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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Appellate Case No. 2026-001130

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below, of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Petitioner.

REPLY BRIEF OF PETITIONER

Edward B. Davis, S.C. Bar No. 16713
Bell, Davis & Pitt, P.A.
227 West Trade Street, Suite 1800
Charlotte, NC 28202
(704) 227-0400
ward.davis@belldavispitt.com
Counsel for Petitioner

Other Counsel of Record:

J. Nathaniel Pierce
Johnston, Allison & Hord, P.A.
1065 E. Morehead Street
Charlotte, NC 28204
(704) 332-1181
npierce@jahlaw.com
Counsel for Respondent

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STATUTES

Rule 36, SCRCP, ... *passim*

INTRODUCTION

Try as he may, Doug cannot avoid the inescapable fact that the only direct precedent from this Court holds that, when responses to requests for permission "were filed even *before* the requests were *ordered admitted*, [the] defense could not *possibly* have been prejudiced." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 110, 410 S.E.2d 537, 542 (1991) (emphasis added). When these conditions are triggered, litigants "*should [be] permitted* to withdraw" "deemed admissions." *Id.* at 109, 410 S.E.2d at 542 (emphasis added). Even though that is the exact situation that this Court is again considering, Doug didn't address those quotes once in his nineteen-page brief.

ARGUMENTS

I. The abuse of discretion standard is not insurmountable.

Errick has continuously acknowledged that the abuse of discretion standard applies. And though Doug is right that the burden here is Errick's, it is not as insurmountable as Doug implies. (Response p. 6 (citing "a high bar")). Lower courts abuse their discretion in many ways.

A court abuses its discretion when its factual conclusions are "unsupported by the evidence." *State v. King*, 422 S.C. 47, 54, 810 S.E.2d 18, 22 (2017). A court abuses its discretion when a ruling "based on factual conclusions[] is without evidentiary support." *Ex parte Trustgard Ins. Co.*, 442 S.C. 485, 509, 900 S.E.2d 448, 461 (Ct. App. 2023). A court abuses its discretion when it doesn't understand the law or misapplies that law. *Morris v. BB & T Corp.*, 438 S.C. 582, 587, 885 S.E.2d 394, 397

(2023). And a court even abuses its discretion by simply refusing to exercise discretionary authority when warranted. *City of Charleston Hous. Auth. v. Brown*, 437 S.C. 514, 525, 878 S.E.2d 913, 919 (Ct. App. 2022) (citation omitted).

But perhaps the most cogent way to show that the abuse of discretion standard is not insurmountable is simply by citing *Baughman*. When this Court was faced with an analogous set of facts, it overturned the trial court's refusal to set aside deemed admissions while applying the abuse of discretion standard.

II. Rule 36.

A. This Court already explained how Rule 36 is interpreted.

Rule 36 does set out specific standards as to how lower courts should evaluate whether deemed admissions should be set aside, but this Court provided additional clarity in *Baughman*, which Doug misapplied. He argued—and the Probate Court and Circuit Court[1] held—that *Baughman* stands for the proposition that deemed admissions should be set aside when two *dependent* events occur, both a timely, good-faith protective order *and* meeting the Rule 36(b) standard. Not only does *Baughman* not say that, but the interpretation fails logically, too.

In *Baughman*, this Court confirmed that a timely, good-faith protective order operated "to prevent the matters from being deemed admitted." *Id.* at 109, 410 S.E.2d 542. That is, with the protective order, nothing is admitted in the first place. With no actual admissions to address, it would not make sense to then *also* require analysis under Rule 36(b), which applies only to the "Effect of *Admission*" (emphasis added).

[1] Recall, the Court of Appeals entirely ignored *Baughman*.

Without an admission to consider setting aside, Rule 36(b) is functionless and irrelevant.

So, when Doug combines the protective order analysis and Rule 36(b) analysis and says *Baughman* holds that "[b]ecause the plaintiffs took appropriate steps to protect their interests by timely filing a motion for protective order, this Court determined that the defense in that case was not prejudiced by the *withdrawal of the admissions*," he is mistaken. (Response p. 16 (emphasis added)). Instead, the correct reading of *Baughman* is what Errick has consistently stressed: *Baughman*'s Rule 36(b) analysis stands independently from the protective order and is sufficient to mandate reversal in the present dispute.[2]

This is the exact analysis the Probate Court and Circuit Court misapplied and the Court of Appeals wholly ignored. Both are abuses of discretion warranting reversal.

B. Doug misstated what legal prejudice is in the Rule 36(b) context.

Errick cited *Hadley* in his initial brief to correctly show that Rule 36(b) prejudice is about the difficulty a party may have proving its case. (Brief p. 9; Response p. 12). Doug claims that was a misstatement and represents a "heightened" standard not founded in South Carolina jurisprudence. (Response p. 12). Doug's logical conclusion seems to be that, based upon *Scott*, Rule 36(b) prejudice can only

[2] Doug relies largely on Court of Appeals cases, predominantly citing *Scott*, *Nexstar*, and others with only a cursory, erroneous analysis of this Court's precedent in *Baughman* before a section where he boldly stated that "The Court of Appeals is not required to rely on *Baughman*." (Response pp. 7–17; p. 15 for the quote). This is wrong. S.C. Const. art. V, § 9 ("The decisions of the Supreme Court shall bind the Court of Appeals as precedents.").

be shown by a trampling of discovery rights. (Response p. 12 (citing *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 651, 579 S.E.2d 151, 157 (Ct. App. 2003))). This argument fails for many reasons.

