

The Supreme Court of South Carolina

Danny Ford, II, Respondent,

v.

South Carolina Republican Party and South Carolina
Election Commission a/k/a State Election Commission,
Appellants.

Appellate Case No. 2026-001729

ORDER

Effective July 1, 2026, the South Carolina Republican Party (the Party) enacted Rule 11(a)(6)(a), which requires candidates seeking nomination for elective public office with the Party to have voted in at least two of the last three statewide Republican primaries. Shortly after the Rule took effect, Senator Lindsey Graham—who was positioned to run as the Party's nominee for the office of United States Senator—tragically died on July 11, 2026. In an effort to nominate a replacement for Senator Graham's seat, the Party scheduled, and is set to hold, a special primary election on August 11, 2026. Respondent Danny Ford, II, timely filed the documents to appear on this special primary ballot, but the Party declined to certify Ford to the South Carolina Election Commission (the Commission) pursuant to Rule 11(a)(6)(a).

Ford then filed a motion for an *ex parte* temporary restraining order (TRO), a motion for a preliminary injunction, and a complaint for declaratory and injunctive relief against the Party and the Commission in the circuit court. The circuit court granted a TRO restraining and enjoining the Party and the Commission from removing Ford from the ballot and from refusing to certify his candidacy pending a hearing scheduled for Monday, August 3, 2026. The Commission filed a memo in opposition to the TRO, and the Party filed a motion to dissolve the TRO and a motion to dismiss Ford's complaint. Following the hearing, at which all parties were present and heard, the circuit court issued an order granting Ford's request for a preliminary injunction and denied the Party's motions to dissolve the TRO and dismiss the complaint. The order enjoins the Party from refusing to certify Ford as a candidate for the special

primary election for United States Senator based on the Party's Rule 11(a)(6)(a) or his prior primary-voting history, requires the Party to certify Ford within twenty-four hours of the order, and requires the Commission to include Ford as a candidate in the special primary election "on all ballots feasible for early voting and for election day."

The Party has filed a notice of appeal, a motion to stay the preliminary injunction pending the appeal, and a motion to certify the appeal for immediate review. The Commission has also filed a notice of appeal and a motion to stay the preliminary injunction, a petition for a writ of supersedeas, a motion for immediate administrative stay, and motion for expedited consideration. Ford has been asked to file a return by 5:00 p.m. today.

The timing of the circuit court's preliminary injunction is critical, as early voting has already begun as of 8:30 a.m. today. Compounding this urgency, the Commission—despite filing a motion to stay the lower court's order with this Court and with full knowledge of the Party's appeal and motion to stay the injunction—added further confusion to the legal dispute by unilaterally directing that Ford's name be added to the ballot. Although the Commission acknowledged in its filing on the evening of August 4, that early voting ballots (for August 5, 6, and 7) may not include Ford's name, it has now advised this Court that Ford's name *has* been added to the ballots for early voting.¹ The regrettable actions of the Commission have increased the risks of administrative error and possible voter confusion.

"Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls." *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006). Consonant with these principles, courts should "ordinarily not alter election rules on the eve of an election." *Republican National*

¹ In a press release yesterday on its website, the Commission indicated that Ford's name has been added to the ballot for the United States Senate Special Republican primary. <https://scvotes.gov/candidate-name-added-to-ballot-in-u-s-senate-special-republican-primary/> In its motion for a stay, however, the Commission states that it could not change the ballots before early voting began, although it has given direction to the Boards of Voter Registration and Elections (BVREs), "and diligent efforts by the BVREs to comply with that order are in progress." The Commission's return to the Party's motion to stay, however, states Ford's name *has* been added to the ballots for early voting, which began today. As of 11:30 a.m. today, the Commission reports that 8,481 ballots have been cast.

Committee v. Democratic National Committee, 589 U.S. 423, 424 (2020). Though this Court is not bound by these federalism principles, we see no reason why these considerations do not apply with equal force to the unique circumstances presented here. Absentee ballots have already been sent and received, without listing Ford as a candidate, while early voting has commenced with ballots bearing Ford's name. If we were to grant a stay of the preliminary injunction and require the Commission to now remove Ford's name from the ballots, the current election process would be thrust into even further disarray.

While we do not reach the merits of Ford's challenge to the Party's rule or the application thereof, in an effort to avoid further confusion surrounding this special primary election, we are constrained to deny the motions to stay the circuit court's preliminary injunction and permit the election, which is already underway, to continue without further disruption. A briefing schedule for the merits of the appeal shall be set forth in a separate order.

s/ John W. Kittredge C.J.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

s/ Letitia H. Verdin J.

Columbia, South Carolina
August 5, 2026

cc:

C. Bradley Hutto

Skyler Bradley Hutto

Vordman Carlisle Traywick, III

Robert E. Tyson, Jr.

Sarah Cameron Frierson

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