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**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
IN THE CIRCUIT COURT

The Honorable Patrick C. Fant III

**Court of Appeals Case No.:**

**Circuit Court Case No.: 2019-CP-23-06363**

**Consolidated Case Nos.: 2017-CP-23-05851; 2017-CP-23-06127**

**SYLVESTER JACKSON, KAREN ROBINSON, MICHAEL ROBINSON, DOROTHY WILLIAMS, JOHN WOODFOLK, ERNEST "TERRY" MURRAY, DONALD COX, TIMOTHY MCBEE, DERRICK COX, REGINALD JACKSON, WILLIE FOSTER, CYNTHIA ROBINSON, ZELMA BROWN, TELEK COBB, SARAH THOMASON, and THURSHIA JAMISON-JACKSON,**

Respondents,

v.

**CHARLES "BENNIE" SMITH, ROBIN SMITH, LARRY DAWKINS, MABLE DAWKINS, JIMMY DAVIS, BRENDA DAVIS, DOROTHY THOMASON, L.C. THOMASON, and JAMES SIMS,**

Appellants.

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**MOTION TO STAY ENFORCEMENT OF ORDERS AFFECTING NON-PARTY  
CHURCH ENTITY  
(RULE 221, SCACR)**

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**TO THE HONORABLE SOUTH CAROLINA COURT OF APPEALS:**

**COMES NOW**, Enoree Fork Baptist Church ("the Church"), a religious nonprofit corporation, by and through undersigned counsel, and respectfully moves this Honorable Court

pursuant to Rule 221, SCACR, for an emergency order staying the enforcement of all circuit court orders purporting to bind, direct, or supervise the Church pending the determination of the pending appeals and resolution of fundamental jurisdictional and constitutional issues.

### **PROCEDURAL POSTURE AND EMERGENCY NATURE**

This Motion arises from the circuit court's constitutional and jurisdictional overreach in its July 31, 2025 Order, which purports to bind and direct the internal governance of the Church despite the Church never being named as a party, served with process, or brought before any court. The Church now faces immediate enforcement of unconstitutional orders that violate its religious autonomy and due process rights.

**Emergency Relief Required:** The Church seeks immediate stay because:

1. **Constitutional violations are ongoing** with each day the orders remain in effect
2. **Irreparable harm to religious autonomy** cannot be remedied after appeal
3. **Due process violations** continue as long as non-party entity remains bound
4. **Enforcement actions may commence** without immediate appellate intervention

### **ORDERS REQUIRING STAY**

The Church seeks stay of the following circuit court orders affecting it as a non-party:

#### **1. July 31, 2025 Primary Order**

- **Purports to bind the Church** as an entity despite non-party status
- **Orders "the church" to conduct** court-supervised congregational meetings
- **Mandates specific religious procedures** including voting, membership determinations, and leadership selection
- **Retains ongoing judicial supervision** over church governance and internal affairs
- **Directs ecclesiastical activities** in violation of First Amendment protections

#### **2. Related Enforcement Orders**

- Any orders implementing or enforcing the July 31, 2025 Order against the Church
- Orders purporting to supervise or control church meetings, governance, or property
- Directives regarding church membership, leadership, or internal organization

### **STANDARD FOR STAY PENDING APPEAL**

Under Rule 221, SCACR, a stay pending appeal should be granted when:

1. There is a substantial likelihood of success on the merits
2. Irreparable injury will result absent a stay
3. The threatened injury outweighs harm to the opposing parties
4. The public interest favors granting the stay

*Sloan v. S.C. Bd. of Physical Therapy Exam'rs*, 370 S.C. 452 (2006).

## ARGUMENT

### I. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

The Church has an overwhelming likelihood of success on multiple independent grounds that establish the circuit court's lack of authority to bind or direct a non-party religious entity:

#### A. Complete Absence of Subject Matter Jurisdiction

**Fundamental Defect:** The circuit court lacks any authority to bind the Church because:

- **Never Named as Party:** The Church was not named as a defendant in any consolidated action
- **Never Served with Process:** No service of process was ever attempted on the Church
- **Never Appeared:** The Church never appeared before any court or submitted to jurisdiction
- **Non-Party Status:** The Church remains a non-party to all proceedings

**Controlling Authority:** "A court cannot bind non-parties to litigation." *Ballington v. Paxton*, 327 S.C. 372 (Ct. App. 1997).

