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Oct 12 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Courtney Clyburn Pope, Circuit Court Judge

Appellate Case No.2026-001556

Elvira Perez

Appellant

Vs.

Edgefield Community

Healthcare, LLC

Appellee

_____/

**APPELLANT’S SECOND AMENDED MOTION
TO RECONSIDER THE OCTOBER 5th, 2026 ORDER**

Elvira Perez hereby respectfully objects to the October 5th, 2026 Order in which the Court of Appeals declared that non Lawyer Jose A Perez can not represent his mother in SC Courts. Ms Perez objects. As grounds in support thereof Ms Perez shows:

**THE OCTOBER 5, 2026 ORDER VIOLATES
RULE 220 SCACR AND SC CODE § 14-8-250**

Under Rule 220 , SCACR and S.C. Code § 14-8-250 the Court of Appeals are mandated to issue written decisions that address **every distinct point necessary to the final ruling**, alongside the underlying legal reasons.

The Notice Of Appeal filed by Ms. Perez on July 10th, 2026 objected to the Court of Common Pleas’ decision to deny Ms. Perez’ Motion to Proceed in Forma Pauperis (IFP).

The Defendant did not, and could not , show that Ms Perez’ allegation of poverty were untrue;

In an adversarial system, courts act as neutral arbiters of the issues the parties choose to present, rather than hunting for unraised theories or taking over appeals¹.

Ms Perez respectfully emphasizes that the Court of Appeals decision to ARBITRARILY , SURREPTIOUSLY and SUA SPONTE place the appeal on permanent abeyance is telling. Now it has sua sponte raised a new issue on appeal which was not briefed in the Court of Common Pleas ². It has also failed or refused to identify the basis for failing to grant or deny the motion to proceed IFP three months after its filing. Clearly the Court of Appeals has concluded that Ms

¹ US v Sineneng-Smith, 590 US 371 (2020) citing Greenlaw v U.S. , 534 US 237 (2008)

² Hormel v Helvering , 312 US 552, 556 (1941)

Perez, who is a poor Hispanic female proceeding pro se , is not the Court of Appeals favorite litigant and deserves to be treated disdainfully.

Ms Perez respectfully submits that the only issue properly before the Court , within the meaning of Rule 220 , SCACR and S.C. Code § 14-8-250 was whether the Court of Common Pleas erred when it denied Ms. Perez' Motion to Proceed IFP,

**ASSUMING , ARGUENDO, THAT THE ISSUE OF
WHETHER OR NOT JOSE A PEREZ CAN REPRESENT HIS
MOTHER WAS PROPERLY BEFORE THE COURT THE ORDER
IS VOID WITHIN THE MEANING OF RULE 60(b)(4), SCRCF**

The Defendant has failed or refused to refute or rebut the issue of whether not Jose A Perez has a federal right to represent his non compos mentis mother in court therefore the issue ought to be considered as conceded and any objection thereto deem waived³.

Under the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2), federal law and constitutional interpretations by the U.S. Supreme Court take precedence over state constitutions and state laws⁴.

³ Creech v South Carolina Wildlife and Marine Resources Dep't, 328 SC 24, 491 SE 2d 571 (1997)

⁴ A rule stated in a decision by the United States Supreme Court and based on the United States Constitution is binding on state courts under the Supremacy Clause., *Henry v. City of Rock Hill*, 376 U.S. 776, 84 S.Ct. 1042, 12 L.Ed. (2d) 79 (1964)

The US Supreme Court has ruled that the fundamental Constitutional right to access the courts allow litigants to assert the rights of a third party – where as here, he has a close relationship with that third party⁵, and the third party has obstacles preventing her from suing on her own behalf⁶.

A void judgment is one where, as here, the litigant has been deprived of notice and the opportunity to be heard⁷. The Court's failure or refusal to follow binding precedent constitutes a due process violation⁸.

The US Supreme Court has also emphasized that “in keeping with the ancient tradition of the [next friend] doctrine”, that one necessary condition for “next friend” standing in federal court is a showing by the proposed “next friend” (prochein ami at common law) that the real party in interest is unable to litigate her own cause due to mental incapacity, lack of access to court, or other similar disability⁹.

⁵ The US Supreme Court has held that a parent-child relationship easily satisfies the close relationship requirement for next friend standing, *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017).

