

RECEIVED

Oct 09 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. _____
Lower Court Case No. 2024-CP-26-02774

Julia Nally,

Appellant,

v.

Kim Petrone,

Respondent.

**APPELLANT'S MOTION TO DEEM NOTICE OF APPEAL
TIMELY FILED, OR ALTERNATIVELY TO EXTEND THE TIME
FOR FILING IT, AND TO ACCEPT APPELLANT'S INITIAL
BRIEF AND DESIGNATION AS TIMELY FILED**

Appellant Julia Nally, proceeding *pro se*, moves under Rules 240, 262(a)(2), and 263(b), SCACR, for an order (1) deeming her notice of appeal filed with this Court on September 9, 2026, the date she mailed it to the Clerk, and accepting the enclosed duplicate as that filing; (2) alternatively, extending the time to file the notice of appeal with this Court to the date the duplicate is received; and (3) accepting her Initial Brief of Appellant and Designation of Matter, served and filed with this motion, as timely. In support, Appellant shows the following:

FACTS

1. Appellant appeals the Form 4 order of the Honorable Benjamin H. Culbertson, dated August 10, 2026 and entered by the Horry County Clerk of Court on August 11, 2026, denying her motions for relief from judgment under Rule 60(b), SCRCP. Appellant received written notice of entry of the order on August 11, 2026. (Nally Aff. ¶ 2; Ex. A.)

2. Under Rule 203(b)(1), SCACR, Appellant had thirty days from August 11, 2026, or until September 10, 2026, to serve her notice of appeal. On September 9, 2026, she served the

notice of appeal, with a copy of the order, on Respondent Kim Petrone by first-class mail. (Nally Aff. ¶ 3; Ex. B at 3.) Service was timely.

3. Appellant also filed the notice of appeal with the Horry County Clerk of Court, as Rule 203(d)(1)(A) requires. (Ex. B.)

4. On September 9, 2026, Appellant deposited in the United States mail an envelope addressed to the Clerk of the South Carolina Court of Appeals, Post Office Box 11629, Columbia, South Carolina 29211, with first-class postage attached. The envelope contained the notice of appeal, her certificate of service, a copy of the order appealed from, and the \$250 filing fee. (Nally Aff. ¶¶ 4–5; Ex. C.) Her signed certificate of service, dated September 9, 2026, states that these items were filed with this Court that day. (Ex. B at 3.)

5. The copy Appellant mailed to Respondent the same day was delivered. (Nally Aff. ¶ 6; Ex. D.)

6. The envelope addressed to this Court was not delivered and appears to have been lost in the mail. Appellant has since learned that the Court has no record of her notice of appeal. (Nally Aff. ¶¶ 7–8.)

7. With this motion, Appellant files a duplicate of the notice of appeal exactly as served on September 9, 2026, with its proof of service, a copy of the order appealed from, and the \$250 filing fee. (Nally Aff. ¶ 9.)

8. No transcript was ordered. Under Rule 208(a)(1), Appellant's initial brief and designation of matter are due thirty days after service of the notice of appeal, or October 9, 2026. Appellant has served her Initial Brief of Appellant and Designation of Matter to be Included in the Record on Appeal on Respondent, and she files them with this motion. (Nally Aff. ¶ 10.)

MEMORANDUM OF LAW

I. THE NOTICE OF APPEAL WAS FILED WITH THIS COURT ON SEPTEMBER 9, 2026, WHEN APPELLANT MAILED IT.

A notice of appeal must be filed with this Court within ten days after it is served. Rule 203(d)(1)(B), SCACR. Rule 203 does not define filing for itself. It provides that "[s]ervice and filing are defined by Rule 262." Rule 203(a), SCACR. Rule 262 provides that filing may be accomplished by:

Depositing the document in the U.S. mail, properly addressed to the clerk of the appellate court, with sufficient first class postage attached. The date of filing shall be the date of mailing

Rule 262(a)(2), SCACR. Under that rule, filing is complete when the properly addressed, stamped document is placed in the mail. Nothing in Rule 262(a)(2) makes filing depend on the clerk's receipt of the document.

