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Sep 22 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382 &
C.A. No.: 2020-CP-36-00384
Appellate Case No 2024-002049

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

and

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Tom Persons, Geoffery Chambers, Esq. & South Carolina Educational Credit for
Exceptional Needs Children Fund Respondents.

APPELLANT’S REPLY TO RESPONDENTS’ RETURN TO MOTION TO VACATE

NOW COME *Pro Se* Appellant above named, respectfully moves this Court, pursuant to
Rule 240, SCACR, to vacate the judgment of the trial court and dismiss this matter.

CLARIFICATION OF RELIEF

Respondents mischaracterize Appellant’s motion as a request to “withdraw his appeal.” That is incorrect. Appellant has not sought dismissal of his appeal. Instead, Appellant’s request is that the **trial court’s November 25, 2024 contempt order be vacated**. Once vacatur is granted, the appeal becomes moot by operation of law because no order remains to review.

This Court has already directed fact-finding on Appellant’s medical condition. The circuit court conceded—on the record—that Appellant did in fact suffer from Stage IV colon cancer, contrary to the premise underlying the contempt order. Vacatur, therefore, is not an attempt to bypass appellate procedure, but the only legally consistent remedy available after the trial court’s concession.

EXTRAORDINARY CIRCUMSTANCES JUSTIFY VACATUR

Respondents correctly observe that vacatur constitutes “extraordinary relief.” Rule 261(d), SCACR. Here, however, **extraordinary circumstances exist**:

1. The contempt order rested on the trial court’s disbelief of Appellant’s sworn affidavit concerning his cancer diagnosis and medical incapacity.
2. The trial court has since expressly acknowledged Appellant’s Stage IV colon cancer, confirming the truth of Appellant’s affidavit and eliminating the factual predicate for contempt.

3. Appellant continues to suffer from Stage IV colon cancer and has now been advised to pursue additional chemotherapy treatment. This new development underscores the impossibility—then and now—of compliance with the trial court’s payment directive.

To leave a contempt order intact under these circumstances would perpetuate manifest injustice and collateral harm, including reputational injury, potential enforcement actions, and ongoing uncertainty, despite the trial court’s own findings.

UNDISPUTED RECORD AND PROCEDURAL HISTORY

Respondents have not contested either of the central facts underlying the contempt order: (1) that Appellant suffered from Stage IV colon cancer during the relevant time period, and (2) that Appellant lacked the financial ability to comply with the \$39,443.61 payment directive. The trial court itself has conceded the first fact, and the second has never been disputed.

Moreover, this Court’s December 20, 2024, Order required the circuit court to hold an expedited hearing and rule on Appellant’s petition for supersedeas. Although the circuit court eventually conceded Appellant’s diagnosis, it never issued a ruling on supersedeas as directed. As a result, this Court reassumed jurisdiction on June 13, 2025. This unusual procedural posture underscores why extraordinary relief is appropriate here. The contempt order rests on factual findings already discredited and corrected, and this Court has already intervened once to protect Appellant from manifest injustice.

[CONTINUED ON NEXT PAGE]

PROCEDURAL SUFFICIENCY

Respondents argue that no Record on Appeal has been filed, and therefore no meaningful review can occur. That argument ignores this Court's prior remand, which produced a clear record on the dispositive factual issue: Appellant's cancer diagnosis and medical incapacity. The trial court's concession on this point is undisputed.

The governing law is equally undisputed. Civil contempt requires the present ability to comply. *Henderson v. Henderson*, 298 S.C. 190, 379 S.E.2d 125 (1989). A party may not be held in contempt for failing to perform an act he is powerless to perform. *State v. Bevilacqua*, 316 S.C. 122, 447 S.E.2d 213 (Ct. App. 1994). Once inability to comply is established, contempt cannot stand.

Thus, the record is procedurally sufficient for this Court to rule.

[CONTINUED ON NEXT PAGE]

RELIEF REQUESTED

WHEREFORE, for the foregoing reasons, the undersigned Appellant would respectfully request that this Court:

1. **Vacate the trial court's November 25th, 2024 contempt order** in light of the established and ongoing medical incapacity and financial impossibility of compliance; and
2. Declare the appeal moot upon vacatur of the order.

In the alternative, if this Court is not inclined to grant vacatur directly, Appellant respectfully requests that the case be **remanded with instructions** to vacate the contempt order consistent with the circuit court's factual findings.



