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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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

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

Petitioners,

AND

ENOREE FORK BAPTIST CHURCH, a religious nonprofit corporation appearing as non-party petitioner,

v.

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.

PETITION FOR WRIT OF SUPERSEDEAS

(RULE 221, SCACR)

TO THE HONORABLE SOUTH CAROLINA COURT OF APPEALS:

Petitioners Charles "Bennie" Smith, Robin Smith, Larry Dawkins, Mable Dawkins, Jimmy Davis, Brenda Davis, Dorothy Thomason, L.C. Thomason, and James Sims, **and Enoree Fork Baptist Church ("EFBC"), a religious nonprofit corporation appearing as non-party petitioner**, by and through undersigned counsel, respectfully petition this Honorable Court pursuant to Rule 221, SCACR, for a Writ of Supersedeas to stay the execution and enforcement of the circuit court's July 31, 2025 Order pending the determination of their appeal.

NATURE OF THE CONSTITUTIONAL CRISIS

This extraordinary writ is necessitated by the circuit court's unprecedented overreach in binding and directing the internal governance of **Enoree Fork Baptist Church ("EFBC"), a religious corporation that was never named as a party, never served with process, and never appeared in the underlying litigation.** The July 31, 2025 Order violates fundamental principles of due process, subject matter jurisdiction, and the First Amendment's protection of religious autonomy by:

- **Binding a non-party religious corporation** without constitutional process
- **Compelling ecclesiastical governance** through court-supervised meetings and voting
- **Mischaracterizing a declaratory judgment action** to justify coercive remedies never pled
- **Exceeding neutral principles doctrine** through direct management of church affairs
- **Violating due process** by entering binding orders against an entity not properly before the court

ORDERS SUBJECT TO SUPERSEDEAS

Petitioners seek supersedeas of the **July 31, 2025 Order** which commits multiple legal errors and constitutional violations by:

A. Jurisdictional Overreach Against Non-Party Entity

Despite EFBC never being named as a defendant in the Jackson declaratory action, the Order purports to:

- "Restore the status quo" of EFBC as of April 3, 2017
- Reinstate officers and membership based on "Plaintiffs' Exhibit 8"
- Order EFBC to convene a business meeting on a court-fixed date
- Specify location, notice requirements, and moderator selection
- Retain jurisdiction to enforce compliance with court-directed church governance

B. Ecclesiastical Entanglement Beyond Neutral Principles

Violating First Amendment limitations, the Order micromanages EFBC's religious governance by:

- Dictating when and where the congregation must meet
- Prescribing announcement requirements and meeting procedures
- Selecting or appointing a court-chosen moderator
- Supervising a congregational vote on pastoral matters
- Fixing membership rosters and officer status under civil authority

C. Mischaracterization of Pleaded Relief

Contrary to the declaratory-only complaint, the Order:

- Mischaracterizes the action as seeking injunctive relief for building access
- Uses this mischaracterization to justify coercive remedies not pled
- Grants relief affecting corporate property without corporate party joinder
- Exceeds the prayer for declaratory relief through binding mandates

STANDARD FOR SUPERSEDEAS

Under Rule 221, SCACR, a writ of supersedeas is appropriate when:

1. There is a substantial likelihood of success on the merits of the appeal

2. Irreparable injury will result if the writ is not granted
3. The threatened injury to the petitioner outweighs the harm to the opposing party
4. The public interest favors granting the writ

ARGUMENT

I. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

Petitioners demonstrate overwhelming likelihood of success based on multiple reversible errors and constitutional violations:

A. Fatal Lack of Personal and Subject Matter Jurisdiction Over EFBC

Fundamental Due Process Violation: The Order violates basic jurisdictional principles because **EFBC was never named as a defendant** in the Jackson complaint, never served with process, and never appeared before the court. The Jackson complaint "names only individual defendants and seeks declaratory relief among factions; it does not name EFBC as a defendant or seek relief against EFBC as a corporate entity."

Controlling Authority: "A court cannot enter binding relief against a person or entity not properly before it." *Ballington v. Paxton*, 327 S.C. 372 (Ct. App. 1997). **Directing internal corporate procedures of a non-party religious corporation without joinder and service violates basic due process and personal jurisdiction principles.**

Precedential Support: In *Knotts v. Williams*, 319 S.C. 473 (1995), the South Carolina Supreme Court vacated a similar order because the church entity was not named as a party, emphasizing that courts cannot direct non-party religious organizations.

