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**Aug 05 2026**

**S.C. SUPREME COURT**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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**Appeal From Richland County**

**The Honorable Daniel M. Coble, Circuit Court Judge**

**Case No.: 2026-CP-40-05213**

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**Appellant Case No.: 2026-001729**

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**South Carolina Republican  
Party and South Carolina  
Election Commission a/k/a  
State Election Commission,**

**v.**

**Appellants,**

**Danny Ford, II,**

**Respondent,**

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**RESPONDENT'S RETURN TO THE MOTION TO CERTIFY**

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## INTRODUCTION

Respondent Danny Ford, II submits this Return to the SCGOP's Motion to Certify. Ford shares the movants' recognition that this matter is time-sensitive and of public importance, and he **does not oppose expedited consideration** of the appeal so that the merits can be resolved promptly in connection with the August 11, 2026 special primary. Ford's overriding interest is the same as the public's: a prompt, orderly resolution that keeps a qualified candidate on the ballot.

Ford's agreement with expedited review comes with two important qualifications, and one firm objection.

First, formal certification under Rule 204(b), SCACR, is unnecessary. The SCGOP's own Notice of Appeal asserts that the order is directly and immediately appealable under S.C. Code Ann. § 14-3-330(4) and Rule 203(d)(1)(A)(iv), SCACR. The SCGOP's motion invokes Rule 204(b) only "to the extent necessary." Because the appeal is already properly before this Court, the Court can hear it on an expedited basis without any need to certify a question or to take the case in its "original" capacity.

Second, to the extent the SCGOP asks this Court to "decide this case in the first instance" and resolve the ultimate merits now, Ford opposes that framing. This is an interlocutory appeal from a preliminary injunction. Review is properly confined to whether the circuit court abused its discretion in finding a likelihood of success, irreparable harm, and no adequate remedy at law — not to a final, first-instance adjudication of contested constitutional questions on an emergency record.

Third, and most importantly, Ford objects to any suggestion that expedited review should be accompanied by a stay of the injunction. For the reasons set out in Ford's separate Return

opposing a stay, the injunction should remain in effect while the Court considers the appeal, on whatever schedule the Court sets.

## **ARGUMENT**

### **I. Ford does not oppose expedited consideration.**

The parties agree on the practical reality: the special primary is August 11, 2026, early voting has begun, and the issues warrant prompt resolution. Ford has consistently sought a fast resolution and does not oppose the Court's consideration of this appeal on an expedited schedule. However, to fully brief this matter before a significant portion of the early vote has been cast will be impossible.

### **II. Formal certification under Rule 204(b) is unnecessary because the order is already appealable.**

Certification under Rule 204(b), SCACR, is the mechanism by which this Court may take up a matter that would not otherwise be directly before it. Here, that mechanism is superfluous. Both Appellants filed notices of appeal invoking the ordinary appellate route: the SCGOP's Notice of Appeal states that the order is appealable. Ford does not dispute that an order granting an injunction of this kind is immediately appealable under S.C. Code § 14-3-330(4).

### **III. Any review should remain within the interlocutory, abuse-of-discretion posture — not a first-instance merits determination.**

The SCGOP asks the Court to "decide this case in the first instance as soon as possible." Ford respectfully objects to that framing. This is an appeal from a **preliminary** injunction, which

the circuit court entered expressly “pending final resolution of this action.” *Ford v. SCGOP* Order at 11. A preliminary injunction is not an adjudication on the merits; it preserves the status quo and requires only a *prima facie* showing, examined only to the extent necessary to assess a likelihood of success. *Compton v. S.C. Dep’t of Corr.*, 392 S.C. 361, 709 S.E.2d 639 (2011). The Circuit court’s task was limited accordingly, and so therefore should be this Court’s review.

The SCGOP’s proposed “issues” for first-instance decision illustrate the problem. It frames the appeal as presenting whether a court may “decide the case on a constitutional ground not raised in the complaint” and whether a party may be ordered “to certify a candidate to run under its banner.” Motion to Certify at 2. Those characterizations are contested and, in Ford’s view, inaccurate: the matter was heard on the merits on notice with both Appellants fully heard, and the Court’s holding was a narrow one that a party assumes state-actor obligations when it certifies candidates onto the State-printed ballot and must not do so arbitrarily. *Ford v. SCGOP* Order at 8 & 10. Resolving those disputed questions as a matter of first impression, on a compressed emergency record, is not the purpose of interlocutory review. The Court can decide whether the Circuit Court abused its discretion in granting preliminary relief without entering a final judgment on the underlying constitutional claims.

#### **IV. Expedited review should not carry a stay.**

Ford’s non-opposition to expedited consideration is not a concession that the injunction should be suspended in the interim. The two questions are distinct. The Court can hear this matter promptly while leaving the preliminary injunction in place. As explained in Ford’s Return Opposing a Stay, Appellants cannot make the clear showing of irreparable injury or miscarriage of justice that a stay pending appeal requires, *Andrews v. Sumter Com. & Real Est. Co.*, 87 S.C.

301, 69 S.E. 604 (1910); *Kuhn v. Elec. Mfg. & Power Co.*, 92 S.C. 488, 75 S.E. 791 (1912), and the only irreparable harm on this record is the permanent exclusion of a constitutionally qualified candidate from an election that cannot be re-run. Prompt review protects every party's interest in finality; a stay would prejudice the merits in Appellants' favor and inflict the very harm the injunction was entered to prevent.

## CONCLUSION

Respondent Danny Ford, II respectfully requests that the Court: (1) recognize that formal certification under Rule 204(b), SCACR, is unnecessary because the order is already directly appealable; (2) decline the SCGOP's invitation to decide the ultimate merits in the first instance and instead confine review to the interlocutory, abuse-of-discretion standard governing the preliminary injunction; and (3) leave the preliminary injunction in effect during the pendency of the appeal.

Respectfully submitted,



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