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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382 &
C.A. No.: 2020-CP-36-00384
Appellate Case No 2024-002049

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

and

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Tom Persons, Geoffery Chambers, Esq. & South Carolina Educational Credit for
Exceptional Needs Children Fund Respondents.

INITIAL BRIEF OF APPELLANT

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Pro Se Appellant

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STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to S.C. Code Ann. § 14-8-200 and Rule 201, SCACR. The Notice of Appeal was timely filed on December 2, 2024, from the final Order of Civil Contempt entered November 25, 2024.

STATEMENT OF ISSUES ON APPEAL

1. Did the circuit court err and abuse its discretion by finding Appellant in willful civil contempt when the only evidence in the record demonstrates that Appellant lacked the present ability to pay the ordered attorney fees due to Stage IV colon cancer, ongoing treatment, and complete financial incapacity?

STATEMENT OF THE CASE

This appeal concerns the circuit court's November 25, 2024 Order finding Appellant in willful civil contempt for non-payment of attorney fees and imposing a 90-day jail sanction. Appellant does not contest the underlying award of the fees. The narrow issue on appeal is whether the trial court erred in finding the noncompliance *willful* and sanctionable where Appellant demonstrated a willingness, but inability, to comply.

Appellant timely sought supersedeas. This Court granted a temporary stay on December 20, 2024, and remanded for consideration of Appellant's medical condition. After extensive proceedings and submission of medical and financial evidence, the circuit court acknowledged Appellant's Stage IV colon cancer and granted a stay of contempt enforcement in its Fifth Order dated February 25, 2026.

STATEMENT OF FACTS

Appellant suffers from Stage IV sigmoid colon adenocarcinoma and has undergone multiple surgeries and extensive chemotherapy, including a second relapse. Appellant submitted detailed medical evidence, including the Sworn Affidavit of his treating oncologist filed February 19, 2026, which details the limitations caused by his condition and treatment.

In addition, Appellant provided clear evidence of financial inability to pay the ordered sum. At the October 11, 2024 Rule to Show Cause hearing, after being duly sworn, Appellant testified under oath regarding his financial incapacity and offered to be placed on a reasonable payment plan. Appellant further submitted sworn declarations stating that he has no liquid assets, no illiquid assets, and no retirement assets available to satisfy the judgment. Respondents have never contested Appellant's sworn claims of financial incapacity. As a licensed tax attorney and CPA in Georgia with an unblemished 32-year record, Appellant's sworn testimony on financial matters carries particular weight.

The combination of Appellant's serious medical condition - as accepted by the trial court on remand - and his demonstrated lack of any assets rendered compliance with the payment order impossible.

ARGUMENT

I. The Circuit Court Erred in Finding Willful Civil Contempt Because the Only Evidence in the Record Shows Appellant Lacked the Present Ability to Pay

Civil contempt requires that the alleged contemnor had the **present ability to comply** with the court's order. *Henderson v. Henderson*, 298 S.C. 190, 379 S.E.2d 125 (1989); *Curlee v.*

Howle, 277 S.C. 377, 287 S.E.2d 915 (Ct. App. 1982). Inability to comply is a complete defense to a finding of willful civil contempt. *Poston v. Poston*, 331 S.C. 106, 502 S.E.2d 86 (1998); *State v. Bevilacqua*, 316 S.C. 122, 447 S.E.2d 213 (Ct. App. 1994). In civil contempt, the contemnor “holds the keys to the jail” because compliance purges the contempt. Here, Appellant holds no such keys.

The only evidence in the record demonstrates that Appellant lacked the present ability to pay. At the October 11, 2024 Rule to Show Cause hearing, after being sworn, Appellant testified that he does not have the ability to pay the ordered amount and offered to be placed on a reasonable payment plan. He further submitted sworn declarations affirmatively stating that he possesses **no liquid assets, no illiquid assets, and no retirement assets** with which to satisfy the judgment. Respondents presented **no evidence whatsoever** that Appellant has the ability to pay the ordered amount, nor did they ever contest Appellant’s sworn claims of financial incapacity. As a licensed tax attorney and CPA in Georgia with an unblemished 32-year record with no public or private reprimand, Appellant’s sworn testimony on financial matters is entitled to significant weight.

The medical evidence, including the Sworn Affidavit of his treating oncologist filed February 19, 2026, further supports that Appellant’s condition has impaired his ability to generate income or access funds. Because the record contains **only evidence of inability to comply and no evidence of ability to comply**, the trial court’s finding of willful civil contempt is not supported by the evidence and must be reversed.

[CONTINUED ON NEXT PAGE.]

II. The Trial Court's Later Recognition of Appellant's Condition and Grant of Supersedeas Confirm the Error in the Contempt Finding

After this Court's December 20, 2024 remand, the circuit court required — and received — substantial medical and financial documentation. In Order #1 (January 23, 2025), the trial court expressly stayed all financial discovery and limited the remand proceedings to Appellant's medical condition. The court ultimately acknowledged Appellant's Stage IV colon cancer and granted a stay of contempt enforcement in its Fifth Order dated February 25, 2026. The subsequent conditioning of the stay on a \$50,000 bond - an amount Appellant cannot possibly meet given the uncontroverted evidence of zero assets - further demonstrates that the contempt finding rests on an unrealistic assumption of ability to comply rather than the actual record. Because financial discovery was stayed, Appellant was never afforded the opportunity to supplement the record with additional written financial evidence after the supersedeas was granted.

Maintaining the contempt finding despite the uncontroverted record of inability constitutes an abuse of discretion. The order should be reversed.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the November 25, 2024 Order of Civil Contempt, vacate the finding of willful civil contempt, and remand with instructions to dismiss the contempt proceeding in light of the uncontroverted evidence that Appellant lacks the present ability to comply.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J.D.", with a horizontal line extending to the right from the end of the signature.

Date: March 31st, 2026

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