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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas, Fifteenth Judicial Circuit
B. Alex Hyman, Circuit Court Judge
Lower Court Case No. 2026CP2605005

Appellate Case No. 2026-001771

Thomas Edward Humphrey, Appellant,

v.

State of South Carolina; Henry Dargan McMaster, Governor of South Carolina; South Carolina Department of Public Safety; Robert G. Woods IV, Director of the South Carolina Department of Public Safety; South Carolina Highway Patrol; Christopher N. Williamson, Colonel and Commander of the South Carolina Highway Patrol; Christopher A. Plyler, Corporal of the South Carolina Highway Patrol — all officials sued in their individual and official capacities; ABC Mobile Auto & RV Repair; and Does 1-20 (unknown agents, officers, or co-conspirators of the State of South Carolina, the South Carolina Department of Public Safety, or the South Carolina Highway Patrol),
Defendants,

of which State of South Carolina is the Respondent.

APPELLANT'S RESPONSE TO THE CLERK'S LETTER OF AUGUST 24, 2026; STATEMENT THAT NO TRANSCRIPT EXISTS; AND MOTION FOR EXPEDITED DETERMINATION OF INDIGENCY

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

Appellant Thomas Edward Humphrey responds to the Clerk's letter of August 24, 2026, which directs him to advise this Court of the status of the transcript within ten days. Appellant advises the Court that **there is no transcript in this appeal, and none can be created**, because no

hearing or other proceeding was ever held of which a transcript could be made. Appellant states the following, and respectfully requests expedited determination of his pending motion to proceed *in forma pauperis*.

I. There Was No Proceeding. There Is Nothing to Transcribe.

1. Appellant filed his Summons and Verified Petition in the Court of Common Pleas for Horry County on June 23, 2026, together with a Motion and Affidavit to Proceed In Forma Pauperis.

2. The motion was decided on the papers. No hearing was noticed, scheduled, or held. The Order In Forma Pauperis denying it is dated June 25, 2026 and was filed July 1, 2026. It is a preprinted form, SCCA 405.1 (Rev. 06/2024), disposed of by the marking of a single checkbox. No findings were made and no reasons were given.

3. No answer or responsive pleading was filed. No respondent appeared. No motion was argued. No trial, evidentiary hearing, or oral argument took place.

4. The action was dismissed on August 4, 2026 by an order docketed as "Order/Electronic Form 4 — Case Dismissal." That disposition, like the order denying in forma pauperis status, was entered administratively and without any hearing.

5. No court reporter was ever assigned to or present in this matter, because there was no proceeding at which a court reporter could have been present. No stenographic or electronic record exists. There is nothing capable of being transcribed, and no court reporter from whom a transcript could be ordered.

II. Rule 207 Imposes No Duty Where No Transcript Must Be Prepared.

6. Rule 207(a)(1), SCACR, does not impose a duty to order a transcript in every appeal. The duty it creates is expressly conditional, and the condition appears in the opening words of the Rule:

> ***Where a transcript of the proceeding must be prepared by the court reporter****, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript.*

7. The ten-day period referenced in the Clerk's letter appears in the sentence immediately following, and it fixes the time for performing the duty that the opening condition creates. It does not create a freestanding obligation. Where no transcript of a proceeding must be prepared by a court reporter — because there was no proceeding — the duty never attaches, and there is no period within which it can be performed, missed, or extended.

8. Rule 607(b), SCACR, is to the same effect. It speaks of "[t]ranscripts of proceedings *which are needed for an appeal*," to be ordered as provided by Rule 207(a). Where there was no proceeding, there is no transcript of a proceeding, and nothing that Rule 207(a) requires to be ordered.

9. The Rules expressly contemplate appeals in which no transcript is ordered. Rule 208(a)(1), SCACR, fixes the time for serving the initial brief as "within thirty (30) days after receiving the transcript ***or, if no transcript is ordered***, within thirty (30) days after serving the notice of appeal." That provision would have no operation if every appeal required a transcript. This appeal falls within its second branch, and Appellant is preparing his initial brief accordingly.

