

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.: 2019CP2306363

Consolidated with Civil Action No.: 2017-CP-23-06127

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SC Court of Appeals

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.

MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF SUPERSEDEAS AND
LIMITED APPEARANCE BY NON-PARTY CHURCH ENTITY

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I. INTRODUCTION AND SUMMARY OF ARGUMENT

This Court confronts an extraordinary case of judicial overreach involving multiple legal errors and serious First Amendment concerns where a circuit court has purported to bind and direct the internal governance of Enoree Fork Baptist Church ("EFBC"), a religious nonprofit 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.

The Constitutional Crisis: The circuit court has bound EFBC's corporate governance and compelled congregational action under court supervision despite EFBC having no party status in the Jackson declaratory action. The Order commands "the church" to conduct supervised meetings, make membership determinations, and restructure its leadership—all while the church entity remains absent from the litigation. This unprecedented governmental interference with religious autonomy demands immediate appellate intervention.

Four Fundamental Violations Require Emergency Relief:

1. Jurisdictional: EFBC is not a named party in the Jackson complaint yet the Order binds EFBC's corporate governance, violating due process and exceeding personal jurisdiction
2. Constitutional: By compelling, supervising, and structuring a congregational meeting and vote, the Order entangles the civil court in ecclesiastical governance beyond neutral-principles adjudication, violating the First Amendment
3. Procedural: The Order mischaracterizes the complaint as seeking injunctive relief to access the building, contrary to the declaratory-only prayer, and uses that mischaracterization to justify coercive remedies not pled
4. Substantive: Internal inconsistencies in jurisdictional reasoning, selective bylaw application, and overbroad "status quo" remedies reflect reversible legal error and constitutional infirmity

This case presents exceptional circumstances warranting a writ of supersedeas: ongoing constitutional violations against a non-party religious entity that cannot be remedied through ordinary appellate processes.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. EFBC's Non-Party Status in All Proceedings

Enoree Fork Baptist Church is a religious nonprofit corporation organized under South Carolina law. Critical to this appeal: EFBC was never named as a party in any of the three consolidated lawsuits now on appeal.

Undisputed Facts Regarding EFBC's Non-Party Status:

- The Jackson complaint names only individual defendants and seeks declaratory relief among factions
- EFBC was never named as a defendant or plaintiff in any consolidated action
- EFBC was never served with process in any proceeding
- EFBC never appeared before any court or retained counsel until this emergency intervention
- The Jackson complaint does not seek relief against EFBC as a corporate entity

- The prayer is confined to declarations and "such other further relief," not coercive orders against a non-party church

B. The Circuit Court's Unprecedented Jurisdictional Overreach

Despite EFBC's complete absence from the litigation, the July 31, 2025 Order commits multiple constitutional violations by purporting to:

1. Bind Non-Party Corporate Governance

- "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 at a specified location
- Retain jurisdiction to enforce compliance with court-directed church governance

2. Micromanage Ecclesiastical Affairs

- Dictate when and where the congregation must meet (Enoree River Association on specific date)
- Prescribe announcement requirements (two successive Sunday announcements)
- Mandate a moderator chosen by attorneys or appointed by the court and paid equally
- Supervise congregational voting on pastoral and governance matters
- Fix membership rosters and voter eligibility through civil authority

3. Exceed Neutral Principles Doctrine

While reciting neutral-principles cases, the Order goes far beyond the limited two-question test (did the congregation meet; did it dispose of the pastor) to conduct, supervise, and compel ecclesiastical processes in violation of First Amendment limitations.

C. Mischaracterization of Declaratory Relief

Contrary to the actual pleadings, the Order mischaracterizes the Jackson complaint by stating that plaintiffs' "main purpose" was "to enjoin the Defendants from prohibiting the Plaintiffs from accessing the EFBC building." However, the Jackson complaint is solely a declaratory judgment suit with five declaratory counts and a prayer for declarations, costs/fees,

and generic "other relief," with no stand-alone injunctive count or express access injunction request.

D. EFBC's Emergency Intervention to Protect Constitutional Rights

Facing daily constitutional violations as a non-party entity bound by unconstitutional orders, EFBC now appears through limited intervention to protect its fundamental rights while challenging orders entered without constitutional authority.

