of action."); *Mullin v. Wash. Free Weekly*, 785 A.2d 296, 298 (D.C. 2001) (noting defamation occurs on publication and the statute of limitations runs from the date of publication). Plaintiff alleges that she was defamed on September 30, 2016, but she filed the instant Complaint on September 30, 2019, two years after the statute of limitations had run. See generally Compl. Plaintiff's claim is therefore time-barred.³

In her Opposition to defendant's Motion to Dismiss, plaintiff raised new allegations not contained her Complaint, asserting that she did not discover the defamatory statements until May 10, 2019, and that the statute of limitations therefore should be tolled. See Pl. Opp. MTD at 2. Plaintiff cannot amend her Complaint through an opposition to a motion to dismiss. See, e.g., *Hawkins v. Wash. Metro. Area Transit Auth.*, 311 F. Supp. 3d 94, 109 (D.D.C. 2018) ("It is axiomatic that a complaint may not be amended by the briefs in opposition to a motion to

³ Plaintiff asserts that the defamation was "continuing" because defendant allegedly "repeated [the defamatory statements]" after their initial publication. See Compl. ¶ 5. But plaintiff does not provide any dates on which the statements were allegedly "repeated and republished." See generally *id.* In any event, republication does not change when the statute of limitations began to run because the District of Columbia has adopted the single publication rule concerning the accrual of defamation claims. See *Rosen v. Am. Isr. Pub. Affairs Comm.*, 41 A.3d 1250, 1255 (D.C. 2012) ("[The District has] adopted the single publication rule in which the statute begins to run at the time the allegedly defamatory statement was first published.")

dismiss.”) (quoting *Arbitraje Casa de Cambio, S.A. de C.V. v. U.S. Postal Serv.*, 297 F. Supp. 2d 165, 170 (D.D.C. 2003)).

In any event, even if the Court reinstated the case and permitted plaintiff to amend her Complaint, any amendment would be futile. “[O]nce a suit is dismissed, even if without prejudice, the tolling effect of the filing of the suit is wiped out and the statute of limitations is deemed to have continued running from whenever the cause of action accrued, without interruption by that filing.” *Stewart-Veal v. District of Columbia*, 896 A.2d 232, 237 (D.C. 2006) (quoting *Ciralsky v. Central Intelligence Agency*, 355 F.3d 661, 672 (D.C. Cir. 2004)). Plaintiff asserted in her Opposition to the Motion to Dismiss that she did not discover the defamatory statements until May 10, 2019. See Pl. Opp. MTD at 2. She filed the instant Motion to Reinstate on August 11, 2020, more than one-year after she claims to have discovered the alleged defamation. See *Maupin*, 931 A.2d at 1041-1042 (“A claim for defamation must be filed within one year of accrual of the cause of action.”). Thus, even assuming that plaintiff’s defamation claim accrued on May 10, 2019, the statute of limitations has run.⁴

Accordingly, it is this 24th day of September, 2020, hereby

ORDERED that plaintiff’s Motion to Reinstate is **DENIED**.



Judge Florence Y. Pan
Superior Court of the District of Columbia

⁴ The Court does not address whether plaintiff has failed to exhaust her administrative remedies under the CMPA because her defamation claim is time-barred.

Copies to:

Georgia Stewart, *pro se*
441 Fourth St NW
Rm 570N
Washington D.C. 20001
gseeo67@gmail.com
Plaintiff

Michael K. Addo, Esq.
Benjamin E. Bryant, Esq.
441 Fourth Street, NW, Suite 360 South
Washington, D.C. 20001
Counsel for Defendant

Appellate E-Filing System

Cases

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Case Information: 20-CV-0748

Short Caption:	GEORGIA STEWART V. MONICA PALACIO	Classification:	Appeals - Civil - General Civil (CAB)
Superior Court or Agency Case Number:	CAB6414-19	Filed Date:	12/18/2020
Opening Event Date:	12/18/2020	Case Status:	Decided/Dismissed
Record Completed:		Post-Decision Matter Pending:	
Briefs Completed:			
Argued/Submitted:			
Disposition:		Next Scheduled Action:	
Mandate Issued:	03/04/2021		