10. Appellant has therefore not failed to comply with Rule 207. No duty under that Rule arose, and none was breached. Had the Rules provided that a transcript must be ordered even where none exists, Appellant would have complied. They do not so provide.

III. No Motion for Permission Is Required, Because There Is No Deadline From Which Relief Could Be Sought.

11. The Clerk's letter presents two alternatives: file proof that the transcript was timely ordered, or move for permission to order it outside the Rule 207 deadline. Both presuppose that a transcript exists and that a deadline ran against Appellant. Respectfully, neither premise is correct here, and Appellant cannot satisfy either alternative without asserting something untrue.

12. A motion for permission to order a transcript outside the Rule 207 deadline would necessarily concede that a transcript exists to be ordered, that a duty to order it arose, and that a deadline was missed. Appellant respectfully declines to concede premises the Rule does not support and the record does not contain. He does not seek relief from a deadline; he states that the condition which would have started one never occurred. One does not seek permission to do late what was never required at all.

13. Appellant intends no disrespect to this Court or to its Rules, and he does not raise this point to avoid them. He raises it because the Rules, read according to their terms, answer the question the Clerk's letter poses. Appellant will comply promptly and fully with any directive this Court issues. Should the Court determine that some act remains required of him notwithstanding the absence of any proceeding, Appellant requests that he be informed of it and permitted to perform it, and he asks leave to do so under Rule 263(b), SCACR, which authorizes this Court to extend the time for any act required by the Rules except service of the notice of appeal.

14. So that the Court may have documentation from the court below rather than Appellant's representation alone, Appellant has written to the Clerk of Court for Horry County, contemporaneously with this Response, requesting written confirmation that no hearing or other proceeding was held in Case No. 2026CP2605005, that the case was never placed on a motion or

trial roster, that no court reporter was assigned to or present at any proceeding, and that no record exists from which a transcript could be prepared. Appellant has also asked that office to identify the judge who signed the Order In Forma Pauperis of June 25, 2026, the signature on the copy served upon him not being legible. A copy of that letter is being served upon this Court, the Office of Court Administration, and counsel for Respondent. Appellant will file the Clerk's response with this Court promptly upon receipt.

IV. Dismissal on This Ground Would Elevate Form Over Substance in an Appeal Concerning Access to the Courts.

15. Appellant respectfully draws the Court's attention to what dismissal on this ground would mean. This appeal challenges an order denying an indigent litigant leave to proceed *in forma pauperis* in an action alleging that agents of the State seized his home and restrained his person without process. The appeal is, at bottom, about whether the courts of this State are open to a man who cannot pay to enter them.

16. To dismiss that appeal because Appellant did not order a transcript that does not exist, of a hearing that never occurred, would be to close the courthouse door a second time — and to close it on a ground that no litigant, however diligent, could have satisfied. Appellant could not have ordered this transcript at any price, on any schedule, by any means. Compliance was not merely burdensome; it was impossible.

17. Our Constitution does not permit access to the courts to turn on the impossible any more than on the unaffordable. Article I, Section 9 of the Constitution of this State provides that all courts shall be public and that every person shall have speedy remedy therein for wrongs sustained. In *Ex parte Martin*, 321 S.C. 533, 535, 471 S.E.2d 134, 135 (1995), the Supreme Court held that "where certain fundamental rights are involved, the Constitution requires that an indigent be

allowed access to the courts," citing *Boddie v. Connecticut*, 401 U.S. 371 (1971). A dismissal grounded in the non-production of a non-existent document would deny that access on a basis having nothing to do with the merits of Appellant's claims, and nothing to do with any failure on his part.

