RECEIVED
Mar 10 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2026-000079

Tony Williams, Appellant,

v.

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

REPLY IN OPPOSITION TO APPELLANT'S MOTION TO REINSTATE APPEAL, EMERGENCY NOTICE TO VACATE DISMISSAL, AND SUPPLEMENTAL NOTICE

Andrew G. Melling, Esq.
BURR & FORMAN LLP
P.O. Box 11390
Columbia, SC 29211
Telephone: 803-799-9800
Facsimile: 803-753-3278
amelling@burr.com
Attorney for Respondents

Respondents respectfully submit this reply in opposition to Appellant's Motion to Reinstate Appeal, Emergency Motion to Vacate Dismissal, and Supplemental Notice. The central defect in this matter remains unchanged. Appellant failed to order the necessary transcripts as required by the South Carolina Appellate Court Rules, and the appeal was therefore properly dismissed.

Appellant filed his Notice of Appeal on January 12, 2026. The thirty-day deadline for requesting the transcript expired on February 11, 2026. Two hearings occurred on September 5, 2025, and December 12, 2025 before the Court of Common Pleas. Both hearings would require an official transcript for appellate review. Despite this, Appellant elected to file a unilateral "Statement of No Transcript" and made no effort to comply with Rule 207(a)(2). Rule 207(a)(2) makes clear that the duty to order the transcript rests squarely on the appellant. The rule provides in full:

> The appellant shall, within thirty (30) days after filing the notice of appeal, order from the court reporter a transcript of the proceedings not already on file as the appellant deems necessary for the appeal. The request shall be in writing and shall be delivered to the court reporter. The court reporter shall transcribe and deliver the transcript to appellant no later than sixty (60) days after the date of the request. Records shall be transcribed by the court reporter in the order in which the requests for transcripts are made.

This language unequivocally places the burden on the appellant to initiate the request. Respondents have no duty to order transcripts on his behalf, nor does their silence relieve Appellant of his obligations.

Appellant attempts to argue that Respondents somehow waived the transcript requirement by not objecting to his unilateral "Statement of No Transcript." The rules contain no such concept. Rule 207 does not shift the duty to designate proceedings unless and until the appellant first

satisfies his own primary obligation to order a transcript. Appellant's failure to comply with Rule 207 is fatal and cannot be cured by claiming waiver where none exists.

Appellant's citations further do not support reinstatement. His reference to *Stono River Construction Co. v. Hill,* 306 S.C. 170 (1991) is incorrect. Counsel has searched this citation extensively on Westlaw, LexisNexis, and publicly available legal databases, and no such case exists. The citation provided by Appellant corresponds only to *Xanadu Horizontal Property Regime v. Ocean Walk Horizontal Property Regime*, 306 S.C. 170, 410 S.E.2d 580 (Ct. App. 1991), which concerns whether a plaintiff's easement could be restricted by the placement of parking spaces. That decision has no relationship to transcript obligations, default status, appellate procedure, or any issue raised in this appeal. The inability to locate the case Appellant repeatedly invokes confirms that the authorities he relies upon are either mis-cited or wholly irrelevant.

Each of the remaining cases Appellant cites similarly demonstrates that his legal assertions are incorrect. *Hagy v. Pruitt*, 339 S.C. 425, 529 S.E.2d 714 (2000), does not hold that fraud voids a judicial proceeding or requires appellate review to preserve the integrity of the judiciary. Instead, it holds only that a collateral attack may be considered when extrinsic fraud is proven by clear and convincing evidence. *State v. Burton*, 356 S.C. 259, 588 S.E.2d 903 (2003) likewise does not concern pro se procedure or transcript requirements. It addresses whether pointing and presenting a firearm is a lesser included offense of assault with intent to kill. Appellant's characterization of the case is therefore incorrect.

