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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In the Appellate Court

APPEAL FROM Horry County Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2024-CP-26-00018

(Appellate Case No. 2025-001891)

Willis Jowan Mitchell ..... Appellant,

v.

Pine Cove MHP, LLC ..... Respondent.

APPELLANT'S INITIAL BRIEF

Submitted by:

*Willis Jowan Mitchell*

Willis Jowan Mitchell  
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Appellant Pro Se

Date: 3-11-2026

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## II. TABLE OF AUTHORITIES

### RELEVANT CASES:

#### United States Supreme Court

- Mullane v. Central Hanover Bank & Trust Co. ....1,2,4  
(Notice must be reasonably calculated to inform parties of proceedings.)
- Peralta v. Heights Medical Center, Inc. ....2,3,4  
(Default judgment entered without notice violates due process.)

#### South Carolina Supreme Court

- Wham v. Shearson Lehman Bros., Inc. ....3,4  
(Default judgments are disfavored.)
- Robinson v. Estate of Harris .....3  
(Relief from default judgments should be liberally granted where fairness requires.)
- New York Life Insurance Co. v. Hardison .....3  
(Default judgments should not produce unjust results.)

#### South Carolina Court of Appeals

- Thomas v. Palmetto Management Services, Inc.....3  
(Courts favor deciding cases on their merits.)
- Sundown Operating Co. v. Intedge Industries, Inc. ....3  
(Default judgment may be vacated where procedural irregularities occur.)
- BB&T v. Taylor .....3  
(Default judgments may be set aside where fairness requires.)
- Goodson v. American Bankers Insurance Co. ....4  
(Default judgments should be vacated where the party lacked a fair opportunity to defend.)

### RULES:

- Rule 208 SCACR
- Rule 209 SCACR
- Rule 240 SCACR

### III. JURISDICTION

This appeal arises from a final order entered by the Circuit Court for Horry County, South Carolina, presided over by the Honorable **Benjamin H. Culbertson**.

The Circuit Court entered a default judgment adverse to the Appellant. Thereafter, Appellant filed a timely Notice of Appeal seeking review of the improper judgment.

Therefore, this Court has jurisdiction proper in the South Carolina Court of Appeals pursuant to the South Carolina Appellate Court Rules governing appeals from final judgments of the Circuit Court.

### IV. STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the Circuit Court erred in entering default judgment where Appellant did not receive notice of the scheduled hearing.
2. Whether the Defendant's failure to maintain receptacles compliant with the United States Postal Service delivery requirements prevented delivery of the Clerk's notice.
3. Whether entry of default judgment under these circumstances violated fundamental principles of the constitutional due process and principles of fairness recognized under South Carolina law.

### V. STATEMENT OF THE CASE

This appeal presents a fundamental question of constitutional due process: whether a court may enter default judgment against a party who never received notice of the hearing that produced the judgment.

The record demonstrates that the Clerk of Court mailed notice of the scheduled hearing, but the notice was never delivered because the United States Postal Service retained the mail after determining that the Defendant's mail receptacles failed to comply with postal delivery standards.

As a result, Appellant Willis Jowan Mitchell was unaware that a hearing had been scheduled and had no opportunity to appear before the Circuit Court presided over by the Honorable **Benjamin H. Culbertson**.

Despite the absence of notice, the Circuit Court entered default judgment in favor of Respondent Pine Cove MHP, LLC.

The United States Supreme Court has long held that notice and an opportunity to be heard are fundamental requirements of due process. See *Mullane v. Central Hanover Bank & Trust Co.*

Likewise, a judgment entered against a party who never received notice violates the Constitution and must be vacated. See **Peralta v. Heights Medical Center, Inc.**

Because Appellant never received notice of the proceeding that resulted in the default judgment, the judgment cannot stand and must be reversed or vacated.

Appellant now seeks review of that judgment.

## V. STANDARD OF REVIEW

Questions of law are reviewed by the Appellate Court *de novo*.

Where a judgment is entered without proper notice to a party, appellate courts possess authority to vacate or reverse that judgment.

South Carolina courts consistently recognize that default judgments are disfavored and that cases should be decided on their merits whenever possible.

