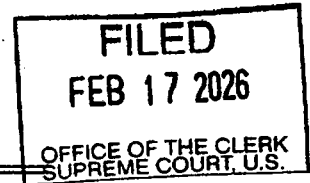


ORIGINAL

25-7647

No. _____



**IN THE SUPREME COURT OF THE UNITED
STATES**

GINA PATRICIA BORNEMANN,

Petitioner,

v.

PAUL HERBERT BORNEMANN

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF SOUTH CAROLINA

PETITION FOR WRIT OF CERTIORARI

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February 17, 2026

QUESTIONS PRESENTED

1. Whether a State violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment when it grants a litigant leave to proceed in *forma pauperis* yet dismisses or refuses to reinstate an appeal solely because the litigant cannot obtain the transcripts required for appellate review-particularly where the transcript requirements exceed ordinary filing costs and were generated in a proceeding conducted without the litigant's participation and without any opportunity to object.
2. Whether the Fourteenth Amendment permits a State to condition appellate review on transcript requirements that a litigant proceeding in *forma pauperis* cannot meet, in conflict with this Court's decisions in *Griffin v. Illinois*, 351 U.S. 12 (1956), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996).
3. Whether due process is violated when expert selection, testimony, and evidentiary development in a civil proceeding are controlled by one party, resulting in transcript burdens and outcomes that the opposing litigant cannot meaningfully challenge on appeal.

RELATED PROCEEDINGS

Supreme Court of South Carolina, Appellate Case No. 2025-001638. Order denying certiorari entered November 18, 2025.

South Carolina Court of Appeals, Case No. 2024-000505. Order dismissing the appeal entered March 18, 2025. Order denying reinstatement entered July 25, 2025.

Trial Court, Case No. 2021-DR-40-1369. Proceedings occurred between April 2021 and May 2024.

PARTIES TO THE PROCEEDING

Petitioner is the litigant who sought appellate review in the South Carolina Court of Appeals and the Supreme Court of South Carolina.

Respondent is the opposing party in the underlying civil action.

No other parties appeared in the proceedings below.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully asks that a writ of certiorari issue to review the judgment of the Supreme Court of South Carolina. Although Petitioner was granted leave to proceed in *forma pauperis*, the state courts dismissed her appeal based on transcript requirements that far exceeded ordinary filing costs and reflected the structure of a final trial. Petitioner was unable to attend despite requesting to appear remotely and filing a continuance. Considering the extensive multi-year record and the procedural limitations Petitioner later faced in accessing it, the dismissal prevented meaningful appellate review in a matter implicating fundamental rights and the fair administration of justice.

OPINIONS BELOW

The order of the South Carolina Court of Appeals dated March 18, 2025, dismissing Petitioner's appeal for failure to provide proof that the transcript had been ordered under Rule 207, SCACR, is unreported and appears at Appendix A.

The order of the South Carolina Court of Appeals dated July 25, 2025, denying Petitioner's motion to reinstate the appeal for lack of "good cause" under Rule 260(a), SCACR, is unreported and appears at Appendix B.

The order of the Supreme Court of South Carolina dated November 18, 2025, denying Petitioner's petition for a writ of certiorari and denying her motion to reinstate the appeal, is unreported and appears at Appendix C. The underlying family court orders, including the final trial order and related rulings, are unreported and appear at Appendix D.

JURISDICTION

The Supreme Court of South Carolina entered its final order on November 18, 2025. This petition is timely under Rule 13.1 of the Rules of this Court. Jurisdiction rests on 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED

U.S. Constitution, Amendment XIV, Section 1
(Due Process Clause): No State shall deprive any person of life, liberty, or property, without due process of law.

U.S. Constitution, Amendment I (Free Speech Clause): Congress shall make no law abridging the freedom of speech. (As applied to the States through the Fourteenth Amendment.)

28 U.S.C. § 1257(a): Final judgments or decrees rendered by the highest court of a State may be reviewed by the Supreme Court by writ of certiorari where a right, privilege, or immunity is claimed under the Constitution or laws of the United States.

Rule 207(a)(1), South Carolina Appellate Court Rules (Transcript Requirement): Appellant must order the transcript within ten days of serving the notice of appeal in family court domestic actions and must make satisfactory written arrangements with the court reporter for preparation and payment.

Rule 260(a), South Carolina Appellate Court Rules (Reinstatement Standard): If an appeal is dismissed for failure to comply with the Rules, it may be reinstated only by leave of the court, upon good cause shown, and only if a motion to reinstate is filed within fifteen days of the dismissal.

