

IN THE SUPREME COURT OF SOUTH CAROLINA

S.C. SUPREME COURT

SC Court of Appeals

JIRAIR BAGHDASSARIAN,

Petitioner,

v.

JUDY TUPOLO, as Power of Attorney,

Respondent.

Appellate Case No. 2022-001785

PETITION FOR WRIT OF CERTIORARI

Pursuant to Rule 242, SCACR

ON PETITION FOR REVIEW OF THE DECISION OF THE SOUTH CAROLINA COURT OF APPEALS

Unpublished Opinion No. 2026-UP-157  
Filed April 1, 2026

Rehearing Denied May 20, 2026

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF SOUTH CAROLINA:

Petitioner, Jirair Baghdassarian, appearing pro se, respectfully petitions this Court for a Writ of Certiorari pursuant to Rule 242, SCACR, seeking review of the decision of the South Carolina Court of Appeals in Appellate Case No. 2022-001785.

QUESTIONS PRESENTED

I. Whether the Court of Appeals erred in holding that the remaining issues became moot following the death of the principal where a continuing financial obligation remained and recognized exceptions to mootness applied.

II. Whether the courts below improperly declined to recognize an adult principal's attempted revocation of a power of attorney despite the absence of a medical evaluation, guardianship proceeding, conservatorship proceeding, or adjudication of incapacity.

III. Whether the Court of Appeals erred in holding that Petitioner's challenge to the Guardian ad Litem fee was not preserved.

IV. Whether the courts below failed to properly apply the presumption that adults are competent unless and until incapacity is established through lawful procedures.

V. Whether a court may proceed through extensive litigation, appoint a Guardian ad Litem, conduct an investigation, and assess costs against a litigant after concluding that the litigant lacked standing.

#### STATEMENT OF THE CASE

Petitioner sought judicial review of Respondent's conduct as attorney-in-fact and asserted that Donnie Wayne Adair desired revocation of Respondent's authority.

The circuit court appointed a Guardian ad Litem and ultimately dismissed the action.

The circuit court acknowledged that there was evidence suggesting that Mr. Adair may have been incapacitated but simultaneously acknowledged that proper medical evaluations had not been performed and that no conservatorship or guardianship proceedings had been filed. (R. p. 244).

Despite the absence of any formal incapacity determination, the circuit court declined to recognize the alleged revocation of the powers of attorney because capacity remained in question. (R. p. 244).

The Court of Appeals affirmed and later denied rehearing on May 20, 2026.

#### REASONS FOR GRANTING CERTIORARI

##### I. THE COURT OF APPEALS MISAPPLIED MOOTNESS

The Court of Appeals concluded that the remaining issues became moot because Mr. Adair passed away during the pendency of the appeal.

However, a continuing controversy remained because the circuit court imposed a monetary obligation requiring Petitioner to pay one-half of the Guardian ad Litem fee.

The circuit court acknowledged that a fee affidavit totaling \$2,670 had been submitted by the Guardian ad Litem. (R. p. 245).

The court ordered that the parties split the fee equally, requiring Petitioner to pay \$1,335. (R. p. 245).

Meaningful relief therefore remained available.

Additionally, disputes involving elderly principals, powers of attorney, competency concerns, and personal autonomy frequently evade appellate review because the principal may die before appellate proceedings conclude.

## II. THE STANDING DETERMINATION CREATES A SIGNIFICANT PROCEDURAL INCONSISTENCY

The circuit court ultimately concluded that Petitioner lacked standing under the South Carolina Uniform Power of Attorney Act. (R. p. 244).

However, before reaching that conclusion, the court appointed a Guardian ad Litem, ordered an investigation, directed review of records, received a written report, conducted additional proceedings, and assessed fees against Petitioner. (R. pp. 191–192, 244–245).

If standing was lacking from the outset, review is warranted concerning the authority to proceed through extensive litigation and impose costs before dismissing the action.

