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Dec 18 2025

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

COURT OF COMMON PLEAS

Judge G. D. Morgan

Case No. 2024-CP-23-00312

Appellate Case No.: 2024-000731

Christopher Jones,

Appellant,

v.

D&B Real Estate Ventures, LLC;
Darius Jones; Bradley Robinson,

Respondents.

APPELLANT'S MOTION FOR LEAVE TO FILE

RESPONSE TO RESPONDENTS' MOTION FOR DISMISSAL OUT OF TIME

Appellant Christopher Jones ("Appellant"), appearing pro se, respectfully moves this Honorable Court pursuant to Rule 246, SCACR for leave to file his Response in Opposition to Respondents' Motion for Dismissal out of time. In support of this Motion, Appellant respectfully shows the Court as follows:

I. PROCEDURAL BACKGROUND

1. On December 1, 2025, Respondents filed a Motion for Dismissal of this appeal, alleging Appellant's failure to timely cure deficiencies in the Record on Appeal.
2. Respondents filed their Motion for Dismissal three (3) days before their own Court-ordered deadline of December 4, 2025 to file their final brief.

3. Under applicable rules, Appellant's response to Respondents' Motion for Dismissal was due within a specified time after service of the motion.

4. Appellant received Respondents' Motion for Dismissal and reasonably believed that all matters, including response deadlines, were being held in abeyance pending resolution of the Record on Appeal deficiencies and Appellant's pending Motion for Extension of Time filed November 26, 2025.

5. As of today, December 18, 2025—fourteen (14) days past their Court-ordered deadline—Respondents have not filed their final brief, have not sought any extension, and have provided no explanation for their non-compliance.

6. Appellant has now prepared a comprehensive Response in Opposition to Respondents' Motion for Dismissal and seeks leave of this Court to file such response out of time.

II. GOOD CAUSE EXISTS FOR GRANTING LEAVE TO FILE OUT OF TIME

A. Applicable Legal Standard

Rule 246, SCACR provides that "upon motion and for good cause shown, the appellate court may extend or shorten the time for filing any matter required or permitted to be filed under these Rules." The South Carolina Court of Appeals has discretion to grant extensions and accept filings out of time when good cause is demonstrated and the interests of justice so require.

B. Good Cause Exists Under the Circumstances of This Case

1. Appellant's Reasonable Belief That Matters Were Held in Abeyance

Appellant did not willfully disregard any response deadline. Rather, Appellant reasonably believed that all matters—including responses to motions were being held in abeyance pending resolution of the Record on Appeal deficiencies. This belief was based on:

- a. The Court's November 10, 2025 deficiency letter expressly stating "this is our second request" for corrections and indicating the urgency of curing these deficiencies, suggesting all proceedings dependent on the Record would be held;
 - b. Appellant's timely filing of a Motion for Extension of Time on November 26, 2025, which remained pending before the Court at the time Respondents filed their Motion to Dismiss;
 - c. Respondents' own October 31, 2025 representation to this Court that the Record deficiencies made "it impossible for Respondents to properly support their factual statements by referencing the appropriate page in the Record," strongly suggesting that all briefing and motion practice was dependent on correction of the Record;
 - d. The Court's November 10, 2025 Order granting Respondents an extension until December 4, 2025 to file their brief based on the Record deficiencies, which Appellant understood to reflect the Court's recognition that all matters requiring reference to the Record could not proceed until deficiencies were resolved;
 - e. The logical impossibility of responding to a motion seeking dismissal based on Record deficiencies when the foundational Record on Appeal remained deficient and subject to correction; and
 - f. The premature nature of Respondents' Motion for Dismissal, filed while Appellant's Motion for Extension of Time remained pending and before this Court ruled on that motion.
- Appellant's belief was not only reasonable but was supported by Respondents' own representations to this Court. If Respondents themselves represented that they could not proceed with briefing until the Record was corrected, Appellant reasonably concluded that responses to motions would likewise be held pending those corrections.

2. Pro Se Status and Complexity of Appellate Procedure

Appellant is proceeding pro se without the benefit of legal counsel. The intricacies of appellate practice, including the interplay between Record deficiencies, pending motions for extension, and response deadlines to subsequently-filed motions, present substantial challenges for a pro se litigant.

Appellant was focused on completing the corrections to the Record on Appeal as directed by the Court's deficiency letters and as requested in his Motion for Extension of Time. Given the pending nature of that motion and the dependence of all proceedings on a proper Record, Appellant reasonably believed response deadlines were not running.