The structure of Rule 262(a) confirms the point. The rule excepts two filings from the mailing provision: petitions for rehearing under Rule 221 and motions for reinstatement under Rule 260. Rule 262(a), SCACR. Those filings must be actually received. *See* Rule 260(a), SCACR (case remitted "unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days"). A notice of appeal is not among the exceptions. When the Rule lists the filings that must be received, every other filing, including a notice of appeal, is complete on mailing.

Appellant served her notice of appeal on September 9, 2026, and mailed it to this Court, properly addressed and with first-class postage, the same day. (Nally Aff. ¶¶ 3–5; Exs. B, C.) Her contemporaneous certificate of service records that filing. (Ex. B at 3.) The notice of appeal was therefore filed on September 9, 2026, ten days before the Rule 203(d)(1)(B) deadline. That the Postal Service failed to deliver the envelope does not change the date of filing. Appellant

asks the Court to accept the enclosed duplicate as the notice of appeal she filed by mail on September 9, 2026.

II. ALTERNATIVELY, THE COURT SHOULD EXTEND THE TIME TO FILE THE NOTICE OF APPEAL UNDER RULE 263(b).

Even if the lost filing were not complete on mailing, this Court has authority to cure it. Rule 263(b) provides that "[t]he time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended . . . by the appellate court, or by any judge or justice thereof." Rule 263(b), SCACR. The only deadline the Court may not extend is the deadline for *serving* the notice of appeal. Appellant met that deadline. She served Respondent on September 9, 2026, one day before the thirty-day period expired, and Respondent received the notice. (Nally Aff. ¶¶ 3, 6; Exs. B, D.) The ten-day period for *filing* with this Court under Rule 203(d)(1)(B) is a time "prescribed by these Rules for performing an[] act" and may be extended.

Good cause supports an extension. The failure was not Appellant's. She did everything the Rules require, on time, and the envelope was lost in transit. She has acted promptly to cure the problem. Respondent has had actual notice of the appeal since September 2026 and will suffer no prejudice. Dismissing a timely, properly served appeal because the mail failed would forfeit Appellant's right of review for reasons wholly outside her control. If the Court does not deem the notice filed on September 9, 2026, Appellant asks that it extend the time for filing the notice of appeal and the accompanying fee under Rule 203(d)(1)(B) to the date the enclosed duplicate is received, and deem the duplicate timely.

III. THE FILING FEE HAS BEEN TENDERED.

Rule 203(d)(1)(B)(iii) requires the filing fee to accompany the notice of appeal, and Rule 203(d)(3) provides for dismissal if the fee is not paid in full. Appellant enclosed the \$250 fee with her September 9, 2026 mailing. (Nally Aff. ¶ 5.) Because that payment was lost with the envelope, she tenders the \$250 fee again with this motion, together with the \$50 motion fee required by Rule 240(d). (Nally Aff. ¶ 9.)

IV. THE INITIAL BRIEF AND DESIGNATION ARE TIMELY, AND IN ANY EVENT SHOULD BE ACCEPTED.

Because no transcript was ordered, Appellant's initial brief and designation of matter are due "within thirty (30) days after serving the notice of appeal." Rules 208(a)(1), 209(a), SCACR. Thirty days after September 9, 2026 is October 9, 2026. Appellant has served both documents on Respondent and files them with this motion. They are timely. To the extent the absence of an open appellate file affects their filing, Appellant asks the Court to accept them as filed on the date they were filed with this motion, or, under Rule 263(b), to extend the time for filing them to that date.

CONCLUSION

Appellant respectfully requests that the Court (1) deem her notice of appeal filed with this Court on September 9, 2026, and accept the enclosed duplicate, with its proof of service, copy of the order appealed from, and filing fee, as that filing; (2) alternatively, extend the time for filing the notice of appeal and filing fee under Rule 203(d)(1)(B) to the date the duplicate is received; (3) accept the Initial Brief of Appellant and the Designation of Matter to be Included in the Record on Appeal as timely filed; and (4) grant such other relief as is just.

