IN THE COURT OF APPEALS

OF THE STATE OF SOUTH CAROLINA

Appellate Case No. 2026-001680

Darryl R. Kinloch,

Appellant,

v.

South Carolina Department of Motor Vehicles and
South Carolina Department of Public Safety,

Respondents.

APPEAL FROM THE
SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

ALC Docket No.
25-ALJ-21-0394-AP

The Honorable
Robert L. Reibold

APPELLANT'S INITIAL BRIEF

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SC Court of Appeals

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TABLE OF CONTENTS

STATEMENT OF ISSUES ON APPEAL.....3

JURISDICTIONAL STATEMENT.....4

STATEMENT OF THE CASE.....4

STATEMENT OF FACTS.....6

STANDARD OF REVIEW....8

SUMMARY OF THE ARGUMENT....9

ARGUMENT....10

I. The ALC misclassified the documentary-integrity challenge as merits-only....10

II. The ALC relied on the disputed documentary record for procedural facts without resolving the integrity challenge....12

III. The prehearing dismissal left disputed procedural facts without findings....14

IV. The ALC's internally inconsistent treatment of the record requires vacatur or clarification...15

V. Prejudice requires a record-supported link to timeliness or tolling....16

CONCLUSION....19

TABLE OF AUTHORITIES

Cases

Hooper v. Ebenezer Senior Services & Rehabilitation Center, 386 S.C. 108, 687 S.E.2d 29 (2009)....9, 17

I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000)....8

South Carolina Department of Motor Vehicles v. McCarson, 391 S.C. 136, 705 S.E.2d 425 (2011)....19

State v. Dunbar, 356 S.C. 138, 587 S.E.2d 691 (2003)....9, 11

Taylor v. South Carolina Department of Motor Vehicles, 382 S.C. 567, 677 S.E.2d 588 (2009) 17, 19

Wilder Corp. v. Wilke, 330 S.C. 71, 497 S.E.2d 731 (1998)....8, 11

Wingate v. South Carolina State Highway Department, 276 S.C. 39, 274 S.E.2d 917 (1981).....16

Statutes

S.C. Code Ann. § 1-23-380.....4, 8, 15

S.C. Code Ann. § 1-23-610.....4, 8, 18-20

S.C. Code Ann. § 56-5-2951.....12, 18-19

STATEMENT OF ISSUES ON APPEAL

1. Whether the Administrative Law Court committed reversible error by relying upon the MV-65 and related records to establish the operative issuance date, the notice's filing instructions, and untimeliness while treating as merits-only the procedural significance of the documentary-accuracy concerns raised before OMVH and the handwriting/reliability challenge presented in Appellant's accepted ALC brief. (R. pp. 7-8, 11-12, 15-16, 23, 31-32, 64; Appellant's Amended Brief p. 10.)

2. Whether affirmance was proper where Appellant disputed the recorded refusal and the alleged additional-test procedure before dismissal; OMVH acknowledged that the handwritten date on the MV-65 was difficult to read; the record contains materially different accounts of the testing and refusal circumstances; and the case was dismissed before authentication, witness testimony, cross-examination, or factual findings concerning those discrepancies. (R. pp. 4, 7 n.1, 31-38, 43, 57-58, 64.)

3. Whether the ALC's treatment of the documentary record prevented meaningful review by invoking the absence of OMVH merits findings to decline the integrity challenge while relying upon the same untested administrative documents as established procedural facts. (R. pp. 4, 7-8, 11-12, 31-43.)

4. Whether the timeliness and equitable-tolling determinations require reconsideration if the ALC classified the documentary challenge too narrowly, while recognizing that issuance-not actual receipt-triggers the thirty-day period and that any relief requires a showing of prejudice. (R. pp. 7-8, 11-12, 15-16, 23, 27-32, 64.)

JURISDICTIONAL STATEMENT

This appeal seeks review of the Administrative Law Court's Final Order and Decision entered June 10, 2026, affirming OMVH's dismissal, and the July 7, 2026 order denying rehearing. The Court of Appeals docketed the matter as Appellate Case No. 2026-001680. Jurisdiction lies under S.C. Code Ann. § 1-23-610. Section 1-23-380 governed the ALC's appellate review of the OMVH decision. The certified agency record identifies the underlying appeal as ALC Docket No. 25-ALJ-21-0394-AP. (R. pp. 1, 5.)