18. Appellant states this respectfully but without hesitation: he has done everything the Rules require of him. He served and filed his Notice of Appeal within the period allowed by Rule 203(b)(1), SCACR, measured from his July 6, 2026 receipt of written notice. He served and filed his Motion to Proceed In Forma Pauperis on Appeal the same day. He has supplied a sworn Affidavit of Indigency with supporting documentation. He is preparing his initial brief for timely service and filing. He asks only that this appeal be decided on its merits.

V. Motion for Expedited Determination of Indigency.

19. Appellant respectfully moves, pursuant to Rule 240, SCACR, for expedited determination of his Motion to Proceed In Forma Pauperis on Appeal, served and filed August 5, 2026 and supported by his sworn Affidavit of Indigency.

20. Good cause exists. Appellant's indigency has been placed before this Court by sworn affidavit and has not been disputed. The order under review contains no finding that Appellant is able to pay, and the box on that form order providing that leave is denied for failure to establish compliance with the poverty guidelines of Rule 3(b)(1), SCRCP, was left unchecked. Under Rule 240(e), SCACR, "[f]ailure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion."

21. Appellant's indigency is not an abstraction. It is the condition that produced this appeal, and it continues to govern his ability to prosecute it. Every filing he makes is constrained by whether

he can afford postage. An early ruling would permit this appeal to proceed on its merits rather than on the petitioner's poverty, and would conserve the resources of this Court and of the parties.

22. Under Rule 240(j), SCACR, an individual judge of this Court may grant or deny a motion on behalf of the Court. Appellant respectfully requests such a ruling at the Court's earliest convenience.

VI. Conclusion and Relief Requested.

23. WHEREFORE, Appellant respectfully requests that this Court:

(a) Accept this Response as satisfying the direction in the Clerk's letter of August 24, 2026 that Appellant advise the Court of the status of the transcript, the status being that no transcript exists and none can be prepared;

(b) Determine that Rule 207, SCACR, imposed no duty upon Appellant in this appeal, no proceeding having been held of which a transcript could be made, and that no motion for permission to order a transcript out of time is required;

(c) Grant expedited determination of Appellant's pending Motion to Proceed In Forma Pauperis on Appeal;

(d) Permit this appeal to proceed to briefing under Rule 208(a)(1), SCACR; and

(e) Grant such other and further relief as the Court deems just and proper.

24. Appellant thanks the Court for its attention to this matter and for the guidance the Clerk's letter provided.

Respectfully submitted,

s/ Thomas Edward Humphrey
Thomas Edward Humphrey, *In Propria Persona*
107 Middlesex Road, Apartment 5
Waltham, Massachusetts 02452
(617) 835-9319
ThyKingdomCome1322@gmail.com

Dated: September 2, 2026

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CERTIFICATE OF SERVICE

I, Thomas Edward Humphrey, Appellant, certify that I have served a copy of the foregoing upon all parties to this appeal, by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows:

Alan McCrory Wilson, Esquire
Attorney General of South Carolina
Rembert C. Dennis Office Building
1000 Assembly Street, Room 519
Post Office Box 11549
Columbia, South Carolina 29211
(Counsel for Respondent State of South Carolina, and for the State officials named as Defendants in their official capacities)

ABC Mobile Auto & RV Repair
516 Piedmont Avenue
Myrtle Beach, South Carolina 29577
(Defendant named in the case title)

I further certify that the foregoing has been filed with the Clerk of the South Carolina Court of Appeals by electronic mail, together with this Certificate of Service, pursuant to Rule 262(a)(3), SCACR, and the Order of the Supreme Court of South Carolina dated April 24, 2024 governing the electronic filing of documents in the appellate courts; and that a copy has been furnished to the South Carolina Office of Court Administration, 1220 Senate Street, Suite 200, Columbia, South Carolina 29201, in accordance with the direction contained in the Clerk's letter of August 24, 2026 that all correspondence concerning the transcript be copied to the Court, the Office of Court Administration, and opposing counsel.

s/ Thomas Edward Humphrey
Thomas Edward Humphrey, *In Propria Persona*
Appellant

Dated: September 2, 2026