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Jun 15 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Jessica A. Salvini, Circuit Court Judge

Case No. 2025-001494

Joshua Hawkins, Appellant,

v.

Delta Airlines, Inc., Respondent.

MOTION TO DISMISS

COMES NOW, Respondent Delta Air Lines, Inc. (improperly named “Delta Airlines, Inc.”), by and through the undersigned counsel, and pursuant to Rules 210(a), 240, and 260(a), SCACR, files its Motion to Dismiss the appeal, which includes citations to relevant authorities in support of the motion, and in support thereof, states as follows:

1. On May 8, 2026, Greenville attorney and *pro se* Appellant Joshua Hawkins filed with this Court his Reply Brief of Appellant.
2. Under Rule 210(a), SCACR, Appellant was required to serve upon Respondent a copy of the Record of Appeal and file proof of service of the same with this Court by Monday, June 8, 2026. *See* Rule 263(a), SCACR.

3. On June 8, 2026, Appellant did not electronically or personally serve Respondent with a copy of the Record on Appeal, nor did he file proof of service of the same with the Clerk. *See* Rule 210(a), 262(a), 262(c) SCACR.

4. As of the time of this filing, a full week after June 8, 2026, Respondent's counsel (based in Spartanburg) has not received a copy of the Record on Appeal electronically, via hand delivery, or in the mail, much less one postmarked June 8, 2026. *See* Rule 262(c), SCACR. Likewise, the Court's electronic case management system does not indicate Appellant filed proof of service of the Record on Appeal with the Clerk. *See* Rule 262(a), SCACR.

5. "Whenever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk **shall** issue an order of dismissal, which shall have the same force and effect as an order of the appellate court." Rule 260, SCACR (emphasis added).

6. If a court rule is plain and unambiguous, the Court "applies the same rules of construction used to interpret statutes" and must apply the rule as written. *See Maxwell v. Genez*, 356 S.C. 617, 620, 591 S.E.2d 26, 27 (2003). "The term '**shall**' in a statute means that the action is **mandatory**." *Wigfall v. Tideland Utils.*, 354 S.C. 100, 111, 580 S.E.2d 100, 105 (2003) (emphasis added).¹

¹ However, if it is "necessary" to fulfill the intent of the statute or constitutional provision by interpreting "shall" to be permissive, then "shall" may be construed as permissive rather than mandatory. *See Williams v. Benet*, 35 S.C. 150, 158, 14 S.E. 311, 313 (1892). In its 1892 decision, the Supreme Court interpreted whether the Constitution mandated that Supreme Court Justices "shall" complete their six-year terms, without being able to resign:

The view contended for rests largely upon the assumption that the words, "*shall* continue in office until their successors shall be elected and qualified," must be construed as imperative, and that the effect of these words is to forbid a Justice of the Supreme Court from vacating his office by resignation or otherwise, before the expiration of the term for which he has been elected. But this view ignores the well settled rule that in the construction of a statute or a constitution, the word "shall"

7. Appellant has neither served Respondent with the Record on Appeal nor filed proof of service for the same with the Clerk as required by Rules 210(a) and 263(a), SCACR.

8. Appellant has not contacted Respondent to request an extension of time or filed a motion to extend the time to serve the Record on Appeal upon Respondent, nor has this Court extended the time for Appellant to serve the Record on Appeal upon Respondent.

9. Appellant previously failed to comply with the deadline to file his Initial Brief with this Court as required by Rules 208(a)(1), 263(a) SCACR.

10. The Clerk, therefore, must dismiss the appeal. Rules 210(a), 260(a) SCACR.

WHEREFORE, Respondent Delta Air Lines, Inc. (improperly named “Delta Airlines, Inc.”) respectfully requests the Clerk sign an order dismissing the appeal, pursuant to Rules 210(a) and 260(a) SCACR.

Respectfully submitted,

June 15, 2026



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may receive a permissive, rather than an imperative, interpretation, when necessary to carry out the true intent of the provision in which such word is found.

Williams, 35 S.C. at 158, 14 S.E. at 313 (emphasis in original). But when the meaning is unambiguous, the rules of statutory interpretation do not apply. *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011) (“Where the statute’s language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.”); *Richland Cty. v. S.C. Dep’t of Revenue*, 422 S.C. 292, 309, 811 S.E.2d 758, 767 (2018) (“‘Under the rules of statutory interpretation, use of words such as “**shall**” or “**must**” indicates the legislature’s intent to enact a **mandatory** requirement.’ *Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002).”) (emphases added).

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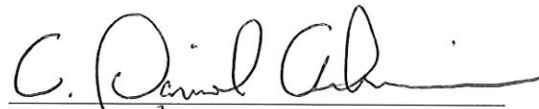
v.

Delta Airlines, Inc., Respondent.

PROOF OF SERVICE

I certify that on June 15, 2026, I have served, or caused to be served, the Respondent's
Motion to Dismiss on the following Counsel for Appellant via Email, addressed as follows:

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