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SC Court of Appeals

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THE SOUTH CAROLINA COURT OF APPEALS

Tony Williams, Appellant,

v.

Lowe's Home Centers, LLC and Andrew Melling, Respondents.

Appellate Case No. 2026-000079

(Trial Court Case No. 2025-CP-07-01666)

APPELLANT'S EMERGENCY MOTION TO VACATE DISMISSAL AND REINSTATE APPEAL

COMES NOW the Appellant, Tony Williams, Pro Se, and respectfully moves this Court to vacate its Order of Dismissal dated February 26, 2026, and to reinstate the above-captioned appeal. In support of this motion, Appellant shows the Court:

1. COMPLIANCE WITH RULE 207, SCACR

On January 8, 2026, Appellant served a "**Statement of No Transcript**" via Certified Mail upon Respondents' Counsel and the Court Reporter. This document was included in the initial filing package received by this Court on January 12, 2026. Appellant's Statement explicitly certified that no transcript was necessary because the issues on appeal are "**purely legal and procedural.**"

2. THE DEFAULT STATUS OF RESPONDENTS

As noted in the Notice of Appeal, Respondents are in a state of **Certified Entry of Default**. The order being appealed (dated 12/17/25) was entered without a hearing, following a period where Respondents were "mute" under *Stono River Constr. Co. v. Hill*, 306 S.C. 170 (1991). Because no hearing occurred, **no transcript exists**. Dismissal for failure to order a non-existent transcript is a clerical error.

3. EXTRINSIC FRAUD IN THE RECORD

The underlying Order of Dismissal relies upon **Extrinsic Fraud**, specifically a criminal history report belonging to a stranger with a **1995 Date of Birth**, which was used to prejudice the record against the Appellant. Under *Hagy v. Pruitt*, 339 S.C. 425 (2000), such fraud voids the proceedings and requires appellate review to preserve the integrity of the judiciary.

4. BAD FAITH BY RESPONDENTS

Counsel for Respondents, Andrew Melling, received the "Statement of No Transcript" on January 8, 2026. Counsel's silence while this Court issued a transcript-related dismissal is a violation of the **Duty of Candor** (Rule 3.3, RPC), intended to facilitate a "Shadow Docket" victory in related Trial Court matter 2023-CP-07-01623.

CASELAW SUPPORT FOR REINSTATEMENT

- **Standard for Reinstatement:** Under **Rule 221(c), SCACR**, this Court has the authority to reinstate an appeal for "good cause shown." A clerical error regarding a transcript that is not required for a default matter constitutes an absolute ground for reinstatement.
- **Default Standing:** Under *Stono River*, a defaulted party has no right to participate in the merits. It is an error of law to dismiss an appeal based on the procedural needs of a defaulted Respondent.
- **Pro Se Leniency:** While *pro se* litigants must follow rules, South Carolina courts recognize that "technicalities should not defeat justice." *State v. Burton*, 356 S.C. 259 (2003).

WHEREFORE, Appellant respectfully requests that this Court vacate the Dismissal, Reinstate the Appeal, and issue a Stay of all related lower court proceedings pending the resolution of this jurisdictional challenge.

s/ **Tony Williams**

Appellant Pro Se

Dated: February 27, 2026