

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SEP 01 2026

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

Jocelyn Newman
Circuit Court Judge

Appellate Case No. 2026-001144

109202

Renee Wicks,.....Respondent,

v.

ER Construction, LLC; OJC, LLC;
Richard McDaniel, individually and
d/b/a ER Construction; and Kenneth L.
Edwards, individually, Defendants,

of which Kenneth L. Edwards is theAppellant.

RESPONDENT'S MOTION TO DISMISS

Respondent moves to dismiss Appellant's appeal for his repeated refusals to comply with South Carolina's appellate court rules.¹ Respondent submits the following in support of her motion:

¹ Respondent also incorporates by reference all of the arguments of her initial brief, to the extent they also support dismissal of this appeal.

BACKGROUND

This is the appeal of an order denying Rule 60(b), SCRCP, motions to set aside a default judgment in a construction dispute. Respondent/Plaintiff Renee Wicks is the owner of the real property located at 56 and 58 Dunnemann Avenue, Charleston, South Carolina (the “Property”). Around June 28, 2021, Respondent entered into construction agreements with Defendant ER Construction, LLC; Defendant OJC, LLC, Defendant Richard McDaniel, and Appellant/Defendant Kenneth L. Edward to perform renovation work at the Property. After various breaches of these agreements and violations of the applicable standards and duties of care, Respondent/Plaintiff filed suit against Defendants and obtained a default judgment against them on March 31, 2025. Appellant/Defendant Kenneth L. Edwards, who is a licensed attorney in South Carolina,² then appeared *pro se* and filed motions to set aside the default judgment.³ The trial court denied his motions.

The Appellant filed his Notice of Appeal with this Court on May 14, 2026, and served it on Respondent’s attorney the same day. That submission also included a document titled: “APPELLANT’S COUNTER-AFFIDAVIT TO RESPONDENT’S AFFIDAVIT FOR DEFAULT”, which appeared to be an affidavit executed May 14, 2026, with multiple exhibits related to this case. Several of these exhibits were not submitted to the trial court.

² S.C. Bar No. 62877.

³ Respondent/Plaintiff also filed a separate lawsuit in an apparent attempt to set aside this default judgment. This action was dismissed.

Because the Notice of Appeal was not filed with the Charleston County Clerk of Court and lacked a copy of the order appealed, this Court issued a deficiency letter on May 15, 2026, and the Appellant filed the Notice of Appeal with the Clerk of Court that day and provided a copy of the April 22, 2026, Order appealed.

On June 9, 2026, Appellant filed his Initial Brief. He also filed a Designation of Matter with multiple exhibits matching those in his May 14, 2026, affidavit and a document titled "Record on Appeal" which appeared to be an index to a Record on Appeal. On June 11, 2026, this Court returned the exhibits and the "Record on Appeal" to the Appellant.

On July 11, 2026, undersigned Counsel appeared for the Respondent and contemporaneously filed a motion for an extension to file her Initial Brief and Designation of Matter. Appellant opposed this motion via a return dated July 16, 2026. This Court granted Respondent's motion. On July 17, 2026, Respondent filed her initial brief and her designation of matter.

On August 24, 2026, Appellant filed his Final Brief and Record on Appeal with this Court. On August 27, 2026, this Court sent Appellant a deficiency letter regarding his failure to file a certificate of service of his Record on Appeal.

This motion followed.

ARGUMENT

Appellant has repeatedly and flagrantly violated the rules of this Court to the point that his violations make it impossible for this appeal to proceed in an orderly fashion. The only appropriate remedy is dismissal.

A *pro se* appellant is not relieved from compliance with the rules of this Court. *See State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (finding a *pro se* litigant has full responsibility for complying with substantive and procedural requirements of the law); *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988) (“Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.”). Further, this Court (and its Clerk) are empowered to dismiss an appeal where the appellant fails to comply with its rules. *Henning v. Kaye*, 307 S.C. 436, 437-438, 415 S.E.2d 794, 794 (1992) (“The South Carolina Appellate Court Rules are not mere technicalities,” and dismissal would be “completely justified” where appellant’s brief contained numerous rule violations and failed to facilitate appellate review); Rule 260(a), SCACR (“Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal...”) (emphasis added).

South Carolina’s Appellate Court Rules provide the following regarding the Record on Appeal:

The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal.

Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, and exhibits and other materials or documents. **Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, decision or pleading is to be included in the Record on Appeal, the entire order, judgment, decision or pleading shall be included in the Record,** to include the caption and signature(s); provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted.

Rule 210(c), SCACR (emphasis added).

Appellant's Record on Appeal does not contain accurate page numbers. The Record on Appeal does not contain the March 31, 2025, Order of Judgment, which Respondent designated pursuant to Rule 209, SCACR. The September 24, 2024, Entry of Default contained in the Record on Appeal, also designated by Respondent, is incomplete. Further, the Record on Appeal contains documents that were not presented to the trial court (language is verbatim from Record on Appeal index):

[...]

Address Verification, dated Friday, May 8, 2026, at 9:13 A.M. and 11:15 A.M. EDT From: Sydney Elise Lyons, Charleston County GIS Technician, 4050 Bridge View Dr. N. Charleston, S.C. 29405, showing non-existent address on parcel of land Def (Exhibit I).