Respectfully submitted,

/s/ Julia Nally

Julia Nally, *Pro Se*

6280 Dick Pond Road

Myrtle Beach, South Carolina 29588

(843) 252-5095

dogtraininganytime@gmail.com

Appellant

Myrtle Beach, South Carolina
October 9, 2026

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. _____
Lower Court Case No. 2024-CP-26-02774

Julia Nally, *Appellant,*

v.

Kim Petrone, *Respondent.*

STATEMENT OF JULIA NALLY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

Julia Nally states as follows:

1. I am the Appellant in this appeal. I am over eighteen years of age and competent to make this affidavit, and I make it on personal knowledge.

2. I received written notice of entry of the Form 4 order dated August 10, 2026 and entered August 11, 2026, denying my motions for relief from judgment, on August 11, 2026. A true copy of the order is attached as Exhibit A.

3. On September 9, 2026, I served my notice of appeal, with a copy of the order, on Respondent Kim Petrone by depositing it in the United States mail, first class, postage prepaid, addressed to her at 151 Duck Blind Place, Myrtle Beach, South Carolina 29588. A true copy of my notice of appeal and certificate of service, as filed with the Horry County Clerk of Court, is attached as Exhibit B.

4. On September 9, 2026, I also deposited in the United States mail at the United States Post Office on Highway 707, an envelope addressed to the Clerk of the South Carolina Court of

Appeals, Post Office Box 11629, Columbia, South Carolina 29211, with sufficient postage attached. I sent it by USPS Ground Advantage, USPS tracking or receipt number 9400150106151384886422. My postal receipt and tracking information are attached as Exhibit C.

5. That envelope contained my notice of appeal, my certificate of service, a copy of the order appealed from, and the \$250 filing fee, paid by check.

6. The copy I mailed to Respondent the same day was delivered. The delivery confirmation is attached as Exhibit D.

7. The envelope I mailed to the Court of Appeals was not delivered. The tracking information shows that no tracking is available.

8. On October 8, 2026, I learned that the Court of Appeals has no record of my notice of appeal. The \$250 payment I mailed with it has not been negotiated, and I will stop payment on it.

9. With my motion, I am filing a duplicate of my notice of appeal exactly as I served it on September 9, 2026, with its certificate of service, a copy of the order appealed from, and a new payment of the \$250 filing fee, together with the \$50 motion fee.

10. On October 9, 2026, I served my Initial Brief of Appellant and my Designation of Matter to be Included in the Record on Appeal on Respondent by first-class mail, and I am filing them with my motion.

/s/ Julia Nally.
Julia Nally

October 9, 2026.

EXHIBIT A

Form 4 Order dated August 10, 2026, entered August 11, 2026 (order appealed from)

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Horry
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2602774

Julia Nally
PLAINTIFF(S)

Kim Petrone
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff's Motion for Relief from Judgment filed 10/27/2025 and 10/29/2025 are DENIED.
Plaintiff's arguments in support of this motion were either argued or waived at the hearing of plaintiff's motion to set aside default on 8/12/2025.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/10/2026 .

Kim Petrone for Kim Petrone
Julia Nally for Julia Nally
Kim Petrone for Kim Petrone
Julia Nally for Julia Nally

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Horry Common Pleas

Case Caption: Julia Nally VS Kim Petrone
Case Number: 2024CP2602774
Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

EXHIBIT B

Notice of Appeal and Certificate of Service dated September 9, 2026, as filed with the Horry
County Clerk of Court

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM HORRY COUNTY

Court of Common Pleas
Fifteenth Judicial Circuit

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Case No. 2024-CP-26-02774

Julia Nally,

Appellant,

v.

Kim Petrone,

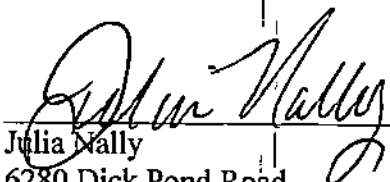
Respondent.

NOTICE OF APPEAL

FILED
HORRY COUNTY
2026 SEP - 8 P 3:56
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Julia Nally appeals the order of the Honorable Benjamin H. Culbertson dated August 10, 2026, and entered by the Horry County Clerk of Court on August 11, 2026, denying Plaintiff's Motions for Relief from Judgment filed October 27, 2025 and October 29, 2025. Appellant received written notice of entry of this order on August 11, 2026.

