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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110
Appellate Case No.: 2024-001466

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

APPELLANT'S PETITION FOR REHEARING

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Pursuant to Rules 221(a), 240, and 267, SCACR, Appellant Errick Williamson ("Errick") respectfully petitions the Court to reconsider and rehear *In re: Estate of John Dale Williamson*, Unpublished Opinion No. 2026-UP-067 (Ct. App. Feb. 18, 2026) (the "Opinion"). The Court should grant a rehearing, withdraw the Opinion, and issue an Opinion holding that the Probate Court and Circuit Court abused their discretion by not allowing admissions to the Requests to be set aside and granting and affirming the Partial MSJ.

INTRODUCTION

John Dale Williamson ("John Dale") passed away in November 2022. (R. p. 23, ¶ 16). Errick, John Dale's nephew, is a beneficiary of John Dale's will, which bears John Dale's signature and had two independent witnesses (the "Will"). (R. pp. 24, ¶ 22, and 66-70). Respondent Doug Williamson ("Doug") is one of John Dale's brothers, and he filed a Petition to Set Aside Will and for Appointment of Personal Representative in York County's Probate Court in March 2023 (the "Petition"). (R. p. 21-22, ¶ 8). If the Will is set aside, then Doug will benefit as one of John Dale's heirs and, on the flip side, Errick will be damaged significantly. (R. p. 25, ¶ 33, and p. 63, ¶ 7).

While litigating the Petition, Doug served Rule 36 Requests for Admission (the "Requests") by mail on August 31, 2023. (R. pp. 123 and 258). One of the Requests, Request No. 9, stated: "Admit that John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B." (R. p. 123). On October 10, 2023, through counsel, Errick requested an additional ten days to respond to the Requests.

(R. p. 164, ¶ 17). Doug's counsel denied the minor extension, and Errick responded to the Requests on October 11, 2023. (R. p. 164-65, ¶¶ 18-19). In his responses, Errick denied Request 9. (R. p. 142).

In November 2023, Doug filed a Motion for Partial Summary Judgment and supporting brief (the "Partial MSJ"). In the Partial MSJ, Doug argued in court for the first time that the Requests are deemed admitted and, consequently, there was no valid Will. (R. pp. 27, ¶¶ 48-50, and 188-95). Shortly after Doug's Partial MSJ, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel and supporting brief (the "Motion to Withdraw or Amend"). (R. pp. 230-242).

The Partial MSJ and Motion to Withdraw or Amend were heard in the Probate Court in December 2023. (R. p. 80; Probate Court Transcript, p. 1). The Probate Court granted the Partial MSJ, invalidated the Will, and denied the Motion to Withdraw or Amend on January 5, 2024 (the "Probate Order"). (R. pp. 4-11). The Probate Court reasoned that, because Errick "admitted" that John Dale did not sign the Will, then Errick cannot meet his burden of presenting *prima facie* evidence that the Will was duly executed. (R. pp. 9-10, ¶¶ 21-24). This is true even though Errick served responses to the Requests months before the responses were deemed admitted via order. (R. pp. 4, 123, and 142). Moreover, discovery was in its infancy—no depositions had been taken, no experts were disclosed, no admissions had been relied

upon, there were still five to six months of discovery left—and trial was not set. (R. pp. 83-84, 92, and 99).

The Probate Order was appealed to the Circuit Court and affirmed by the Circuit Court on August 6, 2024 (the "Circuit Court Order"). (R. pp. 17 and 243). The Orders were appealed to this Court, and the Court entered the Opinion on February 18, 2026. This Petition for Rehearing follows.

STANDARD OF REVIEW

Parties can petition the Court for rehearing pursuant to Rule 221(a), SCACR. In the petition, parties must "state with particularity the points supposed to have been overlooked or misapprehended by the court." *Id*.; *see Arnold v. Carolina Power & Light Co.*, 168 S.C. 163, 167 S.E. 234, 238 (1933).

ARGUMENTS

I. The Court misapprehended whether allowing the deemed admissions to be withdrawn would prejudice Doug, specifically overlooking this case's procedural posture and *Baughman*.

In the Opinion, the Court found that "Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick's admission." Opinion p. 2. The prejudice is not explicitly identified, but it appears the Court believes that Doug's discovery rights were "trampled." Opinion p. 3 (citing *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003)). Because of the alleged prejudice, the Court held that the lower courts did not abuse their discretion by denying "Errick's request to amend or withdraw his admissions." *Id*.

The facts in *Scott*, however, were egregious. The defendant failed to timely comply with multiple discovery requirements and produced documents just two days before the first scheduled trial. *Scott*, 353 S.C. at 642, 579 S.E.2d at 153. The trial was continued so that the defendant could comply with discovery. *Id*. at 643, 579 S.E.2d at 153. The defendant, however, still failed to timely produce documents and required additional court intervention. *Id*. at 644, 579 S.E.2d at 153. And, when the case was finally called for trial a second time, the defendant produced new records during trial that it previously claimed to specifically not have in an Affidavit. *Id*. at 644, 579 S.E.2d at 153-54. Only then—after the defendants repeatedly failed to comply with discovery obligations for long periods of time, caused the first trial to be reset, and conveniently found responsive documents during the middle of the second trial thereby necessitating a third trial—was there a trampling of discovery rights and, therefore, prejudice.

