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Apr 21 2026

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.

**APPELLANT’S REPLY TO RESPONDENTS’ RETURN TO APPELLANT’S
EMERGENCY WRIT OF SUPERSEDEAS & MOTION TO STAY ENFORCEMENT OF
CONTEMPT ORDER PENDING APPEAL**

NOW COMES *Pro Se* Appellant Jefferson Davis, Jr., and respectfully replies to
Respondents’ Return filed April 16, 2026.

1. SCACR Rule 241(c)(3) grants discretion, but that discretion must be exercised appropriately under the specific facts of this case. Rule 241(c)(3) permits conditioning supersedeas on “such terms ... as the ... court may deem **appropriate.**” Imposing a \$50,000 bond that Appellant cannot realistically post is **not** appropriate and constitutes an abuse of discretion. A ruling is an abuse of discretion when it ignores the conceded medical and financial record or produces a result fundamentally at odds with the coercive (not punitive) nature of civil contempt. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 49-50, 674 S.E.2d 505, 508 (Ct. App. 2009) (abuse of discretion occurs when ruling ignores record facts).

2. The circuit court has already accepted Appellant’s serious medical condition — yet the March 27, 2026 Order imposes a bond that would effectively nullify the stay. This Court remanded the matter specifically so the circuit court could evaluate Appellant’s medical condition. (Order, Dec. 20, 2024). After reviewing extensive medical documentation, including Appellant’s attending oncologist’s sworn affidavit, the circuit court expressly accepted that Appellant’s health remains in a **very guarded state**. (Fifth Order, Feb. 26, 2026). The circuit court had previously expressed skepticism about Appellant’s cancer diagnosis (Order, May 29, 2025), but that skepticism was resolved once the full record was before it.

The March 27, 2026 Order Altering & Amending the Fifth Order added the \$50,000 bond requirement **without** retracting the medical concession. The parties had agreed to decide the motion on the papers because holding a hearing was against Appellant’s doctors’ orders. Despite this agreement and the conceded medical facts, the court imposed a bond Appellant cannot meet. This inconsistency — acknowledging the very medical incapacity that defeats the underlying contempt finding, yet conditioning relief on terms Appellant cannot realistically satisfy — is unsupported by the record and an abuse of discretion.

3. Civil contempt is strictly coercive and requires present ability to comply. A party cannot be held in civil contempt — or effectively incarcerated through denial of a meaningful stay — when he lacks the present ability to obey the order. *Henderson v. Henderson*, 298 S.C. 190, 379 S.E.2d 125 (1989) (civil contempt requires present ability to comply); *Lindsay v. Lindsay*, 328 S.C. 329, 491 S.E.2d 583 (Ct. App. 1997) (same); *Curlee v. Howle*, 277 S.C. 377, 287 S.E.2d 915 (1982) (civil contempt is coercive, not punitive). Requiring a substantial bond Appellant cannot post would lift the stay and expose him to 90 days in jail solely because of his inability to pay the underlying fees. This converts a coercive remedy into punitive incarceration for poverty and serious illness — precisely what South Carolina law prohibits. The “keys to the jail” are not in Appellant’s pocket.

4. Respondents’ claim regarding Appellant’s financial inability is misleading and ignores the procedural history. Respondents assert that “Appellant has not produced evidence addressing his inability to pay the underlying contempt fees and costs” and cite only the May 29, 2025 Order. (Return, citing Hocker Or., May 29, 2025, pp. 2-3, 4.) **That assertion is incorrect.** The COA’s December 20, 2024 Order narrowly remanded the matter to address whether Appellant actually had Stage IV colon cancer - the very diagnosis the trial court had previously disbelieved. Judge Hocker’s earlier order expressly stated that financial ability to pay was not being decided at that stage and would be addressed later. (See Hocker Or., January 24, 2025, page 2 stating: “**At present, this Order will only deal with the Plaintiff’s medical records and this Court will reserve ruling on the Defendants’ other requests in the future depending upon what the medical records show.**”) Although the trial court never returned to addressing Appellant’s ability to pay, Appellant has continually submitted substantial, uncontroverted sworn evidence and

affidavits of financial inability, including over \$500,000 in medical bills. **Respondents have submitted no contrary evidence whatsoever.**

Additionally, the Circuit Court deviated from its consistent prior practice of emailing orders to Appellant (pro se) and only mailed the March 27 Order, materially shortening Appellant's time to respond.

Appellant is likely to prevail on the merits of the appeal because the underlying contempt order rests on a now-discredited factual premise (the Circuit Court has conceded Appellant's Stage IV cancer diagnosis and medical incapacity) and Appellant has submitted substantial, uncontroverted sworn evidence and affidavits of financial inability. **Inability to comply is a complete defense to civil contempt.**

5. Respondents' equity argument does not address the full record or the irreparable harm Appellant faces. Respondents stress the need to secure the judgment and cite past matters and the May 29, 2025 Order. Those references are misplaced. The May 29, 2025 Order predates the circuit court's own acceptance of Appellant's serious medical condition. The narrow question before this Court is whether the **stay pending appeal** should be conditioned on terms that are realistically impossible to meet given the conceded facts.

Equity cuts both ways. Respondents have already been protected by this Court's temporary stay (Order, April 6, 2026). Appellant faces **irreparable harm** — incarceration while his health remains in a very guarded state — if that protection is lifted. Respondents have filed no opposition to Appellant's Motion to Seal confidential medical records (filed March 31, 2026) or to his request for waiver of filing fees, further acknowledging the hardship.

6. In the alternative, any security should consist solely of periodic medical and financial updates. Should this Court be inclined to require some form of security, periodic medical and financial status updates would adequately protect Respondents' interests without defeating the purpose of the stay or exposing Appellant to incarceration for inability to comply.

7. Appellant respectfully requests an expedited ruling on his pending Motion to Seal. Appellant's Motion to Seal or Maintain Under Seal Confidential Medical Records and Protected Health Information in the Record on Appeal remains pending before this Court. Respondents have filed no opposition. Appellant respectfully requests that the Court rule upon the Motion to Seal at its earliest convenience so that the complete medical record may be properly considered in connection with the pending emergency supersedeas matter.

WHEREFORE, Appellant respectfully requests that this Court: (a) Grant the requested supersedeas and stay enforcement of the contempt order **without** any bond requirement; (b) In the alternative, require only periodic medical and financial updates as security; and (c) Grant such other and further relief as this Court deems just and proper, including maintaining the current temporary stay.

Respectfully submitted,



Date: April 21st, 2026

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PROOF OF SERVICE

I certify that I have served **APPELLANT’S REPLY TO RESPONDENTS’ RETURN TO APPELLANT’S EMERGENCY WRIT OF SUPERSEDEAS & MOTION TO STAY ENFORCEMENT OF CONTEMPT ORDER PENDING APPEAL** on the below named parties via First Class Mail **and / or email** on **April 21st, 2026**.

[CONTINUED ON NEXT PAGE.]

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**Non-Party - Educational Credit For Exceptional Needs
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[CONTINUED ON NEXT PAGE.]

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