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Jun 02 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
The Honorable Martha M. Rivers, Circuit Court Judge

Appellate Case No. 2025-000306

Trial Court Case No. 2024-CP-42-02781

Carnie Norris, III, Appellant,

vs.

Dr. Gary W. Poliakoff,¹ Respondent.

RESPONDENT’S (THIRD) MOTION TO DISMISS THE APPEAL

Respondent, Dr. Gary Poliakoff, through the undersigned counsel, respectfully moves this Court under Rule 260, SCACR, and Rule 210, SCACR, for an order dismissing the appeal based upon Appellant’s failure to comply with this Court’s Order filed May 4, 2026, requiring Appellant to serve and file a second amended Record on Appeal by May 14, 2026, and expressly warning that noncompliance would result in dismissal.

Background and May 4, 2026 Order

By Order filed May 4, 2026, this Court (i) denied Respondent’s motion to dismiss, (ii) ruled that “the March 13, 2026 amended record on appeal is not accepted as filed,” and (iii)

¹ The Appellant improperly identifies Gary W. Poliakoff, Esq. as “Dr. Gary W. Poliakoff.”

directed that “[w]ithin ten days of the date of this order Appellant shall serve and file a second amended record on appeal that complies with the South Carolina Appellate Court Rules and this court’s deficiency letters,” and that “[t]he second amended record on appeal shall contain all designated matter of both parties.” See Order filed May 4, 2026; Rule 210, SCACR. The Court further warned, unequivocally, that “[f]ailure to comply will result in the dismissal of the appeal.” Id.

Ten (10) days from May 4, 2026, was May 14, 2026.

As of the date of this Motion, Respondent has not received service of any second amended Record on Appeal, and no second amended Record on Appeal has been provided to Respondent that complies with the May 4, 2026 Order’s directive that the record be served and filed and that it include all designated matter of both parties. See Order filed May 4, 2026; Rule 262, SCACR (filing and service).

Arguments

I. Dismissal is required by the Court’s Order and authorized by the Appellate Court Rules.

The May 4, 2026 Order was not a mere suggestion or technical guidance; it was a direct command of this Court with an express sanction for noncompliance. See Order filed May 4, 2026; Rule 260, SCACR. Appellant’s failure to comply warrants dismissal consistent with the Court’s express warning and with this Court’s authority to enforce compliance with the South Carolina Appellate Court Rules and the Court’s orders. See Rule 260, SCACR (dismissal); Rule 240, SCACR (motions).

II. Rule 210 duties and the burden to provide a sufficient record rest on Appellant.

The South Carolina Appellate Court Rules place the burden on the appellant to timely serve and file a compliant Record on Appeal and to ensure it includes all properly designated materials.

See Rule 210, SCACR; Rule 267, SCACR (form). South Carolina appellate courts repeatedly hold that the appellant bears the burden of providing an adequate record for appellate review, and that an appellate court cannot (and will not) speculate about matters not contained in the record. See, e.g., Camp v. Camp, 386 S.C. 571, 689 S.E.2d 634 (2010); Taylor v. Taylor, 294 S.C. 296, 363 S.E.2d 909 (Ct. App. 1987); Germon v. Nichol, 278 S.C. 508, 299 S.E.2d 335 (1983); Hamilton v. Greyhound Lines East, 281 S.C. 442, 316 S.E.2d 368 (1984); First Union Nat’l Bank of S.C. v. Soden, 333 S.C. 554, 511 S.E.2d 372 (Ct. App. 1998); Goodson v. Am. Bankers Ins. Co. of Fla., 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988).

The South Carolina Appellate Court Rules are not “mere technicalities,” and the Court is entitled to enforce compliance to preserve the orderly appellate process. Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). Here, after prior deficiency correspondence and filings, the Court entered a specific cure Order on May 4, 2026, required service and filing of a compliant second amended Record on Appeal within ten days, and warned that noncompliance would result in dismissal. See Order filed May 4, 2026; Rule 210, SCACR. Appellant’s failure to comply with that cure Order warrants dismissal under the Court’s stated consequence and the Court’s authority under the SCACR. Rule 260, SCACR.