September 9, 2026


Julia Nally
6280 Dick Pond Road
Myrtle Beach, South Carolina 29588
Telephone: (843) 252-5095
E-mail: _____
Appellant, *Pro Se*

Other Party of Record:
Kim Petrone
151 Duck Blind Pl
Myrtle Beach, South Carolina 29588

Respondent, *Pro Se*

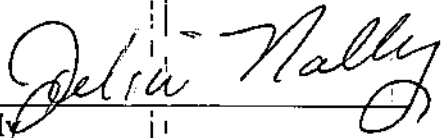
CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below I served a true and correct copy of the foregoing *Notice of Appeal*, together with a copy of the order appealed from, upon the Respondent by depositing the same in the United States mail, first class, postage prepaid, addressed as follows:

Kim Petrone
151 Duck Blind Place
Myrtle Beach, South Carolina 29588

I further certify that a copy of the foregoing *Notice of Appeal*, this proof of service, a copy of the order appealed from, and the required filing fee have been filed with the Clerk of the South Carolina Court of Appeals, Post Office Box 11629, Columbia, South Carolina 29211.

September 9, 2026



Julia Nally
Appellant, *Pro Se*

DENISE M. ELYS
CLERK OF COURT

FILED
HORRY COUNTY
2026 SEP -8 P 3:56

EXHIBIT C

USPS receipt and tracking information for the September 9, 2026 mailing to the Clerk of the Court of Appeals

G

US POSTAGE & FEES PAID IMI

4 OZ GROUND ADVANTAGE RATE
ZONE 2
Commercial

 Stamps.com

063S0001442709
15657322
FROM 29588



09/08/2026

USPS GROUND ADVANTAGE™

JULIA NALLY
DOG TRAINING ANYTIME LLC
6280 DICK POND ROAD
MYRTLE BEACH SC 29588-9271

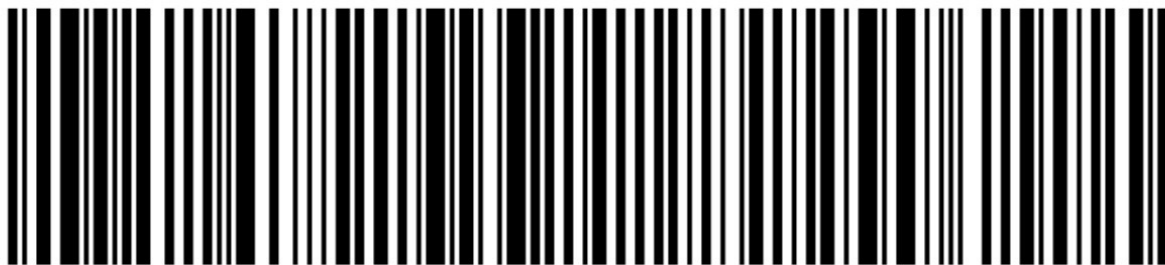
0001

**SHIP
TO:**

SOTUH CAROLINA COURT OF APPEALS
PO BOX 11629
COLUMBIA SC 29211-1629



USPS TRACKING #



9400 1501 0615 1384 8864 22

090926





USPS Tracking[®]

FAQs >>

Tracking Number:

Remove X

9400150106151384886422



Copy



Add to Informed Delivery

Tracking Not Available

Tracking is not available for this item. This may be because the tracking number is invalid; USPS has not yet received payment; USPS has not yet received the item; the item does not include tracking; or other reasons.

Track Another Package

9400 1502 0621 7910 2483 51



EXHIBIT D

USPS delivery confirmation for the September 9, 2026 mailing to Respondent

G

US POSTAGE & FEES PAID IMI

4 OZ GROUND ADVANTAGE RATE

ZONE 1

Commercial

 Stamps.com

063S0014950194

15657322

FROM 29588



09/08/2026

USPS GROUND ADVANTAGE™

JULIA NALLY
DOG TRAINING ANYTIME LLC
6280 DICK POND ROAD
MYRTLE BEACH SC 29588-9271

0001

**SHIP
TO:**

KIM PETRONE
151 DUCK BLIND PL
MYRTLE BEACH SC 29588-4132



USPS TRACKING



9400 1502 0621 7910 2483 51

090826



Tracking Number:

Remove X

9400150206217910248351



Copy



Add to Informed Delivery

Latest Update

Your item was delivered in or at the mailbox at 11:09 am on September 11, 2026 in MYRTLE BEACH, SC 29588.