Appellant's reliance on *Germain v. Nichol*, 278 S.C. 508, 299 S.E.2d 332 (1982), is also misplaced. The full text of the opinion makes clear that the appellant bears the burden of providing a sufficient record for appellate review, and that failure to include trial testimony results in affirmance. The Court expressly held that the appellant "failed to satisfy this burden" after

providing no transcript, even though he argued the evidence was insufficient. In addition, the Court noted that the appellant's own Statement of the Case bound him to the facts recited therein. Nothing in *Germain* supports the claim that a transcript becomes unnecessary merely because an appellant labels an issue "legal."

Appellant's repeated reliance on *Chewning v. Ford Motor Co.*, 354 S.C. 72, 579 S.E.2d 605 (2003), and *Gainey v. Gainey*, 382 S.C. 414, 675 S.E.2d 792 (Ct. App. 2009), is likewise misplaced. These cases do not state or imply that extrinsic fraud depends on the presence or absence of trial testimony. They simply restate the longstanding rule that extrinsic fraud is fraud that prevents a party from presenting a case or being heard, while intrinsic fraud is fraud that was presented and considered during the proceeding. Neither case addresses transcript requirements or alters the appellant's duty to comply with Rule 207.

Appellant also introduces an array of assertions regarding conflicts of interest, electronic signature formats, and allegations of fraudulent documents. These accusations do not address the dispositive procedural failure at the heart of this appeal. The issue before the Court is whether Appellant complied with the appellate rules. He did not, and none of his collateral arguments cure that defect.

In sum, Appellant bore the responsibility to order the transcript within thirty days of filing his Notice of Appeal. He did not do so. Rule 207(a)(2) is clear in its mandate, and Appellant's failure to comply required dismissal. His subsequent attempts to recharacterize the appeal as one presenting purely legal issues, or to rely on distinguishable or misquoted authority, cannot overcome the fundamental procedural deficiency.[1]

---

[1] Appellant filed the Notice of Appeal on January 12, 2026. Under Rule 208(a)(1), SCACR, if no transcript is ordered, the appellant must serve and file the initial brief within thirty days of the Notice of Appeal. Thirty days from January 12 was February 11, 2026. Appellant did not order any transcript under Rule 207(a)(2), nor did he file an initial brief

For these reasons, Respondents respectfully request that the Court deny Appellant's motions and allow the dismissal of the appeal to stand.

Respectfully Submitted,

s/Andrew G. Melling
Andrew G. Melling, Esq.
BURR & FORMAN LLP
P.O. Box 11390
Columbia, SC 29211
Telephone: 803-799-9800
Facsimile: 803-753-3278
amelling@burr.com
Attorney for Respondents

by the February 11 deadline. Because no transcript was ever requested, the briefing clock began on January 12 and expired without compliance, rendering the appeal subject to dismissal under Rule 208(a)(4).

RECEIVED
Mar 10 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2026-000079

Tony Williams, Appellant,

v.

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

PROOF OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via U.S. Mail, postage prepaid, this 10th day of March, 2026, addressed as follows:

Tony A. Williams
145 Fort Sullivan Drive
Ridgeland, SC 29936
Pro Se

/s/ Andrew G. Melling, Esq.
COUNSEL FOR RESPONDENTS

Andrew Melling
amelling@burr.com
Direct Dial: (803) 753-3229
Direct Fax: (803) 933-1428

RECEIVED
Mar 10 2026
SC Court of Appeals

1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

Office (803) 799-9800
Fax (803) 753-3278

BURR.COM

March 10, 2026

VIA EMAIL (ctappfilings@sccourts.org)

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Tony Williams v. Lowe's and Andrew Melling
Appellate Case No. 2026-000079

Dear Ms. Kitchings:

Enclosed for filing please find Respondent's Reply in Opposition to Appellant's Motion to Reinstate Appeal, Emergency Notice to Vacate Dismissal, and Supplemental Notice.

Very truly yours,

Andrew Melling

AGM/lg
Enclosure