E-File on this case

Party Information

Appellate Role	Party Name	IFP	Attorney(s)	Arguing Attorney	E-File
Appellant	Georgia A. Stewart	N	Pro Se		Y
Appellee	Monica Palacio	N	Loren L. AliKhan	N	Y

Events

Event Date	Status	Description	Result
12/18/2020	Filed	Notice Of Appeal	
12/31/2020	Filed	Record Index	
01/15/2021	Filed	Order To Show Cause	
01/15/2021	Filed	TMC	
02/04/2021	Filed	Response To Order To Show Cause (Appellant)	
02/10/2021	Filed	ORDER DISMISSING the appcal as untimely filed...	
02/10/2021	Filed	Dismissed	
02/22/2021	Filed	Motion To Reconsider (Appellant) *****CONSTRUED AS A PETITION FOR REHEARING	Denied
02/23/2021	Filed	TMC	
02/26/2021	Filed	ORDER DENYING the petition for rehearing	
03/04/2021	Filed	Mandate	

**District of Columbia
Court of Appeals**

JAN 15 2021

No. 20-CV-748

GEORGIA A. STEWART,

Appellant,

v.

2019 CAB 6414

MONICA PALACIO,

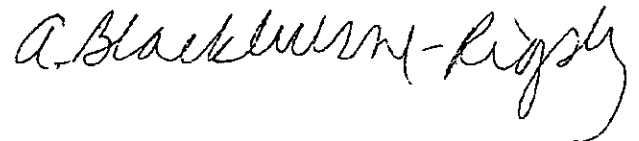
Appellee.

ORDER

On consideration of the notice of appeal filed on December 18, 2020, seeking review of a September 24, 2020, order denying a motion to reinstate, it is

ORDERED that appellant shall, within 20 days from the date of this order, show cause why this appeal should not be dismissed for having been untimely filed. See D.C. App. R. 4(a).

BY THE COURT:



ANNA BLACKBURNE-RIGSBY
Chief Judge

Copies e-served:

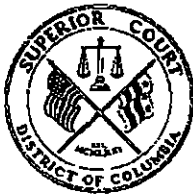
Honorable Florence Pan

QMU - Civil Division

Georgia A. Stewart

Loren L. AliKhan, Esquire
Solicitor General for DC

cml



**Superior Court of the District of Columbia
Civil Division**

**500 Indiana Ave., N.W., Room 5000
Washington, DC 20001
202-879-1133**

REJECTION SHEET

RE: Georgia Stewart vs Monica Palacio

CA No. 2019 ca 6414

**The Plaintiff's Motion to Reinstate Complaint received/filed on 3/9/2020
Cannot be accepted for filing and is returned herewith for the following reason(s):**

- ☐ Pleading not signed as required by court rule.
- ☐ Required number of summons/complaints were not included.
- ☐ Default/Default Judgment entered on Click here to enter a date.; see SCR-Civ.55(a) 60(b).
- ☐ Check _____ for payment of _____ was made out incorrectly.
- ☒ Fee not included for: \$20.00
- ☐ Leave of Court required for filing: _____
- ☐ Incorrect case number on pleading.
- ☐ No Certificate of Service/Mailing.
- ☐ Original green card is not attached.
- ☐ Civil Division lacks jurisdiction- should be filed with _____
- ☐ Requires signatures of all parties who have appeared.
- ☐ Other: _____

NOTICE: A new certificate of service is required when resubmitting a rejected pleading.

- ☒ Returned via mail: 235 Quackenbus Street., N.W. Washington, D.C. 20011

RETURNED TO: Georgia Stewart

DATE: March 11, 2020

DEPUTY CLERK: Mw

- ☐ [Illegible]
- ☐ [Illegible]
- ☐ [Illegible]
- ☐ [Illegible]

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

GEORGIA STEWART

Plaintiff

v.