STATEMENT OF THE CASE

This case began as a challenge to an administrative implied-consent suspension. Appellant requested a contested-case hearing on October 14, 2025, and paid the $200 filing fee. (R. pp. 20, 60.) OMVH scheduled a hearing for December 12, 2025. (R. pp. 57-58.) SCDMV then moved to dismiss as untimely, asserting that an MV-65 Notice of Suspension had been issued on August 4, 2024. (R. pp. 18-23.)

Before dismissal, Appellant filed a written objection disputing the recorded refusal. He relied on the completed breath test, challenged whether an additional blood or urine test was lawfully requested and properly advised, and maintained that the refusal designation was incorrect. (R. pp. 31-32.) Appellant also submitted correspondence to support his assertion that he had sought governmental assistance but was directed among agencies without understanding the OMVH filing procedure. (R. pp. 27-29.)

On October 21, 2025, OMVH dismissed the matter before the scheduled hearing. (R. pp. 7-8.) The order stated that the handwritten date on the MV-65 was difficult to read, compared that form with other records, and selected August 4, 2024 as the latest operative date. (R. p. 7 n.1.) Appellant moved for reconsideration, again raising notice, agency communications, diligence, substantial compliance, and fundamental fairness. (R. pp. 15-16.) OMVH denied reconsideration on November 5, 2025. (R. pp. 11-12.)

No evidentiary hearing occurred. OMVH certified that no transcript or audio recording exists because the case was dismissed before hearing. (R. p. 4.) Appellant appealed to the ALC. His March 10, 2026 Amended Brief expressly challenged the refusal documentation in Section V(E), stating that handwriting purporting to attribute statements or acknowledgments to Appellant did not appear to be his handwriting and that the discrepancy raised concerns regarding the accuracy, reliability, and integrity of the records. (Appellant's Amended Brief p. 10.) The ALC's May 1, 2026 order later deemed Appellant's late brief filed.

The June 10 Final Order expressly identified "procedural irregularities in the refusal documentation" as one of Appellant's issues, but concluded that only equitable tolling and dismissal without an evidentiary hearing related to the OMVH ruling; it treated the remaining issues as matters concerning the unadjudicated merits. (Final Order pp. 2-3.) On rehearing, Appellant argued that the previously raised handwriting/reliability challenge also had procedural significance because the disputed document was being used to establish timeliness. (Petition for Rehearing pp. 1-4.) The July 7 order held that the specific use-of-the-form-to-start-the-clock theory, disputed receipt, and potentially nongenuine-signature theory were new. (Order Denying Rehearing pp. 2-3.)

STATEMENT OF FACTS

The certified record contains several government records describing the same episode, but they do not perform identical functions and should not be conflated.

First, the MV-65 Notice of Suspension appears at record pages 23 and 64. Its printed text states that a contested-case hearing request must be filed with OMVH within thirty days after issuance and supplies OMVH's address. Its handwritten portions include the refusal selection, a test/refusal date, and signature or acknowledgment fields. (R. pp. 23, 64.) OMVH acknowledged that the date written on the MV-65 was difficult to read. It stated that some documents appeared to indicate August 3, 2024, while SCDMV's later official notice identified August 4, 2024. OMVH selected August 4 as the latest date for its calculation. (R. p. 7 n.1.)

Second, an SCDMV "Official Notice" dated August 16, 2024 states that Appellant "failed to submit to the required alcohol or drug test" and identifies August 4, 2024 as the implied-consent violation and suspension-beginning date. (R. p. 22; see also R. pp. 25, 61.) That Official Notice is a separate SCDMV document; it is not the handwritten MV-65 and does not establish who completed the challenged handwritten entries or acknowledgments on the underlying refusal documentation.

Third, the testing and incident materials document a completed breath test. The incident record states "BREATH / GIVEN (SUBMITTED)" with a result of 0.07. (R. p. 35.) The officer's narrative likewise states that Appellant "willingly provided a breath sample" yielding 0.07, followed by an alleged request for a blood or urine sample that Appellant "denied." (R. p. 38.) Appellant's pre-dismissal objection disputed that characterization. He asserted that he complied with the breath test, that any additional test was neither lawfully justified nor separately advised, and that the recorded refusal was procedurally invalid. (R. pp. 31-32.)