Date: September 22nd, 2025

Jefferson Davis, Jr., Appellant
403 McCarter Avenue,
Greenville, SC 29615
843-901-8036 (cell) | jeff@apogeetax.com

Other Counsel / Parties of Record: See Certificate of Service

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

) THE STATE OF SOUTH CAROLINA
) In The Court of Appeals
)
)

Jefferson Davis, Jr.,

) C.A. No.: 2020-CP-36-00382 &
) C.A. No.: 2020-CP-36-00384
)

Plaintiff,

vs.

) Appellate Case No 2024-002049
)

Chad Connelly, Dave Wilson, Stephen
Kirkland, Tom Persons, Neil Mellen, E3
Software, LLC, Endurance International Group
Holdings, LLC, John Doe #1 & John Doe #2
and John Does #3-40,

)
) **SWORN AFFIDAVIT OF**
) **JEFFERSON DAVIS, JR.**
)
)

Defendants.

)
)
)

And

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

)
)
)
)

Jefferson Davis, Jr.,

)
)

Plaintiff,

vs.

)
)
)

Chad Connelly, Tom Persons, Geoffrey
Chambers, Esq., and South Carolina
Educational Credit for Exceptional Needs
Children Fund,

)
)
)
)

Defendants.

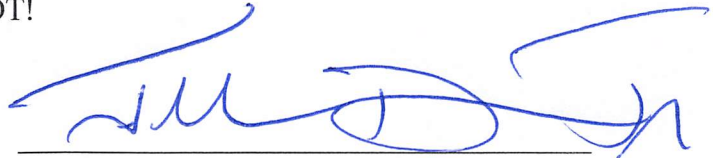
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The undersigned, being duly sworn and deposed, sayeth that:

1. I am a resident and elector of Greenville County, South Carolina.
2. I am the Appellant in the above-captioned matters.
3. As set forth in my prior filings, I have been diagnosed with **Stage IV colon cancer**.

4. On May 29, 2025, the circuit court entered an order acknowledging my cancer diagnosis and medical incapacity after review of my medical records, consistent with my sworn affidavit and testimony.
5. Since that time, my cancer has not resolved. I remain under active medical care.
6. In September 2025, my treating physician has advised me that I should pursue additional chemotherapy treatment due to recurrence risk.
7. At all relevant times, my inability to comply with the trial court's contempt order was genuine and remains ongoing.
8. Leaving the contempt order intact continues to cause collateral harm to my reputation, professional standing, and financial well-being, despite the trial court's concession that my medical incapacity is real.

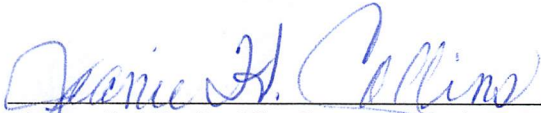
FURTHER AFFIANT SAYETH NOT!



Jefferson Davis, Jr.

Sworn to and subscribed before me

this 22nd day of September, 2025



Notary Public for The State of South Carolina

My Commission Expires: 3/27/28



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..... Respondents.

and

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Chad Connelly, Tom Persons, Geoffery Chambers, Esq. & South Carolina Educational Credit for
Exceptional Needs Children Fund Respondents.

PROOF OF SERVICE

I certify that I have served **APPELLANT’S REPLY TO RESPONDENTS’ RETURN TO MOTION TO VACATE** and **SWORN AFFIDAVIT OF JEFFERSON DAVIS, JR.** on the below named parties via First Class Mail or email on **September 22nd, 2025.**

[CONTINUED ON NEXT PAGE.]

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**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

[CONTINUED ON NEXT PAGE.]

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APPELLANT

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VIA Email & US Mail

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: Appellate Case No 2024-002049

Dear Ms. Kitchings:

Please find enclosed (#1) **APPELLANT'S REPLY TO RESPONDENTS' RETURN TO MOTION TO VACATE** & (#2) **SWORN AFFIDAVIT OF JEFFERSON DAVIS, JR.** filed by email today.

Thank you for your assistance. If you have any questions, please feel free to email me at jeff@apogeetax.com or give me a call at 843-901-8036 (cell).

Sincerely,



Jeff Davis, *JD, MBA, CPA(GA)*
Plaintiff / Appellant
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