B. Exceeding Neutral Principles Doctrine Through Ecclesiastical Entanglement

Constitutional Violation: While civil courts may use neutral principles to decide threshold corporate questions, **they may not conduct, supervise, or compel ecclesiastical processes or substitute court-directed procedures for a church's own polity.**

Excessive Entanglement: The Order violates the Establishment Clause by:

- **Ordering and supervising a congregational meeting and vote** as judicial entanglement in internal governance beyond neutral adjudication
- **Dictating meeting procedures** not found in church bylaws, including location, timing, and moderator selection
- **Retaining jurisdiction** over ongoing religious decision-making, placing the court in supervisory role over ecclesiastical affairs

Controlling Authority: *Lemon v. Kurtzman*, 403 U.S. 602 (1971) (excessive entanglement); *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976) (ecclesiastical abstention).

C. Ultra Vires Ecclesiastical Determinations

Religious Membership Violations: The Order adopts "**Plaintiffs' Exhibit 8**" as the authoritative roll for "active," "inactive," and "associate" members, and uses that exhibit to fix voter eligibility for the compelled congregational meeting, thereby making ecclesiastical membership determinations under civil authority.

Controlling Authority: South Carolina law cautions that civil courts have "no authority to intervene in cases involving expulsion from church membership" absent a civil or property right and must avoid extensive inquiry into religious law. **Fixing membership rosters and officer status for a congregational church is quintessentially ecclesial and beyond neutral adjudication.**

D. Mischaracterization of Declaratory Action

Exceeding Pleaded Relief: The Order mischaracterizes the Jackson complaint by stating plaintiffs' "main purpose" was "to enjoin the Defendants from prohibiting the Plaintiffs from accessing the EFBC building," when the Jackson complaint is solely a declaratory judgment suit with five declaratory counts and a prayer for declarations, with no stand-alone injunctive count or express access injunction request.

Legal Error: Framing unpleaded injunctive aims as the suit's "main purpose" improperly recasts the cause, affects the law/equity classification, and risks granting remedies neither pled nor noticed.

E. Internal Inconsistencies in Jurisdictional Analysis

Contradictory Legal Standards: The Order contains internal inconsistencies by:

- **Refusing to decide which bylaws "are appropriate to govern"** for lack of jurisdiction, yet applying 1996 bylaws as controlling
- **Stating courts cannot "dictate procedures for a church to follow"** while simultaneously dictating meeting procedures, moderator selection, and notice requirements
- **Finding limited jurisdiction to "enable the church to act"** but then supervising ecclesiastical processes far beyond restoration

F. Overbroad "Status Quo" Relief

Exceeding Restorative Authority: The Order's "status quo" relief goes far beyond preservation into substantive ecclesial restructuring under court command through:

- **Judicially engineered ecclesiastical votes** rather than preservation pending lawful internal action
- **Member roll adoption and ongoing court monitoring** exceeding traditional status quo relief
- **Sweeping reinstatements and compelled action** beyond mere preservation of positions

II. IRREPARABLE HARM REQUIRING IMMEDIATE RELIEF

Petitioners and EFBC face multiple forms of irreparable harm that cannot be remedied through 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).

Ongoing Constitutional Violations: Each day the Order remains in effect:

- **Violates EFBC's religious autonomy** through judicial control of ecclesiastical governance
- **Subjects religious decision-making** to unconstitutional government supervision
- **Compels participation** in court-directed religious activities violating conscience rights

B. Due Process Violations Against Non-Party Entity

Fundamental Procedural Rights: EFBC faces ongoing binding by judicial orders entered without due process, including:

- **No notice** to the corporate entity of proceedings affecting its governance
- **No opportunity to be heard** before orders directing internal religious affairs
- **No proper service** or joinder before binding corporate governance decisions

C. Ecclesiastical and Institutional Harm

Religious Autonomy Destruction: Court-mandated religious procedures cause:

- **Permanent alteration** of constitutionally protected church governance
- **Confusion about legitimate religious authority** within the congregation
- **Judicial substitution** for religious decision-making processes
- **Precedent for governmental interference** in religious organizations