Get More Out of USPS Tracking:



USPS Tracking Plus®

Delivered

Delivered, In/At Mailbox

MYRTLE BEACH, SC 29588

September 11, 2026 11:09 AM

Out for Delivery

MYRTLE BEACH, SC 29588

September 11, 2026 8:29 AM

Arrived at Post Office

MYRTLE BEACH, SC 29588

September 11, 2026 8:18 AM

Arrived at USPS Facility

MYRTLE BEACH, SC 29588

September 11, 2026 7:15 AM

Departed USPS Facility

COLUMBIA SC tools.usps.com CENTER

September 11, 2026 6:25 AM

CERTIFICATE OF SERVICE

I certify that on October 9, 2026, I served a copy of Appellant's Motion to Deem Notice of Appeal Timely Filed, or Alternatively to Extend the Time for Filing It, and to Accept Appellant's Initial Brief and Designation as Timely Filed, with the Affidavit of Julia Nally and Exhibits A through D, on Respondent by depositing it in the United States mail, first-class postage prepaid, addressed as follows:

Kim Petrone
151 Duck Blind Place
Myrtle Beach, South Carolina 29588
Respondent, Pro Se

Julia Nally, Appellant, *Pro Se*

RECEIVED
Oct 09 2026
SC Court of Appeals

JULIA NALLY

6280 Dick Pond Road • Myrtle Beach, South Carolina 29588
(843) 252-5095 • dogtraininganytime@gmail.com

October 9, 2026

Via E-mail (ctappfilings@sccourts.org) and Certified Mail

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

Oct 09 2026

SC Court of Appeals

Re: *Julia Nally, Appellant, v. Kim Petrone, Respondent*
Appellate Case No. (not yet assigned)
Horry County Court of Common Pleas, Case No. 2024-CP-26-02774
Appeal from Form 4 Order entered August 11, 2026; Notice of Appeal served
September 9, 2026

Dear Ms. Kitchings:

I am the Appellant in this appeal and am representing myself. On September 9, 2026, I served my notice of appeal on the Respondent and mailed it to your office, with a copy of the order and the filing fee, at the post office box above. The Respondent received her copy. The envelope addressed to your office was never delivered and appears to have been lost in the mail. I am writing to correct that and to file my initial brief, which is due today.

I enclose the following for filing:

1. Appellant's Motion to Deem Notice of Appeal Timely Filed, or Alternatively to Extend the Time for Filing It, and to Accept Appellant's Initial Brief and Designation as Timely Filed, with my supporting affidavit, Exhibits A through D, and certificate of service;
2. a duplicate of my Notice of Appeal exactly as served on September 9, 2026, with its certificate of service and a copy of the order appealed from;
3. the Initial Brief of Appellant, with certificate of service;
4. Appellant's Designation of Matter to be Included in the Record on Appeal, with certificate of service; and
5. the \$250 notice of appeal filing fee and the \$50 motion fee.

My motion explains why my notice of appeal was filed on September 9, 2026, the date I mailed it, under Rule 262(a)(2), SCACR. In the alternative, it asks the Court to extend the time for filing under Rule 263(b). I respectfully ask that the enclosed duplicate notice of appeal be docketed and an appellate case number assigned, and that my brief and designation be filed in that case rather than returned.

I am filing these documents today by e-mail to ctappfilings@sccourts.org, and I am also mailing them, with the filing fees, to the post office box above. Each payment is marked with the case name. Copies

have been served on the Respondent by first-class mail. Please contact me at the telephone number or e-mail address above if anything further is needed.

Respectfully,

Julia Nally
Appellant, Pro Se

Enclosures: As stated
cc: Kim Petrone, 151 Duck Blind Place, Myrtle Beach, South Carolina 29588 (w/ encls.)