The completed breath test does not, standing alone, disprove a refusal of a different, later test. The record instead presents a factual dispute about whether an additional blood or urine test was lawfully requested, whether the required advisement was given, whether Appellant refused it, and whether the State's paperwork accurately recorded the event. Those disputed factual questions could require testimony, authentication, and credibility determinations. None occurred here.

Fourth, R.43 is an SCDPS Uniform Administrative Report dated May 23, 2025. It identifies "Datamaster documents" and an "SCDMV Suspension Form" and states that both documents were unable to be located after one year. (R. p. 43.) The report does not identify the suspension form by form number, state which agency files were searched, establish that it concerns the same physical copy appearing at R.23 and R.64, or negate SCDMV's certification. Appellant therefore does not rely on R.43 as proof that the MV-65 was fabricated, never issued, or absent from SCDMV's files. Its narrower relevance is contextual: a government report concerning a suspension form appears in the same certified record, but no witness explained its relationship, if any, to the copies used on timeliness. If the Court concludes R.43 concerns a different document or custodian, the appeal does not depend on it.

Fifth, the challenge developed in stages and should be described precisely. Before dismissal, Appellant disputed the refusal designation and the alleged legal basis and advisement for an additional test. (R. pp. 31-32.) His ALC Amended Brief then expressly challenged handwriting attributed to him and tied that discrepancy to the "accuracy and reliability" and "integrity" of the refusal documentation. (Appellant's Amended Brief p. 10.) His June 16 rehearing petition made the procedural bridge explicit: the challenged document was also being used as the foundation for the timeliness determination. The petition separately acknowledged

that the more specific contention that the driver signature was not genuine had not previously been articulated "in those exact terms." (Petition for Rehearing pp. 2-4.)

OMVH nevertheless dismissed on the papers. Its dismissal order relied on the MV-65's printed instructions and a date derived by reconciling the difficult-to-read form with other SCDMV records. (R. pp. 7-8.) Its reconsideration order again relied on the notice and the statutory thirty-day period. (R. pp. 11-12.) The ALC then affirmed, and on rehearing expressly ruled that the documentary-reliability issue had not been ruled upon by OMVH and that the more specific start-the-clock, receipt, and signature arguments were new. (Order Denying Rehearing pp. 2-3.) The present appeal challenges that preservation/classification ruling; it does not represent that OMVH itself adjudicated the handwriting issue.

STANDARD OF REVIEW

Judicial review of a final Administrative Law Court decision is governed by S.C. Code Ann. § 1-23-610(B). Review is confined to the record, and this Court may affirm, remand, reverse, or modify when the appellant's substantive rights have been prejudiced because the ALC decision is made upon unlawful procedure, affected by error of law, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or arbitrary or capricious. Section 1-23-380 supplied the corresponding review standard applied by the ALC to the OMVH decision.

Legal classification and preservation are questions of law. An issue ordinarily must be raised to and ruled upon below. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). Preservation rules exist to give the lower tribunal a fair opportunity to consider the relevant facts, law, and arguments. I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). A party need not use the exact name of a legal doctrine, but the

argument must have been presented on that ground; a party may not substitute a different ground on appeal. State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003). Equitable tolling is applied sparingly and depends on circumstances in which justice warrants suspending the limitations period. Hooper v. Ebenezer Senior Services & Rehabilitation Center, 386 S.C. 108, 115-18, 687 S.E.2d 29, 32-34 (2009).

SUMMARY OF THE ARGUMENT

The issue is not whether this Court should make an original finding of fraud. Preservation is narrower than the earlier formulations might suggest. At OMVH, Appellant disputed the accuracy of the refusal designation and later raised notice and guidance; he did not allege that the MV-65 signature was forged. (R. pp. 15-16, 31-32.) His accepted ALC brief expressly raised handwriting and documentary reliability, and rehearing later connected that challenge to the timeliness analysis. The appellate question is whether the ALC classified that procedural significance too narrowly, not whether every later signature or nonreceipt theory was preserved from the beginning.

The disputed refusal documentation had a dual role. Substantively, it concerned whether Appellant refused a lawfully requested additional test. Procedurally, the MV-65 and the information derived from it were used to establish issuance, the contents and filing instructions of the notice, and commencement of the thirty-day period. The ALC could decline to adjudicate the unreviewed refusal merits. It could not, without explanation, treat the integrity challenge as irrelevant to the separate procedural use of the same documentary system.

