

# THE SUPREME COURT OF SOUTH CAROLINA

Appellate Case No. 2026-001488

DeQuincey G. Simmons,  
Petitioner,

v.

South Carolina Department of Employment and Workforce and  
Bridgestone Americas Tire Operations, LLC,  
Respondents.

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Aug 12 2026

S.C. SUPREME COURT

## PETITIONER'S REPLY TO RESPONDENTS' JOINT RETURN TO PETITION FOR CERTIORARI

Petitioner DeQuincey G. Simmons, proceeding pro se, respectfully submits this Reply to Respondents' Joint Return to Petition for Certiorari.

Respondents' Return does not resolve the central contradiction presented by this case. Instead, it repeats the same procedural theory that resulted in dismissal below: if the Court of Appeals' internal record did not reflect Petitioner's corrected physical filing, then Petitioner must not have complied.

That is precisely the issue requiring this Court's review.

Petitioner did not abandon his appeal. He did not ignore the Court of Appeals. He did not remain silent after receiving notice of filing problems. He repeatedly communicated with the Court, physically mailed the corrected materials, documented their delivery through independent United States Postal Service tracking, responded to Respondents' motion to dismiss, moved for reconsideration, filed a Notice of Compliance within the final ten-day period, and petitioned for rehearing.

Respondents nevertheless ask this Court to treat a failure of the Court of Appeals' internal record to reflect those materials as conclusive proof that Petitioner failed to act.

The documentary history does not support that conclusion.

# **I. RULE 242(b) IS SATISFIED BECAUSE THIS CASE PRESENTS A SUBSTANTIAL PROCEDURAL DUE PROCESS QUESTION**

Respondents begin by attempting to minimize this matter as review of a "one-page order" involving nothing more than ordinary filing deficiencies.

The length of the dismissal order does not determine the constitutional importance of what that order accomplished.

That one-page order terminated Petitioner's appellate review.

Rule 242(b)(4), SCACR, expressly identifies cases involving "substantial constitutional issues" as among the matters appropriate for certiorari review. The constitutional issue here is straightforward: whether a pro se unemployment claimant received a meaningful opportunity to be heard when documented physical delivery of appellate materials was never reconciled with the Court of Appeals' internal record before the appeal was dismissed.

Respondents rely upon *Olson v. South Carolina Department of Health & Environmental Control*, 379 S.C. 57, 663 S.E.2d 497 (Ct. App. 2008), for the proposition that due process requires an opportunity to be heard at a meaningful time and in a meaningful manner.

That principle supports Petitioner, not Respondents.

Respondents repeatedly emphasize that the Court of Appeals issued several deficiency letters. But due process is not a counting exercise. Five notices do not answer the question presented here.

The issue is what happened when Petitioner responded.

Petitioner presented documentary evidence that corrected physical materials had been mailed and that USPS recorded delivery to the Court of Appeals' front desk, reception area, or mail room on October 31, 2025. Petitioner then repeatedly asked the Court to recognize and reconcile those delivered materials with its internal records.

The Court did not resolve that conflict.

Instead, the March 31, 2026 Order expressly stated:

"The Court will not take any action on the motion to reconsider filed January 5, 2026."

That January 5 motion addressed the very factual controversy that ultimately resulted in dismissal.



Petitioner therefore was not complaining that he received too few notices. He is challenging what occurred after he responded to those notices with documentary proof.

A meaningful opportunity to be heard requires more than repeatedly telling a litigant to perform an act he maintains, with documented support, that he already performed. Where the central dispute is whether delivered materials were received, logged, misplaced, or otherwise omitted from the Court's working file, simply demanding another copy does not resolve the factual conflict.

Respondents' argument reduces due process to repeated notice while ignoring meaningful consideration of the response.

That is the substantial constitutional issue presented under Rule 242(b)(4).

