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**Mar 16 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
The Honorable Martha M. Rivers, Circuit Court Judge

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Appellate Case No. 2025-000306

Trial Court Case No. 2024-CP-42-02781

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Carnie Norris, III, ..... Appellant,

vs.

Dr. Gary W. Poliakoff,<sup>1</sup> ..... Respondent.

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**RESPONDENT’S (SECOND) MOTION TO DISMISS THE APPEAL  
AND SUSPEND TIME TO FILE THE FINAL BRIEF OF RESPONDENT**

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<sup>1</sup> The Appellant improperly identifies Gary W. Poliakoff, Esq. as “Dr. Gary W. Poliakoff.”

## **MOTION**

Pursuant to Rules 210, 240, and 267, SCACR, Respondent Gary W. Poliakoff, Esq., respectfully moves the Court 1) to dismiss the appeal due to Appellant Carnie Norris, III's continuing failure to serve and file a Record on Appeal that complies with the South Carolina Appellate Court Rules and to comply with the Court of Appeals' written deficiency directive dated March 2, 2026; 2) issue and Order striking Appellant's "Record on Appeal," sent via US mail on March 11, 2026, with no Proof of Service; or 3) suspend the time for filing the final Brief of Respondent until after Appellant files and serves a "Record on Appeal" that complies with the South Carolina Appellate Court Rules if the appeal is not dismissed.

### **Relief Requested**

Respondent requests an Order dismissing the appeal because Appellant, despite repeated notice and opportunity, has failed to file a Record on Appeal that complies with Rule 210(c), SCACR, and has failed to cure deficiencies after the Clerk's express written directive and dismissal warning. In the alternative, if the Court is disinclined to dismiss at this time, Respondent requests an Order striking the noncompliant "Record on Appeal" and directing Appellant to serve and file a fully compliant record by a date certain, with dismissal to follow upon noncompliance.

### **Procedural History**

This appeal is pending in the South Carolina Court of Appeals under Appellate Case No. 2025-000306 (Trial Court Case No. 2024-CP-42-02781). Throughout the appeal, the Clerk's Office has issued multiple notices and deficiency letters to Appellant concerning noncompliance with the appellate rules, and Respondent has repeatedly been required to respond to Appellant's procedural failures—particularly Appellant's continued failure to provide a usable, rule-compliant Record on Appeal.

Appellant filed a Notice of Appeal dated February 10, 2025, which was received by the Court of Appeals shortly thereafter. The Clerk of the Court of Appeals then issued deficiency correspondence to Appellant dated February 21, 2025, identifying deficiencies in the appeal materials, including a *lack of proof of service* on counsel for Respondent, and requiring that the deficiency be cured within ten days. Appellant corrected that deficiency.

On March 12, 2025, the Clerk of the Court of Appeals issued additional correspondence notifying Appellant that the *time to order the transcript had expired* and explaining the alternatives necessary to pursue the appeal, including providing proof of a timely transcript order or seeking permission to order the transcript outside the deadline established by Rule 207, SCACR. Appellant did not comply with that directive.

On March 19, 2025, Appellant filed a lengthy handwritten Initial Brief. Given the difficulty of deciphering Appellant's handwritten filing and the procedural posture of the case, Respondent sought extensions of time to file the Initial Brief of Respondent. The Court granted Respondent extensions, and Respondent filed the Initial Brief of Respondent and Respondent's Designation of Matters to be Included in the Record on Appeal on June 4, 2025, along with the required service documentation.

On June 16, 2025, Appellant filed a Reply Brief. Despite the close of the initial briefing, Appellant *did not serve the Record on Appeal* as required by Rule 210, SCACR, which materially impaired Respondent's ability to proceed with final briefing.

