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APR 15 2026
SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

George S. Jenkins, Barry Heyward, Ulysses Heyward, Florine Heyward Pinckney and
Eric Ramsey

Appellant,

v.

Florence Heyward Davis,

Respondent.

Appellate Case No.: 2024-001929

REPLY IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS

This appeal should be dismissed due to Appellant's repeated failure to comply with the South Carolina Appellate Court Rules, lack of excusable neglect, and the substantial prejudice imposed upon Respondent.

Respondent submits this Reply in support of dismissal under Rule 208(b)(1), Rule 210, and Rule 260 of the South Carolina Appellate Court Rules (SCACR), which authorize dismissal for failure to timely prosecute an appeal.

I. No Excusable Neglect (Rule 208 & Rule 260, SCACR)

Appellant's explanation does not meet the standard for excusable neglect. Under Rule 208(b)(1), SCACR, an appellant must timely perfect an appeal, and Rule 260 permits dismissal for failure to comply with appellate rules.

South Carolina courts have held that excusable neglect requires more than personal inconvenience or competing obligations; it requires a showing that the failure to act was not due to a lack of diligence. *Harris v. State*, 382 S.C. 107, 674 S.E.2d 532 (2009).

Here, Appellant's own statements demonstrate that he remained capable of traveling, coordinating care, making financial transactions, and communicating with others during the relevant period. Despite this, Appellant failed to request a timely extension or take any action prior to the expiration of the applicable deadlines. Such conduct reflects a lack of diligence, not excusable neglect. See also *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006).

Appellant asserts that he acted in good faith by filing his motion after discovering that the Record on Appeal was overdue. However, acting only after a deadline has passed does not constitute diligence or excusable neglect.

The applicable rules require timely action or a request for extension prior to the expiration of deadlines. Appellant admits he took no such action. Filing only after receiving notice of noncompliance reflects a lack of diligence, not good faith compliance with appellate procedures. See Rule 208(b)(1) and Rule 260, South Carolina Appellate Court Rules (SCACR).

II. Not Sole Caregiver (Appellant Admission)

Appellant states that his sister's son picked her up and transported her for care. This admission demonstrates Appellant was not the sole caregiver and retained the ability to comply with procedural requirements.¹

III. Pattern of Delay and Noncompliance (Rules 210 & 260, SCACR)

Rule 210, South Carolina Appellate Court Rules (SCACR) governs the preparation and timely service of the Record on Appeal. Subsection (h) specifically places responsibility on the appellant to ensure the record is properly prepared and filed.

The Appellant failed to comply with these requirements.

Despite filing a Motion to Serve and File Out of Time on or about February 20, 2026, the Appellant has yet to file or serve the Record on Appeal as required by the South Carolina Appellate Court Rules. This continued failure to perfect the appeal demonstrates ongoing noncompliance and a lack of diligence in prosecuting this matter. The Appellant's repeated delays and failure to adhere to procedural requirements have unnecessarily prolonged this litigation and continue to prejudice the Respondent.

The Appellant specifically requested twenty (20) business days to serve and file out of time, which extended his deadline to approximately March 23, 2026. Despite this self-requested extension, as of April 14, 2026, the Appellant has still failed to file or serve the Record on Appeal. This continued noncompliance, even after being afforded additional time, demonstrates a lack of diligence and a failure to prosecute the appeal.

The Appellant's failure to comply with his own requested deadline further reflects a pattern of delay and disregard for the procedural requirements governing this appeal.

Appellant failed to comply with these requirements. The Record on Appeal was not timely served or filed, and no extension was requested prior to the expiration of the applicable deadlines.

This failure is not an isolated incident but part of a broader pattern of delay and noncompliance. Under Rule 260, SCACR, dismissal is appropriate where a party fails to adhere to appellate procedural requirements.²

IV. Improper Merits Arguments (Jurisdictional Limitation)

Appellant's response is largely devoted to allegations concerning fraud, probate court rulings, property ownership, and Respondent's employment history. These matters are not relevant to the procedural issues before this Court.³

The South Carolina Court of Appeals is limited to reviewing errors of law and does not consider new factual disputes or matters outside the record. See Rule 220(c), South Carolina Appellate Court Rules (SCACR).

Appellant's arguments constitute an improper attempt to relitigate issues and introduce matters not properly before this Court. Such assertions do not bear on whether Appellant complied with appellate procedural requirements and should be disregarded.

Accordingly, such arguments should be disregarded for purposes of this motion.

V. Prejudice To Respondent (Equitable Grounds)

The continued pendency of this appeal has materially prejudiced Respondent. The lis pendens placed on the property located at 5554 Rosebank Road, Wadmalaw Island, South Carolina, TMS number 17-00-00-161, continues to cloud title and prevents Respondent from exercising full ownership rights. During this time, Respondent has borne the sole financial responsibility for the property, including mortgage payments, insurance, property taxes, and ongoing maintenance and increasing repair costs. The inability to resolve or transfer the property due to the lis pendens has resulted in continuing financial burden and increased property-related expenses.

South Carolina courts recognize that dismissal is appropriate where delay causes prejudice to the respondent. See *Goodson v. American Bankers Ins. Co.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988). Additionally, appellate courts have the authority to dismiss an appeal where a party fails to comply with procedural rules resulting in delay and prejudice. *Davis v. Parkview Apartments*, 409 S.C. 266, 762 S.E.2d 535 (2014).