The certified record makes the issue concrete but also defines its limits. OMVH found the handwritten MV-65 date difficult to read and reconciled it with a later SCDMV Official Notice. (R. p. 7 n.1.) The incident materials document a completed 0.07 breath test followed by an

alleged refusal of an additional sample, which Appellant disputed. (R. pp. 31-32, 35, 38.) R.43 refers to DataMaster documents and an SCDMV suspension form, but it does not identify an MV-65 by form number or establish SCDMV custody. No evidentiary hearing occurred. (R. p. 4.) Those facts support a narrow classification question; they do not themselves prove nonissuance, forgery, or prejudice.

Those gaps do not retroactively establish a right to an OMVH merits hearing because the specific handwriting challenge was not presented there. They matter only to the narrower question whether the ALC correctly classified the documentary-reliability concern placed before it and whether the ALC's procedural reliance and preservation ruling are adequately explained on the certified record.

Equitable tolling remains a fallback, not the whole case. Appellant does not ask this Court to hold that tolling applies as a matter of law. He asks only for remand to the ALC if this Court concludes that the ALC misclassified an issue properly before it and that the error could have materially affected the timeliness or tolling analysis.

ARGUMENT

I. THE ALC MISCLASSIFIED THE DOCUMENTARY-INTEGRITY CHALLENGE AS MERITS-ONLY.

The ALC correctly recognized that OMVH never adjudicated whether Appellant refused a lawfully requested additional chemical test. The Court of Appeals therefore should not decide that merits question in the first instance. But the absence of a merits ruling does not make every challenge involving the refusal documentation irrelevant to the procedural ground that was decided.

Before dismissal, Appellant challenged the accuracy of the refusal designation and the alleged additional-test procedure. (R. pp. 31-32.) On reconsideration, he raised lack of notice and agency guidance. (R. pp. 15-16.) The March 10 ALC Amended Brief then expressly stated that handwriting purporting to attribute statements or acknowledgments to Appellant did not appear to be his and that the discrepancy implicated the accuracy, reliability, and integrity of the refusal documentation. (Appellant's Amended Brief p. 10.) The June 10 Final Order recognized "procedural irregularities in the refusal documentation" as an issue Appellant raised. (Final Order pp. 2-3.) This sequence does not establish that every later authenticity theory was presented to OMVH; it identifies the narrower accuracy, notice, and classification questions actually presented at each stage.

That challenge has two legally distinct applications. One asks what happened during testing-an unadjudicated merits question. The other asks whether the State's challenged documentary instrument may be treated as reliable evidence of issuance, notice, instructions, and commencement of the filing period-a threshold procedural question. The ALC's merits-only classification collapsed those two applications.

Preservation doctrine does not require talismanic words, but it does require the same ground to have been fairly presented. Wilder requires an issue to be raised and ruled upon below, 330 S.C. at 76, 497 S.E.2d at 733. Dunbar explains that a party need not use the exact name of a legal doctrine when the substance of the argument was presented. 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003). Here, the July 7 rehearing order squarely ruled that the start-the-clock application, disputed receipt, and specific signature theory were new, even while acknowledging that Appellant had made several earlier arguments regarding the form. (Order Denying Rehearing pp. 2-3.) That ruling supplies a concrete preservation question for appellate review.

Appellant does not contend that the exact forgery, nonreceipt, or start-the-clock theory was adjudicated by OMVH, or that the signature allegation appeared in the March 10 brief in the same terms later used on rehearing. The June 16 petition acknowledged otherwise. (Petition for Rehearing p. 4.) If the Court concludes those specific formulations were raised too late, they should be disregarded as independent grounds for reversal. The narrower question remains whether the ALC correctly classified the handwriting/reliability concern that was before it before the Final Order and whether its orders adequately explained the procedural use of the documentary record.

II. THE ALC RELIED ON THE DISPUTED DOCUMENTARY RECORD FOR PROCEDURAL FACTS WITHOUT RESOLVING THE INTEGRITY CHALLENGE.

Section 56-5-2951(B)(1) measures the thirty-day period from issuance of the notice of suspension, not actual receipt. Appellant submitted an MV-65 copy with his hearing request, and OMVH stated on reconsideration that he did not dispute that a form had been issued. (R. p. 11.) This appeal therefore does not ask the Court to find that no form existed, to substitute receipt for issuance, or to restart the period upon later receipt. The narrower contention concerns whether the record reliably established the operative issuance date and whether challenged handwritten entries or acknowledgments could be treated as conclusive when evaluating the related notice and tolling arguments.

