

**RECEIVED**

**Mar 03 2025**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

APPEAL FROM BEAUFORT COUNTY  
COURT OF COMMON PLEAS

Marvin H. Dukes, III, Master- In- Equity

Appellate Case No. 2024-000929

**RECORD ON APPEAL**

**State of South Carolina,.....Respondent**

**vs.**

**Benjamin Hays,.....Appellant**

William S. Hammett, III (Bar #100627)  
Cobb, Hammett & Andrews, LLC  
222 W. Coleman Blvd.  
Mt. Pleasant, South Carolina 29464

(P) 843-936-6680 General  
(P) 843-352-2649 Direct  
(C) 864-426-98293 WSH Cell  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

*Attorney for Appellant*

Alan Wilson, Attorney General  
Office of the South Carolina Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549  
(803) 734-3727  
[CCollins@scag.gov](mailto:CCollins@scag.gov)

J. Benjamin Aplin (Bar # 8729)  
Assistant Attorney General  
Office of the South Carolina Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549  
(803) 734-3727  
[baplin@scag.gov](mailto:baplin@scag.gov)

Isaac McDuffie Stone, III  
Solicitor, Fourteenth Judicial Circuit  
P.O. Box 1880  
Bluffton, SC 29910  
(843) 779-8893  
[solicitor@scsolicitor14.org](mailto:solicitor@scsolicitor14.org)

Mary Jordan Lempesis  
Assistant Solicitor, Fourteenth Judicial Circuit  
P.O. Box 1880, Bluffton, SC, 29910  
(843) 779-8893  
[mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org).

Brian Christopher Kiel  
Assistant General Counsel  
Beaufort County Sheriff's Office  
2001 Duke St, Beaufort, SC 29902  
(843) 255-3282  
[brian.kiel@bcgov.net](mailto:brian.kiel@bcgov.net)

*Attorneys for the Respondent*

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Court's Exhibit #1: USB Thumb Drive "which contains a recording of the trial and State's Exhibits #1, #2, #3 and Defendant's Exhibits #3 and #4 (see Order on Rule 210(f) Release of Thumb Drive and (see Magistrate's Return contained on a Zip Drive containing Officer's Body-Camera footage from June 27, (2023), see *Order*, Rule 210(t), Release of Thumb.....1 and on file with the Court.

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Plaintiff/State’s Exhibit 1 – “Body Cam Fripp (included on USB Thumb Drive or a substituted copy).....on file with the Court

Plaintiff/State’s Exhibit 3 – “Body Cam Horne (included on USB Thumb Drive or substituted copy).....on file with the Court

# The South Carolina Court of Appeals

Benjamin J. Hays, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2024-000929

The Honorable Marvin H. Dukes, III  
Beaufort County

Trial Court Case No. 2023CP0701829

JERRI ANN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

2024 NOV 18 PM 1:05

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## ORDER

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Pursuant to Rule 210(f) of the South Carolina Appellate Court Rules, it is ordered that the Clerk of Court for Beaufort County release:

Thumb drive which contains a recording of the trial and Plaintiff's exhibits 1-3 and Defendant's exhibits 3-4, which was submitted with the Magistrate's return signed September 26, 2023 and filed September 28, 2023

to be transported to this Court by the South Carolina Attorney General's office within thirty (30) days of the date of this order, for consideration in the above referenced matter.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire  
William Sylvester Hammett, III, Esquire  
John Benjamin Aplin, Esquire  
The Honorable Jerri Ann Roseneau

**FILED**  
**Nov 14 2024**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
BEN HAYES,	)	CASE NO: 2023-CP-07-01829
Appellant,	)	
	)	
vs.	)	<b>ORDER</b>
	)	AFFIRMING CONVICTION
	)	
STATE OF SOUTH CAROLINA,	)	(Appeal Dismissed)
	)	
Respondent.	)	

THIS MATTER came before me by way of Ben Hayes’ (hereinafter “Appellant”) appeal of his conviction for Entering Premises after Notice or Refusing to Leave on Request pursuant to S.C. Code Ann. § 16-11-620. Appellant argues that the Magistrate erred in submitting the case to the jury, and a reasonable jury could not have found him guilty, because the evidence established a legal cause and a good excuse for his entering the property in question. Oral argument was held on March 26, 2024. Present at the hearing was Mary Jordan Lempesis and Brian C. Kiel, attorney(s) for the State. Also present was William S. Hammett, III, attorney for Appellant. For the reasons set forth below, the Magistrate Court’s decision(s) are affirmed and the appeal in this matter is dismissed.