## III. THIS CASE PRESENTS IMPORTANT QUESTIONS REGARDING THE PRESUMPTION OF COMPETENCY

The circuit court expressly acknowledged:

"There is evidence to suggest that Mr. Adair may be incapacitated, however the proper medical evaluations have not been performed, and a petition for conservatorship and/or guardianship have not been filed." (R. p. 244).

Despite acknowledging the absence of a medical evaluation and the absence of any conservatorship or guardianship proceeding, the court further concluded:

"There is enough question about Mr. Adair's capacity that his alleged verbal revocation of the Powers of Attorney cannot be accepted at this time." (R. p. 244).

This presents an important legal question:

May a court effectively disregard an adult principal's expressed revocation of a power of attorney based upon unresolved concerns regarding capacity when no lawful determination of incapacity exists?

The issue implicates the longstanding presumption that adults are competent unless and until proven otherwise through lawful procedures.

## IV. THE PROCEEDINGS CREATED A PROCEDURAL DEAD-END REGARDING COMPETENCY

The central issue throughout these proceedings was whether Donnie Wayne Adair retained sufficient competency to exercise his rights and revoke the powers of attorney.

The circuit court expressly acknowledged that proper medical evaluations had not been performed and that no conservatorship or guardianship proceedings had been initiated. (R. p. 244).

The court also noted earlier that:

"Apparently, no conservatorship action has been filed in the probate court." (R. p. 191).

Yet the circuit court declined to recognize the principal's attempted revocation because questions regarding capacity remained unresolved. (R. p. 244).

Thus, competency concerns became dispositive even though no formal determination of incapacity existed.

The practical effect was that the principal's ability to exercise his rights was restricted because competency was questioned while no meaningful procedure was employed to determine whether he was in fact competent.

Review is warranted to clarify the procedures available when an adult's competency is questioned but no formal adjudication of incapacity has occurred and to ensure that the presumption of competency remains meaningful in practice rather than merely theoretical.

#### V. THE PROCEEDINGS RELIED UPON NON-MEDICAL OBSERVATIONS WITHOUT A FORMAL CAPACITY DETERMINATION

The Guardian ad Litem expressly stated:

"I have to start by saying I am not a medical doctor." (R. p. 203).

Petitioner does not contend that a Guardian ad Litem must be a physician.

Rather, the concern is that no medical evaluation established incapacity, no conservatorship proceeding determined incapacity, no guardianship proceeding determined incapacity, and no judicial determination of incapacity was entered.

Despite the absence of such findings, concerns regarding competency became central to the disposition of the case and to the refusal to recognize the principal's attempted revocation. (R. p. 244).

#### VI. THE COURT OF APPEALS ERRED IN HOLDING THE GUARDIAN AD LITEM FEE ISSUE UNPRESERVED

The circuit court acknowledged that:

"a fee affidavit totaling \$2,670 was submitted by Mr. Bagwell for his work as Guardian ad Litem." (R. p. 245).

The court ordered:

"The Guardian ad Litem fee shall be split evenly between the parties, requiring each side to remit \$1,335 to Mr. Bagwell." (R. p. 245).

Petitioner challenged that assessment through a timely post-trial motion.

The circuit court expressly reaffirmed the fee award, stating:

"The Court previously ordered that the named parties split the GAL bill evenly and this remains the order of the Court." (R. p. 247).

Accordingly, the issue was raised, ruled upon, and preserved for appellate review.

The Court of Appeals' conclusion that the issue was not preserved therefore prevented review of both the legality and amount of the fee assessment.

#### VII. THIS CASE PRESENTS ISSUES OF SUBSTANTIAL STATEWIDE IMPORTANCE

This case raises concerns extending well beyond the parties.

The issues presented involve recurring questions concerning:

- elderly adults;
- powers of attorney;
- competency determinations;
- revocation of authority;
- personal autonomy;
- standing; and
- judicial oversight of attorneys-in-fact.

