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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

The Honorable Bentley D. Price, Circuit Court Judge

Appellate Case No.: 2024-000420

Crescent Roofing & Remodeling, LLC Respondent,

v.

Eric Ragsdale Appellant.

**OPPOSITION TO RESPONDANT'S MOTION TO
DISMISS APPELLATE'S APPEAL**

Eric Ragsdale

Eric Ragsdale
121 Shumpert Rd
Columbia, South Carolina 29172
(803) 309-0539
Ericragsdale60@gmail.com
Appellant, pro se

Columbia, SC
October 15, 2026

REBUTTAL TO RESPONDENT'S ALLEGATION OF A FRIVOLOUS FILING

Respondent's characterization of Appellant's filing as “frivolous” is unsupported by the record and misstates the nature and purpose of the filing. Appellant's filing raises a genuine issue concerning the proper composition of the Record on Appeal and the materials that may properly be considered in resolving this appeal. The fact that Respondent disagrees with Appellant's position does not, standing alone, render the filing frivolous.

More importantly, Respondent's argument improperly attempts to transform a dispute concerning the proper application of the South Carolina Appellate Court Rules into an allegation of bad faith. Appellant was entitled to present his position concerning the Record and the procedural issues arising in this appeal. Whether that position ultimately prevails is a matter for this Court to decide; it is not evidence that the filing was made for purposes of delay or harassment.

A filing should not be deemed frivolous merely because it advances an argument that the opposing party believes is incorrect. The relevant question is whether Appellant had a reasonable basis for presenting the issue to this Court. Here, the filing addressed matters directly related to the pending appeal and the parties' disagreement concerning what materials should properly constitute the Record on Appeal. Those issues are procedural matters within the Court's authority and are not collateral to the appeal.

Respondent's attempt to characterize Appellant's filing as an act of “willful disobedience” likewise requires more than disagreement with Appellant's interpretation of the Rules. A finding of willful conduct requires evidence that the party acted voluntarily and intentionally with the purpose of disregarding a legal requirement. See *State v. Bevilacqua*, 316 S.C. 122, 129, 447 S.E.2d 213, 217 (Ct. App. 1994). Respondent has not established that Appellant's filing was made with such an improper purpose. Instead, Respondent relies primarily

upon the fact that Appellant advanced a position with which Respondent disagrees and merely the lack of legal skill and knowledge. The Appellant with limited knowledge, legal training or experience, attempts of the *means of arriving at fair and just settlement of controversies*¹ between the above captioned matter that has been ineffective by barriers of procedural ignorance.

Respondent's continued clarification of the Appellate as presented, as a vehement wilful tatic that is likening to the James Brown case of repeated violations of court orders not in the present circumstance of Appellates ommissions or lack thereof can be corrected and not The intentional, voluntary and willful failure to comply with the clear instructions of a South Carolina court is universally recognized as contempt of that court's authority and procedures. In State v. Bevilacqua, 316 S.C. 122, 129,447 S.E.2d 213, 217 (Ct. App. 1994), this Court defined a "willful act" as "one done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done, that is to say with the bad purpose either to disobey or disregard the law." Our Supreme Court considered another "willful act" of noncompliance in Bauknight v. Pope, 914 S.E.2d 848, 855 (S.C. 2025). While Bevilacqua considered willful disobedience of a court's contempt order, Page 7 of 9 the Bauknight Court considered the "bad faith, willful disobedience or gross indifference" of an attorney who engaged in "frivolous and serial, abusive filings for the purpose of delay" in singer James Brown's long running estate case. While a comparison of the willful disobedience of an attorney to that of a pro se litigant is distinguishable in most instances, the unique facts of this

¹ Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938)

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment."

matter erase that distinction. As with Bevilacqua, Appellant in this matter willfully failed to comply with the Court's Rules and orders. As with Bauknight, Appellant engaged in bad faith and willful disobedience to the Rules he undertook to obey by choosing to represent himself. It is axiomatic that a pro se litigant must comply with all rules of court procedure. See *State v. Burton*, 356 S.C. 259, 265 fn.5, 589 S.E.2d 6 (S.C. 2003) (holding that "pro se litigants are held to the same standards as attorneys."). Respondent contends "*the Appellant was repeatedly informed of the Rule's simple requirements to meet its deadlines and only include material considered by the trial judge in the Record on Appeal. That the Court gave Appellant numerous opportunities to correct his deficiencies generally, and more than a year to produce a complaint Record on Appeal. Nevertheless, Appellant made no effort to comply with the Rule or the Court's orders. The Appellate on the contrary followed the Courts directives as instructed in the ability to standards expected of that of an attorney yet with less aptitude of the process. While in the Motion To Dismiss the Respondent in the suggest and highlights, While the Bauknight Court relied on Rule 11 of the South Carolina Rules of Civil Procedure to punish an attorney for filing pleadings, motions and other papers that were "interposed for delay," Rule 260(a), SCACR provides this Court with the obligation and power to punish an appellant's bad faith, willful disobedience, and gross indifference to the Court's Rules by dismissing Appellant's appeal". Rule 260 SCACR provides that "whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The Respondent in numerous filings to dismiss the appeal as this one, seeks to punish Appellate by the courts hand by the personal disgust of the delayed wheels of justice, contending inaccurate assessment of Appellants abilities.*

