

**RECEIVED**  
**Apr 15 2021**  
**SC Court of Appeals**

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

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APPEAL FROM RICHLAND COUNTY  
L. Casey Manning, Circuit Court Judge  
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Appellate Case No. 2021-000379  
Lower Court Case No. 2021CP4001599  
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DEBORAH MIHAL, and the AMERICAN  
CIVIL LIBERTIES UNION FOUNDATION  
OF SOUTH CAROLINA,

APPELLANTS,

v.

GOVERNOR HENRY D. MCMASTER, in  
His Official Capacity; and MARCIA S. ADAMS,  
Executive Director of the South Carolina  
Department of Administration, in Her Official  
Capacity,

RESPONDENTS.

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**APPELLANTS' OPPOSITION TO GOVERNOR MCMASTER'S MOTION TO  
DISMISS/STRIKE AND REMAND APPELLANTS'  
PETITION FOR A WRIT OF SUPERSEDEAS**

On April 14, 2021, Respondent McMaster moved to dismiss/strike and remand Appellants' Petition for a Writ of Supersedeas on the ground that Appellants did not follow proper procedure. However, Appellants did in fact follow the procedure outlined by Rule 241(d)(1), SCACR, by seeking a supersedeas from the lower court before filing this petition.

Despite the exigencies of these circumstances, and the harm to non-essential state employees from every day that passes, Appellants first sought a supersedeas in the lower court as part of their Motion for Reconsideration. After laying out their case for the lower court to reconsider its denial of Appellants' Motion for a Preliminary Injunction,

Appellants requested that “in the alternative,” the court “issue an order preserving the status quo until an appellate court can review the constitutionality of Executive Order 2021-12 by immediately restraining enforcement of the return to in-person work provision pending appellate review.” Mot. for Reconsideration at 4, attached hereto as Exhibit 1. Although Appellants did not use the word “supersedeas,” they requested one by seeking to “preserv[e] the status quo” pending appeal. Further, as Respondents note, Appellants explained to the lower court that due to “the emergent circumstances and the need for immediate appellate review in order to prevent further irreparable harm,” they request the court’s decision on their motion—which included that alternative request for a supersedeas—“as quickly as practicable and without delay.” Mot. for Reconsideration at 3. On April 13, when the court had not granted their request, but had sought an order from Respondents denying Appellants’ motion, Appellants moved forward with their appeal and Petition for a Writ of Supersedeas due to the lower court’s delay and to avoid further harms to Appellants.

Accordingly, Appellants complied with Rule 241(d)(1), SCACR, by first seeking a supersedeas from the lower court, such that this Court can now grant their Petition for a Writ of Supersedeas to protect non-essential state employees from the irreparable harms outlined therein.

Respectfully submitted,

By: /s/ Nancy Bloodgood  
Nancy Bloodgood (SC Bar # 6459)  
BLOODGOOD & SANDERS, LLC  
242 Mathis Ferry Road, Suite 201  
Mt. Pleasant, SC 29464  
Phone: 843-972-0313  
Email:  
nbloodgood@bloodgoodsanders.com

/s/ Susan K. Dunn  
Susan K. Dunn (SC Bar # 1798)  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF SOUTH  
CAROLINA  
P.O. Box 20998  
Charleston, South Carolina 29413  
Phone: 843-282-7953

Fax: 843-720-1428  
Email: sdunn@aclusc.org

Lindsey Kaley\*  
Galen L. Sherwin\*  
Brian Dimmick\*  
Daniel Mach\*  
Alexandra Bornstein\*  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
125 Broad Street, 18th Floor  
New York, New York 10004  
Phone: 212-519-7823  
Email: lkaley@aclu.org  
Email: gsherwin@aclu.org  
Email: bdimmick@aclu.org  
Email: dmach@aclu.org  
Email: legal\_ab@aclu.org

\*Application for admission *pro hac vice*  
forthcoming

*Attorneys for Plaintiffs*

Charleston, South Carolina  
Date: April 15, 2021