

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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Jan 08 2026

SC Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas  
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2024-002049  
Civil Action Nos. 2020-CP-36-00382 & 00384

Jefferson Davis, Jr. .... Appellant,

v.

Chad Connelly, Dave Wilson, Stephen 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, Geoffrey Chambers, Esq., and South Carolina  
Educational Credit for Exceptional Needs Children Fund ..... Respondents.

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**RESPONDENTS CHAD CONNELLY, DAVE WILSON,  
TOM PERSONS, AND NEIL MELLEN’S RETURN TO  
APPELLANT’S MOTION FOR CLARIFICATION OF JURISDICTION**

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Respondents Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen (“Respondents”) hereby respond to Appellant’s Motion for Clarification of Jurisdiction filed on December 29, 2025 (“Motion for Clarification”) in which Appellant requests an Order divesting the trial court of jurisdiction to dispose of Appellant’s Emergency Writ of Supersedeas filed on

December 19, 2024, and request that this Court deny the Motion for Clarification. In the alternative, Respondents request that this Court deny Appellant's Emergency Writ of Supersedeas, dismiss the appeal, and affirm the trial court's Orders of Civil Contempt filed on November 25, 2024.

### Argument

In the Motion for Clarification, Appellant requests that this Court divest the trial court of jurisdiction to dispose of Appellant's petition for writ of supersedeas. As Appellant notes in the Motion for Clarification, this Court temporarily stayed the Orders of Civil Contempt and remanded Appellant's petition for supersedeas to the trial court for disposition in accordance with Rule 241(d)(1), SCACR. (Mot. Clarification, ¶¶ 5, 7; Ct. App. Or., Dec. 20, 2024; *see also* Rule 205, SCACR ("Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal.")). The trial court has not yet disposed of Appellant's petition for writ of supersedeas and, therefore, retains jurisdiction to dispose of the writ as well as matters not affected by the appeal. Rule 205, SCACR.

The trial court, however, has determined that Appellant has not produced evidence addressing his inability to pay the contempt fees and costs. (Hocker Or., May 29, 2025, pp. 2-3, 4, Exhibit A; *see also Midlands Util., Inc. v. S.C. Dep't of Health & Env'tl. Control*, 287 S.C. 483, 486, 339 S.E.2d 862, 864 (1986) ("In order to warrant a stay, the appealing party must convince the trial judge the stay is warranted and the burden of proof rests upon the party seeking the stay.")). Accordingly, unless this Court denies Appellant's petition, the trial court should retain its jurisdiction to dispose of Appellant's petition for supersedeas in accordance with Rule 241(d)(1), SCACR.

Appellant has twice failed to file and serve his initial brief within the time prescribed by this Court and otherwise failed to comply with the South Carolina Appellate Court Rules. On June

13, 2025, the Court of Appeals informed the parties that the appeal is no longer held in abeyance. Accordingly, on July 1, 2025, the Court of Appeals instructed Appellant that the time for serving and filing his initial brief and designation of matter would expire on July 31, 2025. Appellant then filed a Motion for Extension of Time to File and Serve Initial Brief and Designation of Matter until November 17, 2025. On November 26, 2025, the Court of Appeals granted Appellant's motion for extension of time and instructed Appellant to file and serve the initial brief and designation of matter within ten (10) days of the order. As a result, Appellant's initial brief and designation of matter to be included in the record on appeal were due on December 8, 2025.

Although Appellant filed a Second Motion for Extension of Time to File and Serve Initial Brief and Designation of Matter on December 8, 2025, Appellant did not timely file an initial brief or designation of matter to be included in the record on appeal.<sup>1</sup> Motions for extensions of time, like petitions for supersedeas, do not stay the time limits imposed by the South Carolina Appellate Court Rules. *Compare* Rule 240(a), SCACR, *with* Rule 240(b), SCACR. As a result, this Court must dismiss the appeal. Rule 208, SCACR. (“Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court *shall* sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260.”) (emphasis added); *see also* Rule 203, SCACR; *Toomer v. Toomer*, 244 S.C. 399, 403, 137 S.E.2d 406, 408 (1964) (“The right of appeal is a matter of grace and is not an inherent or vested right, and the rules of court and statutes must be followed in perfecting an appeal.”). This Court should do so and affirm the trial court's Orders of Civil Contempt filed on November 25, 2024.

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<sup>1</sup> As of the date of this return, Appellant has not yet filed an initial brief despite enjoying a continued stay of the underlying judgment and protracting the process of the appeal without posting a bond.

Respectfully submitted,

*s/Justin P. Novak*

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**PROOF OF SERVICE**

I, the undersigned employee of Barnwell Whaley Patterson & Helms, LLC, herby certify that pursuant to Rules 240 and 262(b), SCACR, I have served the ***Respondents Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Return to Appellant's Motion for Clarification of Jurisdiction*** in this matter upon the Clerk of the South Carolina Court of Appeals, all counsel of record, and all pro se parties by electronic mail on January 8, 2026, to the following addresses:

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*/s/ Karen Jessee*

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January 8, 2026