The MV-65 supplied those procedural premises. Its printed text contains the OMVH filing instructions. (R. pp. 23, 64.) Its handwritten portions contain the refusal selection, date, signatures, and purported acknowledgments that Appellant challenged. OMVH did not simply read a clear date from the face of the form. It expressly found the date difficult to read, compared the MV-65 with other records, and chose August 4, 2024 as the operative date. (R. p. 7 n.1.)

The later SCDMV Official Notice independently identifies August 4, 2024 as the violation date and materially corroborates the date OMVH used. (R. pp. 22, 25, 61.) It does not identify who completed the MV-65's handwriting or authenticate the acknowledgments later challenged, but Appellant does not ask the Court to disregard the Official Notice. The date discrepancy between August 3 and August 4, standing alone, cannot establish prejudice because the October 14, 2025 hearing request was untimely under either date - and even under the August 16, 2024 Official Notice discussed by OMVH. (R. p. 7 n.1.)

R.43 does not independently create that showing. It is an SCDPS report, does not identify an MV-65 by form number, and does not establish the custody of SCDMV's certified copy. (R. p. 43.) Its unexplained presence may supply context, but the Court may disregard it without deciding authenticity. The argument must stand, if at all, on the preservation/classification rulings, the acknowledged date ambiguity, and the tribunals' treatment of the existing certified record-not on an inference that R.43 disproves SCDMV's certification.

The ALC relied on the notice as a decisive procedural fact while categorizing the reliability challenge as merits-only. Appellant does not argue that a documentary defect automatically defeats a suspension or excuses untimeliness. The narrower contention is that the ALC should have explained whether the handwriting/reliability concern raised in the accepted ALC brief was unpreserved, factually defeated, legally irrelevant to issuance and tolling, or confined to the refusal merits. The absence of a reasoned classification on those alternatives is the asserted appellate error.

III. THE PREHEARING DISMISSAL LEFT DISPUTED PROCEDURAL FACTS WITHOUT FINDINGS.

OMVH scheduled a hearing for December 12, 2025 and directed the parties to bring documents, records, and witnesses. (R. pp. 57-58.) It dismissed on October 21, 2025. (R. pp. 7-8.) OMVH later certified that no transcript or audio exists because the case was dismissed before the hearing. (R. p. 4.)

The result was a record containing allegations and documents but no adjudication of the merits conflicts. The incident report says Appellant completed a 0.07 breath test and then denied a requested blood or urine sample. (R. p. 38.) His pre-dismissal filing disputed the legal basis and advisement for that additional test. (R. pp. 31-32.) The MV-65 contains difficult-to-read handwriting. (R. pp. 23, 64.) R.43 separately refers to DataMaster documents and an SCDMV suspension form, but does not identify the MV-65 by form number or establish that it concerns the certified copies used on timeliness.

No witness testimony occurred because OMVH decided timeliness on the papers. (R. p. 4.) Because Appellant did not present a handwriting-forgery claim to OMVH, the absence of handwriting authentication cannot itself establish OMVH error. It becomes relevant only if the ALC misclassified an issue properly before it and if further proceedings are legally authorized after the preservation and prejudice questions are resolved.

Appellant does not contend that every untimely request requires a full merits hearing. A tribunal may decide a threshold filing issue without trying the suspension merits when the material procedural facts are undisputed. Here, however, the dispositive ruling used disputed documents and an interpreted handwritten date while leaving the integrity and notice challenges unanswered.

Under section 1-23-380(5), review concerns unlawful procedure, legal error, and whether findings are clearly erroneous in view of reliable, probative, and substantial evidence on the whole record. The Court of Appeals should not authenticate documents, weigh handwriting, or supply a factual rationale. If the ALC's preservation and classification analysis is legally sufficient and any error harmless, affirmance follows. If not, remand to the ALC for a reasoned determination avoids improper appellate factfinding.

IV. THE ALC'S INTERNALLY INCONSISTENT TREATMENT OF THE RECORD REQUIRES VACATUR OR CLARIFICATION.

The ALC invoked the absence of OMVH merits findings as the reason not to reach Appellant's documentary challenge. The June 10 order expressly identified "procedural irregularities in the refusal documentation" among Appellant's issues, but concluded that only tolling and dismissal without a hearing related to the OMVH ruling. (Final Order pp. 2-3.) On rehearing, the court then held that using the challenged form to attack the start of the thirty-day period was a new argument. (Order Denying Rehearing pp. 2-3.) The appellate question is whether that classification drew the preservation boundary too narrowly in light of the handwriting, accuracy, reliability, and integrity challenge already contained in the accepted ALC brief.