This case is drastically different in a legally significant way: It was too early in the case for there to be any trampling of discovery rights. The responses to the Requests were only a few days late. (R. p. 193). There were no depositions or expert disclosures, there was half a year of discovery left, and trial was not set. (R. pp. 83-84, 92, and 99). There were minor discovery issues, but none of the discovery issues were related to setting aside the admission to Request 9.[1] (*See* R. pp. 100-08, 140-144, 145-161, and 222-23 (showing that the discovery issues related to Errick's employment records, confidential spousal communications, verification of discovery

[1] Doug also did not rely on these alleged discovery issues in his brief to obtain the Partial MSJ. (R. pp. 190-94).

responses, and the existence of certain documents)). This means that setting aside the admission to Request 9 would *not* prevent Doug from addressing the alleged discovery issues. He could still fully prove his case—albeit on the merits instead of via a slight procedural misstep—at a trial that still hadn't even been scheduled. This shows that Doug's rights were not "trampled." Thus, no prejudice.

Further, the Supreme Court directly addressed this issue in a case that the Court did not cite in the Opinion. In *Baughman*, the Court addressed whether there is prejudice when deemed admissions are allowed to be withdrawn even though the actual responses were provided *before* the requests were deemed admitted via order. *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 109-10, 410 S.E.2d 537, 542 (1991). The Court held that, because the "Plaintiffs' responses were filed even before the requests were ordered admitted, [the] defense could not possibly have been prejudiced." *Id*. at 110, 410 S.E.2d at 542.[2] Thus, without equivocation, the Supreme Court specifically held that the "Plaintiffs *should have been permitted* to withdraw the deemed admissions." *Id*. at 109, 410 S.E.2d at 542 (emphasis added). The Supreme Court's holding directly confirms that what Errick did—provide responses before any Request was deemed admitted via order—"could not possibly have" prejudiced Doug. The Court, therefore, misapprehended precedent by concluding that Doug was prejudiced.[3]

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[2] There was also a second, entirely independent, reason to set aside the admissions in *Baughman*, the recipient timely sought a protective order. *Id*. at 109-10, 410 S.E.2d at 542.

[3] Of course there are factual differences between *Baughman* and this case, which Doug pointed out. But there was only one key fact that the Supreme Court cited when determining possible prejudice: the timing of actual answers to requests vis-à-vis the order deeming the requests admitted.

II. Because the Court misapprehended the prejudice element, it didn't get to merits and improperly affirmed the lower courts.

Other than briefly discussing alleged prejudice, the Court did not analyze—and thus overlooked—Errick's other arguments. The Court did not address whether the lower courts properly understood how they should apply their discretionary authority or properly applied that authority, whether allowing amendment or withdrawal would further the presentation of the merits of the matter, and the purposes of the modern rules of civil procedure. Instead, after misapprehending the prejudice prong and overlooking key precedent, the Court held that there was no genuine issue of material fact relevant to the Partial MSJ because of Errick's admission to Request 9. Opinion, p. 3. Once the Court reexamines the prejudice issue, it should also evaluate these other overlooked issues identified by Errick in his briefs, allow the deemed admissions to be withdrawn, and set aside the Probate Order, Circuit Court Order, and granting of the Partial MSJ.

CONCLUSION

The Court should grant a rehearing and fully consider the points made in Appellant's briefs, including binding precedent. Ultimately, the Court should set aside the Opinion and hold that the Probate Court and Circuit Court abused their discretion by not allowing the deemed admissions to the Requests to be withdrawn and amended. The Partial MSJ should not have been granted and should have been set aside.

Because of this purely procedural holding, the deceased has been deprived of the ability to control the disposition of his estate. That is an avoidable error that can be corrected by rehearing.

Respectfully submitted this the 5th day of March 2026.

/s/ *Edward B. Davis*
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PROOF OF SERVICE

I certify that I have served *Appellant's Petition for Rehearing* on Respondent Doug Williamson via his attorney, J. Nathaniel Pierce, by: (a) sending a .pdf to J. Nathaniel Pierce's e-mail address listed in the AIS (npierce@jahlaw.com); and (b) by depositing a copy of the same in the United States Mail, postage prepaid, on March 5, 2026, addressed to J. Nathaniel Pierce, Johnston, Allison & Hord, P.A., 1065 E. Morehead Street Charlotte, NC 28204.

I certify that I have served *Appellant's Petition for Rehearing* on Derrick Williamson by depositing a copy of the same in the United States Mail, postage prepaid on March 5, 2026, addressed to 1154 Dease Street, Rock Hill, SC 29732.

I certify that I have served *Appellant's Petition for Rehearing* on Robin Beckler by depositing a copy of the same in the United States Mail, postage prepaid on March 5, 2026, addressed to 300 Thomasboro Road SW, Calabash, NC 28467.

This the 5th day of March, 2026.

/s/ *Edward B. Davis*
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