## **II. RESPONDENTS IMPROPERLY COLLAPSE "NON-RECEIPT" AND "NON-COMPLIANCE" INTO A SINGLE FACT**

Respondents repeatedly state that Petitioner "never provided" a corrected Record on Appeal.

But the procedural history reveals a critical distinction that Respondents attempt to erase.

There are two separate propositions:

1. whether Petitioner prepared, mailed, and delivered the corrected physical materials; and
2. whether those materials were subsequently located, processed, and reflected in the Court of Appeals' internal file.

Those are not the same question.

Petitioner produced USPS tracking showing delivery of his October 29 mailing to the Court of Appeals on October 31, 2025. The tracking record identifies delivery to the front desk, reception area, or mail room.

Respondents do not produce evidence that this USPS delivery record is fabricated.

Respondents do not identify evidence that the package was returned to Petitioner.

Respondents do not identify anyone who opened the delivered package and determined that it did not contain the corrected record described by Petitioner.

Instead, Respondents rely upon the Court of Appeals' conclusion that it "never received" the corrected filing and treat that statement as proof that Petitioner never provided it.

That reasoning is circular.

If the Court's position is that the physical submission was never received or located, then the Court necessarily did not inspect the contents of that physical submission. It therefore could not determine from firsthand examination that the October 29 package failed to contain the corrected Record on Appeal, corrected proof of service, designated matters, or other materials Petitioner consistently represented were enclosed.

The absence of a filing from an internal docket is not the same fact as the absence of physical delivery.

Respondents' argument depends upon treating those two propositions as interchangeable.

They are not.

### **III. THE OCTOBER 29 MAILING WAS NOT AN IMPOSSIBLE ACT OF ANTICIPATION**

Respondents again rely heavily upon the fact that Petitioner's physical materials were mailed October 29, 2025, one day before the Court's formal October 30 deficiency correspondence.

That argument leaves out the event that explains the timing.

On October 27, 2025, the Clerk's Office informed Petitioner that the Court had received his electronic filing but that the exhibits PDF could not be opened.

Petitioner therefore knew before October 30 that a problem existed with the materials transmitted electronically.

On October 29, Petitioner communicated with the Clerk's Office and mailed the physical submissions.

The October 30 correspondence did not occur in a factual vacuum. It followed the October 27 communication concerning the filing problem.

Respondents nevertheless ask this Court to infer that because the physical package left Augusta on October 29, it could not possibly contain corrections addressing filing problems formally described on October 30.

That inference is not evidence.

More importantly, it cannot substitute for examination of the package itself where the Court simultaneously maintains that the package was never received or located.

The Court of Appeals used the October 29 date to question Petitioner's veracity. Respondents now use that same date to characterize Petitioner's account as implausible.



But Petitioner's chronology has remained consistent:

The Court received his electronic submission.

The Clerk identified a problem with the electronic exhibits.

Petitioner contacted the Clerk.

Petitioner prepared and mailed physical materials.

USPS recorded their delivery on October 31.

There is nothing inherently impossible about correcting a known filing problem before receiving a later formal letter describing deficiencies arising from the same filing.

#### **IV. HAMILTON DOES NOT RESOLVE THE FACTUAL ISSUE PRESENTED HERE**

Respondents rely on *Hamilton v. Greyhound Lines East*, 281 S.C. 442, 316 S.E.2d 368 (1984), for the general rule that an appellant bears the burden of furnishing a sufficient record for appellate review.

Petitioner does not dispute the general obligation to provide a sufficient appellate record.

The dispute is whether Petitioner actually attempted to satisfy that obligation and whether materials documented as physically delivered were lost, unprocessed, or otherwise absent from the Court's working file.

*Hamilton* does not transform an internal absence into conclusive proof that a litigant never delivered the materials.

Petitioner did not tell the Court of Appeals, "I refuse to provide a record."

Petitioner said the opposite.

He identified the record he prepared.

He identified when it was mailed.

He identified where it was sent.

He supplied USPS tracking.