III. STANDARD FOR EXTRAORDINARY APPELLATE RELIEF

A. Writ of Supersedeas Standard

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

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

B. Non-Party Entity's Right to Seek Protection

South Carolina recognizes that entities may challenge orders affecting their rights without submitting to general jurisdiction. When courts exceed jurisdictional limitations by binding non-parties, affected entities have inherent right to seek protection. *Ballington v. Paxton*, 327 S.C. 372 (Ct. App. 1997) ("A court cannot bind non-parties to litigation").

Constitutional Standing: Religious organizations have particular standing to challenge governmental interference with their autonomy regardless of litigation status. *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*, 565 U.S. 171 (2012).

IV. ARGUMENT

A. EFBC HAS STANDING TO SEEK PROTECTION AS NON-PARTY PETITIONER

1. Corporate Standing and Religious Liberty Rights

Legal Capacity: As a religious nonprofit corporation, EFBC has legal capacity to defend its constitutional and statutory rights under S.C. Code Ann. § 33-31-302. Religious organizations have heightened standing to challenge governmental interference with their constitutionally protected autonomy.

Constitutional Protection: The First Amendment protects religious organizations' right to internal self-governance. *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327 (1987). When government violates these rights, affected religious entities have standing to seek immediate protection.

2. Non-Party's Inherent Right to Challenge Binding Orders

Fundamental Due Process: EFBC has been bound by judicial orders entered without constitutional process. The Fourteenth Amendment prohibits binding entities without notice and opportunity to be heard. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950).

Jurisdictional Protection: When courts exceed their authority by binding non-parties, affected entities may seek protection without submitting to general jurisdiction. EFBC's limited appearance preserves all constitutional and jurisdictional defenses while seeking necessary relief.

B. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

EFBC and Petitioners demonstrate overwhelming likelihood of success based on multiple independent reversible errors:

1. Complete Absence of Personal and Subject Matter Jurisdiction Over EFBC

Fatal 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.

Undisputed Record: 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." Yet the Order purports to bind EFBC's corporate governance and compel congregational action.

Controlling Authority: "Directing internal corporate procedures of a non-party religious corporation without joinder and service violates basic due process and personal jurisdiction principles because a court cannot enter binding relief against a person or entity not properly before it."

Precedential Support: *Knotts v. Williams*, 319 S.C. 473 (1995) (Supreme Court vacated order directing church procedures because church entity was not named as party); *Ballington v. Paxton*, 327 S.C. 372 (Ct. App. 1997) (courts cannot bind non-parties).

2. Exceeding Neutral Principles Through Ecclesiastical Entanglement

Constitutional Violation Beyond Neutral Adjudication: 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 in Violation of Establishment Clause:

a. Direct Supervision of Religious Governance: "Ordering and supervising a congregational meeting and vote is judicial entanglement in internal governance beyond neutral adjudication."

The Order:

- Dictates when and where the congregation must meet
- Prescribes announcement requirements and meeting procedures not found in church bylaws
- Mandates court selection or appointment of moderator

- Retains jurisdiction to oversee religious decision-making

b. Judicial Control of Ecclesiastical Processes: The Order "imposes court-made procedures not found in the 1996 bylaws it purports to honor, thereby dictating church procedures contrary to its own statement that 'It is not the function of the courts to dictate procedures for a church to follow.'"

c. Ongoing Supervisory Role: By retaining "jurisdiction to ensure 'both factions' comply and to oversee through the congregational vote date," the Order "places the court in an ongoing supervisory role over internal religious decision-making, a function incompatible with the limited civil judicial role in church disputes under neutral principles."

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); *Hosanna-Tabor*, 565 U.S. 171 (religious autonomy).

3. Ultra Vires Ecclesiastical Membership Determinations

Impermissible Religious Authority: 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 and reinstatements under color of civil authority."

Violation of Religious Autonomy: 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. The Order violates this principle by:

- Fixing membership rosters under civil authority

- Determining voter eligibility for religious governance
- Reinstating officers through judicial decree rather than ecclesiastical process

Constitutional Violation: "Fixing membership rosters and officer status for a congregational church is quintessentially ecclesial and beyond neutral adjudication."