2019CANo:6414 B

Judge Florence Y. Pan

MONICA PALACIO

Defendant

ORDER

This matter having come before the Court on the Plaintiff's Motion To Reinstate Her Complaint,
And for Good Cause Shown, and Defendant's Opposition, if any, it is this _____ day of
_____, 2020, hereby;

ORDERED that Plaintiff's Motion is hereby granted;

FURTHER ORDERED, that the plaintiff's complaint is hereby reinstated for good cause shown;

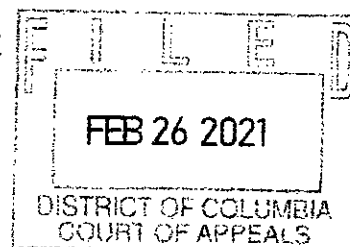
FURTHER ORDERED, that the clerk set this matter for a status hearing on the next available date.

Judge Florence Y. Pan

cc: Georgia Stewart
235 Quackenbos street, NW
Washington, D.C 20011

Benjamin E. Bryant, Esquire
Assistant Attorney General
Office of The Attorney General
441 Fourth Street, NW, Suite 630, Sixth Floor South
Washington, D.C. 20001

**District of Columbia
Court of Appeals**



No. 20-CV-748

GEORGIA STEWART,
Appellant.

v.

2019 CAB 6414

MONICA PALACIO,
Appellee.

BEFORE: Glickman and Thompson, Associate Judges, and Nebeker, Senior Judge.

ORDER

On consideration of appellant's motion for reconsideration, construed as a petition for rehearing from this court's February 10, 2021, order dismissing her appeal as untimely filed, and it appearing that appellant has failed to provide a basis for the court to reconsider its order, it is

ORDERED that the petition for rehearing is denied.

PER CURIAM

Copies e-served:

Georgia Stewart

Loren L. AliKhan, Esquire
Solicitor General for DC

cml

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

GEORGIA STEWART

Plaintiff

v.

MONICA PALACIO

Defendant

**CA No 2019CA6414 B
Judge Florence Y. Pan**

PLAINTIFF'S MOTION TO REINSTATE COMPLAINT

COMES NOW, Plaintiff, Georgia Stewart, pro se, and respectfully moves the court to reinstate the complaint for defamation, and for good cause shown states the following:

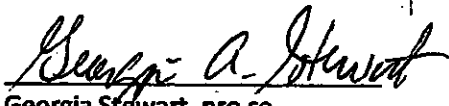
- 1) Plaintiff was of the opinion that the court had to rule on the defendant's motion to dismiss before there any further proceedings in this case.
- 2) Plaintiff further believed that since there was a pending motion to dismiss before the court, the Court would have rescheduled the conference and rule on the motion to dismiss before any further proceedings.
- 3) The failure of the plaintiff to appear was due to inadvertence on the part of the plaintiff.
- 4) That reinstating the plaintiff's complaint will not cause the defendant any harm or prejudice if the complaint is reinstated.
- 5) That reinstating the complaint in this case is in the interest of justice.

Wherefore, the premises considered, the plaintiff prays;

- a) That the court grants plaintiff's motion;
- b) That the court reinstate the plaintiff's complaint and

Points and Authorities

- 1) The civil rules of the Court.
- 2) The record herein.
- 3) The equable power of the Court.


Georgia Stewart, pro se

c) That the court set this matter for a status hearing.

Respectfully submitted

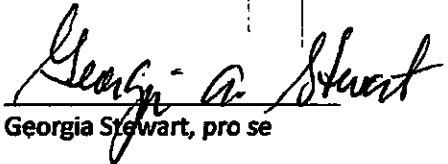
Georgia Stewart, pro se
235 Quackenbus street, Northwest
Washington, D.C 20011
(202) -271 - 0780

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion to Reinstate and Show Good Cause was e-mailed and mailed
to defendant's counsel on this 3/9/ day of March, 2020 at:

Benjamin E. Bryant, Esquire
Assistant General Counsel
Office of The Attorney General
441 Fourth Street, NW, Suite 630, sixth floor south
Washington, D.C. 20001

e-mail: Benjamin.bryant@dc.gov


Georgia Stewart, pro se

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SUPERIOR COURT
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WASHINGTON, D.C. 20001

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Civil
Georgia Stewart
235 Quackenbus Street, N.W.
Washington, D.C. 20011



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