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Aug 29 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
The Honorable Martha M. Rivers, Circuit Court Judge

Appellate Case No. 2025-000306

Trial Court Case No. 2024-CP-42-02781

Carnie Norris, III, Appellant,

vs.

Dr. Gary W. Poliakoff,¹ Respondent.

**RESPONDENT’S RETURN TO APPELLANT’S MOTION REQUESTING
PERMISSION TO SERVE AND FILE OUT OF TIME**

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Counsel for Respondent Gary W. Poliakoff, Esq.

¹ The Appellant improperly identifies Gary W. Poliakoff, Esq. as “Dr. Gary W. Poliakoff.”

RETURN

Respondent Gary W. Poliakoff, Esq., by and through his undersigned counsel, submits this Return to Appellant Carnie Norris III's Motion for Permission to File and Serve the Final Brief Out of Time. Respondent respectfully requests that the Court deny Appellant's motion based on procedural and substantive grounds, as outlined below.

PROCEDURAL BACKGROUND

Appellant filed a Notice of Appeal on February 10, 2025, which was received by the Court of Appeals on February 17, 2025. The Clerk of the Court of Appeals notified Appellant of deficiencies in the appeal, including a lack of proof of service on Respondent's counsel, which Appellant corrected within the required timeframe.

On March 12, 2025, Appellant was informed that the time to order a transcript had expired, and he failed to comply with the alternatives provided. Appellant filed a handwritten Initial Brief on March 19, 2025, which was difficult to discern, leading to extensions for Respondent to file his brief.

Respondent filed his initial Brief of Respondent on June 4, 2025.

Appellant filed a Reply Brief on June 16, 2025, but failed to serve the Record on Appeal, as required by Rule 210, SCACR.

On July 14, 2025, Respondent received an unfiled copy of Appellant's final Brief, which lacked the Record on Appeal.

ARGUMENTS

I. Appellant’s Motion (and appeal) should be dismissed for failure to comply with the South Carolina Appellate Court Rules.

Appellant has consistently failed to comply with the South Carolina Appellate Court Rules, including the failure to serve the Record on Appeal, as required by Rule 210, SCACR. This failure has prejudiced Respondent’s ability to file a complete and responsive final Brief of Respondent. The South Carolina appellate courts have emphasized the importance of adhering to procedural rules, and noncompliance should result in dismissal of the appeal.

The South Carolina appellate courts have consistently emphasized the importance of adhering to appellant procedural rules. “[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). “It is incumbent upon counsel [or litigants] to provide material that complies with the Rules and facilitates appellate review.” *Id.*

II. Appellant’s motion lacks substantive merit.

Appellant’s motion is based on an alleged inadvertent mistake, confusing this case with another. However, this does not constitute good cause for the delay. The Respondent has been prejudiced by Appellant’s repeated procedural deficiencies, which have compromised Respondent’s ability to advocate effectively.

III. The Appellant’s appeal is meritless.

The appeal itself is without merit, as it is based on unfounded allegations and speculative assertions unsupported by the record or applicable law. The trial court’s dismissal of the

underlying action was based on well-established legal principles, including the expiration of the statute of limitations and the absence of any legal duty owed by Respondent to Appellant.

CONCLUSION

The Respondent, Gary W. Poliakoff, Esq., respectfully requests that the Court of Appeals deny Appellant's Motion for Permission to File and Serve the Final Brief Out of Time and dismiss the appeal in its entirety.

Respectfully submitted,

/s/ Thomas A. Pendarvis

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Counsel for Respondent Gary W. Poliakoff

August 29, 2025

Beaufort, South Carolina

Pro Se Appellant:

Carnie Norris, III, #227226

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Pelzer SC 29669

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Carnie Norris, III, Appellant,

vs.

Gary Poliakoff, Esq. Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that on August 29, 2025, a copy of the Respondent, Gary Poliakoff, Esq.'s Return to Appellant's Motion to File and Serve Final Brief out of Time, was served on Appellant, Carnie Norris, III, via U.S. Postal Service containing the above-referenced documents to the mailing address as follows:

Carnie Norris, III, #227226
PERRY CORRECTIONAL INSTITUTION Q4B-220
430 Oaklawn Road
Pelzer, SC 29669

Respectfully submitted,
/s/ Thomas A. Pendarvis
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August 29, 2025