Most importantly, this case raises the concern that an elderly adult whose competency has never been adjudicated may effectively lose the ability to assert his own wishes if unresolved concerns regarding capacity are permitted to override those wishes without a meaningful determination of incapacity.

The practical consequence is that an elderly adult may be treated as incapable of exercising fundamental rights while never receiving a formal determination of incapacity and never receiving a meaningful opportunity to establish competency.

Guidance from this Court would provide important direction concerning how courts should proceed when competency is questioned but has never been formally adjudicated.

#### CONCLUSION

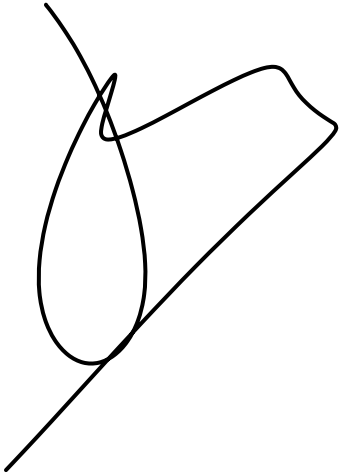
For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Certiorari, review the decision of the Court of Appeals, and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Jirair Baghdassarian  
Petitioner, Pro Se

Dated: June 19, 2026

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IN THE SUPREME COURT OF SOUTH CAROLINA

JIRAIR BAGHDASSARIAN,  
Petitioner,

v.

JUDY TUPOLO, as Power of Attorney,  
Respondent.

Appellate Case No. 2022-001785

## **DESIGNATION OF RELEVANT ORDERS AND RECORD MATERIALS IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully submits this Designation of Relevant Orders and Record Materials in support of his Petition for Writ of Certiorari.

Pursuant to the South Carolina Supreme Court Administrative Order dated April 30, 2024, the Appendix requirement contained in Rule 242(e), SCACR, has been suspended until further order of the Court. Accordingly, Petitioner submits this Designation of Relevant Orders and Record Materials to assist the Court in locating the portions of the electronic record most pertinent to the Questions Presented.

### **QUESTIONS PRESENTED**

1. Whether the Court of Appeals erred in holding that Petitioner's challenge to the Guardian ad Litem fee assessment was not preserved for appellate review.
2. Whether the Court of Appeals erred in concluding that the remaining issues became moot upon the death of Donnie Wayne Adair despite the existence of a continuing monetary obligation and recognized exceptions to mootness.
3. Whether issues concerning competency, revocation of powers of attorney, judicial review of attorney-in-fact conduct, and the protection of personal autonomy present matters of significant public importance warranting review by this Court.

### **I. COURT OF APPEALS DECISIONS**

#### **A. Court of Appeals Opinion**

The State of South Carolina In The Court of Appeals

Jirair Baghdassarian, Appellant,

v.

Judy Tupolo as Power of Attorney, Respondent.

Appellate Case No. 2022-001785

Unpublished Opinion No. 2026-UP-157

Filed April 1, 2026.

**Relevance**

The Court of Appeals affirmed the circuit court, held that the Guardian ad Litem fee issue was not preserved for appellate review, and held that the remaining issues were moot because Donnie Wayne Adair was deceased.

The Petition for Writ of Certiorari seeks review of those holdings.

**B. Order Denying Petition for Rehearing**

Court of Appeals Appellate Case No. 2022-001785

Filed May \_\_, 2026.

**Relevance**

The Court denied rehearing after concluding that no material fact or principle of law had been overlooked or disregarded.

**II. CIRCUIT COURT ORDERS**

**A. Order of Dismissal**

Court of Common Pleas  
Oconee County Case No. 2022-CP-37-00157

Filed November 22, 2022.

**Relevance**

The circuit court dismissed Petitioner's action with prejudice and assessed one-half of the Guardian ad Litem fee against Petitioner.

The order contains findings central to the Questions Presented.