On July 31, 2025, the Clerk issued correspondence to Appellant identifying a deficiency relating to Appellant's "final reply brief," specifically stating that Appellant's *proof of service was not in compliance with the SCACR* and must be corrected within ten days. The Clerk directed that Appellant's proof of service should be substantially in the format shown by Form 7 in Appendix

C to Part II of the South Carolina Appellate Court Rules, and further explained that Appellant’s proof of service incorrectly stated that an initial brief was served and must instead state that Appellant’s final reply brief was served.

In response to Appellant’s continuing procedural noncompliance—most significantly, Appellant’s failure to provide the Record on Appeal—Respondent moved to dismiss the appeal on August 4, 2025, and to suspend the time for Respondent to file the final brief. Respondent’s motion explained that Appellant’s failure to serve and file the Record on Appeal prevented Respondent from filing a compliant and responsive final brief.

In September 2025, the Clerk issued additional correspondence reflecting ongoing deficiencies in Appellant’s filings. On September 30, 2025, the Clerk issued correspondence stating that Appellant’s filing was not timely and that a motion to allow the late filing would have to be made. Also on September 30, 2025, the Clerk issued correspondence advising that the proof of service accompanying Appellant’s “appellant’s final reply brief” remained noncompliant and that this was the Court’s second request for correction. The Clerk again directed that Appellant must provide a proof of service stating that a copy of Appellant’s final reply brief had been served.

On October 17, 2025, Appellant filed a motion seeking permission to file out of time, continuing the pattern of late and/or deficient filings.

On January 27, 2026, the Court entered an Order addressing Respondent’s motion to dismiss and Appellant’s motion to file his final brief out of time. The Court denied Respondent’s motion to dismiss and granted Appellant’s motion to file his final brief out of time, accepting Appellant’s final brief as filed. Importantly, however, the Court also imposed a clear directive to cure the persistent record problem, ordering that Appellant “shall serve and file the record on appeal within ten days of the date of this order.”

By correspondence apparently mailed on February 3, 2026, Appellant “filed” a group of documents with no cover letter, no title page, no proof of service, and none of materials that Respondent had designated be included in the Record on Appeal.

After Appellant attempted to serve and file a record, the Clerk issued correspondence to Appellant, dated March 2, 2026, advising that Appellant’s February 3, 2026, correspondence—construed as an attempt to serve and file the record on appeal—contained deficiencies under the SCACR that had to be corrected within ten days or the matter would be dismissed. The Clerk identified deficiencies under Rule 210(c), SCACR, including the requirement that the record include a title page and index substantially in the format shown by Form 15 in Appendix C to Part II of the SCACR, and the requirement that the record be paginated with consecutive numbering beginning with the index. The Clerk also noted that Respondent had filed a motion for an extension of time to serve and file Respondent’s final brief, and that the Court would act on Respondent’s extension request once the record deficiencies were corrected.

Despite this extensive history of Clerk correspondence, explicit cure directives, and motion practice centered on Appellant’s failure to provide a compliant record, Appellant has still not produced a Record on Appeal that satisfies Rule 210(c), SCACR, and related rules.

## **ARGUMENTS**

### **I. Appellant is required to comply with the South Carolina Appellate Court Rules.**

South Carolina law provides clear authority to dismiss appeals when appellants fail to file a compliant Record on Appeal or comply with deficiency directives from the Court of Appeals. The South Carolina Appellate Court Rules establish mandatory requirements for perfecting appeals, and courts have consistently enforced these requirements to maintain orderly appellate procedures.

Rule 210 of the South Carolina Appellate Court Rules governs the Record on Appeal and establishes specific requirements. The appellant must file the Record on Appeal with the clerk of the appellate court no later than the date his brief is due under Rule 211. *See* Rule 210, SCACR. The Record on Appeal must include all matters designated by any party under Rule 209 and must comply with the requirements of Rule 267. *See id.* The content must be arranged in a specific order: title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, and exhibits, with each page numbered consecutively, beginning with the index. *See id.* The appellate court will not consider any fact which does not appear in the Record on Appeal, except as provided by Rule 212 and Rule 208(b)(1)(C) and (2). *See id.*

Rule 208(a)(4) provides that 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. Rule 208(a)(4), SCACR. This rule works in conjunction with the Record on Appeal requirements, as the brief and record are due simultaneously. Rule 260(a), SCACR, establishes that whenever an appellant fails to comply with the requirements of the Appellate Court Rules, the clerk shall issue an order of dismissal, which has the same force and effect as an order of the appellate court. Rule 260(a), SCACR.