He identified the delivery date.

He responded to Respondents' dismissal motion.

He asked the Clerk's docket to reflect the physical submission.

He sought reconsideration.

He filed a Notice of Compliance.

And he sought rehearing.

Respondents' invocation of *Hamilton* therefore skips the factual issue that precedes application of that principle: what happened to a physical appellate submission after USPS documented its delivery?

That unresolved question is exactly why Supreme Court review is warranted.

## **V. RESPONDENTS' CHARACTERIZATION OF THE MARCH 13 RESPONSE CONFIRMS THAT PETITIONER DID NOT IGNORE THE COURT**

Respondents' own Return acknowledges that after the March 13, 2026 correspondence, Petitioner submitted another filing.

Respondents characterize that filing as one that "reaffirmed" his prior filings as purportedly in compliance."

That admission matters.

Respondents therefore cannot accurately characterize the March 13 period as one in which Petitioner simply ignored the Court.

Petitioner responded.

The dispute is that Petitioner continued to maintain that the required materials had already been prepared, mailed, and delivered rather than spending additional money reproducing materials he maintained the Court already possessed.

The March 23 Notice of Compliance expressly demonstrated continued participation.

The Court stamped that filing received.

Petitioner did not disappear from the proceedings. He did not abandon the appeal. He stood on documented prior compliance and informed the Court of that position within the period provided.

Respondents disagree with that position.



Disagreement is not abandonment.

## **VI. THE PRIOR ADMINISTRATIVE LAW COURT FILING ERROR MAKES THE PRESENT CONFLICT MORE, NOT LESS, IMPORTANT**

This litigation has already experienced an acknowledged court filing error.

In the April 29, 2024 Administrative Law Court order, Judge Milton G. Kimpson expressly corrected an earlier statement that Petitioner had not filed a response. The Court acknowledged that the statement was incorrect because, due to a filing error, Petitioner's filing had not been discovered when the earlier order was issued.

That history matters.

Petitioner does not contend that Judge Kimpson's order automatically controls every later filing dispute as "law of the case." Respondents spend time attacking that label, but the label is not necessary to the point.

The importance of the Kimpson order is factual and procedural.

It demonstrates that in this very litigation a court previously concluded that Petitioner had failed to file something, only to later discover that the filing had in fact been made.

When a substantially similar disagreement later arose over physical materials documented as delivered to the Court of Appeals, Petitioner had a legitimate basis for asking that Court to investigate and reconcile the discrepancy rather than simply require him to reproduce everything again.

Judge Kimpson corrected the record when the earlier filing error was discovered.

Petitioner asked the Court of Appeals to do the same type of factual reconciliation here.

That request was never substantively resolved.

## **VII. RESPONDENTS' JURISDICTION ARGUMENT DOES NOT ANSWER THE DISMISSAL ISSUE AND ITS OWN TIMELINE IS INCOMPLETE**

Respondents next resurrect their prior jurisdiction argument, asserting that Petitioner's appeal from the Administrative Law Court was filed fifty-three days after the July 29, 2024 order.

That argument does not answer the procedural issue presently before this Court.

Respondents acknowledge that their prior motion to dismiss for lack of jurisdiction was denied without prejudice and that the Court of Appeals never resolved that jurisdictional argument before dismissing the appeal on an entirely different ground.

More importantly, Respondents' fifty-three-day calculation begins with the date the ALC order was issued, even though the governing statute and rule measure the appeal period from receipt of the decision.

The governing law does not state that the thirty-day period necessarily runs from the date printed on the order.

S.C. Code Ann. § 1-23-610(A)(1) provides that an appeal must be served and filed not more than thirty days after the aggrieved party "receives the final decision and order of the administrative law judge."

Rule 203(b)(6), SCACR, likewise measures the appeal period from "receipt of the decision."

