

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

James M. Harley, Appellant

v.

**South Carolina Department of Employment and Workforce and Bradshaw
Automotive Group, Inc., Respondents**

Appeal from the Administrative Law Court

Hon. Deborah Brooks Durden, Administrative Law Judge

Case No.: 21-ALJ-22-0047-AP

Appellate Case No.: 2024-001795

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May 26 2026

SC Court of Appeals

REPLY BRIEF OF APPELLANT

INTRODUCTION

Respondents' brief offers a narrow and incomplete narrative: that Appellant voluntarily resigned for personal reasons and later regretted it. This framing ignores the legal and factual complexity of the case. Appellant's separation was not voluntary—the Employer constructively coerced Appellant, failed to accommodate his disability and refused to engage in the interactive process required under the Americans with Disabilities Act (ADA). The Employer's rejection of Appellant's rescission was not a neutral application of at-will doctrine, but a retaliatory act that cemented an unlawful separation. The Administrative Law Court (ALC) erred in affirming the Appellate Panel's decision without meaningfully engaging with these issues. This Court should reverse.

ARGUMENT

I. Appellant's Resignation Was Constructively Coerced by the Employer's Failure to Accommodate

The record shows that Appellant requested a reasonable accommodation—speech-to-text software—based on a documented disability. The Employer failed to respond meaningfully before Appellant's resignation, despite having prior notice of his condition. This failure to engage in the interactive process, as required under 42 U.S.C. § 12112(b)(5)(A), rendered the workplace inaccessible and hostile.

Courts have consistently held that an employer's failure to accommodate can constitute constructive discharge. See *EEOC v. Sears, Roebuck & Co.*, 233 F.3d 432, 438 (7th Cir. 2000); *Tarquinio v. Johns Hopkins U. Applied Physics Lab*, 141 F.4th 568, 574 (4th Cir. 2025).

Appellant's resignation was not a personal choice—it was the culmination of systemic inaction and disregard for his federally protected rights. The ALC's conclusion that the resignation was voluntary ignores this legal framework and must be reversed.

II. The Employer's Refusal to Accept the Resignation Withdrawal Was Arbitrary and Retaliatory

Appellant attempted to rescind his resignation before its effective date. The Employer's refusal to accept that rescission was not grounded in operational necessity or legal obligation—it was a discretionary decision that served to punish Appellant for asserting his rights.

South Carolina's at-will employment doctrine does not absolve employers from equitable scrutiny. Where a resignation is rescinded in good faith and the employer suffers no prejudice, refusal to reinstate may constitute constructive termination. See 76 *Am. Jur. 2d Unemployment Compensation* §137.

Appellant's offer to continue working and his prompt rescission attempt demonstrate that he did not intend to sever the employment relationship. The Employer's rejection of that offer—amid unresolved ADA issues—was retaliatory and legally significant.

III. ADA and Pandemic Unemployment Assistance Issues Are Properly Before This Court

Respondents argue that ADA and Pandemic Unemployment Assistance (PUA) claims are procedurally barred. This is incorrect. These issues are not collateral—they are central to determining whether Appellant had “good cause attributable to the employment” under S.C. Code Ann. § 41-35-120(1).

Even if the Appellate Panel did not rule on ADA or PUA claims in isolation, it considered the underlying facts—such as the accommodation request and timing of resignation—in its analysis of whether Appellant quit voluntarily. That opens the door for appellate review. See *Carson v. S.C. Dep’t of Natural Res.*, 371 S.C. 114, 120 (2002); *Timms v. Timms*, 286 S.C. 291, 294 (Ct. App. 1985).

Moreover, Appellant preserved these issues through testimony, exhibits, and briefing. They are woven into the record and are properly before the Court under S.C. Code Ann. § 1-23-610(B), which permits reversal for errors of law or arbitrary decision-making.

To exclude ADA and PUA context is to amputate the legal narrative mid-limb—these issues are not tangential, they are causal. This Court need not blindfold itself to injustice simply because the Panel failed to label every issue. Equity demands a full view.

IV. The “Reasonable Person” Standard Was Misapplied

The ALC and Appellate Panel applied the “reasonable person” standard without accounting for Appellant’s disability and the Employer’s failure to accommodate. This is a legal error. The standard should be applied with sensitivity to the unique stressors faced by disabled employees.

See *Faile v. S.C. Emp’t Sec. Comm’n*, 267 S.C. 536, 541 (1976). The Panel’s conclusion that a reasonable person would not resign under these conditions is unsupported by the record and fails to reflect the lived reality of a disabled employee navigating a hostile workplace.

V. Procedural Irregularities Undermine the Administrative Findings

The administrative record reveals procedural irregularities and prejudicial oversight:

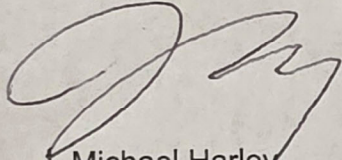
- The Employer’s testimony was inconsistent and lacked documentation of its accommodation process.
- The Panel failed to consider key evidence, including the timing and substance of Appellant’s accommodation request.
- The ALC deferred to the Panel without engaging in meaningful review, contrary to S.C. Code Ann. § 1-23-610(B).

Rubber-stamping flawed findings is not judicial review—it is abdication.
This Court must intervene to restore procedural integrity.

CONCLUSION

Appellant did not voluntarily resign—the Employer constructively discharged him, failed to accommodate his disability, and retaliated against his assertion of rights. The ALC's decision is legally flawed, factually unsupported, and procedurally deficient. This Court should reverse and remand with instructions to award unemployment benefits and address the ADA and PUA issues on the merits.

Respectfully submitted,



J. Michael Harley
Pro Se Appellant¹

¹ After the drafting of the initial brief, I retained appellate counsel, Adam Ruffin, who is now counsel of record in this appeal. This Court however denied his motion to file an amended brief. Accordingly, because he had no role in drafting the initial brief, his name is not ascribed to this final brief. See Rule 211, SCACR (providing that the content of the final briefs "shall be identical to the [initial] brief(s)" except for changes to the lower court record citations and the correction of "obvious typographical errors and misspellings").