First, there is the language of Rule 36(b), which provides that the test for prejudice is about whether withdrawal would prevent a litigant from "maintaining" their "action." If one cannot prove their case, they effectively cannot maintain their action; it's the same standard. Second, Doug says Errick should have relied on *Scott*, a South Carolina case, instead of *Hadley*. (Response p. 12). But what does *Scott* say? "Scott needed the discovery, which was solely within the control of GHA, in order to *prove his case*.... The trial court *erred in failing to find that Scott was prejudiced*." *Scott*, 353 S.C. at 652, 579 S.E.2d at 158 (emphasis added). Thus, not being able to prove one's case is how prejudice is shown. Finally, to the extent the Court needs another source in the Fourth Circuit as suggested by Doug, "prejudice results where a party faces difficulty in proving its case because of a sudden need to obtain evidence required to prove the matter that had been admitted." *Kelly v. Equifax, Inc.*, No. 8:12-CV-03095-MGL, 2013 WL 5954799, at *4 (D.S.C. Nov. 7, 2013) (internal quotations omitted and citing the Fourth Circuit). Doug is wrong about prejudice, and the lower courts abused their discretion by not properly understanding or applying the prejudice standard, including as spelled out in *Baughman*.

C. Errick did not trample Doug's discovery rights, and withdrawing the deemed admission to Request 9 will not cause Doug legal prejudice, which is Doug's burden.[3]

[3] Rule 36(b) (a party must "satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits" in order to avoid withdrawal).

The Response does not fairly address a main point from Errick's initial brief, which is that the facts in *Scott* are drastically different than here. (Brief pp. 8–9). On the one hand, in *Scott*, documents were produced right before trial, a sworn Affidavit regarding discovery was disproven, and three trials were needed. (Brief p. 8). On the other hand, here, "no depositions had been taken, no experts were disclosed, no admissions had been relied upon, and there were still at least five to six months of discovery left." (Brief p. 9). These fact patterns are not comparable.

Here's the point. *Scott* does support the conclusion that a trampling of discovery rights may be so bad that prejudice can be *presumed* (although it is rebuttable). But stopping there is reductive. Discovery issues are not prejudicial just because you don't have the documents or written responses themselves. They're prejudicial because not having the documents or written responses typically means you're prevented from having the ability to prove your case, the prejudice considered in the Rule 36(b) context.

There is no legal prejudice here related to withdrawing the deemed admissions. The bona fide discovery disputes[4]—and the litigation difficulties that Doug faced right when he filed the Probate Court Petition (like document control and John Dale's living arrangement)—are hurdles that Doug would have to clear regardless of

[4] Including whether employment records were relevant, confidential spousal communications, verification of discovery responses, and the disputed existence of certain documents. (R. pp. 100-08, 140-44, 145-61, 182-87, and 222-23).

whether Request 9 is withdrawn.[5] Tools other than requiring deemed admissions to stand exist to address those separate issues.

The lower courts abused their discretion by equating the facts of *Scott* with this case. Their prejudice determination, including the Probate Court's holding that Doug lost his "opportunity for full and fair trial preparation" (Response p. 13) is "unsupported by the evidence." *State v. King*, 422 S.C. at 54, 810 S.E.2d at 22. The factual conclusions lack the proper evidential support. *See ex parte Trustgard*, 442 S.C. at 509, 900 S.E.2d at 461. This Court must reverse and correct these abuses of discretion.

III. The Partial MSJ was based upon the deemed admission to Request 9 and should be reversed.

Doug confuses the evidence *offered* and available to be considered before the Partial MSJ to the evidence the courts actually *considered*, concluding that the "Court of Appeals properly determined that Errick *offered no evidence* rebutting Doug's Motion for Partial Summary Judgment." (Response p. 18 (emphasis added)). But the Court of Appeals did not hold that Errick *offered* no evidence; the court held that "Errick did not raise a genuine issue of material fact as to whether the will was properly executed" based upon his admission to Request 9. (Opinion p. 3, ¶ 2). Importantly, this is a tacit acknowledgement that, no matter what Errick offered or was on the record (which includes the will and other evidence), it was the deemed admission to Request 9 that was outcome determinative and prevented Errick from

[5] *See also Kelly*, No. 8:12-CV-03095-MGL, 2013 WL 5954799, at *4 (even a reasonable concern about discovery performance "does not rise to [the] level needed [to] create the sort of prejudice contemplated by [Rule 36(b)].").

being able to present evidence that the courts could *consider*. The entire purpose of this appeal—and setting aside the deemed admission to Request 9—is so Errick can present evidence for the court's and jury's consideration.

The granting of the Partial MSJ and affirmations by the lower courts were abuses of discretion. The Court of Appeals has already determined the merits would be furthered by determining "the validity of the will's execution." (Opinion p. 2). This Court should require the deemed admissions to be withdrawn, and set aside the Probate Order, Circuit Court Order, and granting of the Partial MSJ.

CONCLUSION

Doug and Errick have argued about Rule 36 in Probate Court, in appeals to the Circuit Court and Court of Appeals, in a motion to reconsider, and in a petition for writ. Finally, somebody listened, and they are now here at the end of this appellate road. This Court is empowered to do what's right, both legally and equitably. There is precedent from this Court that has been ignored and erroneous factual and legal determinations by the lower courts, which warrant correction. And, because there is no prejudice, this Court should not allow a will signed by the decedent and two witnesses to be invalidated on the back of one late response. This Court should reverse and require that the deemed admissions are set aside. Doug still gets to have his day in court, and John Dale's last wishes can be determined on the merits.

Respectfully submitted this the 12th day of November 2026.

/s/ *Edward B. Davis*
Edward B. Davis, S.C. Bar No. 16713
Bell, Davis & Pitt, P.A.
227 West Trade Street, Suite 1800
Charlotte, NC 28202
(704) 227-0400
ward.davis@belldavispitt.com
Counsel for Petitioner