**Religious Context:** Courts cannot direct church governance without proper party status. *Knotts v. Williams*, 319 S.C. 473 (1995) (vacating order because church entity was not named as party).

#### B. Constitutional Violations Under the First Amendment

The orders violate both Religion Clauses of the First Amendment:

##### Establishment Clause Violations:

- **Excessive Entanglement:** Court supervision of church meetings and governance creates prohibited entanglement. *Lemon v. Kurtzman*, 403 U.S. 602 (1971)
- **Government Control:** Judicial direction of religious activities violates separation principles
- **Ongoing Supervision:** Retained jurisdiction over church affairs exceeds constitutional limits

### **Free Exercise Clause Violations:**

- **Religious Autonomy:** Churches have constitutional right to internal self-governance. *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*, 565 U.S. 171 (2012)
- **Ecclesiastical Independence:** Government cannot control internal religious organization. *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94 (1952)
- **Forced Religious Activity:** Mandated church meetings violate free exercise rights

### **C. Due Process Violations**

**Procedural Due Process:** The Church was denied fundamental due process because:

- **No Notice:** Never received notice of proceedings affecting its governance
- **No Opportunity to Be Heard:** Never had opportunity to defend its interests
- **No Proper Joinder:** Never properly joined as necessary party under Rule 19, SCRCPP
- **Binding Without Process:** Cannot bind entity without constitutional protections

**Substantive Due Process:** Orders exceed any legitimate governmental interest in regulating internal church governance.

### **D. Religious Autonomy Doctrine**

**Ecclesiastical Abstention:** Civil courts must abstain from resolving internal church governance matters. *Watson v. Jones*, 80 U.S. 679 (1872).

**Neutral Principles Limitations:** Even under neutral principles doctrine, courts cannot manage ongoing church operations. *Ira Banks v. St. Matthew Baptist Church*, 406 S.C. 156 (2013).

**Ministerial Exception:** Church autonomy extends to internal governance and leadership decisions protected from judicial interference.

## **II. IRREPARABLE HARM REQUIRING IMMEDIATE RELIEF**

The Church faces multiple forms of irreparable harm that cannot be remedied by post-appeal relief:

### **A. Constitutional Injury Is Irreparable Per Se**

**First Amendment Violations:** "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

**Religious Freedom:** Violation of religious autonomy and free exercise rights causes harm that cannot be quantified or compensated monetarily.

## **B. Ecclesiastical and Spiritual Harm**

**Ongoing Violation of Religious Autonomy:** Each day the orders remain in effect:

- Violates the Church's constitutionally protected independence
- Subjects religious governance to unconstitutional government control
- Creates precedent for future governmental interference in religious affairs
- Undermines the Church's spiritual authority and ecclesiastical integrity

**Irreversible Changes to Church Governance:** Court-mandated procedures will:

- Permanently alter the Church's internal structure and decision-making
- Create confusion about legitimate religious authority
- Establish judicially-imposed governance contrary to church doctrine and tradition
- Divide the religious community in ways that cannot be undone

## **C. Due Process and Jurisdictional Harm**

**Ongoing Binding Without Process:** Every day the Church remains bound by orders entered without due process violates fundamental constitutional principles that cannot be restored.

**Precedential Damage:** Allowing orders to stand creates dangerous precedent that religious and other entities can be bound without proper joinder or constitutional protections.

## **D. Community and Congregational Harm**

**Religious Community Division:** Enforcement will cause:

- Irreparable schisms within the church community
- Confusion over legitimate religious authority
- Disruption of worship and religious activities
- Loss of congregational unity and spiritual fellowship

**Coerced Religious Activity:** Mandated church meetings violate the conscience and religious beliefs of church members opposed to court supervision.