## VI. ARGUMENT

### A. Timeline Demonstrating Failure of Notice

Date	Event
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06/18/25	Clerk of Court mails notice of hearing
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07/23/25	USPS retains mail due to deficiencies in Defendant's mail receptacles
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17/24/25	USPS employee Staci Gunnell informs Appellant that delivery was suspended
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07/21/25	Appellant remains unaware of hearing
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07/21/25	Hearing conducted before Judge Benjamin H. Culbertson
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07/22/25	Default judgment entered
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**This sequence demonstrates that the Appellant's failure to appear resulted from the failure of notice rather than neglect by the Appellant.**

### B. The Default Judgment Violated Due Process Because Appellant Did Not Receive Notice

The Fourteenth Amendment requires notice reasonably calculated to inform parties of proceedings.

In **Mullane v. Central Hanover Bank & Trust Co.**, the Supreme Court held that notice is a fundamental requirement of due process to inform interested parties of pending litigation.

Similarly, **Peralta v. Heights Medical Center, Inc.** held that default judgments entered without proper notice violates constitutional due process protections.

Because Appellant never received the notice of hearing, , the resulting default judgment must be vacated because the Appellant was wrongly deprived of the opportunity to appear and defend the case.

### **C. Default Judgments Are Disfavored Under South Carolina Law**

South Carolina courts consistently emphasize that cases should be decided on their merits rather than through procedural default

In **Wham v. Shearson Lehman Bros., Inc.; Thomas v. Palmetto Management Services, Inc.**

Courts also recognize that relief from default judgments should be liberally granted where fairness requires. **Robinson v. Estate of Harris.**

Similarly, **Sundown Operating Co. v. Intedge Industries, Inc.** recognizes that procedural irregularities justify vacating default judgments.

Similarly, **BB&T v. Taylor and Goodson v. American Bankers Insurance Co.** recognize that default judgments should be vacated where the defaulting party lacked a fair opportunity to defend.

Allowing the judgment to stand would produce an unjust result contrary to South Carolina precedent. **New York Life Insurance Co. v. Hardison.**

The circumstances of this case demonstrate precisely the type of procedural irregularity that warrants reversal.

### **D. Defendant's Neglect Prevented Delivery of the Notice**

A United States Postal Service employee, **Staci Gunnell**, informed the Appellant that mail was being retained because the Defendant failed to maintain mail receptacles compliant with postal delivery standards.

The Postal Service further indicated that the Defendant had been previously notified of these deficiencies.

Because the Defendant's neglect prevented delivery of the notice, the resulting default judgment was fundamentally unfair.

### **E. Equity Anchor Paragraph**

The entry of default judgment under these circumstances undermines the fundamental fairness that the judicial process is designed to protect. Appellant did not ignore the court or abandon the litigation; rather, the Appellant was deprived of the opportunity to appear because

the notice of hearing was never delivered. The United States Postal Service retained the mail due to deficiencies in the Defendant's mail receptacles, a circumstance outside the Appellant's control and previously communicated by postal employee Staci Gunnell.

Courts exist to resolve disputes on their merits, not to impose judgment upon a party who never had notice that a hearing would occur. Both federal and South Carolina law recognize that default judgments should be entered sparingly and vacated where fairness requires. See **Wham v. Shearson Lehman Bros., Inc.** When a party has been denied notice and an opportunity to be heard, the resulting judgment cannot be reconciled with the constitutional requirement of due process articulated in **Mullane v. Central Hanover Bank & Trust Co.** and reaffirmed in **Peralta v. Heights Medical Center, Inc.**

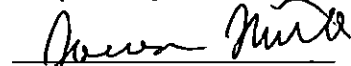
- Allowing the judgment to stand would effectively reward the procedural breakdown that prevented notice from reaching the Appellant and would erode confidence in the fairness of judicial proceedings. Equity and justice therefore require that the default judgment be vacated and that this matter be remanded so that the parties may be heard on the merits. **Goodson v. American Bankers Insurance Co** (Default judgments should be vacated where the party lacked a fair opportunity to defend.)

#### VII. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court:

1. Reverse the default judgment entered by the Circuit Court.
2. Vacate the judgment entered in favor of the Defendant.
3. Remand the case for further proceedings on the merits.
4. Grant any additional relief the Court deems just and proper.

Respectfully submitted,



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Date: 3-11-2020