South Carolina courts have traditionally held the appealing party accountable for failing to present an adequate record on appeal for review. *Johnson v. South Carolina Dept. of Probation, Parole, and Pardon Services*, 372 S.C. 279, 641 S.E.2d 895 (2007). In *Johnson v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, the Court of Appeals declined to address the merits of the Department's arguments when it failed to include essential documents in the record on appeal and failed to place documents in proper order. *Id.* The court relied on the principle that, as the appellant,

the Department had the burden of presenting an adequate record on appeal. *Id.* Rule 210(h), SCACR, reinforces this principle by providing that the appellate court will not consider any fact which does not appear in the Record on Appeal. Rule 210(h), SCACR.

South Carolina courts have repeatedly upheld dismissals for failure to comply with appellate rules. In *Matter of Sheek*, the Court of Appeals dismissed an appeal after the appellant repeatedly failed to respond to deficiency notices and comply with court directives. *Matter of Sheek*, 434 S.C. 259, 862 S.E.2d 903 (2021). The clerk had written the respondent informing him of a deficiency in the supplemental record on appeal, giving him seven days to cure the deficiency, but he failed to respond. *Id.* After opposing counsel filed a motion to require appellant to serve and file a complete Record on Appeal, the court of appeals granted that motion, but the appellant continued to fail to comply. *Id.* The court ultimately dismissed the appeal—*like in this case*—after giving the appellant multiple opportunities and extensions to comply with orders and directives.

The South Carolina Supreme Court has emphasized that the necessity for punctual and orderly perfection of appeals must be enforced. *State v. Cottingham*, 224 S.C. 181, 77 S.E.2d 897 (1953). In *State v. Cottingham*, the court held that failure to perfect an appeal amounts to waiver unless the court permits perfection under other stated provisions of the Code. *Id.* The Supreme Court noted that where the transcript of record had not been filed and the transcript of the trial had not even been requested from the official stenographer, dismissal was appropriate.

The South Carolina appellate courts have consistently emphasized the importance of adhering to appellant procedural rules. “[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). “It

is incumbent upon counsel [or litigants] to provide material that complies with the Rules and facilitates appellate review.” *Id.*

Failure to comply with procedural requirements, such as the filing of the Record on Appeal within the time prescribed in Rule 210, SCACR, should result in dismissal of the appeal. For example, in *McPherson v. Anderson*, the Supreme Court of South Carolina dismissed an appeal because the appellant failed to serve the transcript of the record and did not seek an extension of time to perfect the appeal. *McPherson v. Anderson*, 202 S.C. 312, 24 S.E.2d 516 (1943). Similarly, in *Sellars v. Nicholson*, the Supreme Court affirmed the dismissal of an appeal where the appellant failed to file the return within the time required by statute and did not seek an extension. *Sellars v. Nicholson*, 243 S.C. 340, 133 S.E.2d 837 (1963).

*Pro se* litigants, like Appellant, are held to the same procedural standards as lawyers. For example, in *Brown v. Coe*, a non-lawyer as Personal Representative of a probate estate filed an appeal. *Brown v. Coe*, 365 S.C. 137, 616 S.E.2d 705 (2005). The South Carolina Supreme Court allowed the appellant 30 days to identify a lawyer who would be representing her in the appeal; otherwise, it would be dismissed. 365 S.C. at 144, 616 S.E.2d at 709. This ruling emphasizes that compliance with procedural rules is mandatory, regardless of the appellant’s status as a *pro se* litigant.

