

# The South Carolina Court of Appeals

The State, Respondent,

v.

Anthony Nicholas Argoe, Appellant.

Appellate Case No. 2023-000223

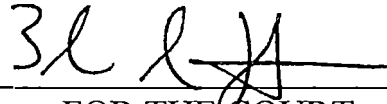
---

## ORDER

---

Respondent moved to supplement the record on appeal with the following: (1) an email from trial counsel to the circuit court's law clerk withdrawing a motion to reconsider the circuit court's prior ruling on a motion to relieve counsel and allow self-representation (Email 1); (2) an email from trial counsel to Respondent providing Email 1; (3) an email from the law clerk to trial counsel asking about contact with the clerk of court (Email 3); (4) an email from trial counsel responding to the law clerk about contacting the clerk of court (Email 4); (5) an email from the law clerk to trial counsel about contacting a different clerk of court (Email 5); and (6) an email from trial counsel to Respondent providing Emails 3, 4, and 5. In the alternative, Respondent requested a remand to the circuit court limited "to the purposes of establishing the fact of the withdrawal of the motion." Appellant filed a return, opposing Respondent's motion to supplement the record and arguing these emails were not "presented to the lower court" as required by Rule 210(c) of the South Carolina Appellate Court Rules in order to be included in the record on appeal. Further, Appellant requested any remand allow for "a hearing on the true intent and meaning of the emails contained in the motion to supplement." After careful consideration, we deny Respondent's motion to supplement the record and Respondent's motion to remand. *See* Rule 212(b), SCACR (requiring a party to move to supplement the record on appeal); Rule 212(a), SCACR (allowing the appellate court to require "copies of all or any part of the transcript of proceedings or other matter which was before the lower court . . . to be sent up for its inspection and consideration"); Rule 210(c), SCACR (stating the record on appeal "shall not . . . include matter which was not presented to the lower court"). *Cf. State v. Washington*, 431 S.C. 394, 4050 n.4, 848 S.E.2d 779,

785 n.4 (2020) ("[W]e stress the importance of placing on the record arguments and rulings that took place off the record, whether during a bench conference, in emails, or in chambers."); *Smalls v. State*, 422 S.C. 174, 182 n.3, 810 S.E.2d 836, 840 n.3 (2018) ("When a conference takes place off the record, it is trial counsel's duty to put the substance of the discussion and the trial court's ruling on the record.").

A handwritten signature in black ink, appearing to be '3L R J', written over a horizontal line.

FOR THE COURT

Columbia, South Carolina

cc:

Robert Michael Dudek, Esquire  
Alan McCrory Wilson, Esquire  
Melody Jane Brown, Esquire  
William Joseph Maye, Esquire  
J. Anthony Mabry, Esquire  
Donald J. Zelenka, Esquire

**FILED**  
**Sep 30 2024**