

IN THE STATE OF SOUTH CAROLINA
IN THE COURTS OF APPEALS
APPEAL FROM THE OCONEE COUNTY COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Order of Honorable Judge Lewton McIntosh

RECEIVED

Sep 23 2024

APPELLATE CASE NO: 2024-001241

SC Court of Appeals

JASON MICHAEL BOYLE----- Appellant,

V.

DANNY SINGLETON, "et al" ----- Respondents

MOTION TO AMEND NOTICE OF APPEAL

COMES NOW the Appellant, Dr. Jason Michael Boyle, and respectfully moves this Honorable Court to amend the Notice of Appeal filed in this case to include the contempt order issued on September 16, 2024, by Judge Lewton McIntosh. The following grounds support this motion.

GROUND FOR THE MOTION

1. **Relevance of the Contempt Order:** The contempt order issued on September 16, 2024, is directly connected to the issues under appeal, as it relates to the enforcement of the gag order imposed as part of the "Order of Release" issued on July 17, 2024. Both the order and the subsequent contempt are intertwined, and it is crucial that the contempt order is reviewed in conjunction with the original appeal to ensure a comprehensive resolution of all issues at hand.
2. **Jurisdictional Deficiencies:** When the contempt order was issued, the "Order of Release" was already under appeal, meaning the lower court no longer had jurisdiction to enforce the gag order or hold the Appellant in contempt. Furthermore, the Appellant did not post any content on YouTube on July 19, 2024, as alleged in the contempt proceedings, rendering the factual basis for the contempt finding incorrect.
3. **Improper Ex Parte Communications:** Attorney Jim Logan, representing Judge Danny Singleton, engaged in improper ex parte communication with Judge Lewton McIntosh, leading to the issuance of the Rule to Show Cause. The Appellant was not given the

opportunity to defend against these allegations before the contempt proceedings were initiated, violating fundamental principles of due process. This improper communication occurred while the original order was under appellate review, further indicating the lower court exceeded its jurisdiction.

4. **Preservation of Appellant's Rights:** Amending the notice of appeal to include the September 16, 2024, contempt order is essential to preserve the Appellant's rights. Failure to include this recent order could expose the Appellant to enforcement actions based on an improperly issued contempt finding, thus prejudicing his legal standing.
5. **Judicial Efficiency:** Reviewing the "Order of Release" and the subsequent contempt order in a single appeal promotes judicial efficiency and prevents piecemeal litigation. Both matters arise from the same legal proceedings, and consolidating them within this appeal will avoid conflicting rulings and repetitive litigation.
6. **Timeliness of the Motion:** This motion is timely filed, as it comes immediately following the issuance of the contempt order on September 16, 2024, and is within the permissible timeframe for amending the notice of appeal under the South Carolina Appellate Court Rules.

ARGUMENTS

I. The Gag Order Was Stayed Pending Appeal and Was Therefore Unenforceable:

A. **Filing of the Appeal Stayed the Enforcement of the Gag Order:** Under South Carolina law, the filing of a notice of appeal operates as a stay of the judgment or order being appealed, particularly when the order affects substantial rights. See Rule 241(a), SCACR. The gag order, which restricts the Appellant's First Amendment rights, qualifies as such an order. Thus, the gag order was automatically stayed upon the filing of the appeal, rendering its enforcement improper during this period.

B. **Lack of Jurisdiction to Enforce the Gag Order During Appeal:** Once an appeal is filed, the lower court is divested of jurisdiction over matters involved in the appeal. By enforcing the gag order and holding the Appellant in contempt, the lower court acted without jurisdiction, and its contempt order is void.

II. There Is No Evidence That Appellant Violated the Gag Order Before the Appeal:

A. The Alleged Video Was Posted Before the Gag Order Was Issued: Respondents claim the Appellant posted a video on July 19, 2024, in violation of the gag order. However, YouTube records show that the video in question was posted on June 19, 2024, before both the issuance and the Appellant's receipt of the gag order on July 22, 2024.

B. The Evidence Presented by Respondents Is Misleading: The Respondents' evidence, a low-resolution screenshot, inaccurately reflects the actual posting date. Verifiable records from YouTube confirm the video was posted prior to the gag order, undermining the basis for the contempt finding.

III. The Contempt Finding Based on the September 8, 2024 Article Is Invalid:

A. The Gag Order Was Stayed When the Article Was Published: The article published by the Appellant on September 8, 2024, occurred after the appeal was filed and during the stay of the gag order. As such, the publication cannot constitute a violation of the stayed gag order.

B. The Contempt Finding Infringes on Appellant's First Amendment Rights: Even if the gag order were enforceable, penalizing the Appellant for the article would violate his First Amendment rights. Prior restraints on speech are presumptively unconstitutional, and the gag order's enforcement in this context is an overreach.

IV. The Court's Actions Constitute an Abuse of Discretion:

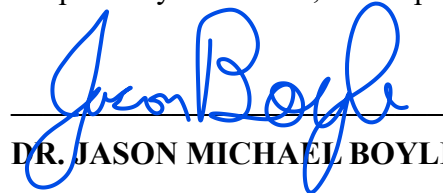
By enforcing a stayed gag order and relying on incorrect evidence, the lower court abused its discretion. The contempt order lacks evidentiary support and is based on legal error, which necessitates its reversal.

PRAYER FOR RELIEF

WHEREFORE, the Appellant, Dr. Jason Michael Boyle, respectfully requests that this Honorable Court grant the following relief:

1. **Amendment of Notice of Appeal:** Allow the Appellant to amend the notice of appeal to include the order of contempt issued by Judge Lewton McIntosh on September 16, 2024.
2. **Any Other Relief:** Grant any other relief that the Court deems just and proper.

Respectfully Submitted, this September 21, 2024.



DR. JASON MICHAEL BOYLE, Ph.D., Appellant

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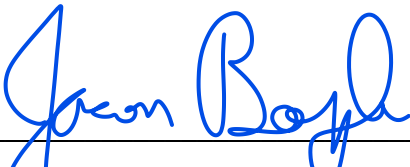
DANNY SINGLETON, "et al" ----- Respondents

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Amend Notice of Appeal was served upon the following parties by email, on this 21st day of September 2024:

1. **Jim Logan:** logan@loganandjolly.com
1805 N Boulevard, Anderson, SC. 29621
2. **Oconee County Detention Center:** jchapman@oconeelaw.com
300 S Church St, Walhalla, SC 29691
3. **Oconee County Sheriff's Department:** mcrenshaw@oconeelaw.com
300 S Church St, Walhalla, SC 29691
4. **Oconee County Administrator:** abrock@oconeesc.com
415 S. Pine St. Walhalla, SC 29691

Respectfully Submitted, this 21st day of September 2024.



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