



The South Carolina Court of Appeals

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March 25, 2022

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: Jefferson Davis, Jr. v. Ellen Weaver
Lower Court Case No. 2018CP4002425
Appellate Case No. 2019-000648

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen

CLERK

Enclosure

cc: Jefferson Davis, Jr.
Douglas Walker MacKelcan, III, Esquire
Geoffrey Kelly Chambers, Esquire

M. Dawes Cooke, Jr., Esquire
Martin S. Driggers, Jr., Esquire
Christopher J. Daniels, Esquire
Joseph M. McCulloch, Jr., Esquire
Mark Steven Barrow, Esquire
Jason Phillip Luther, Esquire
Joseph Kenneth Carter, Jr., Esquire
James Harold Goldin, Esquire
Jennifer Foulk Nutter, Esquire
Benjamin Parker Mustian, Esquire
William H. Davidson, II, Esquire
Michael Brian Wren, Esquire
Alan Grant Jones, Esquire
Kenneth Allen Davis, Esquire
Tierney Felicia Dukes, Esquire
Mark V. Gende, Esquire
Brandon Robert Gottschall, Esquire
Andrew Elliott Haselden, Esquire
Skyler Cole Wilson, Esquire
Kathy R. Schillaci, Esquire
R. Hawthorne Barrett, Esquire
Miles Edward Coleman, Esquire
Justin Paul Novak, Esquire
Deborah Harrison Sheffield, Esquire
Chad Connelly
John McCormick
Nate Leupp

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Jefferson Davis, Jr., Appellant,

v.

Ellen Weaver, Chad Connelly, Oran P. Smith, Neil J. Mellen, Howard S. Rich, Rick Reames, Stephen D. Kirkland, Palmetto Promise Institute, Palmetto Family Council, Palmetto Family Alliance, South Carolinians for Responsible Government, SCRG Foundation, Access Opportunity South Carolina, Friedman Foundation for Educational Choice, Inc., Cato Institute, South Carolina Educational Credit for Exceptional Needs Children Fund, South Carolina Education Oversight Committee, South Carolina Department of Revenue, South Carolina Department of Labor, Licensing and Regulation, First Impressions, Inc., d/b/a Richard Quinn & Associates, First Tuesday Strategies, LLC, Bill Wilson, Jason Bedrick, Jim DeMint, Randy Page, Tony Denny, Phillip Cease, Melanie Barton, Doris Cubitt, Susan Thomas, John McCormick, Nate Leupp, Institute of Management Consultants USA, and John Doe(s) 1-40, Respondents.

Appellate Case No. 2019-000648

Appeal From Richland County
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2022-UP-104
Submitted February 1, 2022 – Filed March 9, 2022

AFFIRMED

Jefferson Davis, Jr., of Greenville, pro se.

Miles Edward Coleman, of Nelson Mullins Riley & Scarborough, LLP, of Greenville, for Respondents Howard S. Rich, SCRG Foundation, and Cato Institute.

M. Dawes Cooke, Jr., and Justin Paul Novak, both of Barnwell Whaley Patterson & Helms, LLC, of Charleston; and Geoffrey Kelly Chambers, of Green Cove Springs, Florida, all for Respondent South Carolina Educational Credit for Exceptional Needs Children Fund.

Christopher J. Daniels, of Nelson Mullins Riley & Scarborough, LLP, of Columbia, for Respondent Friedman Foundation for Educational Choice, Inc.

Joseph M. McCulloch, Jr., and Kathy R. Schillaci, both of McCulloch and Schillaci, of Columbia, for Respondent First Tuesday Strategies, LLC.

Mark Steven Barrow and Martin S. Driggers, Jr., both of Sweeny Wingate & Barrow, PA, of Columbia, for Respondents Palmetto Family Council and Palmetto Family Alliance.

Andrew Elliott Haselden, of Howser Newman & Besley, LLC, of Charleston, for Respondents South Carolina Department of Labor, Licensing and Regulation and Doris Cubitt.

Kenneth Allen Davis and Tierney Felicia Goodwyn, both of Boykin & Davis, LLC, of Columbia, for Respondents South Carolina Education Oversight Committee and Melanie Barton.

Mark V. Gende and Brandon Robert Gottschall, both of Sweeny Wingate & Barrow, PA, of Columbia, for Respondents South Carolinians for Responsible Government and Phillip Cease.

Douglas Walker MacKelcan, III and Skyler Cole Wilson, both of Copeland, Stair, Valz & Lovell, LLP, of Charleston, for Respondent Stephen D. Kirkland.

R. Hawthorne Barrett, of Turner Padgett Graham & Laney, PA, of Columbia; and Alan G. Jones, of Turner Padgett Graham & Laney, PA, of Greenville, both for Respondent Tony Denny.

Benjamin Parker Mustian, of Columbia, for Respondent First Impressions, Inc., d/b/a Richard Quinn & Associates.

William H. Davidson, II and Michael Brian Wren, both of Davidson, Wren & DeMasters, of Columbia, for Respondents Rick Reames and South Carolina Department of Revenue.

Jennifer Foulk Nutter and Deborah Harrison Sheffield, both of Hood Law Firm, LLC, of Charleston, for Respondent Institute of Management Consultants USA.

PER CURIAM: Jefferson Davis, Jr. appeals the circuit court's order dismissing his amended complaint with prejudice for failure to timely serve Respondents. On appeal, Davis argues the circuit court erred in (1) misinterpreting a prior court order and (2) dismissing his case with prejudice instead of allowing him to serve his amended complaint. We affirm.

We hold the circuit court did not err in dismissing Davis's complaint with prejudice. A prior court ordered Davis to name and serve Respondents previously named as John Does 1-20 within fifteen days of the court's order. Davis failed to serve them within the time prescribed in the court's order. Moreover, Davis previously had an opportunity to amend his complaint and failed to comply. Thus, the circuit court did not err in dismissing Davis's complaint with prejudice. *See*

Doe v. City of Duncan, 417 S.C. 277, 285-86, 789 S.E.2d 602, 606 (Ct. App. 2016) (concluding the circuit court properly dismissed Doe's action because he did not serve the City within the statutory timeframe and, thus, did not commence a civil action); *Brown v. Evatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 850-51 (1996) (finding the court properly dismissed the plaintiff's action when the plaintiff failed to serve the summons and complaint); *Georganne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990) (finding the trial court did not err in dismissing the plaintiff's causes of action with prejudice when the relief granted "was not too harsh under the totality of the circumstances" and the plaintiff had been given an opportunity to litigate).

AFFIRMED.¹

THOMAS, MCDONALD, and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.