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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2026-001111

Tony Williams

Appellant,

v.

Lowe's Home Centers, LLC and
Andrew Melling,

Respondents.

RETURN IN OPPOSITION
TO APPELLANT'S PETITION
FOR WRIT OF CERTIORARI

Michelle E. Gaston, Esq.
STEPTOE & JOHNSON PLLC
P.O. Box 30240
Myrtle Beach, SC 29588
Telephone: 304-522-8290
Facsimile: 304-526-8089
Michelle.Gaston@steptoe-johnson.com
Attorney for Respondents

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COUNTER-STATEMENT OF THE CASE

This matter arises from a civil action filed in the Court of Common Pleas for Beaufort County. Appellant commenced the action on July 14, 2025, and later filed an amended complaint. Respondents timely appeared and defended the action, including filing motions to dismiss pursuant to Rule 12(b), SCRPC.

The circuit court scheduled the matter for a motions hearing, which was noticed and held on December 12, 2025. Following that hearing, the circuit court issued a written order on December 17, 2025, granting Respondents' motion to dismiss. Following entry of the dismissal order, Appellant filed post-trial motions, including a Rule 59(e) motion to alter or amend the judgment. Those efforts did not alter the disposition of the case.

Appellant thereafter filed a Notice of Appeal to the South Carolina Court of Appeals. The Notice of Appeal was filed on or about January 12, 2026, initiating appellate review of the December 17, 2025, dismissal order. Under Rule 207(a)(2), SCACR, Appellant was required to order the transcript of the December 12, 2025, hearing within thirty days of filing the Notice of Appeal. Appellant did not request a transcript, did not make arrangements with a court reporter, and did not otherwise comply with the rule.

On February 26, 2026, after Appellant failed to cure these deficiencies and failed to provide proof of compliance, the Court of Appeals dismissed the appeal for failure to order the transcript in accordance with Rule 207. The court's order specifically noted that the dismissal arose from Appellant's noncompliance with the mandatory transcript requirement.

Appellant filed an emergency motion to vacate the dismissal and reinstate the appeal, which the Court of Appeals construed as a petition for rehearing. Respondents filed a return in opposition, and Appellant submitted a reply. The court considered those filings, along with additional motions filed by Appellant—including motions to strike and related requests—and denied rehearing on April 8, 2026, concluding that no material fact or principle of law had been overlooked.

Appellant filed the present Petition for Writ of Certiorari on May 12, 2026, seeking review of the

Court of Appeals' dismissal and denial of rehearing. The Petition raises multiple issues that were either not preserved, are procedurally barred, or are contradicted by the record.

QUESTIONS PRESENTED BY APPELLANT

1. Did the Court err by requiring a transcript from a non-reported hearing, thereby violating the alternative record-building remedies of Rule 209, SCACR?
2. Did the Court lack jurisdiction to rule on an order missing a Judicial Identification Code (JIC) and failing the Rule 58, SCRCP "separate document" requirement?
3. Does a Circuit Court have the authority to "proceed" when the Remittitur has not returned under Rule 221(b), SCACR?
4. May a party in legal default seek sanctions without first moving to set aside the default under Rule 55, SCRCP?

ARGUMENT

1. THE PETITION IS PROCEDURALLY BARRED AND SHOULD BE DENIED.

As an initial matter, this Court should deny the Petition because it is untimely filed and therefore jurisdictionally defective.

The Court of Appeals denied Appellant's petition for rehearing on April 8, 2026. Under Rule 242(c), SCACR, a petition for writ of certiorari must be served and filed within thirty (30) days after the denial of rehearing. The thirty-day period expired on May 8, 2026. Appellant did not file the present Petition until May 12, 2026. The time limit set forth in Rule 242 is mandatory and jurisdictional. Appellant's failure to comply with that deadline deprives this Court of a proper basis to grant review. Where, as here, a petitioner fails to invoke this Court's jurisdiction in a timely manner, the Petition must be denied without reaching the merits. *See Edwards v. James*, No. CV 5:25-1286-MGL, 2026 WL 607415, at *2 (D.S.C. Mar. 4, 2026)(holding that because petitioner

did not seek certiorari from the South Carolina Supreme Court within 30 days as required by Rule 242(c), SCACR, his conviction became final when that period expired).

Even if the Court were to overlook this procedural bar, the Petition does not present any substantial question of law warranting certiorari review. Rather, the Petition reflects a straightforward application of well-settled appellate rules to undisputed facts demonstrating Appellant's noncompliance. The Court of Appeals dismissed the appeal based on Appellant's failure to comply with mandatory procedural requirements, and it correctly denied rehearing upon concluding that no material fact or principle of law had been overlooked.