4. Mischaracterization of Declaratory Action to Justify Unpled Relief

Improper Recharacterization: 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." This fundamentally misrepresents the actual pleadings.

Actual Pleadings: The Jackson complaint "is solely a declaratory judgment suit with five declaratory counts and a prayer for declarations, costs/fees, and generic 'other relief,' with no stand-alone injunctive count or express access injunction request."

Legal Error: "Framing unpledged 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." This violates fundamental principles of notice pleading and due process.

Exceeding Pleadings Relief: The Order "contemplates access and control consequences regarding EFBC's building through 'restoration' and the mandated meeting and vote, despite EFBC not being a party in the Jackson action; relief affecting property possession or corporate control ordinarily requires the corporation's joinder."

5. Internal Inconsistencies Demonstrating Legal Error

Contradictory Jurisdictional Analysis: The Order contains fundamental internal inconsistencies that demonstrate reversible legal error:

a. Selective Bylaw Application: The Order "refuses to decide which bylaws 'are appropriate to govern the function and operation of EFBC' for lack of jurisdiction, yet it applies the 1996 bylaws as controlling for termination procedures, reinstates membership and officers by exhibit, and designs a meeting process that departs from the bylaws' internal mechanisms."

b. Contradictory Authority Claims: The Order simultaneously:

- States courts cannot "dictate procedures for a church to follow"
- Then dictates specific meeting procedures, moderator selection, announcement requirements, and governance processes

c. Inconsistent Jurisdiction Theory: The Order "states courts only ask if the congregation met and disposed of the pastor and, if yes, lack jurisdiction; it then finds the congregation did not validly meet and asserts jurisdiction to 'restore the status quo.'" However, "supervising a future meeting, choosing or appointing a moderator, fixing notice modalities, and reinstating a membership roll exceeds 'restoration' and crosses into dictating internal procedures."

6. Overbroad "Status Quo" Relief Exceeding Judicial Authority

Beyond Preservation Into Management: The Order's "'status quo' relief goes far beyond preservation into substantive ecclesial restructuring under court command" through:

a. Judicial Engineering: "Judicially engineered ecclesiastical votes" rather than preservation pending lawful internal action

b. Ongoing Supervision: "Member roll adoption and ongoing court monitoring" exceeding traditional status quo relief

c. Ecclesiastical Restructuring: "Sweeping reinstatements and compelled action" that "'restoring status quo' is used to justify sweeping reinstatements and compelled action; but status quo ante typically preserves positions pending lawful internal action, not judicially engineered ecclesiastical votes."

C. IRREPARABLE HARM REQUIRING IMMEDIATE RELIEF

EFBC and Petitioners face multiple forms of irreparable harm that cannot be remedied through post-appeal relief:

1. Constitutional Injury Is Irreparable Per Se

Established Doctrine: "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 Violations: Each day the Order remains in effect constitutes ongoing constitutional violations including:

- Violation of EFBC's religious autonomy through judicial control of ecclesiastical governance
- Compelled participation in court-directed religious activities
- Governmental interference with protected internal church decision-making

2. Ecclesiastical and Spiritual Harm Unique to Religious Organizations

Ongoing Violation of Religious Autonomy: The Order's daily enforcement:

- Subjects protected religious governance to unconstitutional government control
- Violates EFBC's spiritual authority and ecclesiastical independence
- Creates precedent for future governmental interference in religious affairs
- Undermines fundamental Baptist principles of congregational autonomy

Irreversible Changes to Church Structure: Court-mandated procedures permanently alter constitutionally protected internal governance through:

- Judicial imposition of governance contrary to religious doctrine and tradition

- Confusion about legitimate religious authority within the congregation
- Division of the religious community in ways that cannot be restored
- Loss of ecclesiastical independence that cannot be remedied after appeal

3. Due Process Violations Against Non-Party Entity

Ongoing Constitutional Violation: Every day EFBC remains bound by orders entered without due process violates fundamental constitutional principles including:

- Binding without notice to the corporate entity
- No opportunity to be heard before orders affecting governance
- Violation of basic procedural rights that cannot be restored

Dangerous Precedent: Allowing these orders to stand creates precedent that religious and other entities can be bound without proper constitutional process, threatening institutional autonomy across society.