South Carolina courts have repeatedly recognized that pro se litigants should be afforded reasonable latitude with respect to procedural requirements, particularly where the litigant demonstrates good faith efforts to comply and acts on reasonable beliefs. See *Dawkins v. Dawkins*, 386 S.C. 169, 687 S.E.2d 52 (Ct. App. 2009).

3. Appellant Has Demonstrated Extraordinary Diligence in Prosecuting This Appeal

The record unequivocally demonstrates Appellant's diligence and commitment to this appeal:

- a. On August 19, 2025, Appellant filed his comprehensive 31-page Final Brief (received August 21, 2025), addressing all substantive issues on appeal with detailed legal argument including whether the court erred in applying Section 40-11-370(C) to a real estate purchase contract; whether the court erred in granting summary judgment on claims not defended by Respondents; whether D&B Real Investments LLC is erroneously listed as owner of property; and whether the court erred in consideration of the defective affidavit;
- b. Appellant filed his Final Brief nearly four months before Respondents filed their Motion to Dismiss and over three months before Respondents' brief was due on December 4, 2025;

- c. When Record deficiencies were identified, Appellant timely sought extensions rather than ignoring Court directives;
- d. Appellant filed his Motion for Extension of Time on November 26, 2025, before the deadline expired and well before Respondents filed their Motion to Dismiss;
- e. Appellant has completed all required corrections to the Record on Appeal and is prepared to file the corrected Record immediately; and
- f. Appellant has now prepared a comprehensive Response to Respondents' Motion for Dismissal addressing all arguments raised.

If Appellant truly disregarded Court rules or lacked commitment to this appeal, he would not have: (i) invested the substantial time and effort to research, write, and file a comprehensive appellate brief months ahead of schedule; (ii) timely sought extensions when needed; (iii) completed all required Record corrections; and (iv) prepared a detailed response to the Motion to Dismiss.

This pattern of conduct demonstrates good faith and diligent prosecution of the appeal, not willful disregard or dilatory tactics.

4. Respondents' Own Conduct Undermines Any Claim of Prejudice

Respondents cannot credibly claim prejudice from a delay in Appellant's response when:

- a. Respondents obtained a 30-day extension to December 4, 2025 based on the very Record deficiencies they now claim warrant dismissal;
- b. As of today, December 18, 2025—fourteen (14) days past their Court-ordered deadline—Respondents have not filed their final brief;
- c. Respondents have not filed any motion seeking a further extension of the December 4, 2025 deadline;

d. Respondents filed their Motion to Dismiss on December 1, 2025—three days before their own brief was due—apparently hoping to terminate the appeal before their own non-compliance became apparent; and

e. Respondents have demonstrated by their own conduct that delays in this appeal do not prejudice them, as they have missed their own deadline by two weeks without consequence.

If Respondents can miss their Court-ordered deadline by two weeks without seeking relief, surely Appellant can be granted leave to file his response to their motion out of time, particularly where Appellant acted on a reasonable belief that matters were held in abeyance.

The stark hypocrisy of Respondents' position—seeking dismissal for technical deficiencies while missing their own substantive deadline—demonstrates that their Motion for Dismissal is not about protecting the integrity of the appellate process but about avoiding a decision on the merits.

5. Appellant's Response Addresses Important Legal and Factual Issues

Appellant's Response in Opposition to the Motion for Dismissal raises substantial arguments that this Court should consider:

a. The premature nature of Respondents' motion, filed while Appellant's Motion for Extension of Time remained pending;

b. Good cause for granting the extension based on pro se status, technical complexity, insufficient time, and reasonable belief that matters were in abeyance;

c. Respondents' extraordinary hypocrisy in obtaining a 30-day extension based on Record deficiencies then seeking dismissal based on those same deficiencies;

d. Respondents' failure to file their own brief despite a Court-ordered deadline;

- e. The fact that Appellant filed his comprehensive Final Brief in August 2025, demonstrating exceptional diligence;
- f. The strong policy favoring decisions on the merits rather than procedural technicalities; and
- g. The inappropriateness of dismissal as a sanction under these circumstances.

These arguments go to the heart of whether dismissal is warranted and deserve this Court's consideration. Denying Appellant the opportunity to present these arguments would be fundamentally unfair and would reward Respondents' bad faith conduct.

6. No Prejudice to Respondents or the Court

Granting leave to file the Response out of time will not prejudice Respondents. The Response addresses arguments Respondents raised in their Motion. Respondents will have full opportunity to reply if they choose, and their interests are not harmed by consideration of Appellant's opposition.