Appellant's attempt to reframe his noncompliance as "procedural impossibility," "jurisdictional nullity," or systemic impropriety does not transform routine enforcement of the appellate rules into a constitutional issue. His arguments rely on misstatements of the record, misinterpretations of governing rules, and conclusory allegations unsupported by any competent evidence. Accordingly, even if the Petition were properly before the Court, it should be denied because it fails to demonstrate reversible error or present any substantial question of law to merit further review.

2. THE COURT OF APPEALS CORRECTLY DISMISSED THE APPEAL, AND NONE OF APPELLANT'S ASSERTED BASES FOR REVIEW HAVE MERIT.

The dispositive fact in this case is straightforward and undisputed: Appellant failed to comply with the mandatory requirements governing appellate procedure. That failure alone warranted dismissal and forecloses further review.

A. Appellant's Failure to Comply with Rules 207 and 208 Independently Required Dismissal.

The Court of Appeals properly dismissed the appeal for failure to comply with Rule 207, SCACR. The record establishes that a hearing occurred on December 12, 2025, and that the order on appeal was entered thereafter.

After filing his Notice of Appeal on February 10, 2026, Appellant was required to order the

transcript within thirty days. He did not do so. Nor did he seek an extension or otherwise attempt to comply. Instead, Appellant unilaterally declared that no transcript existed and elected not to follow the rule.

Rule 207 imposes a mandatory obligation on the appellant to initiate preparation of the record. That obligation is not excused by an appellant's unsupported assertion that a transcript is unnecessary or unavailable. Where a hearing occurred—and the record confirms that it did—the appellant must preserve the record for appellate review. In addition, Appellant failed to comply with Rule 208, SCACR, which required him to file his initial brief within thirty days of filing the Notice of Appeal. Thirty days from February 10, 2026, was March 12, 2026. Appellant filed no brief.

Each of these failures independently supports dismissal. Taken together, they demonstrate a complete failure to prosecute the appeal in accordance with the rules. The Court of Appeals' dismissal was therefore not only proper, but compelled.

B. Appellant's "Procedural Impossibility" Argument Misstates the Record and the Rules.

Appellant's primary argument rests on the assertion that compliance with Rule 207 was impossible because no transcript exists. That assertion fails both factually and legally.

The order on appeal expressly reflects that the case came before the circuit court for a hearing on December 12, 2025. The public index likewise confirms that the hearing was scheduled and conducted. Appellant's claim that no proceeding occurred is directly contradicted by the record.

Even if Appellant's assertion were accepted, which it should not be, his reliance on Rule 209, SCACR is misplaced. Rule 209 governs designation of materials for inclusion in the record. It does not excuse compliance with Rule 207 and does not permit an appellant to bypass the transcript requirement based on a unilateral conclusion. A party cannot convert noncompliance with clear procedural requirements into procedural impossibility by declining to follow the rules. The dismissal was therefore proper.

C. The Alleged Jurisdictional Defect in the Circuit Court Order Lacks Merit.

Appellant argues that the circuit court's dismissal order is void because it allegedly lacks a Judicial Identification Code and does not comply with Rule 58, SCRCP. This argument fundamentally misstates

both the record and controlling law.

The record establishes that the circuit court entered a written order on December 17, 2025, granting Respondents' motion to dismiss following a hearing on December 12, 2025. A written order exists, it was issued by the court, and it was entered in the record. Rule 58 governs when a judgment becomes effective. It does not impose a jurisdictional limitation on the circuit court, nor does it provide a mechanism for declaring an otherwise valid order void based on alleged technical deficiencies. South Carolina courts have consistently recognized that the critical event is entry of the written order by the clerk of court. As the Court of Appeals explained in *Bowman v. Richland Mem'l Hosp.*, 335 S.C. 88, 91, 515 S.E.2d 259, 261 (Ct. App. 1999), "An order is not final until it is written and entered by the clerk of court." That principle does not support Appellant's position. It defeats it. *Bowman* confirms that finality turns on whether an order has been reduced to writing and entered, not on the presence or absence of particular formatting features. Indeed, the same decision emphasizes that until an order is written and entered, it is "of no effect," but once it is entered, it is binding and operative. *Id.* at 91.

Here, a written order was entered. Appellant does not contend that the order was never filed with the clerk or that it remained in draft form. Instead, he attempts to transform alleged formatting or electronic filing complaints into a jurisdictional defect. Nothing in *Bowman*, Rule 58, or any other authority supports that proposition.

Appellant's argument leads to an untenable result. Under his theory, any litigant could declare a valid court order a "nullity" based on alleged irregularities in formatting, identification codes, or electronic filing details, regardless of whether the order was actually issued and entered by the court. That is not the law. Because the circuit court entered a written order, and because Rule 58 governs effectiveness rather than jurisdiction, there is no basis to conclude that the order was void. The Court of Appeals properly exercised jurisdiction over the appeal, and Appellant's contrary argument is without merit.

