

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Joel D. Barber..... Appellant,
v.

South Carolina Department of Labor, Licensing, and Regulation, Real Estate
Commission..... Respondent.

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT
RALPH KING ANDERSON III, CHIEF ADMINISTRATIVE LAW JUDGE

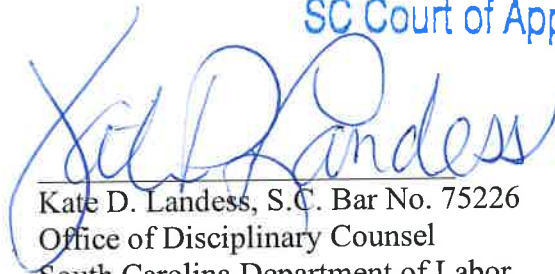
RESPONDENT'S MOTION TO DISMISS

APPELLATE CASE NO. 2026-001883

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OCT 15 2026

SC Court of Appeals



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October 14, 2026

INTRODUCTION

This appeal asks this Court to undo an Administrative Law Court ("ALC") dismissal that rested on Appellant's own failure to comply with mandatory filing rules — and the appeal is itself procedurally defective. The dispositive ruling below is a finding of fact: the Administrative Law Court (the "ALC") found that the package Appellant mailed contained no brief. Amended Order of Dismissal p. 2. That finding is reviewable only for substantial evidence, and Appellant cannot relitigate it on appeal. The ALC also dismissed on independent procedural grounds that Appellant does not meaningfully contest. Because Appellant has not perfected his appeal in compliance with the South Carolina Appellate Court Rules, and because the appeal presents no question this Court may review on the record furnished, the appeal should be dismissed.

PROCEDURAL BACKGROUND

On February 9, 2026, the Commission revoked Appellant's real-estate license and imposed a civil penalty of \$5,000 per violation, totaling \$15,000. Amended Order of Dismissal p.1. Appellant appealed to the ALC. The Record on Appeal was filed April 20, 2026, making his principal brief due on or before May 20, 2026, under Rule 37(A), SCALCR. Amended Order of Dismissal p. 2. On May 26, 2026, the ALC received a binder of documents from Appellant that did not include an Appellant's Brief. Amended Order of Dismissal, p.1; Amended Order of Dismissal p. 2. The only brief Appellant ever produced surfaced on July 7, 2026. That brief exceeded the thirty-page limit and contained no docket number, no original signature, no contact information, and no proof of service. Amended Order of Dismissal p. 2.

On August 6, 2026, the ALC dismissed the appeal sua sponte, with prejudice, under Rule 38, SCALCR, for failure to comply with several Rules of Procedure, including the failure to timely

file a brief. Amended Order of Dismissal p. 3. The ALC further held, in the alternative, that even if the brief were considered, it would review nothing past page thirty and Appellant's issues were abandoned because the first thirty pages cited no legal authority beyond the standard of review. Amended Order of Dismissal p 2.

Appellant served his notice of appeal to this Court on August 14, 2026. Appellant's (Designation at 8.) He served his Designation of Matter to Be Included in the Record on Appeal and his Initial Brief on September 14, 2026. (Designation at p. 3, 25.)

GROUND FOR DISMISSAL

I. THE APPEAL IS SUBJECT TO DISMISSAL BECAUSE APPELLANT FAILED TO TIMELY SERVE AND FILE HIS INITIAL BRIEF AS REQUIRED BY RULE 208(A), SCACR.

An aggrieved party obtains review of a final ALC decision only by complying with the South Carolina Appellate Court Rules. S.C. Code Ann. § 1-23-610(A)(1); Rule 203(b)(6), SCACR 203; S.C. Code Ann. § 1-23-610. Compliance with the Rules governing an appeal is not optional: our appellate courts strictly enforce the requirements for perfecting an appeal and have "no authority or discretion to 'rescue' the delinquent party." *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 794. (2008); see also *Lemmons v. Macedonia Water Works, Inc.*, 431 S.C. 186, 847 S.E.2d 471 (Ct. App. 2020) (noncompliance with the procedural requirements for an appeal divests this Court of appellate jurisdiction.)