The circuit court expressly found:

"There is evidence to suggest that Mr. Adair may be incapacitated, however the proper medical evaluations have not been performed, and a petition for conservatorship and/or guardianship have not been filed."

The circuit court further found:

"There is enough question about Mr. Adair's capacity that his alleged verbal revocation of the Powers of Attorney cannot be accepted at this time."

These findings directly relate to the issues concerning competency, revocation of powers of attorney, and the presumption of competency.

## **B. Order Denying Rule 59(e) Motion**

Court of Common Pleas  
Oconee County Case No. 2022-CP-37-00157

Filed December 21, 2022.

### **Relevance**

The circuit court expressly addressed and reaffirmed the Guardian ad Litem fee assessment.

The court stated:

"The Court previously ordered that the named parties split the GAL bill evenly and this remains the order of the Court."

This order is directly relevant to Petitioner's argument that the Guardian ad Litem fee issue was preserved for appellate review and remained a live controversy.

## **III. RECORD MATERIALS RELATING TO COMPETENCY**

### **A. Guardian ad Litem Report**

Filed September 20, 2022.

### **Relevance**

The Guardian ad Litem expressly acknowledged:

"I am not a medical doctor."

The report nevertheless contains observations concerning competency and capacity that were relied upon by the circuit court.

## **B. Evidence of Donnie Wayne Adair's Expressed Wishes**

### **Relevance**

The record contains affidavits, statements, testimony, and other evidence reflecting:

- Mr. Adair's desire to revoke Respondent's authority;
- Mr. Adair's request for Petitioner's assistance;
- Mr. Adair's expressed wishes concerning his own affairs; and
- Mr. Adair's communications regarding representation and decision-making authority.

These materials are directly relevant to the Questions Presented concerning competency, autonomy, standing, and revocation of powers of attorney.

## **IV. RECORD MATERIALS RELATING TO MOOTNESS**

### **A. Court of Appeals Opinion**

#### **Relevance**

The Court of Appeals concluded that the remaining issues became moot because Mr. Adair was deceased.

### **B. Guardian ad Litem Fee Assessment**

#### **Relevance**

The Guardian ad Litem fee assessment remained a final monetary judgment against Petitioner after Mr. Adair's death. Because the fee obligation survived the principal controversy, meaningful relief remained available and the controversy was not entirely moot.

### **C. Petition for Rehearing**

#### **Relevance**

The Petition for Rehearing specifically argued:

1. That a continuing financial obligation remained;
2. That meaningful relief remained available;
3. That recognized exceptions to mootness applied; and
4. That important legal questions concerning powers of attorney and elderly adults would otherwise evade review.

## V. RECORD MATERIALS RELATING TO STATEWIDE IMPORTANCE

The issues presented involve recurring questions concerning:

- elderly adults;
- powers of attorney;
- competency determinations;
- revocation of authority;
- standing under the Uniform Power of Attorney Act;
- judicial review of attorney-in-fact conduct;
- protection of personal autonomy; and
- application of mootness doctrine in cases involving elderly principals.

Petitioner respectfully submits that these issues are likely to recur throughout South Carolina and warrant guidance from the Supreme Court of South Carolina.

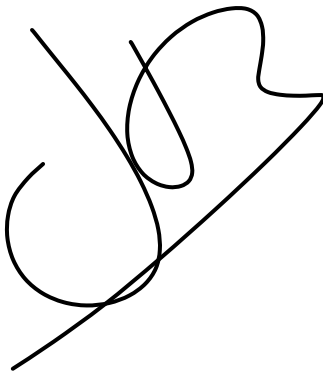
## CONCLUSION

Petitioner respectfully designates the foregoing orders and record materials as those most directly relevant to the Questions Presented and the reasons supporting review by this Court.

Respectfully submitted,

Jirair Baghdassarian  
Petitioner, Pro Se

Date: June 19, 2026

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