STATEMENT OF THE CASE

The proceedings underlying this petition began in 2021 and continued for several years, generating more than one hundred orders, reports, and transcripts. Early in the litigation, respondent requested by name the court-appointed professionals who would later conduct evaluations and provide testimony. The guardian *ad litem* also played a significant role in selecting and directing these experts. Petitioner had no comparable role in choosing or influencing the individuals whose evaluations later shaped the evidentiary record and contributed to transcript requirements imposed on appeal.

The record reflects that the removal of the children did not arise from any allegation of crime, abuse, or danger attributable to petitioner. Instead, a change in custody followed an unannounced home visit arranged by the guardian *ad litem* and a court-appointed educational expert, both selected at respondent's request. The visit occurred while the children were in respondent's care. Petitioner received no notice of the visit and had no opportunity to observe or respond before the expert

formed conclusions later relied upon in subsequent proceedings.

Following that visit, the same educational expert directed petitioner's thirteen-year-old minor—who had already completed high school and was enrolled in a university program on a presidential scholarship—to undergo an IQ test that petitioner reports was outside the expert's professional qualifications and designed for significantly older students. Petitioner reports that the expert used physical force to compel the minor to take the test and that the minor was told he might not be permitted to see his mother again if he did not comply. Petitioner further reports that the expert sought access to the minor's university educational records, which are protected under federal law governing the privacy of postsecondary educational information and grant enrolled students the right to control access to their records. A police report was filed, and law-enforcement personnel advised that the minor should not return to the expert. The minor subsequently withdrew from his university classes after the expert's continued involvement, during which he was placed under close monitoring and was no

longer able to exercise independent decision-making regarding his education.

During this period, respondent's counsel asserted that petitioner had repeatedly called 911 on respondent.

Opposing counsel later clarified that no such calls had occurred, yet the allegation was treated as established and resulted in an order restricting petitioner from contacting emergency services. The restriction, based on an allegation later acknowledged to be unfounded, was entered immediately before the court issued orders altering custody. Respondent's counsel also filed multiple Rules to Show Cause, several of which included allegations later shown to be unsupported and requested that the court consider incarceration of petitioner. These filings occurred while petitioner did not have counsel. The guardian ad litem likewise submitted requests that petitioner's contact with the minors be suspended. Petitioner reports that, during this same period, the minors' electronic communications were monitored through keylogging, and that opposing counsel retained computer specialists who accessed the minors' and petitioner's devices. Petitioner further reports that

respondent funded these efforts and that, shortly after the parties separated, an individual brought by respondent entered petitioner's residence without her consent, triggering the home alarm system, for the purpose of serving papers initiating the proceedings. These events formed part of the record before the court during the period in which custody was altered.

In the months that followed, petitioner faced repeated directives to sign documents, accept proposed settlements, or comply with conditions presented during the proceedings. These directives were issued during periods in which petitioner did not have access to counsel and was unable to review sealed portions of her own case file. Petitioner was informed by the clerk, at the direction of the trial judge, that she could not view the sealed filings, although respondent and his counsel retained full access. The sealing prevented petitioner from reviewing materials necessary to prepare for hearings, respond to allegations, or pursue appellate review.

Petitioner's representation was intermittent. Initial counsel withdrew shortly after appearing. Subsequent attempts to retain counsel followed a similar pattern:

retainers were quickly exhausted, representation lapsed, and petitioner proceeded without counsel at critical stages. During these periods, respondent continued to direct expert involvement and shape the evidentiary record that later formed the basis for transcript requirements on appeal.

In 2023, petitioner was incarcerated for thirty days based on an award of \$600 in attorney's fees to respondent's counsel. Proceedings continued during her incarceration and during a period of medical hardship, without representation. Following a sixteen-year marriage during which petitioner served as the primary caregiver, the final orders awarded petitioner no alimony, no equitable distribution, and no contact with her minor child. During the course of the proceedings, one of petitioner's minor children reached adulthood.

After petitioner filed her notice of appeal, both the South Carolina Court of Appeals and the Supreme Court of South Carolina granted her leave to proceed in *forma pauperis*. The transcript required under Rule 207(a)(1), SCACR, was generated from a final hearing that proceeded in petitioner's absence after her requests for a

continuance and for remote appearance were denied. At that hearing, respondent presented witnesses and evidence, resulting in a transcript substantially longer and more costly than ordinary appellate filing expenses. Although petitioner had been granted in *forma pauperis* status, the Court of Appeals dismissed the appeal solely for failure to provide proof that the transcript had been ordered. The court later denied petitioner's motion to reinstate the appeal under Rule 260(a), SCACR.