Rule 208(a)(1), SCACR, required Appellant to serve and file his initial brief within thirty days after serving his notice of appeal. Appellant served his notice of appeal on August 14, 2026, (Designation at 8.) but did not serve his Initial Brief and Designation of Matter until September 14, 2026 — more than thirty days later. (Designation at 3, 25.) Rule 208(a)(4), SCACR, makes the consequence mandatory: "Upon the failure of the appellant to file and serve his brief within the

time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260." Rule 208, SCACR 208. The appeal is therefore subject to dismissal, and may be reinstated only on the showing Rule 260 requires.

II. THE APPEAL SHOULD BE DISMISSED BECAUSE IT RESTS ON MATTERS OUTSIDE A SUFFICIENT RECORD AND PRESENTS NO QUESTION THIS COURT MAY REVIEW.

Even apart from the briefing default, the appeal cannot proceed. "The appealing party has the burden of furnishing a sufficient record from which this court can make an intelligent review." *Hamilton v. Greyhound Lines E.*, 281 S.C. 442, 442, 316 S.E.2d 368, 369 (1984). This Court "will not consider any fact which does not appear in the Record on Appeal." Rule 210(h), SCACR. Where the appellant fails to furnish a record adequate to support the claimed error, the appeal fails. *Beverly S. v. Kayla R.*, 395 S.C. 399, 718 S.E.2d 224 (Ct. App. 2011).

Appellant's appeal turns entirely on a factual contention — that his brief was inside the package he mailed on May 20, 2026. The ALC found otherwise. Amended Order of Dismissal p. 2. This Court's review of that finding is confined to the record and limited "to determining whether the ALC's findings were supported by substantial evidence or were controlled by an error of law." *Geohaghan v. S.C. Dep't of Emp. & Workforce*, 439 S.C. 14, 28, 885 S.E.2d 422, 429 (Ct. App. 2023). This Court "may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact," and "[w]hen the evidence conflicts on an issue, the court's substantial evidence standard of review defers to the findings of the fact-finder." *A.O. Smith Corp. v. S.C. Dep't of Health & Env't Control*, 428 S.C. 189, 200, 833 S.E.2d 451, 457 (Ct. App. 2019); *Geohaghan v. S.C. Dep't of Emp. & Workforce*, 439 S.C. 14, 28, 885 S.E.2d 422, 429 (Ct. App. 2023). Appellant's request that this Court reweigh his affidavit and photographs, or remand for further fact-finding, asks for relief the standard of review forecloses.

He bears the burden “to prove convincingly that the agency’s decision is unsupported by the evidence,” *Braxton v. S.C. Dep’t of Corr.*, 430 S.C. 637, 643, 846 S.E.2d 383, 386 (Ct. App. 2020) and the record furnishes no basis to disturb the ALC’s finding.

III. THE ALC’S INDEPENDENT AND UNCHALLENGED GROUNDS LEAVE NOTHING FOR THIS COURT TO REVIEW.

The ALC’s dismissal rested on multiple independent grounds, and Appellant does not dispute the central ones. He concedes that the sixty-four-page document he produced did not comply with the page limit and other formal requirements. (Designation at 11.) A pro se litigant “assumes full responsibility for complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 266, 589 S.E.2d 6, 10. (2003). The ALC separately held that Appellant’s issues were abandoned because his brief cited no authority beyond the standard of review. Amended Order of Dismissal, p. 2. South Carolina courts deem an issue abandoned where “the argument in the brief is not supported by authority or is only conclusory,” *Potter v. Spartanburg Sch. Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) and “[w]hen a party provides no legal authority regarding a particular argument, the argument is abandoned and the court will not address the merits of the issue.” *Equivest Fin., LLC v. Ravenel*, 422 S.C. 499, 505, 812 S.E.2d 438, 441 (Ct. App. 2018); see *Bass v. Gopal, Inc.*, 384 S.C. 238, 680 S.E.2d 917 (Ct. App. 2009) (failure to cite authority abandons the argument). Appellant identifies no error in these independent determinations that would warrant reversal, and they independently sustain the order below.