Relief Requested

WHEREFORE, Respondent respectfully requests that the Court dismiss the appeal due to Appellant’s failure to comply with the Court’s May 4, 2026 Order requiring Appellant to serve and file a second amended Record on Appeal by May 14, 2026. Order filed May 4, 2026; Rule 260, SCACR.

Respectfully submitted,

/s/ Thomas A. Pendarvis

Thomas A. Pendarvis (SC Bar #064918)

PENDARVIS LAW OFFICES, P.C.

710 Boundary Street, Unit 1-A

Beaufort, SC 29902

(843) 524-9500

Thomas@PendarvisLaw.com

Counsel for Respondent Gary W. Poliakoff

June 2, 2026

Beaufort, South Carolina

Pro Se Appellant:

Carnie Norris, III, #227226

PERRY CORRECTIONAL INSTITUTION Q4B-220

430 Oaklawn Road

Pelzer SC 29669

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APPEAL FROM SPARTANBURG COUNTY
The Honorable Martha M. Rivers

Appellate Case No. 2025-000306

Trial Court Case No. 2024-CP-42-02781

Carnie Norris, III, Appellant,

vs.

Gary Poliakoff, Esq. Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that on June 2, 2026, a copy of the Respondent, Gary Poliakoff, Esq.'s (Third) Motion to Dismiss the Appeal, was served on Appellant, Carnie Norris, III, via U.S. Postal Service containing the above-referenced documents to the mailing address confirmed to be Appellant's mailing address via an inmate search <https://public.doc.state.sc.us/> as follows:

**Carnie Norris, III, #227226
LIVESAY CORRECTIONAL INSTITUTION
P.O. Box 580, Una, SC 29378**

Respectfully submitted,
/s/ Thomas A. Pendarvis
Thomas A. Pendarvis (SC Bar #64918)
PENDARVIS LAW OFFICES, P.C.
710 Boundary St., Unit 1
Beaufort, SC 29902-4188
843.524.9500
Thomas@PendarvisLaw.com

Counsel for Respondent

Beaufort, South Carolina
June 2, 2026

PENDARVIS LAW



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SC Court of Appeals

June 2, 2026

VIA EMAIL ONLY

The Honorable Jenny Abbott Kitchings
SOUTH CAROLINA COURT OF APPEALS
ctappfilings@sccourts.org

Re: *Carnie Norris, III vs. DR. (sic.) GARY POLIAKOFF*
Trial Court Case No.: 2024-CP-42-02781; Appellate Case No.: 2025-000306

Dear Ms. Kitchings:

On behalf of the Respondent, Gary W. Poliakoff (“Dr. Poliakoff”), please see the following for filing regarding the above-referenced matter:

1. Respondent’s (Third) Motion to Dismiss the Appeal; and
2. Proof of Service.

By copy of this correspondence, we are serving a copy of the enclosed documents via US Mail to Mr. Norris.

With warmest personal regards, I am

Sincerely,

PENDARVIS LAW OFFICES, P.C.

A handwritten signature in blue ink that reads "Tracy Lyn Landry". The signature is written in a cursive style.

Tracy Lyn Landry

Enclosure(s)

ec (w/ enclosure(s): Gary W. Poliakoff
cc (w/enclosure(s): Carnie Norris, III

PENDARVIS LAW



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SC Court of Appeals

June 2, 2026

VIA EMAIL AND US POSTAL SERVICE

The Honorable Jenny Abbott Kitchings
SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: *Carnie Norris, III vs. DR. (sic.) GARY POLIAKOFF*
Trial Court Case No.: 2024-CP-42-02781; Appellate Case No.: 2025-000306

Dear Mrs. Kitchings:

Please see the enclosed PENDARVIS LAW OFFICES, PC, in the amount of \$50.00, representing the filing fee for Respondent's (Third) Motion to Dismiss the Appeal, sent to be filed with the SOUTH CAROLINA COURT OF APPEALS, on June 2, 2026.

With warmest personal regards, I am

Sincerely,

PENDARVIS LAW OFFICES, P.C.

A handwritten signature in blue ink that reads "Tracy Lyn Landry". The signature is written in a cursive, flowing style.

Tracy Lyn Landry

Enclosures

ec: Gary W. Poliakoff

THOMAS A. PENDARVIS, ESQ.
Admitted in SC and GA
Thomas@PendarvisLaw.com
Board Certified in Legal Malpractice
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