Petitioner now seeks review of the judgment of the Supreme Court of South Carolina, contending that the dismissal of her appeal—despite her in *forma pauperis* status, the extensive existing record, and the circumstances that produced the transcript requirement—violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment and conflicts with this Court's decisions in *Griffin v. Illinois*, 351 U.S. 12 (1956), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996).

REASONS FOR GRANTING THE WRIT

I. The decision below conflicts with this Court's precedents in *Griffin* and *M.L.B.* by conditioning

appellate review on a transcript whose cost exceeded the protections afforded by petitioner's *in forma pauperis* status.

This Court has long held that a State may not condition access to appellate review on a litigant's ability to secure a transcript when the issues on appeal cannot be resolved without it. *Griffin v. Illinois*, 351 U.S. 12 (1956).

In *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), the Court extended that principle to civil cases involving the parent-child relationship, recognizing that the Constitution prohibits States from erecting financial barriers that prevent meaningful appellate review of orders affecting family integrity.

The decision below cannot be reconciled with those holdings. Petitioner was granted leave to proceed *in forma pauperis* by both the South Carolina Court of Appeals and the Supreme Court of South Carolina. Yet her appeal was dismissed solely because she did not provide proof that she had ordered a transcript of a hearing she was not permitted to attend—a transcript whose cost far exceeded the financial protections associated with her *in forma pauperis* status. The dismissal effectively denied

petitioner any appellate review of orders terminating her contact with her minor child. This is precisely the constitutional harm *Griffin* and *M.L.B.* forbid.

II. This case presents an important and recurring question about the constitutional limits of transcript requirements in appeals involving the parent-child relationship

Across the country, litigants seeking review of orders affecting the parent-child relationship face transcript requirements that can exceed the financial protections associated with *in forma pauperis* status. When a transcript is indispensable to appellate review, the requirement can operate as a complete bar to appeal. This Court has not addressed how *Griffin* and *M.L.B.* apply to modern transcript-ordering rules in proceedings where hearings are lengthy, expert-driven, and financially prohibitive.

South Carolina's rule, as applied here, illustrates the problem. Petitioner's inability to provide proof of ordering the transcript was not the result of neglect or delay; it was the direct consequence of the structure of the proceedings, the denial of her requests to appear, and the

cost of a transcript generated by a hearing conducted in her absence. The decision below leaves litigants without guidance and permits States to deny appellate review through procedural mechanisms that impose financial burdens beyond what *in forma pauperis* status is designed to address.

This Court's review is warranted to clarify the constitutional boundaries of transcript requirements in cases involving the fundamental interests protected by the Due Process and Equal Protection Clauses.

III. The proceedings below demonstrate how transcript requirements in civil cases can operate to insulate trial-court decisions from appellate review.

Civil proceedings involving the parent-child relationship often place substantial burdens on parents who are simply seeking the opportunity to raise their children. These cases do not involve allegations of abuse or mistreatment, yet the procedural demands can be severe. Without access to appointed counsel in civil matters, parents must navigate complex hearings, financial sanctions, and obligations such as paying for

hearing recordings or opposing counsel's fees, even when the other party holds significantly greater financial resources. These pressures can escalate into consequences that have little to do with the merits of the parent-child relationship and everything to do with legal strategy and financial leverage. When combined with the cost of extensive transcripts and rapidly scheduled proceedings, these conditions can make appellate review unattainable despite a litigant's *in forma pauperis* status.

IV. This case cleanly presents the constitutional question and is appropriate for review.

The issue presented is straightforward. The state courts dismissed petitioner's appeal solely for lack of proof that she had ordered a transcript, despite her *in forma pauperis* status and the fact that the transcript was generated from a hearing that proceeded after she filed a motion for continuance following a period of incarceration. The hearing was one of several scheduled in close succession, and the resulting transcript was substantially longer and more costly than ordinary appellate filings. There are no alternative grounds for dismissal, no

unresolved jurisdictional questions, and no factual disputes that complicate the constitutional analysis.

CONCLUSION

The decision below raises an important constitutional question regarding access to appellate review in civil proceedings where substantial personal interests are at stake. The combination of financial sanctions, transcript requirements, and the absence of appointed counsel in civil matters creates barriers that prevent meaningful review of trial-court decisions. This case presents that issue in a posture suitable for resolution.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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