Evidence of non-existent address referencing 4532 Hwy 162, Hollywood, S.C 29449, "NMR" dated May 20, 2024. ..Def(Exhibit II).

[...]

NOTICE OF MOTION SCHEDULING BY HONORABLE
JUDGE DEADRA L. JEFFERSON.. Def(Exhibit IV.).

NOTICE OF MOTION SCHEDULING BY HONORABLE
JUDGE COURTNEY CLYBURN POPE.. ..Def(Exhibit V.).

NOTICE OF MOTION SCHEDULING BY HONORABLE
JUDGE MIKELL R. SCARBOROUGH.. ..Def(Exhibit VI)..

[...]

City of Charleston PERMIT showing NO ISSUE DATE for
address; 56 Dunnemann Ave. Charleston, S.C 29403 ..Def(Exhibit
VIII).

[...]

These documents are not appropriately part of the Record on Appeal and they are not appropriate for this Court to consider. *See* Rule 210(c), SCACR (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”); *Williamsburg Rural Water and Sewer Co., Inc. v. Williamsburg Cty. Water and Sewer Auth.*, 367 S.C. 566, 571, 627 S.E.2d 690, __ (2006) (“Nothing in the appellate court rules permits a party to unilaterally add after-created evidence to the record.”); Rule 210(h), SCACR (“Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.”).

In spite of the above deficiencies, Appellant certified his Record on Appeal complied with Rule 210(c), SCRCF.

Regarding final briefs, South Carolina’s Appellate Court Rules provide:

(a) Time to Serve and File. Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of the party's final brief(s) on every other party to the appeal, and file the final brief(s) with

the clerk of the appellate court. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The final brief(s) shall be signed. The signature constitutes a certificate that the final brief(s) complies with Rule 211(b). The appellate court may require a party to file additional copies of its brief(s).

(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

Rule 211, SCACR (emphasis in original).

The “DISCUSSION / CITING AUTHORITIES” section in Argument I of Appellant’s Final Brief (p. 8) removes significant amounts of argument found in the same section of his Initial Brief. The “DISCUSSION / CITING AUTHORITIES” section of Argument II of Appellant’s Final Brief inserts multiple new arguments (pp. 10-11, 12) not present in his Initial Brief. Appellant’s Final Brief also does not contain references by page number to the record.⁴ Appellant nonetheless certified compliance with Rule 211(b), SCACR. Appellant did not file a Final Reply Brief.

⁴ There are also other changes in the Final Brief that are less material, but are nonetheless blatant violations of Rule 211, such as the last heading being changed to: “CONCLUSION IN CLOSING” (p. 13) and the addition of “Both the Designation of Matter and...” to Argument II (p. 10).

Respondent's grounds for dismissal are not mere grouching about technical errors. Respondent cannot complete her final brief with the Record on Appeal Appellant prepared. Even if the Record on Appeal were useable, Appellant has changed his arguments from his Initial Brief to his Final Brief. Respondent will now, at great cost, have to amend her brief to respond to these new arguments. Appellant's behavior has rendered appellate review impossible or impractical; the only reasonable and equitable remedy is dismissal of this appeal.

Further, sanctions against the Appellant under Rule 269, SCACR, are appropriate. Appellant has shown no respect for the rules of the trial court or this Court. His repeated violations evidence a flagrant disregard for the authority of South Carolina's courts, not inadvertence or negligence. Appellant's Record on Appeal contains a false certification under Rule 210(g), SCACR, that the Record on Appeal contains all material proposed to be included by the parties. Appellant's Final Brief also contains a false certification under Rule 211(a), SCACR, that his Final Brief complied with Rule 211(b), SCACR. These insults to the dignity and authority of this Court cannot go unanswered.

CONCLUSION

This Court must dismiss this appeal, with prejudice, order the Appellant pay all of Respondent's costs and attorney's fees in this appeal, and impose such other relief and sanctions as it deems just and proper under these circumstances.

Dated: 08/28/2026



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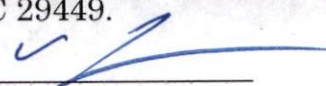
ER Construction, LLC; OJC, LLC;
Richard McDaniel, individually and
d/b/a ER Construction; and Kenneth L.
Edwards, individually, Defendants,

of which Kenneth L. Edwards is theAppellant.

CERTIFICATE OF SERVICE

I certify that on August 28, 2026, I deposited a copy of Respondent's Motion to Dismiss in the United States Mail, first class postage prepaid, addressed to: Kenneth L. Edwards, Esq., P.O. Box 1563, Hollywood, SC 29449.

Dated: 08/28/2026


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28 August 2026

S.C. Court of Appeals
ATTN: Clerk/Filings
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: *Wicks v. Edwards*, 2026-001144

Dear Clerk:

Please find enclosed Respondent's motion to dismiss and the required filing fee of \$50.00 (via firm check).

With Kind Regards,



Jason Scott Luck

/JSL

Enclosures

Cc: Kenneth L. Edwards, Esq. (w/enc)

JASON SCOTT LUCK

ATTORNEY AT LAW

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Bennettsville, SC 29512

S.C. Court of Appeals

ATTN: Clerk/Filings

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Columbia, SC 29211



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