The distinction is important. A party may be mistaken in his interpretation of an appellate rule without acting in bad faith. Likewise, a party may seek relief that the Court ultimately declines to grant without thereby engaging in conduct warranting dismissal of the appeal. The extraordinary remedy of dismissal should therefore not be based upon the mere characterization of an opposing filing as “frivolous.”

In this case, the Court has the actual filing before it and is fully capable of determining whether Appellant's arguments have a legitimate legal and procedural basis. Respondent's conclusory characterization should not substitute for that determination. To the extent Respondent seeks dismissal based upon alleged frivolousness, Respondent should be required to identify the specific legal basis supporting that request and the particular conduct that allegedly demonstrates bad faith, rather than simply labeling an unsuccessful or disputed argument “frivolous.”

Accordingly, Respondent's allegation that Appellant's filing was frivolous does not, without more, establish grounds for dismissal under Rule 260, SCACR. The Court should consider the substance of the filing, the procedural history of the appeal, and the applicable Rules rather than relying upon Respondent's characterization of Appellant's motives.

Respondent's attempt to characterize Appellant's Motion to Strike as frivolous improperly conflates an adverse procedural ruling with an allegation of bad faith. The fact that this Court denied Appellant's motion does not, standing alone, establish that the motion was filed for purposes of delay, harassment, or willful disobedience. The substance of the filing, the procedural circumstances in which it was presented, and the relief sought must be considered before any conclusion concerning Appellant's motives can reasonably be drawn.

Respondent relies upon its characterization of Appellant's motion as “baseless” and “frivolous,” but those labels do not substitute for an examination of the arguments actually

presented. Appellant's motion concerned the materials and arguments Respondent sought to place before this Court in connection with the pending appeal. Whether Appellant's position was ultimately correct is a separate question from whether he raised it in bad faith. A motion may be denied without necessarily being frivolous, and an unsuccessful legal argument does not, by itself, demonstrate an intent to obstruct the judicial process.

Respondent also relies upon *State v. Bevilacqua*, 316 S.C. 122, 129, 447 S.E.2d 213, 217 (Ct. App. 1994), to support its assertion of willful disobedience. However, Respondent's own quotation from *Bevilacqua* identifies intent as a material consideration. The question is not merely whether Appellant's position was rejected, but whether the relevant conduct was undertaken with the specific intent to violate a legal requirement or disregard the Court's authority. Respondent's disagreement with Appellant's legal position does not, without additional supporting facts, resolve that question.

Similarly, Respondent's reliance upon *Bauknight v. Pope*, 914 S.E.2d 848, 855 (S.C. 2025), does not eliminate the need to examine the particular conduct at issue. Respondent invokes language concerning bad faith, willful disobedience, and abusive filings made for purposes of delay. The applicability of that authority must be assessed in light of the conduct and circumstances addressed by the Court in that case and the evidence actually presented here. Appellant does not ask this Court to excuse a violation of its Rules; rather, Appellant asks that the Court distinguish an alleged procedural deficiency from a finding of intentional misconduct.

Nor should the fact that Appellant proceeds without counsel, standing alone, determine whether a particular filing was frivolous. Appellant recognizes that a self-represented litigant remains subject to applicable procedural rules. Although, “We note that Burton was a pro se litigant.” A pro se litigant who knowingly elects to represent himself assumes full responsibility

for complying with substantive and procedural requirements of the law. See *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6 (2003). The ruling in context to preserving by motion of suppression of evidence in a criminal trial. That obligation, however, does not mean that every unsuccessful motion or disputed interpretation of an appellate rule establishes bad faith.

The Court should therefore evaluate Appellant's filing on its actual substance and the record before it, rather than adopting Respondent's characterization of the filing as proof of an improper purpose. If Respondent seeks dismissal as a sanction for frivolous conduct or willful disobedience, it should identify the specific conduct supporting that requested sanction and the applicable legal authority. The denial of a motion, without more, should not be treated as conclusive proof that the motion was frivolous or that Appellant acted with an improper motive.

