

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jul 05 2024**

**SC Court of Appeals**

Appeal from Richland County  
Honorable Clifton Newman, Circuit Court Judge  
Appellate Case No. 2022-001603

THE STATE,

Respondent,

vs.

TIMOTHY MATTHEW VOEGELI,

Appellant.

**MOTION TO STRIKE  
AND  
REQUIRE FILING OF  
AMENDED INITIAL BRIEF OF APPELLANT**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

In August of 2020, Appellant Timothy Matthew Voegeli—while out on bond in connection to an unrelated incident—was arrested following an investigation into allegations he physically assaulted his girlfriend. In December of 2020, the Richland County Grand Jury indicted Voegeli for one count of second-degree domestic violence. On October 31, 2022, a jury trial was commenced in the Richland County Court of General Sessions the Honorable Clifton Newman, circuit court judge, presiding. At the conclusion of the two-day trial, the jury convicted Voegeli of the lesser-included offense of third-degree domestic violence, and the trial

judge sentenced him to a thirty-day term of imprisonment. Voegeli then timely initiated an appeal, which is currently pending before this Court.

## II.

On appeal, Voegeli filed an Initial Brief of Appellant and Designation of Matter. In his brief, Voegeli has included a statement of facts along with several targeted sections containing issue-specific relevant facts. (App. Br. pp. 3-4; p. 12). However, in doing so, Voegeli included no references at any point to the portions of the circuit court record that supposedly supported the factual assertions he has made. (App. Br. pp. 1-16).

## III.

The South Carolina Appellate Court Rules govern the form and content of appellate briefs. See Rule 208, SCACR (establishing the required format for initial briefs); Rule 211, SCACR (establishing the required format for final briefs). Pursuant to those rules, one required component of an appellate brief is specific references to the portions of the lower court record that support the facts alleged in the brief. See Rule 208(b)(4), SCACR (“**References to Record.** The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript. In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).”). Thus, based on the plain requirements of our state’s appellate court rules,

appellate briefs *must*—amongst other things—contain references to the transcripts or other matter that support the factual statements contained within it. Id.

#### IV.

As previously noted, Voegeli has included factual statements and allegations in support of his arguments throughout his appellate brief. However, despite doing so, Voegeli did not include *any* identifying references to the trial transcript or other portions of the lower court record that supposedly support those factual allegations, leaving it entirely unclear precisely what he has based his allegations upon. Because of that, his appellate brief as presently filed does not currently comply with the unambiguous requirements of our state’s appellate court rules.<sup>1</sup> See Rule 208(b)(4), SCACR (requiring references to “the transcript, pleadings, orders, exhibits, or other materials” in appellate briefs); see also Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”). Accordingly, this Court should require the filing of an amended Initial Brief of Appellant containing identifiable references to the transcripts or matter being referred to as support for Voegeli’s various factual allegations, which are critically important for orderly appellate review, in a manner consistent with the plain requirements of the appellate court rules.

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<sup>1</sup> Moreover, Appellant’s brief as presently filed also appears to be missing the requisite standard of review sections. See Rule 208(b)(1)(D) (“**Standard of review.** If all the issues are governed by the same standard of appellate review, the Brief shall contain a section with the heading ‘Standard of Review,’ which shall concisely set forth the applicable standard of review with citations to relevant case law establishing the standard. If the same standard of review is not applicable to all of the issues, a separate section with a heading of ‘Standard of Review’ shall be included at the start of the argument on each issue with citations to relevant case law establishing this standard of review.”).

**WHEREFORE**, the State prays this Court will strike Appellant’s appellate brief as presently filed that contains no references to the portions of the lower court record that support the facts alleged within it; require the service and filing of an Amended Initial Brief of Appellant including references to the transcript and other matter that supports his factual allegations as required by Rule 208(b)(4) of the South Carolina Appellate Court Rules; hold the time period for service and filing of the Initial Brief of Respondent and Designation of Matter in abeyance pending a ruling on this motion; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Senior Assistant Deputy Attorney General



By: \_\_\_\_\_  
Mark R. Farthing  
S.C. Bar Number 76901

July 5, 2024

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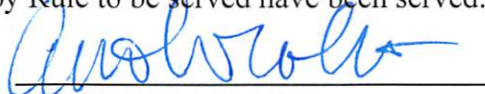
**PROOF OF SERVICE**

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I, Caroline Collins, certify I have served the within Motion to Strike and Require Filing of Amended Initial Brief of Appellant on Appellant by sending an electronic copy via email to the address listed in AIS for the following individual:

Aimee Jendrzewski Zmroczek, Esquire  
A.J.Z. Law Firm, LLC.  
Post Office Box 11961  
Columbia, South Carolina 29211

I further certify all parties required by Rule to be served have been served.  
This 5th day of July, 2024.

  
\_\_\_\_\_  
CAROLINE COLLINS  
Administrative Support Manager  
Office of the Attorney General