# **III. BALANCE OF HARMS WEIGHS DECISIVELY FOR STAY**

## **A. Overwhelming Harm to the Church**

As detailed above, the Church faces irreparable constitutional, religious, and due process injuries that cannot be remedied after appeal.

## **B. Minimal Harm to Other Parties**

A stay merely preserves the current church governance structure pending appellate resolution:

- **No Monetary Damages:** No party seeks monetary relief that could be affected by delay
- **Status Quo Maintenance:** Stay preserves existing governance rather than implementing new court-ordered structure
- **Constitutional Resolution:** Allows proper adjudication of fundamental constitutional issues
- **Due Process Protection:** Ensures Church receives constitutionally required process before being bound

## **C. Other Parties' Interests Can Be Protected**

If other parties ultimately have valid claims after proper constitutional adjudication, their interests can be protected through relief that respects jurisdictional and constitutional limitations.

# **IV. PUBLIC INTEREST STRONGLY FAVORS STAY**

## **A. Constitutional Protection**

**Separation of Church and State:** Preventing judicial overreach into religious affairs serves fundamental constitutional principles establishing proper boundaries between government and religion.

**Religious Freedom for All:** Protecting one church's autonomy preserves religious liberty for all faith communities and prevents erosion of constitutional protections.

## **B. Due Process and Rule of Law**

**Procedural Integrity:** Ensuring entities cannot be bound without proper process protects fundamental rights for all citizens and organizations.

**Jurisdictional Limits:** Requiring courts to operate within constitutional and statutory boundaries serves public interest in limited government.

## **C. Prevention of Dangerous Precedent**

**Future Protection:** Preventing this constitutional overreach protects all religious organizations from future governmental interference.

**Institutional Integrity:** Maintaining proper separation between judicial and ecclesiastical authority preserves important institutional boundaries.

# **BOND REQUIREMENT**

**No bond should be required** because:

### **A. No Monetary Award or Damages**

- The circuit court orders contain no monetary award or damages
- This involves only declaratory and injunctive relief regarding church governance
- No party has claimed monetary damages from church governance structure

### **B. Constitutional Nature of Issues**

- First Amendment and due process rights cannot be protected through monetary security
- Constitutional violations require immediate protection, not delayed monetary compensation
- Religious freedom issues transcend monetary considerations

### **C. Non-Party Status**

- The Church is not a party to the underlying litigation
- Non-parties seeking protection from erroneous orders should not face bond requirements
- Due process violations against non-parties warrant immediate relief without financial barriers

## **PRAYER FOR RELIEF**

**WHEREFORE**, the Church respectfully requests that this Honorable Court:

1. **GRANT** this Motion to Stay pursuant to Rule 221, SCACR;
2. **IMMEDIATELY STAY** the enforcement of all circuit court orders purporting to bind, direct, or supervise Enoree Fork Baptist Church pending final determination of all appeals;
3. **ENJOIN** all parties from taking any action to implement or enforce provisions of the July 31, 2025 Order or related orders affecting the Church;
4. **PROHIBIT** any court-supervised meetings, governance procedures, or ecclesiastical activities involving the Church;
5. **ORDER** that no bond be required given the constitutional nature of the issues and absence of monetary damages;
6. **EXPEDITE** consideration of this Motion given the ongoing constitutional violations and irreparable harm;
7. **PROTECT** the Church's constitutional rights to religious autonomy and due process pending proper adjudication of these fundamental issues;

8. **GRANT** such other and further relief as this Court deems just and proper to safeguard the Church's constitutional and legal rights.

**Respectfully submitted,**  
**s/ Fletcher N. Smith, Jr.**  
**FLETCHER N. SMITH, JR., ESQ.**  
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion to Stay has been served upon all parties and their counsel of record by electronic filing and service via the South Carolina Electronic Filing System:

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**Clerk of the Circuit Court:**  
Greenville County Courthouse  
301 University Ridge  
Greenville, SC 29601

This 13th day of August, 2025.

**Respectfully submitted,**  
  
**s/ Fletcher N. Smith, Jr.**  
**FLETCHER N. SMITH, JR.,**  
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Greenville, S.C.

August 13, 2025