Accordingly, Appellant respectfully requests that the Court reject Respondent's unsupported characterization of his filing as frivolous and determine the pending issues under the applicable South Carolina Appellate Court Rules and the established record.

REBUTTAL TO ALLEGATION OF MISREPRESENTATION AND WILLFUL DISOBEDIENCE

Appellant respectfully disputes Respondent's characterization of the certificates of service submitted on August 24, 2026, as intentional misrepresentations to this Court. Appellant's position is that the documents were sent by mail in an effort to comply with the Court's directives, but the intended delivery to the Court and Respondent's counsel did not occur because of an apparent mailing or delivery problem of which Appellant was unaware at the time.

Appellant did not knowingly represent that delivery had occurred when he knew it had not. Rather, Appellant believed that the mailing process would accomplish the intended delivery. Appellant acknowledges that the Court and Respondent subsequently indicated that they had not

received the documents. However, nonreceipt, standing alone, does not establish that Appellant knowingly made a false representation or acted with the specific intent to mislead the Court.

Appellant recognizes the seriousness of the Court's June 9, 2026 order requiring proof of service of the Record on Appeal within twenty days and the Court's subsequent September 22, 2026, correspondence concerning the Final Brief. Appellant does not ask the Court to disregard its orders or the applicable appellate rules. Rather, Appellant respectfully asks the Court to distinguish an unsuccessful attempt at mailing, undertaken without knowledge that delivery had failed, from an intentional act of deception or willful defiance of the Court's authority.

Respondent relies upon the disputed certificates as evidence of bad faith and seeks dismissal as a sanction. The question of intent, however, should be evaluated in light of the circumstances surrounding the preparation and mailing of the documents, including any available mailing records, receipts, tracking information, and other evidence bearing on Appellant's understanding of whether delivery had occurred.

Appellant respectfully requests that the Court consider this explanation when evaluating Respondent's allegation of intentional misrepresentation. To the extent the documents were not properly delivered or filed, Appellant requests an opportunity to correct the deficiencies in accordance with the Court's instructions and the applicable Rules, rather than having the unsuccessful mailing treated, without further examination, as conclusive proof of deliberate misconduct. The Respondent noted in his Motion to Dismiss May 28, 2025:

Initial Brief was Not Timely Served in violation of Rule 262(a)(2), SCACR: Although Appellant's certificate of service indicates Appellant's Initial Brief and Hearing Transcript were served by mail upon Respondent's counsel on April 7, 2025, counsel did not receive the documents until May 27, 2025. The documents received were damp and had to be specially processed by the United States Postal Service before they could be delivered. A photo of the mailing is attached hereto as Exhibit C.

APPELLANT'S REBUTTAL TO RESPONDENT'S OBJECTION TO THE RECORD ON APPEAL

Appellant respectfully disputes Respondent's characterization of the Record on Appeal filed October 2, 2026, as an intentional violation of the South Carolina Appellate Court Rules. Respondent's argument assumes that every alleged deficiency in the Record necessarily demonstrates willful disobedience or an attempt to manipulate appellate review. Those are separate questions that should be evaluated on the actual record, the applicable Rules, and the circumstances surrounding Appellant's preparation and filing of the Record.

Appellant recognizes that the Record on Appeal must comply with the applicable requirements of Rule 210, SCACR, and that appellate review is ordinarily confined to matters properly before the lower court. Appellant does not ask this Court to consider evidence or proceedings that were never presented to the trial judge merely because they may support his appellate position. Rather, the question is whether the Record, as filed, contains the materials necessary for this Court to review the order challenged on appeal and, if deficiencies exist, what corrective action is appropriate under the Rules.

Respondent places particular emphasis on the omission of materials identified in its September 18, 2025, Designation of Matter to Be Included in the Record on Appeal, including the Motion to Compel and supporting evidence. Appellant respectfully requests that the Court examine the actual Record filed October 2, 2026, alongside the parties' respective designations and the Court's prior orders, to determine precisely which materials are missing and whether those omissions can be corrected. A specific comparison of the documents, rather than Respondent's characterization alone, will identify the nature and extent of any deficiency.

Respondent further contends that Appellant's Final Brief raises arguments and facts for the first time on appeal. That allegation should be evaluated by identifying the particular arguments challenged and determining whether they concern issues properly presented for appellate review, permissible legal arguments concerning the order appealed from, or matters that would improperly require consideration of new evidence. Appellant does not contend that a brief may enlarge the Record or substitute new evidence for the proceedings below. He respectfully maintains that the Court should examine the substance of the challenged arguments before concluding that they were improperly raised.