Further, Rule 260, South Carolina Appellate Court Rules (SCACR) authorizes dismissal for failure to comply with appellate rules and properly prosecute an appeal.

This ongoing prejudice is directly attributable to Appellant's failure to comply with the procedural requirements of this Court.

VI. Appellant Responsibility

An appellant bears the burden of prosecuting the appeal. Failure to do so warrants dismissal under Rule 208 and Rule 260.

VII. Appellant Is Not Entitled to Equitable Relief

Appellant requests equitable relief based on alleged good cause, excusable neglect, and personal circumstances. However, such relief is not warranted under the applicable legal standards.⁴

While appellate courts possess discretion to allow filings out of time, such relief is reserved for circumstances demonstrating true excusable neglect and reasonable diligence. The Appellate has not demonstrated either. See Rule 260, South Carolina Appellate Court Rules (SCACR).

Appellant has failed to meet this standard. His own statements demonstrate that he remained capable of traveling, coordinating care, making financial transactions, and communicating with others during the relevant period. Despite this, Appellant failed to request an extension prior to the expiration of the applicable deadlines.

South Carolina courts have made clear that excusable neglect does not include situations where a party fails to act with reasonable diligence. *Harris v. State*, 382 S.C. 107, 674 S.E.2d 532 (2009); *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006).

Additionally, Appellant's own admissions establish that he was not the sole caregiver, as the family member's adult son was actively involved in her care. This further undermines any claim that Appellant was prevented from complying with procedural requirements.

Equitable relief is not intended to excuse a pattern of delay or repeated noncompliance with appellate rules. See *Mears v. Mears*, 305 S.C. 544, 409 S.E.2d 157 (Ct. App. 1991).

Moreover, granting Appellant's request would result in continued and substantial prejudice to Respondent, including ongoing financial burden and a cloud on title due to the *lis pendens*.

Accordingly, Appellant has failed to demonstrate good cause, excusable neglect, or any equitable basis sufficient to justify relief, and his request should be denied.

PRAYER FOR RELIEF

WHEREFORE, Respondent, Florence Heyward Davis, respectfully requests that this Court:

1. **Dismiss the appeal with prejudice** pursuant to Rule 260, South Carolina Appellate Court Rules (SCACR), based on Appellant's failure to comply with the South Carolina Appellate Court Rules and failure to timely prosecute this appeal;

2. **Deny Appellant's Motion to Serve and File the Record on Appeal Out of Time**, as Appellant has failed to demonstrate excusable neglect or good cause;

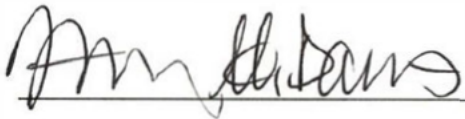
3. **Order that the lis pendens affecting the property located at 5554 Rosebank Road, Wadmalaw Island, South Carolina TMS number 17-00-00-161, be lifted and released**, so as to remove the cloud on title and prevent further prejudice to Respondent;

4. **Find that Appellant's continued delay and noncompliance has caused substantial prejudice to Respondent**, including ongoing financial burden and impairment of property rights;

5. **Award Respondent her costs** associated with this appeal, **and such further relief as this Court deems just and proper.**⁶

Respectfully Submitted,

Florence Heyward Davis, Respondent, Pro Se



% DCUL Office 308

14 Ridge Square NW Suite 300

Washington, DC 20016

843-364-6578

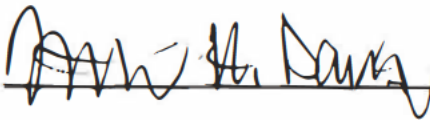
foellern@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing **Reply in Support of Respondent's Motion to Dismiss** upon the following by depositing the same in the United States Mail, postage prepaid, properly addressed as follows:

George S. Jenkins
1348 S. Sherwood Drive
Charleston, South Carolina 29407

This the 14 day of April, 2026

Signed: 

Print: Florence Heyward Davis

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SC Court of Appeals

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04/10/2026

Clerk of Court
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Post Office Box 11629
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Appellate Case No. 2024-001929
Florence Heyward Davis, Respondent v. George S. Jenkins, Appellant

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SC Court of Appeals

Dear Clerk of Court:

Please accept the enclosed filing submitted on behalf of the Respondent in the above-referenced matter.

Enclosed for filing, please find the following documents:

1. Reply in Support of Respondents's Motion to Dismiss
2. Certificate of Service

A Certificate of Service is included, confirming that all parties have been properly served in accordance with the South Carolina Appellate Court Rules.

If a filing fee is required for this motion, please advise, and I will promptly remit the appropriate payment. Alternatively, if a fee is required at the time of filing, a check in the amount of \$50.00 payable to the Clerk of the South Carolina Court of Appeals is enclosed. This amount is submitted pursuant to Rule 41(b) of the South Carolina Rules of Civil Procedure (Involuntary Dismissal), as reflected in the applicable clerk's fee schedule.

Thank you for your time and assistance. Please do not hesitate to contact me if any additional information is required.

Respectfully submitted,

Florence Heyward Davis
Respondent, Pro Se

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COLUMBIA SC 29201



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