D. The Remittitur Argument is Irrelevant to the Issue Presented.

Appellant's reliance on Rule 221(b), SCACR is further undermined by the fact that the proceedings

he references did not occur in this case at all. Rather, Appellant has initiated multiple, separate lawsuits involving Lowe's and related parties. The May 5, 2026, hearing identified in the Petition took place in different actions, specifically Case No. 2023CP0701623 (*Tony Williams v. Lowe's Home Centers, LLC*) and Case No. 2025CP0702967 (*Tony Williams v. Michelle E. Gaston, Steptoe & Johnson PLLC, and Lowe's Home Centers, LLC*).

Nothing in the record indicates that those proceedings occurred in the present case or were governed by the procedural posture of this appeal. To the contrary, they are distinct actions with separate dockets, parties, and procedural histories. The mere existence of an appeal in one case does not restrict a circuit court's authority to act in entirely separate actions involving the same litigant. *Andrick Dev. Corp. v. Maccaro*, 280 S.C. 103, 105, 311 S.E.2d 95, 97 (Ct. App. 1984)(noting that the "lower court retains jurisdiction over matters not affected by the appeal" and that circuit court retained jurisdiction over the appointment of a receiver).

Accordingly, even if Appellant's characterization of those proceedings were accepted, it would not implicate Rule 221(b) in this appeal. There is no authority suggesting that activity in separate cases is barred by the pendency of an appeal in another matter. Appellant's argument therefore rests on a fundamental conflation of distinct proceedings and provides no basis to disturb the dismissal entered by the Court of Appeals.

E. Respondents were not in Default and were Fully Entitled to Participate.

Appellant's assertion that Respondents were in default and therefore lacked standing to seek relief or participate in the proceedings, is directly contradicted by both the record and settled South Carolina law.

The record reflects that Respondents timely appeared in the action and filed motions to dismiss pursuant to Rule 12(b), SCRCF, in lieu of filing an answer. Such motions are expressly authorized and constitute a proper responsive pleading under the rules. By operation of Rule 12(a), SCRCF, the filing of a motion to dismiss tolls the time for filing an answer until the court rules on the motion.

Accordingly, no default can arise while a Rule 12 motion is pending. An entry of default requires a

failure to plead or otherwise defend. Here, Respondents did both. They appeared, filed dispositive motions, submitted memoranda in support, and participated in motion practice before the circuit court. This conduct is the opposite of default.

Appellant's attempt to manufacture default status appears to rely on his unilateral filings styled as "Affidavits of Default" or similar submissions. However, a party cannot create a default through unilateral declaration. Default must be entered in accordance with Rule 55(a), SCRCR, by the clerk or the court upon a proper showing. There is no indication in the record that any such entry of default was made in this case.

Because Respondents were properly before the court at all relevant times, they were entitled to file motions, oppose Appellant's filings, and seek dismissal of the action. Their participation in both the trial court and appellate proceedings was entirely proper.

Appellant's argument rests on a fundamental misunderstanding of Rule 55 and an incorrect characterization of the procedural posture of the case. It provides no basis to disturb the judgment below or to warrant certiorari review.

CONCLUSION

The Petition for Writ of Certiorari should be denied. It is untimely and therefore fails to properly invoke this Court's jurisdiction. Even if considered, the Petition presents no substantial question of law warranting review.

The Court of Appeals correctly dismissed the appeal based on Appellant's undisputed failure to comply with the mandatory requirements of Rules 207 and 208, SCACR. That determination was a straightforward application of settled law to the record before the court. Appellant's subsequent filings did not cure those defects, and the Court of Appeals properly denied rehearing after concluding that no material fact or principle of law had been overlooked.

Appellant's arguments on certiorari do not identify reversible error. Instead, they rely on misstatements of the record, misinterpretations of governing rules, and unsupported allegations of impropriety. His assertions concerning the absence of a transcript, alleged jurisdictional defects, remittitur,

and default are each contradicted by the record and controlling law. None provides a basis for disturbing the dismissal, and none presents an issue of sufficient importance to justify this Court's discretionary review.

This case reflects nothing more than a failure to comply with fundamental appellate requirements. Longstanding precedent does not permit a litigant to avoid the consequences of that failure through conclusory allegations or collateral arguments unrelated to the dispositive procedural defect.

For these reasons, Respondents respectfully request that this Court deny the Petition for Writ of Certiorari.

Respectfully Submitted,

/s/ Michelle E. Gaston

Michelle E. Gaston, Esq. (SC Bar No. 107320)

STEPTOE & JOHNSON PLLC

P.O. Box 30240

Myrtle Beach, SC 29588

Telephone: 304-522-8290

Facsimile: 304-526-8089

Michelle.Gaston@steptoe-johnson.com

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via U.S. Mail, postage prepaid, this June 2, 2026, addressed as follows:

Tony A. Williams
145 Fort Sullivan Drive
Ridgeland, SC 29936
Pro Se

/s/ Michelle E. Gaston, Esq.

COUNSEL FOR RESPONDENTS