To the extent the Court determines that any portion of the Record requires supplementation or correction, Appellant respectfully requests an opportunity to address the identified deficiencies in accordance with the applicable Rules and the Court's instructions. Appellant recognizes the importance of compliance with appellate procedure and does not seek to impede the Court's review. The appropriate response to any correctable omission should be determined in light of the particular deficiency, the applicable procedural requirements, and the circumstances established by the record.

Accordingly, Appellant requests that the Court independently examine the Record on Appeal, the parties' designations, and the specific arguments challenged by Respondent before determining whether dismissal or another sanction is warranted.

RULE 211(b) DOES NOT NECESSARILY REQUIRE DISMISSAL OF THE ENTIRE APPEAL

Appellant acknowledges that Rule 211(b), SCACR, limits changes to a Final Brief to revised references to the Record on Appeal and correction of obvious typographical errors and

misspellings. Appellant does not contend that the Rule authorizes unrestricted revision of an initial brief. Appellant respectfully submits, however, that the question whether particular revisions violate Rule 211(b) is distinct from the question of what remedy is appropriate under the circumstances.

Appellant prepared and filed the October 2, 2026, Final Brief for the purpose of clarifying his original appellate arguments. Appellant did not intend to abandon the original appeal, introduce fabricated evidence, or mislead this Court concerning the proceedings below. Appellant recognizes that his intention does not independently excuse noncompliance with the Rule. Nevertheless, Appellant respectfully requests that the Court consider the purpose of the revisions, the actual differences between the briefs, and whether the alleged deficiencies can be addressed without dismissing the entire appeal.

In *Mack v. Washington*, Unpublished Opinion No. 2021-UP-037 (S.C. Ct. App. Feb. 10, 2021), the Court of Appeals addressed an appellant's Final Brief that differed substantially from the Initial Brief in violation of Rule 211(b). The court stated that it would address the issues as set forth in the Initial Brief. Although *Mack* is unpublished and may be cited only as permitted by Rule 268(d)(2), SCACR, its disposition illustrates the distinction between declining to consider unauthorized revisions and determining that an entire appeal must be dismissed. Appellate contends the final brief in the realm of Appellate's knowledge, dose not differ in the context but in the architect of presentation.

Appellant respectfully requests if the Court agrees with the Respondent and deems a substantial difference in the Initial Brief than the Final Brief, that this Court consider the original Initial Brief filed April 8, 2025, as the operative brief to the extent required by Rule 211(b), and disregard any revisions that the Court determines are impermissible.

Alternatively, Appellant requests leave to submit a corrected Final Brief that complies strictly with Rule 211(b), subject to the Court's instructions and any appropriate conditions protecting Respondent's opportunity to respond, if it determines a substantial difference as asserted by the Respondent.

Appellant does not ask the Court to disregard the Rules or to excuse any deficiency merely because he is self-represented. He asks only that the Court distinguish the correction of a briefing deficiency from the ultimate sanction of dismissal and select the remedy warranted by the particular circumstances.

Accordingly, Appellant respectfully requests that Respondent's objection to the Final Brief be resolved under Rule 211(b), SCACR, and that dismissal of the entire appeal be denied if the Court determines that the briefing issue can appropriately be remedied by disregarding the unauthorized changes or permitting a compliant filing.

Therefore Appellant prays justice will be served and the Respondent's Motion to Dismiss will not succeed in the denying review of Appellant's appeal and the Respondent's Motion be denied and dismissed.

Dated: October 15, 2026

Respectfully submitted,

Eric Ragsdale

Eric Ragsdale
Appellant, *pro se*
121 Shumpert Rd
West Columbia, South Carolina 29172
(803) 309-0539
ericragsdale60@gmail.com

CERTIFICATE OF SERVICE

I certify that on October 15, 2026, I served a true copy of this Opposition To Respondent's Motion To Dismiss Appellate's Appeal of Appellant on counsel for Respondent by electronic mail to sam@phillipsfirm.net and by depositing a copy in the United States Mail, postage prepaid, addressed to:

Robert B. (Sam) Phillips, Esquire

The Phillips Firm, LLC

1025 Calhoun Street, Box 3

Columbia, South Carolina 29201

Respectfully submitted,

Eric Ragsdale

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Oct 15 2026

SC Court of Appeals

Eric Ragsdale
Appellant, *pro se*
121 Shumpert Rd
West Columbia, South Carolina 29172
(803) 309-0539
ericragsdale60@gmail.com