⁶ *Powers v. Ohio*, [499 U.S. 400](#), 410-11, 111 S. Ct. 1364, 113 L. Ed. 2d 411 (1991) *Singleton v. Wulff*, 428 US 106 (1976)

⁷ The definition of “void” within the meaning of Rule 60(b)(4) encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction. *See Thomas & Howard Co. v. T.W. Graham and Co.*, [318 S.C. 286](#), [457 S.E.2d 340](#) (1995); Flanagan, *South Carolina Civil Procedure* 487 (2nd ed.1996); 11 Wright, Miller, and Kane, *Federad Practice and Procedure: Civil 2d* § 2862, at 326-29 (1995); *McDaniel v. U.S. Fid. & Guar. Co.*, 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996)

⁸⁸ Precedent and Preclusion, 93 Notre Dame Law Review 565, 580 (2017)

⁹ *Whitmore Ex Rel. Simmons v Arkansas* , 495 US 149, 165 (1990)

**THE COURT OF APPEALS ALSO HAS A MINISTERIAL DUTY
TO ADHERE TO SC SUPREME COURT PRECEDENTS**

S.C. Const. art. V, § 9 state that The decisions of the state Supreme Court shall bind the Court of Appeals as precedents.

Both the US an SC Supreme Court have ruled that Bruen¹⁰ type Historical analyses are necessary to show that the common law protected right of litigants to proceed pro se, or to choose whomever they desired to represent them¹¹ is no longer applicable. The Order does not show that an analysis was conducted. .

**THE COURT OF APPEALS FAILED OR REFUSED TO
CONSIDER THE ADVERSE-DISPARATE EFFECT OF THE RULING
PURSUANT TO THE ADA AND THE REHABILITATION ACT OF 1973**

Ms Perez sought the jurisdiction of the Court of Common Pleas pursuant to Title I of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12111, et

¹⁰ NY State Rifle & Pistol Association v Bruen , 597 US 1, 8-22 (2021) In *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022), the Supreme Court overturned a century-old New York concealed-carry law. The ruling replaced traditional means-end scrutiny with a "text, history, and tradition" standard, requiring the government to prove modern gun regulations are consistent with the nation's historical tradition of [firearm] regulation. Accord : *Unisys Corp v South Carolina*, 551 SE 2d 263, 346 SC 158 (2001) Citing *W. Matthews Contracting Co. v. South Carolina Tax Comm’n*, [267 S.C. 548](#), [230 S.E.2d 223](#) (1976) (a Historical analysis is necessary in order to properly ascertain that the state intended to abolish common law or prochein ami practices.

¹¹ *Ibid* , @ page 2047 citing *Faretta v. California*, 422 U.S. 806, 828-30 (1975). For example, the influential Pennsylvania Frame of Government of 1682 explicitly provided that "in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves; or, if unable, by their friends." *Id.* at 828 n.37 (internal quotation marks omitted); see also Benjamin Hoorn Barton, *Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation*, 33 ARIZ. ST. L.J. 429, 429 (2001) ("In the middle of the nineteenth century the legal market was virtually unregulated."). See also *NJ Bifurcated Bar*, 12 Seton Hall Review, 242, 243 FN 11 (1982)

seq. , and The Rehabilitation Act of 1973. She introduced evidence showing that according to the following entities the ban on non-lawyer representation harm consumers and the poor : the Federal Trade Commission¹² , the Administrative Conference of the United States¹³ and even the American Bar Association¹⁴ .

The October 5th, 2026 Order failed or refused to take into consideration the disparate and adverse impact of the ruling upon individuals who are non compos mentis.

CONCLUSION

WHEREFORE Ms Perez respectfully submits that the October 5th, 2026

Order ought to be vacated or amended.

Respectfully Submitted ,

_____/S/_____
Jose A Perez
307 Lakeside Drive
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917-817-6104
theperez@protonmail.com

¹² https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-mr.carl-e.testo-counsel-rules-committee-superior-court-concerning-proposed-rules-definition-practice-law/v070006.pdf

¹³ <https://www.acus.gov/document/nonlawyer-assistance-and-representation>

¹⁴ <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/non-lawyer-services-close-justice-gap/>

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of

**APPELLANT'S SECOND AMENDED MOTION
TO RECONSIDER THE OCTOBER 5th, 2026 ORDER**

was served by emailing a copy thereof on this 11th Day of October 2026 to:

Jerome B Crites
Burr and Foreman
850 Morrison Drive, Suite 300
Charleston, SC 29403
bcrites@burr.com

Respectfully Submitted ,

/S/ _____
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