## **II. Appellant’s latest “Record On Appeal” remains materially noncompliant.**

Respondent acknowledges that Appellant’s latest submission purporting to be the “Record on Appeal” now appears to include a title page and an index. However, review of Appellant’s submission reveals numerous material deficiencies under the appellate rules, and it does not satisfy the purpose of the Court’s directives requiring a rule-compliant record.

First, the “Record” omits all items contained in Respondent’s Designation of Matters to be included in the Record on Appeal, notwithstanding Rule 210(c), SCACR’s requirement that the Record on Appeal include designated materials. The omission of Respondent’s designated record materials is not a formatting problem; it is a substantive failure that deprives the Court of the materials necessary to decide the issues on appeal and deprives Respondent of the ability to cite to the correct record materials in briefing.

Second, the “Record” does not include a contemporaneous signature by Respondent as required by Rule 210(c), SCACR and Rule 267, SCACR. The rules’ signature requirements are not optional. They exist to ensure the integrity of the record and that the record presented is what the rules require—complete, properly assembled, and properly authenticated.

Third, the “Record” improperly includes Appellant’s Final Brief. That final brief was not presented to the lower court and is not part of the trial court record. Rule 210(c), SCACR prohibits inclusion of such materials. Including appellate briefing within the “Record” is improper, expands the record beyond what the lower court considered, and further demonstrates Appellant’s ongoing disregard of the governing record requirements.

Fourth, the materials that are included are not presented in the order directed by Rule 210(c), SCACR. A record’s required order is not merely aesthetic; it is essential to usability and to the Court’s ability to locate and evaluate record components efficiently and accurately.

Fifth, none of the items included in the “Record” are numbered consecutively beginning with the Index as required by Rule 210(c), SCACR. This is the same type of fundamental defect the Clerk flagged in the March 2, 2026, deficiency directive—pagination and organization that prevent the Court and opposing counsel from reliably citing and locating record pages.

Taken together, these defects show that Appellant has not filed the Record on Appeal required by the Appellate Court Rules. Although Appellant may have addressed one aspect of the Clerk's March 2, 2026, letter by adding a title page and index, the "Record" still fails to comply with Rule 210(c), SCACR in multiple material and independently dispositive ways.

### **III. Appellant's Latest "Record On Appeal" does not comply with the Court's directives.**

Dismissal is warranted because Appellant has been given repeated notice, direction, and opportunity to comply, yet continues to submit a noncompliant "Record on Appeal." Respondent previously moved to dismiss precisely because Appellant's record noncompliance was preventing the appeal from proceeding in an orderly manner. The Court's January 27, 2026, Order provided Appellant with a clear directive—file the record within ten days—yet Appellant's subsequent submissions have required Clerk intervention and have still not resulted in a rule-compliant record.

The Clerk's March 2, 2026, deficiency directive made the stakes unmistakable. The Clerk stated that deficiencies must be corrected within ten days, "or this matter will be dismissed." Appellant's latest "Record" remains materially defective under Rule 210(c), SCACR, for reasons that go well beyond a missing title page. A record that omits Respondent's designated materials, lacks the required contemporaneous signature, improperly includes appellate briefing not presented below, is not assembled in the required order, and lacks consecutive numbering beginning with the index is not a record that allows for meaningful appellate review.

These failures also prejudice the Respondent and burden the Court. Respondent cannot fairly and efficiently brief the appeal without a complete and properly organized record that contains the materials designated for inclusion, and that can be cited by reliable page numbering. The Court likewise should not be required to sift through disorganized, incomplete, and improperly

assembled submissions to reconstruct a proper record. The appellate rules place that responsibility on the Appellant, and this Court has already issued explicit directives to enforce them.

Where Appellant continues to disregard the requirements of Rule 210(c), SCACR, and related rules after clear instructions and a dismissal warning, dismissal is the appropriate remedy to enforce compliance, protect the orderly administration of appeals, and prevent further delay.