Community Division: Enforcement creates:

- **Irreparable schisms** within the religious community
- **Loss of congregational unity** and spiritual fellowship
- **Disruption of worship** and religious activities
- **Coerced religious participation** violating individual conscience

III. BALANCE OF HARMS WEIGHS DECISIVELY FOR SUPERSEDEAS

A. Overwhelming Harm to Petitioners and EFBC

Constitutional, religious, and due process violations causing irreparable injury that cannot be remedied after appeal, including ongoing daily violations of First Amendment rights and binding of non-party entity without constitutional process.

B. Minimal Harm to Respondents

Temporary preservation of status quo pending constitutional adjudication:

- **No monetary damages** at stake requiring immediate enforcement
- **Eight-year litigation history** shows brief additional delay is minimal
- **Current church governance** continues pending proper constitutional resolution
- **Future protection** available if Respondents ultimately prevail after due process

IV. PUBLIC INTEREST STRONGLY FAVORS SUPERSEDEAS

A. Constitutional Protection

Separation of Church and State: Preventing judicial overreach serves fundamental constitutional principles by:

- **Protecting religious autonomy** from governmental interference
- **Maintaining proper boundaries** between civil and ecclesiastical authority
- **Preserving church-state separation** for all religious organizations

B. Due Process and Rule of Law

Fundamental Procedural Rights: Ensuring entities cannot be bound without constitutional process protects:

- **Basic due process** for all citizens and organizations
- **Proper party joinder** requirements in civil litigation

- **Constitutional limitations** on judicial authority

C. Precedential Significance

Institutional Protection: Preventing this constitutional overreach protects:

- **Future religious organizations** from governmental interference
- **Voluntary associations** from judicial control without due process
- **Constitutional boundaries** on governmental power over autonomous institutions

BOND REQUIREMENT

No bond should be required because:

1. **No Monetary Award:** The Order contains only declaratory and injunctive relief regarding church governance, not monetary damages requiring security
2. **Constitutional Issues:** First Amendment and due process rights cannot be protected through monetary bonds—constitutional violations require immediate protection
3. **Non-Party Entity:** EFBC seeks protection from erroneous orders entered without jurisdiction or due process
4. **Declaratory Judgment:** This action seeks only declarations about church governance, not monetary compensation

PRAYER FOR RELIEF

WHEREFORE, Petitioners and EFBC as non-party petitioner respectfully request that this Honorable Court:

1. **GRANT** this Petition for Writ of Supersedeas pursuant to Rule 221, SCACR;
2. **STAY** the execution and enforcement of the July 31, 2025 Order pending final determination of this appeal;
3. **ENJOIN** all parties from implementing court-directed church governance procedures affecting EFBC;
4. **PROHIBIT** enforcement of any orders purporting to bind EFBC as a non-party entity;
5. **ORDER** that no bond be required given the constitutional nature of the issues and absence of monetary damages;
6. **EXPEDITE** consideration of this petition given the ongoing constitutional violations;
7. **GRANT** such other and further relief as this Court deems just and proper.

CONCLUSION

This case presents extraordinary circumstances warranting immediate appellate intervention. The circuit court has violated fundamental constitutional principles by binding and directing a religious organization without jurisdiction, due process, or constitutional authority. The **multiple legal errors**—jurisdictional overreach against a non-party, ecclesiastical entanglement beyond neutral principles, mischaracterization of pleaded relief, and due process violations—**demand immediate relief to prevent irreparable harm to religious autonomy and constitutional principles.**

The **four-part test for supersedeas is overwhelmingly satisfied** by: (1) substantial likelihood of success on multiple constitutional and jurisdictional grounds; (2) irreparable harm from ongoing First Amendment and due process violations; (3) overwhelming harm to constitutional rights versus minimal inconvenience to other parties; and (4) compelling public interest in protecting church-state separation and constitutional boundaries.

Without immediate stay, EFBC faces daily constitutional violations that cannot be remedied through ordinary appellate processes. This Court's intervention is essential to preserve the constitutional principles at the foundation of religious liberty and due process protection.

Respectfully submitted,

s/ Fletcher N. Smith, Jr.

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