

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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SC Court of Appeals

In Re: Estate of M.K. Jennings 2010ES 2900169

Beverly Hennager, Appellant

v.

Mary E. Dearden, Personal Representative of the
Estate of M.K. Jennings, Respondent

Appellate Case No: 2024-001152

Appeal from Kershaw County
Daniel Coble, Circuit Court Judge

106720

MOTION TO EXPEDITE RULING ON PETITION FOR WRIT OF MANDAMUS

Comes now the Appellant, Beverly Hennager, pro se, respectfully requesting that the Court of Appeals expedite its review and issue a ruling on the pending Petition for Writ of Mandamus filed on September 11, 2025 (attached as exhibit 1).

Appellant previously sought extraordinary supervisory relief after demonstrating that the lower courts and clerk have refused to accept, docket, or adjudicate properly submitted Rule 60 motions asserting voidness of the judgment and fraud on the court. The Supreme Court has since

issued its remittitur, and Appellant re-mailed Rule 60 motions; postal tracking confirms delivery, yet the motions still do not appear on the docket and the clerk has not responded to Appellant's written inquiries. The clerk's continued failure to process or explain the status of these post-judgment motions effectively denies access to Rule 60 relief and threatens irreparable impairment of Appellant's fundamental constitutional rights, as already detailed in prior filings and supporting exhibits, including the right to due process and to seek relief from a void or fraud-tainted judgment.


South Carolina appellate courts have consistently held that, to preserve an issue for appeal, the trial court must rule on the issue, or, if the judge fails to do so, the party must bring a post-trial motion requesting a ruling (see *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 602 S.E.2d 772, 780 (2004); *Siau v. Kassel*, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006)).

Rule 7(b), South Carolina Rules of Civil Procedure, provides the framework for filing motions and implicitly requires the court to address each filed motion. Nearly three months have elapsed since the Petition was filed and no docket entry or order has issued. Under prevailing law, including *Coleman v. Dunlap* (303 S.C. 511, 402 S.E.2d 181 (Ct. App. 1991)), *Kassel v. Kassel* (299 S.C. 439, 385 S.E.2d 883 (Ct. App. 1989)), and controlling South Carolina Supreme Court precedent, all filed motions require formal disposition to preserve issues for further review. Mandamus relief is warranted here to compel performance of ministerial duties and safeguard appellate rights.

As the time to seek review in the United States Supreme Court is running, and Appellant is preparing a petition for a writ of certiorari that must accurately state whether the Rule 60

motions have been adjudicated, Appellant respectfully moves the Court to expedite consideration and issue a ruling on the pending petition for mandamus.

Respectfully submitted,

 date 12-10-2025

Beverly Hennager
315 Wood Lane
Corvallis, MT 59828
hennagerbev@gmail.com
Pro Se

AFFIRMATION OF SERVICE

I, Beverly Hennager, do hereby certify that I have served a copy of the foregoing Motion to Expedite Ruling on Petition for Writ of Mandamus to the following addresses:

The fifty dollar filing fee is included in the hard copy.

Moultrie Burns, Esquire
Savage Royal & Sheheen, LLP
PO Drawer 10
Camden, SC 29021
Attorney for Respondent, Mary Dearden

Respectfully Submitted,



date 12-10-2025

Beverly Hennager
315 Wood Lane
Corvallis, MT 59828
hennagerbev@gmail.com
Pro Se

EXHIBIT 1

Sept.11, 2025 Petition for Writ of Mandamus

without exhibits

Sep 11 2025
SC Court of Appeals

APPEAL FROM KERSHAW COUNTY
District Court

Honorable Daniel Coble, Circuit Court Judge

Court of Appeals Case No. 2024-001152

In Re: Estate of M.K. Jennings 2010ES2800169

Beverly Hennager.....Appellant

v.

Mary E. Dearden, Personal Representative of the Estate of M.K.Jennings...Respondent

Notice of Rule 60(b) Filing and Request for Oversight and Mandamus
For the Purpose of Appellate Preservation

To the Honorable Judges of the South Carolina Court of Appeals:

I, Beverly Hennager, pro se appellant, respectfully submit this notice and request for oversight—and for the extraordinary writ of mandamus—directly to the Court of Appeals, regarding the procedural status of my post-judgment filings in the above-captioned matter.

Following the Court’s June 11, 2025 opinion (Unpublished Opinion No. 2025-UP-196), which affirmed the circuit court’s order on grounds that issues including fraud

on the court, void judgment, and due process concerns were not preserved for appellate review absent a properly filed and ruled-upon Rule 60(b) motion in the circuit court, I attempted to cure this deficiency by filing multiple Rule 60(b) motions in both the Circuit and Probate Courts for Kershaw County. These motions assert both fraud on the court and voidness/due process violations under Rule 60(b)(3) and (4).

Despite these efforts, the Clerk of Court (Kershaw County) has refused to docket or transmit these motions, citing a “closed case” and referencing a closure order. Notably, the first Rule 60 motions refused by the court were emailed and mailed on June 16, 2025 (Exhibit 8), nearly three months before the Circuit Court’s September 4, 2025 order closing the case. Prevailing law allows a party to challenge a void judgment at any time, regardless of a case’s administrative closure.