CONCLUSION

For the foregoing reasons, the Commission respectfully requests that this Court grant this motion and dismiss the appeal, leaving the Administrative Law Court's August 6, 2026 Amended Order of Dismissal in effect.

Respectfully submitted,



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Columbia, South Carolina
October 14, 2026

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Chief Administrative Law Judge Ralph King
Anderson III

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OCT 15 2026

SC Court of Appeals

Case No. 26-ALJ-11-0068-AP
Court of Appeals Case No. 2026-001803

Joel D. Barber Appellant,

v.

South Carolina Department of Labor, Licensing and Regulation, Real Estate
Commission Respondent.

PROOF OF SERVICE OF MOTION TO DISMISS

This is to certify that the undersigned has on October 14, 2026, served Respondent's Motion to Dismiss in the above-entitled action upon Appellant, Joel D. Barber, by depositing a copy thereof in the United States Mail, postage paid, and addressed as follows.

Joel D. Barber
964 Bluffview Dr.
Myrtle Beach, SC 29579-5246

SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION



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October 14, 2026





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South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services and Enforcement
Office of Disciplinary Counsel



Henry D. McMaster
Governor

Emily H. Farr
Director

October 14, 2026

~~by way of Hand Delivery~~ *Via FedEx*

Honorable Jenny Abbott Kitchings, Clerk of Court
The State of South Carolina, Court of Appeals
1220 Senate Street
Columbia, SC 29201

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OCT 15 2026

SC Court of Appeals

Re: **JOEL D. BARBER**
Court of Appeal Case Number 2026-001883

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of **Respondent's Motion To Dismiss** in case **2026-001883**. Additionally, please find one (1) original and one (1) copy of the Certificate of service showing **Motion To Dismiss** was served upon Mr. Barber. Lastly, you will find a self-addressed stamped envelope. If you could please mail back to me a clocked-in copy of both the brief and the certificate of service, I would greatly appreciate it. Should you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Kate D. Landess
Attorney for Respondent

ENCLOSURE(S)

cc: Joel D. Barber, Appellant (~~by way of first-class Mail~~)

Via Fed Ex

TO REFUSE Mark through all previous shipments

ORIGIN ID:SUMA (803) 550-5652
KATHERINE LANDESS
314 HEARTHSTONE RD
COLUMBIA, SC 29210
UNITED STATES US

SHIP DATE: 14OCT26
ACTWGT: 1.50 LB
CAD: 8572299/RESA2710

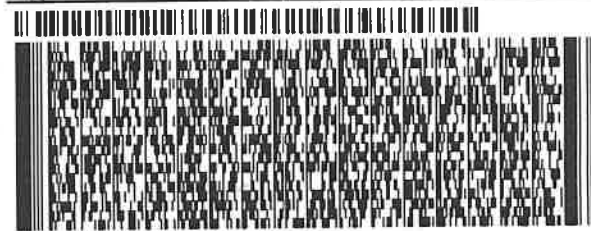
TO HONORABLE JENNY ABBOTT KITCHINGS
THE STATE OF SC, COURT OF APPEALS
1220 SENATE STREET

COLUMBIA SC 29201

(803) 734-1890
THU
P01

REF:

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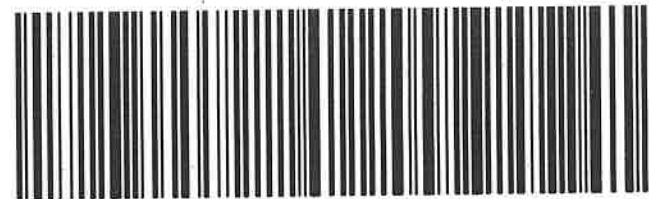
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