The record also warrants precision in describing the chronology. The June 10 ALC Final Order states that SCDMV filed its OMVH motion to dismiss on June 17, 2025. (Final Order p. 2.) The certified OMVH record instead contains the Department's motion dated October 17, 2025. (R. pp. 18-21.) Appellant does not claim that this apparent chronology error independently requires reversal; it reinforces the need to anchor the procedural analysis to the certified record.

The same caution applies to the underlying event. A completed breath test is documented. (R. pp. 35, 38.) A later refusal of an additional sample is alleged in the officer's narrative. (R. p. 38.) Appellant disputed the lawfulness, advisement, occurrence, and documentation of that alleged refusal. (R. pp. 31-32, 46-49.) The ALC could accurately describe those as competing allegations. It could not treat the State's account as an adjudicated fact while invoking the lack of a merits hearing to avoid Appellant's challenge.

None of these points asks the Court of Appeals to reverse because of a typographical mistake alone. Their cumulative significance is that the outcome depended on a documentary chronology and notice premise that were never subjected to factfinding. The proper appellate response is clarification and findings, not an appellate assumption that every disputed entry was authentic and procedurally dispositive.

V. PREJUDICE REQUIRES A RECORD-SUPPORTED LINK TO TIMELINESS OR TOLLING.

Prejudice cannot rest on the one-day date ambiguity or on a rule that every paperwork defect invalidates a suspension. The October 14, 2025 request was late whether the operative date was August 3, August 4, or August 16, 2024. (R. pp. 7 n.1, 20, 60.) The claimed prejudice is narrower: the tribunals treated the MV-65 and related records as sufficient to reject Appellant's notice and tolling contentions while classifying the documentary-reliability concern as merits-only. Relief is available only if that classification involved a properly preserved issue and could materially affect the timeliness or tolling analysis. Appellant seeks that determination, not presumed prejudice or automatic rescission.

Equitable tolling is therefore a consequence of the unresolved integrity issue, not the entire case. OMVH treated the statutory period as mandatory and relied on Wingate v. South

Carolina State Highway Department, 276 S.C. 39, 40, 274 S.E.2d 917, 917 (1981). (R. pp. 8, 12.) Appellant raised lack of proper guidance, agency communications, diligence, substantial compliance, and fundamental fairness. (R. pp. 15-16, 27-32.) The visible correspondence does not by itself establish that official misinformation caused the entire delay, and some of it postdates the original thirty-day period. The brief does not ask the Court to ignore that limitation.

But the tolling analysis relied on the proposition that the notice itself clearly and reliably supplied the information necessary to protect Appellant's rights. Once Appellant challenged the authenticity and integrity of handwriting and purported acknowledgments attributed to him, the procedural effect of the notice could not simply be assumed without addressing that challenge. Hooper requires equitable tolling to be used sparingly and applied according to the particular circumstances. 386 S.C. at 115-18, 687 S.E.2d at 32-34. At the same time, Taylor v. South Carolina Department of Motor Vehicles, 382 S.C. 567, 570-71, 677 S.E.2d 588, 590-91 (2009), cautions that a procedural defect under the implied-consent statutes does not automatically require restoration of a license; prejudice matters. That principle supports, rather than defeats, the limited relief sought here: Appellant asks for findings on whether the unresolved documentary-integrity issue actually affected issuance, notice, timeliness, or equitable relief, not automatic rescission based on a technical defect.

Respondents' most direct grounds for affirmance require six concise answers.

First, preservation. The exact forgery, nonreceipt, and start-the-clock formulations were not presented to OMVH and are not independent grounds for reversal. The reviewable sequence is narrower: refusal-document accuracy before dismissal (R. pp. 31-32), notice and guidance on reconsideration (R. pp. 15-16), handwriting and reliability in the accepted ALC brief, and the ALC's classification ruling on rehearing.

Second, issuance rather than receipt. Section 56-5-2951(B)(1) begins the period upon issuance. Appellant submitted an MV-65 copy, and OMVH stated that issuance was not disputed. (R. p. 11.) The appeal does not substitute receipt for issuance or deny that a form existed; it challenges only the procedural treatment of the operative date and related documentary inferences.