South Carolina rules and established caselaw—including *Kassel v. Kassel*, *Coleman v. Dunlap*, and *Redmond v. Lexington*—require parties to seek judicial intervention and permit the appellate courts to issue a writ of mandamus when a clerk refuses to perform a mandatory duty and all other remedies have been exhausted.

Because the lower courts have refused to accept, docket, or rule on my Rule 60(b) motions and related filings—despite clear legal authority requiring the clerk and supervisory judge to do so—I am compelled to present the complete evidentiary record to the Court of Appeals. Under South Carolina law, mandamus may be invoked only when the petitioner has demonstrated exhaustion of all available remedies and when appellate intervention is necessary to compel performance of a ministerial duty. The enclosed documentary evidence substantiates that every reasonable means for relief has been pursued and establishes the factual predicate for the relief requested.

These materials are submitted to ensure that both the factual and legal barriers to relief are preserved for appellate consideration. As the circuit court judge is also serving as the supervisory judge and refuses to provide rulings on my motions, I am compelled to seek judicial oversight—including mandamus relief—from the Court of Appeals.

Authority

Bank of America v. Wells, 364 S.C. 507, 613 S.E.2d 548 (Ct. App. 2005): Under Rule 60(b)(4), a party may challenge a void judgment at any time; lack of jurisdiction renders a judgment void and subject to collateral attack, regardless of case closure.

Coleman v. Dunlap, 307 S.C. 491, 415 S.E.2d 426 (1992): The judge has discretion to grant or deny a Rule 60(b) motion, but a clerk must docket and transmit such motions, since both fraud on the court and void judgments are grounds for reopening otherwise “closed” cases.

Kassel v. Kassel, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006): Clerks of court have a ministerial duty to docket filings irrespective of potential procedural flaws. Unless specifically authorized by statute or court rule, a clerk may not exercise any judicial power reserved for a judge.

Mandamus standard: The appellate courts may issue a writ of mandamus to compel a public official, including court clerks, to perform a mandatory legal duty, when no other remedy exists (*Redmond v. Lexington County Sch. Dist. No. Four*, 314 S.C. 10, 443 S.E.2d 449 (1994)).

Guenther v. Charleston Light & Water Co., 68 S.C. 540, 47 S.E. 979, 983 (1904):

“The province of a writ of mandamus is to afford redress where a party has a right to have anything done and has no other specific means of compelling its performance.”.

Request for Relief

Given the refusal by the Clerk of Court to perform a ministerial duty, and the supervisory judge’s refusal to adjudicate the presented post-judgment motions, I respectfully request:

1. That the Court of Appeals provide oversight and specific direction to the circuit court and its clerk to ensure acceptance and proper docketing of my Rule 60(b) motions, thereby permitting judicial determination on the merits.
2. That the appellate court clarify that post-judgment motions seeking relief under Rule 60(b) must be accepted and considered even after case closure, particularly when constitutional rights and allegations of fraud on the court are presented.
3. That the Court, if warranted by the record, issue a writ of mandamus compelling the circuit court and its clerk to accept and process the attached motions.
4. That this filing be treated as a continuing effort to preserve all appellate and due process rights in accordance with the Court's prior directives.

If further information or evidence is required, I am prepared to provide all relevant correspondence and documents upon request.

___S/Beverly Hennager_____ date ___9/11/2025___

Beverly Hennager
315 Wood Lane
Corvallis, MT 59828
hennagerbev@gmail.com
(406) 361-0796
PRO SE

ATTACHMENTS

1. Circuit court order closing case.....	6
2. Clerk's refusal emails.....	8
3. Notice to Clerk of Court.....	10
4. Copy of Rule 60 Motion to Circuit Court.....	12
5. Copy of Rule 60 Motion to Probate Court.....	21
6. Copy of Motion for Formal Ruling to Circuit Court.....	31
7. Copy of Motion for Formal Ruling to Probate Court.....	35
8. June 16, 2025 email attempting to file Rule 60 motions.....	8

EXHIBIT 2

Email to Ginger Farmer - Inquiring Regarding Filing
of Rule 60 Motions



Bev Hennager <hennagerbev@gmail.com>

Inquiry Regarding Filing of Rule 60 Motions

2 messages

Bev Hennager <hennagerbev@gmail.com>
To: ginger.farmer@kershaw.sc.gov

Tue, Dec 9, 2025 at 9:42 AM

Subject: Inquiry Regarding Filing of Rule 60 Motions

Dear Ms. Farmer:

I am writing to confirm receipt and filing of my Rule 60 motions in Probate and Circuit Courts, Case No: 2010-ES-00169 and 2021-CP-28-00795.

According to the delivery tracking, the motions were delivered to your office on December 8, 2025 at approximately 12:00 p.m., but as of this morning they do not appear on the docket. They were both signed for by "C. Branham". I am concerned about ensuring they are timely filed.

Would you please confirm:

- Whether the Rule 60 motions have been received; and
- When they will be, or were, entered on the docket?

If there is any deficiency that is preventing filing, please let me know so that I can correct it promptly.

Thank you for your assistance.

/S/ Beverly Hennager

Bev Hennager <hennagerbev@gmail.com>
To: Bev Hennager <hennagerbev@gmail.com>

Tue, Dec 9, 2025 at 9:43 AM

[Quoted text hidden]

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