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Aug 25 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas
Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211
Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially; Caitlin McGarty, Crisis Intervention Employee, individually and officially; South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and Charleston Dorchester Mental Health Center are the Respondents.

**APPELLANT’S RETURN IN OPPOSITION TO RESPONDENTS’ MOTION TO STAY
DEADLINE FOR INITIAL BRIEF OF RESPONDENTS, OR, ALTERNATIVELY,
FOR EXTENSION OF DEADLINE TO AUGUST 31, 2026**

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

Appellant Joel Ndunda, appearing pro se, respectfully submits this return in opposition to Respondents’ Motion to Stay Deadline for Initial Brief, filed August 21, 2026. Appellant does not oppose a reasonable extension. Appellant opposes the request for an indefinite stay, because the alternative relief Respondents themselves propose, a ten-day extension to August 31, 2026, already

provides the certainty a stay would not, and because an indefinite stay would relieve Respondents of the one fixed deadline that has, to date, prompted any response from them at all.

**I. A STAY WOULD NOT RESOLVE THE TIMING PROBLEM RESPONDENTS
DESCRIBE.**

Respondents' primary request is that this Court stay their briefing deadline until Appellant's Motion for Summary Reversal and Vacatur is decided, with no fixed date for that decision. This appeal's history counsels against relying on the timing such a stay assumes. Respondents' first motion to extend their return to the Subject Motion, filed July 16, 2026, has never been ruled upon. Their second motion to extend that same deadline, filed July 27, 2026, has likewise not been ruled upon. Their first motion to extend the initial brief deadline was granted; their second, filed July 21, 2026, remains pending as of this filing. An indefinite stay tied to the disposition of the Subject Motion does not provide a fixed date by which Respondents' initial brief will be due; it removes the only fixed date that presently exists. If this Court is not able to rule on the present motion before August 31, 2026, an indefinite stay would leave the initial brief deadline unresolved for a period materially longer than the ten-day extension Respondents offer as their own alternative.

**II. THE STAY REQUEST IS IN TENSION WITH RESPONDENTS' OWN
CHARACTERIZATION OF THE SUBJECT MOTION.**

Respondents' Return to the Subject Motion argues, as its first ground, that "summary reversal and vacatur" of an appealed order is not relief available under the South Carolina Appellate Court Rules, and that the Subject Motion should be denied on that basis alone. The present motion asks this Court to stay the entire briefing schedule because the Subject Motion, if granted, would produce "the abrupt termination of this appeal in Appellant's favor," a consequence Respondents liken to dismissal. Respondents cannot maintain both positions without qualification. If the relief the Subject Motion seeks is procedurally unavailable, as Respondents' Return contends, it cannot simultaneously be significant enough to warrant staying the entire appeal.

Appellant does not ask this Court to resolve that tension in his favor at this stage; Appellant notes only that Respondents' own filings do not agree with each other on how seriously the Subject Motion should be taken.

III. ADDITIONAL TIME CANNOT PRODUCE A DOCUMENT THAT NO CUSTODIAN HAS.

A stay presumes that the passage of time will produce something. Here it cannot. The M-130 Affidavit has been certified absent by the records custodian of the admitting facility. The Charleston County Probate Court, which under either Section 44-17-410(3) or Section 44-17-430 would necessarily hold the initiating affidavit and issue a written order of its own, has no record of either document. Respondents' own affiant states that the Charleston Police Department does not retain Part I Orders. Respondents themselves state in their Return that the documents "cannot be located" and that they "do not possess them." Three custodians, and no document. Respondents have not stated that a search is underway, have not identified where such a search would be directed, and have not at any point requested time to conduct one, in this motion or in any of the four prior requests for additional time filed in this appeal. A stay of indefinite duration would postpone the question without advancing it.

Respondents' stated ground for the alternative extension is also, in part, already satisfied. Respondents cite "time necessarily devoted to opposing Appellant's Motion for Summary Disposition." Respondents filed their Return to that motion on August 14, 2026, one week before the present motion. The work Respondents identify as requiring additional time has been completed. Respondents further request, as they have in each of their preceding motions, that the present deadline be held in abeyance pending a ruling. That is the fourth such request in this appeal, and none of the underlying motions has been ruled upon.

IV. IF THIS COURT GRANTS ADDITIONAL TIME, THE FIXED EXTENSION IS THE MORE APPROPRIATE FORM OF RELIEF.

Respondents' own alternative request, a ten-day extension to August 31, 2026, is available to this Court without the uncertainty an indefinite stay would introduce. Appellant does not oppose that fixed extension. Appellant respectfully submits that a fixed date serves the interests of both parties and this Court more directly than a stay of undefined duration, and that Respondents' own motion supplies the more appropriate form of relief as an alternative to the one Appellant opposes.

CONCLUSION

Appellant respectfully requests that this Court deny Respondents' request for an indefinite stay and, if this Court is inclined to grant Respondents additional time, grant instead the fixed ten-day extension to August 31, 2026, that Respondents themselves propose as alternative relief.

Respectfully submitted,

s/ Joel Ndunda
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Date: August 25, 2026

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, a true and correct copy of the foregoing Appellant's Return in Opposition to Respondents' Motion to Stay Deadline for Initial Brief of Respondents, or, Alternatively, for Extension of Deadline to August 31, 2026 was served upon counsel for Respondents by first-class United States Mail, postage prepaid, addressed to:

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Date: August 26, 2026

s/ Joel Ndunda
Joel Ndunda, Pro Se Appellant