Respondents' Return identifies July 29, 2024 as the date the ALC issued the order and September 20, 2024 as the date of Petitioner's Notice of Appeal. It then announces that fifty-three days elapsed.

But issuance and receipt are not interchangeable under the governing statute and rule.

Respondents' mathematical calculation therefore does not, standing alone, establish untimeliness.

Petitioner does not concede Respondents' jurisdictional chronology, factual assumptions, or legal conclusion.

At minimum, the jurisdiction argument cannot be resolved merely by counting from the date appearing on the face of the ALC order where the governing authorities expressly measure time from receipt.

Respondents' attempt to revive this unresolved alternative argument does not cure the factual and constitutional defects in the March 31 dismissal actually presented for certiorari review.

## **VIII. THIS COURT'S AUGUST 12, 2026 ORDER FURTHER CONFIRMS THE STATUTORY CHARACTER OF THIS UNEMPLOYMENT PROCEEDING**

On August 12, 2026, this Court granted Petitioner's Motion to Proceed In Forma Pauperis.

In doing so, the Court expressly relied upon both *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995), and S.C. Code Ann. § 41-39-30.

Section 41-39-30 protects an individual claiming unemployment benefits from being charged a fee by the Department, its representatives, a court, or a court officer in proceedings arising under the unemployment statutes, subject to the statute's attorney exception.

Petitioner does not contend that the August 12 Order decides the merits of certiorari.

It does, however, underscore the statutory character of this proceeding.

Respondents attempt to portray this case as an ordinary procedural default by a litigant who simply refused repeated opportunities to comply.

That characterization leaves out the practical and statutory setting.

This is an unemployment-benefits proceeding pursued by a pro se claimant. Petitioner maintained that he had already incurred the expense of producing the required physical appellate materials and that those materials had already been delivered.

The issue therefore is not merely whether a clerk may demand correction of a deficient filing.

The issue is whether appellate review may be terminated after a claimant produces independent proof of physical delivery, repeatedly identifies the conflict between that delivery and the Court's internal docket, and is then required to recreate and resubmit materials already documented as delivered, while the underlying discrepancy remains unresolved.

The August 12 Order does not decide that question.

But it confirms that this proceeding exists within a statutory scheme that expressly recognizes and protects unemployment claimants from financial barriers imposed through court proceedings.

## **IX. RESPONDENTS' RETURN DEMONSTRATES WHY CERTIORARI SHOULD BE GRANTED**

Respondents describe Petitioner's argument as "nonsensical."

It is not.

It is simple.

USPS documented physical delivery.

The Court later stated it never received the corrected physical materials.

The Court questioned Petitioner's veracity because of the mailing date.



Petitioner explained why the mailing preceded the formal deficiency letter.

Petitioner repeatedly asked the Court to reconcile the delivered materials with its internal record.

The Court expressly declined to take action on Petitioner's January 5 Motion to Reconsider.

Petitioner responded again on March 23.

The appeal was dismissed on March 31.

Rehearing was denied without substantive discussion on June 5.

That sequence presents a legitimate question concerning the integrity of appellate process and the meaningful opportunity to be heard.

Respondents' answer is essentially that Petitioner received enough chances to reproduce the materials.

That does not resolve what happened to the materials already documented as delivered.

The distinction matters.

If certiorari is denied without addressing that issue, Petitioner's appellate review will end not because the merits of his unemployment appeal were adjudicated, but because a physical filing documented as delivered was never reconciled with the appellate court's internal record.

That is a special and important reason for this Court to exercise review under Rule 242(b).

## CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court reject Respondents' arguments, grant the Petition for Writ of Certiorari, and review the Court of Appeals' March 31, 2026 dismissal and June 5, 2026 denial of rehearing.

Petitioner further requests any additional relief this Court determines necessary to ensure that the appellate proceedings are resolved on an accurate record rather than an unreconciled discrepancy between documented physical delivery and the Court of Appeals' internal filing record.

Respectfully submitted,

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8/12/2026