Third, R.43. The report is an SCDPS document, does not identify an MV-65 by form number, and does not establish custody of SCDMV's certified copy. (R. p. 43.) It cannot rebut certification or prove nonissuance. It is contextual only, and the Court may disregard it without deciding the narrower preservation/classification issue.

Fourth, timing of the authenticity issue. Appellant did not accuse anyone of forging the MV-65 at OMVH. The March 10 ALC brief raised handwriting and reliability before the ALC's Final Order; rehearing added the specific signature and procedural-clock formulation. If that later formulation was new, it should be severed rather than converted into an appellate request for an authenticity finding.

Fifth, prejudice. August 3 versus August 4 is harmless by itself because the request was untimely under either date, and OMVH noted it would remain late even using the August 16 Official Notice. (R. p. 7 n.1.) Relief is available only if an issue properly preserved for review could materially affect the notice or tolling analysis. Appellant asks the ALC to decide that question; he does not presume prejudice.

Sixth, appellate relief. Section 1-23-610(B) confines review to the record but expressly permits remand. Appellant seeks remand to the ALC for reconsideration of preservation, procedural relevance, and prejudice. He does not ask this Court to find facts, authenticate handwriting, direct OMVH to hear an untimely merits case, or rescind the suspension.

The requested relief remains narrow. Appellant does not ask the Court of Appeals to compare handwriting, find fraud, decide whether he refused an additional test, or rescind the suspension on the existing record. South Carolina Department of Motor Vehicles v. McCarson arose under section 56-5-2951 and emphasized, in the context of the statutory lawful-arrest inquiry, that a driver's license is a significant interest and that the Department had to present sufficient admissible evidence on the statutory prerequisite at issue rather than permit an automatic or rote elimination of that interest. 391 S.C. 136, 148-49, 705 S.E.2d 425, 431 (2011). Appellant cites McCarson for that limited principle, not for a proposition that the Department bears the burden on every conceivable timeliness or authenticity question. A limited remand likewise respects Taylor's prejudice requirement without predetermining the merits.

On remand, the ALC should distinguish three stages: (1) the refusal/additional-test dispute raised at OMVH; (2) the handwriting, accuracy, reliability, and documentary-integrity challenge presented in the accepted March 10 ALC brief; and (3) the more specific signature, receipt, and start-the-clock formulation presented on rehearing. The Court of Appeals need not decide authenticity or direct OMVH to hear an otherwise untimely merits case. It need only determine whether the ALC applied preservation and issue-classification principles correctly and, if not, remand to the ALC for reconsideration within the authority provided by section 1-23-610(B).

CONCLUSION

The central issue is narrow. OMVH treated an MV-65 as issued, relied on its printed instructions, and selected August 4, 2024 after acknowledging that its handwritten date was difficult to read. (R. pp. 7-8, 11-12.) Appellant did not dispute at OMVH that a form had been issued, and the one-day ambiguity cannot by itself change untimeliness. (R. pp. 7 n.1, 11.) But

the accepted March 10 ALC brief expressly challenged handwriting attributed to Appellant and the accuracy, reliability, and integrity of the refusal documentation. (Appellant's Amended Brief p. 10.) The Final Order identified procedural irregularities as an issue, and the rehearing order rejected the later procedural-use formulation as new. (Final Order pp. 2-3; Order Denying Rehearing pp. 2-3.) The principal appellate question is whether that classification ruling was legally correct within the carefully limited preservation boundary described above.

Appellant respectfully requests only relief within section 1-23-610(B): vacatur of the ALC orders to the extent the ALC legally misclassified the documentary-reliability issue, followed by remand to the ALC for a reasoned determination of preservation, procedural relevance, and prejudice on the certified record. Appellant does not ask this Court to compare handwriting, find fraud, substitute actual receipt for statutory issuance, decide the refusal merits, order automatic rescission, or direct OMVH to conduct a merits hearing despite a jurisdictional bar. Any further factual development should occur only if the ALC determines on remand that it is legally authorized and necessary.

Respectfully submitted,
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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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South Carolina Department of Motor Vehicles and
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Appellate Case No. 2026-001680

CERTIFICATE OF SERVICE

I certify that on Sep 16, 2026, I served a true and correct copy of the foregoing Appellant's Initial Brief upon the following counsel of record by US Mail & NA Email:

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