Moreover, Respondents cannot claim that delay prejudices them when they themselves have delayed filing their own brief by two weeks past their Court-ordered deadline.

The Court's interest in orderly proceedings is served by considering the merits of Respondents' Motion for Dismissal rather than granting it by default due to a late response filed by a pro se litigant who reasonably believed matters were in abeyance.

7. Strong Policy Favoring Decisions on the Merits

South Carolina appellate courts have consistently expressed a strong preference for deciding issues on their merits rather than on procedural technicalities, particularly where the procedural defect can be cured and does not prejudice the opposing party.

As the South Carolina Supreme Court has observed, "[a]ppellate courts prefer to decide cases on the merits and will not dismiss an appeal on technical grounds unless necessary." *McNair v. Rainsford*, 330 S.C. 332, 336, 499 S.E.2d 488, 490 (Ct. App. 1998).

Here, both the underlying appeal and Respondents' Motion for Dismissal deserve consideration on the merits. Refusing to consider Appellant's Response based on a technical filing deadline—particularly where Appellant acted on a reasonable belief that matters were in abeyance—would elevate procedure over substance in a manner inconsistent with South Carolina's preference for merits-based adjudication.

III. APPELLANT'S RESPONSE IS COMPLETE AND READY FOR FILING

Appellant has prepared a comprehensive Response in Opposition to Respondents' Motion for Dismissal that addresses all arguments raised by Respondents and presents substantial legal and factual grounds for denying the Motion for Dismissal. The Response is complete and ready for filing upon the Court's grant of this Motion.

IV. ALTERNATIVE RELIEF REQUESTED

If this Court is not inclined to grant leave to file the Response out of time without conditions, Appellant respectfully requests that the Court consider the following alternative relief:

- A. Grant leave to file the Response out of time with an explicit warning that no further relief from procedural requirements will be granted;
- B. Grant leave to file the Response out of time conditioned upon Appellant's compliance with any additional requirements the Court deems appropriate;
- C. Such other conditional relief as the Court deems just and appropriate under the circumstances.

V. CONCLUSION

Appellant filed his comprehensive Final Brief in August 2025—demonstrating extraordinary diligence and commitment to prosecuting this appeal on the merits. He timely sought an extension to correct Record deficiencies, reasonably believing all matters were in abeyance pending that resolution.

Meanwhile, Respondents obtained a 30-day extension based on those same Record deficiencies, filed their Motion to Dismiss three days before their own brief was due, and have now missed their Court-ordered deadline by two weeks without explanation or request for further relief.

The interests of justice strongly favor granting this Motion and allowing Appellant's Response to be filed and considered. The Response raises substantial arguments regarding Respondents' hypocrisy, the inappropriateness of dismissal under these circumstances, and the strong policy favoring decisions on the merits. This Court should have the benefit of these arguments before ruling on Respondents' Motion for Dismissal.

WHEREFORE, Appellant Christopher Jones respectfully requests that this Honorable Court:

- A. Grant leave to file Appellant's Response in Opposition to Respondents' Motion for Dismissal out of time;
- B. Accept and file the Response submitted herewith or to be submitted immediately upon grant of this Motion;
- C. Consider Appellant's Response in ruling on Respondents' Motion for Dismissal;
- D. In the alternative, grant such conditional relief as the Court deems appropriate to permit the filing of the Response; and
- E. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 17th day of December, 2025.

s/ Christopher Jones
Christopher Jones, Pro Se
309 Perry Avenue
Greenville, SC 29601
Telephone: 864-432-0606
Email: intljonesc@gmail.com

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SC Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December, 2025, I served a copy of the foregoing Motion for Leave to File Response Out of Time upon Respondents' counsel by depositing the same in the United States Mail, postage prepaid, and by email, addressed as follows:

M. Stokely Holder, Esquire
Ra'na Heidari, Esquire
Holder, Padgett, Littlejohn + Prickett, LLC
P.O. Box 1804
Greenville, SC 29602
sholder@hplplaw.com
rheidari@hplplaw.com
Counsel for Respondents

I further certify that I served a copy upon the South Carolina Court of Appeals by email, addressed as follows:

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

Respectfully,

s/ Christopher Jones
Christopher Jones, Pro Se
309 Perry Avenue
Greenville, SC 29601
Telephone: 864-432-0606
Email: intljonesc@gmail.com
Appellant