#### **IV. The Appellant's appeal is meritless.**

In addition to the Appellant's repeated and egregious failures to comply with the South Carolina Appellate Court Rules, the appeal itself is wholly without merit and lacks any legitimate arguable validity. The Appellant's claims are predicated on unfounded allegations and speculative assertions that are unsupported by the record or applicable law on "claims" that, even if they had merit, are barred by the statute of limitations. The trial court's dismissal of the underlying action was firmly grounded in well-established legal principles, including the expiration of the statute of limitations, the absence of any legal duty owed by Respondent to Appellant, and the failure to state a cognizable claim. Moreover, the Appellant's reliance on the South Carolina Rules of Professional Conduct as a basis for civil liability is entirely misplaced, as these rules do not create independent causes of action.

The Appellant's continued pursuit of this baseless appeal not only wastes judicial resources but also imposes unnecessary burdens on the Respondent. For these reasons, Respondent respectfully requests that this Court dismiss the appeal in its entirety and affirm the trial court's well-reasoned decision.

## Conclusion

For the foregoing reasons, Respondent, Gary W. Poliakoff, Esq., respectfully requests that the Court dismiss the appeal based on Appellant, Carnie Norris, III's continuing failure to serve and file a Record on Appeal that complies with Rule 210(c), SCACR, and for failure to comply with the Court of Appeals' March 2, 2026, deficiency directive. In the alternative, Respondent requests an Order striking Appellant's noncompliant "Record on Appeal" and directing Appellant to serve and file a fully compliant record by a date certain, with dismissal to follow upon further noncompliance.

Respectfully submitted,

*/s/ Thomas A. Pendarvis*

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*Counsel for Respondent Gary W. Poliakoff*

March 16, 2026

Beaufort, South Carolina

*Pro Se Appellant:*

Carnie Norris, III, #227226

PERRY CORRECTIONAL INSTITUTION Q4B-220

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**Mar 16 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
The Honorable Martha M. Rivers

Appellate Case No. 2025-000306

Trial Court Case No. 2024-CP-42-02781

Carnie Norris, III, ..... Appellant,

vs.

Gary Poliakoff, Esq. .... Respondent.

**PROOF OF SERVICE**

The undersigned hereby certifies that on March 16, 2026, a copy of the Respondent, Gary Poliakoff, Esq.'s (Second) Motion to Dismiss the Appeal and Suspend Time to File the Final Brief of Respondent, was served on Appellant, Carnie Norris, III, via U.S. Postal Service containing the above-referenced documents to the mailing address as follows:

**Carnie Norris, III, #227226**  
**LIVESAY CORRECTIONAL INSTITUTION**  
**104 Broadcast Drive**  
**Spartanburg, SC 29303**

Respectfully submitted,  
/s/ Thomas A. Pendarvis  
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Counsel for Respondent

Beaufort, South Carolina

March 16, 2026

# PENDARVIS LAW



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**SC Court of Appeals**

March 16, 2026

**Via Email Only**

The Honorable Jenny Abbott Kitchings  
SOUTH CAROLINA COURT OF APPEALS  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**Re: Carnie Norris, III vs. DR. GARY POLIAKOFF**  
**Trial Court Case No.: 2024-CP-42-02781; Appellate Case No.: 2025-000306**

Dear Ms. Kitchings:

On behalf of the Respondent, Gary W. Poliakoff (“Dr. Poliakoff”), please see the following for filing regarding the above-referenced matter:

1. (Second) Motion to Dismiss the Appeal and Suspend Time to File the Final Brief of Respondent; and
2. Proof of Service.

By copy of this correspondence, we are serving a copy of the enclosed documents via US Mail to Mr. Norris.

With warmest personal regards, I am

Sincerely,

PENDARVIS LAW OFFICES, P.C.



Tracy Lyn Landry

Enclosure(s)

ec (w/ enclosure(s): Gary W. Poliakoff  
cc (w/enclosure(s): Carnie Norris, III

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