

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Benjamin Culbertson, Circuit Court Judge

Case No. 2017-CP-26-05913

John Kennedy ,Appellant,

v.

Myrtle Beach Police Department
Amy Prock, Angela Kegler, and
John Pedersen,Respondents.

PETITION FOR REHEARING

Respondents hereby move for rehearing of this matter on the grounds that in deciding this appeal on the basis of *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 826 S.E.2d 585 (2019) (dismissal with prejudice without a meaningful opportunity to amend grounds for reversal), the Court’s opinion is based on an issue neither appearing in Appellant’s statement of issues on appeal nor anywhere in Appellant’s brief, contrary to the requirements of Rule 208(b)(1)(B) and (b)(1)(E), SCACR, and established precedent. *State v. Culbreath*, 377 S.C. 326, 332, 659 S.E.2d 268, 271 (Ct. App. 2008) (“In order for an

issue to be properly presented for appeal, the appellant's brief must set forth the issue in the statement of issues on appeal.”) (quoting *Langehans v. Smith*, 347 S.C. 348, 352, 554 S.E.2d 681, 683 (Ct. App. 2001) (citing Rule 208(b)(1)(b)); *Brown v. Odom*, 425 S.C. 420, 436, 823 S.E.2d 183, 191 n.5 (Ct. App. 2019) (“This issue is unpreserved because Husband failed to include the issue in the statement of issues on appeal.”) (citing Rule 208(b)(1)(B)); *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (an appellant who “fails to provide arguments or supporting authority for his assertion . . . is deemed to have abandoned this issue” on appeal); *Bryson v. Bryson*, 378 S.C. 502, 510, 662 S.E.2d 611, 615 (Ct. App. 2008) (“An issue is deemed abandoned and will not be considered on appeal [even where] the argument is raised in a brief but not supported by authority.”); *see also*, *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 421–22, 526 S.E.2d 716, 724 (2000) (“An appellate court may not, of course, reverse for any reason appearing in the record.”).

Respectfully submitted,

s/ Derwood L. Aydlette III
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August 17, 2023

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SC Court of Appeals

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(Appeal Case No. 2019-001556)

John Kennedy, Appellant,

v.

Myrtle Beach Police Department
Amy Prock, Angela Kegler, and
John Pedersen, Respondents.

PROOF OF SERVICE

I hereby certify that I have this day caused to be served a copy of the **Petition for Rehearing** on counsel of record by email correspondence and by deposit in the United States mail, first-class postage prepaid, addressed to:

Donald Gist, Esquire
Erica McCrea, Esquire
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4400 North Main Street
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Date: August 17, 2023



Amber Pardue
Paralegal