4. Community and Congregational Harm

Religious Community Division: Court-ordered procedures create irreparable harm through:

- Irreparable schisms within the church community
- Confusion over court-imposed versus religiously-determined authority
- Loss of congregational unity and spiritual fellowship
- Disruption of worship and religious activities

Coerced Religious Activity: Mandated participation in judicially-supervised religious governance violates individual conscience rights of church members and forces participation in religious activities under governmental control.

D. BALANCE OF HARMS AND PUBLIC INTEREST STRONGLY FAVOR SUPERSEDEAS

1. Overwhelming Harm to EFBC and Petitioners vs. Minimal Harm to Respondents

Irreparable Constitutional Harm: As detailed above, ongoing constitutional, religious, and due process violations that cannot be remedied after appeal.

Minimal Harm to Respondents: A supersedeas merely preserves the current church governance structure pending constitutional adjudication:

- No monetary damages at stake requiring immediate enforcement
- Eight-year litigation history shows brief additional delay for constitutional resolution is minimal
- Status quo preservation maintains existing structure rather than implementing court-ordered governance
- Future protection available if Respondents ultimately prevail after proper constitutional adjudication

2. Compelling Public Interest in 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

Due Process Protection: Ensuring entities cannot be bound without constitutional process protects:

- Basic procedural rights for all citizens and organizations
- Proper party joinder requirements in civil litigation
- Constitutional limitations on judicial authority over autonomous institutions

Precedential Significance: This Court's action will determine whether South

Carolina courts can bind religious and other entities without constitutional process. The implications extend beyond this case to the fundamental relationship between government and autonomous institutions.

3. No Bond Required for Constitutional Protection

No Monetary Award: The Order contains only declaratory and injunctive relief regarding church governance, not monetary damages requiring security.

Constitutional Issues: First Amendment and due process rights cannot be protected through monetary bonds—constitutional violations require immediate protection, not delayed compensation.

Non-Party Status: EFBC as a non-party entity seeking protection from erroneous orders should not face bond requirements that could delay necessary constitutional relief.

V. CONCLUSION

This case presents extraordinary circumstances warranting immediate appellate intervention through writ of supersedeas. The circuit court has committed multiple legal errors and constitutional violations by binding and directing a religious organization without jurisdiction, due process, or constitutional authority.

The Four Critical Violations Demanding Emergency Relief:

1. Jurisdictional Overreach: EFBC is not a named party yet the Order binds its corporate governance, violating due process and personal jurisdiction
2. Constitutional Entanglement: Compelling, supervising, and structuring congregational meetings violates First Amendment limits on judicial authority over religious organizations
3. Procedural Violations: Mischaracterizing declaratory relief to justify unpled coercive remedies against non-party entity
4. Legal Inconsistencies: Internal contradictions in jurisdictional reasoning and overbroad remedies reflecting reversible error

The Four-Part Test Is Overwhelmingly Satisfied:

1. Substantial Likelihood of Success: Multiple independent constitutional and jurisdictional violations establish clear reversible errors

2. Irreparable Harm: Daily constitutional violations causing irreparable injury to religious freedom and ecclesiastical autonomy
3. Balance of Harms: Overwhelming constitutional harm versus minimal inconvenience to other parties
4. Public Interest: Compelling interest in protecting church-state separation and constitutional boundaries on governmental power

Emergency Relief Is Essential: Unlike ordinary civil disputes, this case involves ongoing constitutional violations against a non-party religious entity that grow worse with each day of enforcement. Religious autonomy, once violated, cannot be fully restored. Due process, once denied, creates lasting harm to constitutional principles.

EFBC and Petitioners respectfully urge this Court to grant the requested writ of supersedeas to prevent ongoing constitutional violations while ensuring proper appellate review of these critical constitutional questions. The extraordinary nature of these violations demands extraordinary relief to preserve the constitutional principles at the foundation of our religious liberty and due process protections.

Respectfully submitted,

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