**STATEMENT OF FACTS**

The undisputed facts of this case are that on or about June 27, 2023, Appellant was found on the premises of 225 Tarpon Boulevard, Fripp Island, in Beaufort County, South Carolina. One day prior, on June 26, 2023, Appellant was issued a formal notice of trespass by the Beaufort County Sheriff’s Office (hereinafter “BCSO”) for the same premises. That notice came at the request of agents from the Fripp Island Property Owners Association and Fripp Island Security (hereinafter “Fripp Island”). According to the record, Appellant had also been warned in writing by Fripp Island that he was not to enter the premises in question without permission. On June 27,

2023, the day of his arrest, Appellant sent an email to Fripp Island with completed forms for registration of golf carts he owns and rents to his customers. Shortly thereafter, the same day, Appellant, with a golf cart in tow, arrived on the premises of the Fripp Island Offices for which he had been officially trespassed by BCSO. Fripp Island Security Officers requested BCSO assistance. BCSO arrived, investigated, and cited Appellant for a violation of S.C. Code 16-11-620 for trespassing onto 225 Tarpon Boulevard, Fripp Island.

The matter was placed before a jury in the Beaufort County Magistrate's Court on September 26, 2023. Appellant was represented by counsel and presented evidence in the case. The State called several witnesses establishing the prior relationship between the Appellant and Fripp Island, the notice of trespass, and that the Defendant returned to the property in question on the day of his arrest. BCSO Deputy Nicholas Horne testified that when he arrived at 225 Tarpon Boulevard on June 27, 2023, he found the Appellant seated in a golf cart which was located on a trailer in the parking lot. Deputy Horne further testified that the Appellant admitted that he had received the trespass notice but thought he could be in the parking lot.

Appellant's trial attorney presented evidence that one of Appellant's clients received a citation while operating an unregistered golf cart belonging to Appellant. Appellant argued that his presence at 225 Tarpon Boulevard, Fripp Island was necessary because the golf cart had to be inspected at this location. At the close of evidence, Appellant's trial attorney moved for a directed verdict on the grounds that legal cause or good excuse existed for the violation of the trespass notice. The motion was denied, and the question was submitted to the jury. The jury found the Appellant guilty.

### **STANDARD OF REVIEW**

“In criminal appeals from magistrate or municipal court, the circuit court does not conduct a de novo review, but instead reviews for preserved error raised to it by appropriate exception.” State v. Henderson, 347 S.C. 455, 457, 556 S.E.2d 681, 682 (Ct. App. 2001). “When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” State v. Weston, 367 S.C. 279, 292–93, 625 S.E.2d 641, 648 (2006) (citing State v. Cherry, 361 S.C. 588, 593–593, 606 S.E.2d 475, 477–478 (2004)). “A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged.” Id. “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury.” Id.

### **DISCUSSION**

Appellant argues this Court should reverse the Magistrate’s denial of his directed verdict motion because the State failed to offer any counter evidence to create more than one inference as to whether he had legal cause or good excuse. See, Steinke v. S.C. Dep’t of Lab., Licensing & Regul., 336 S.C. 373, 386, 520 S.E.2d 142, 148 (1999). S.C. Code Ann. § 16-11-620 applies to a person who is on the property “without legal cause or good excuse.” Town of Springdale v. Butler, 299 S.C. 276, 279, 384 S.E.2d 697, 698 (1989) (finding police officers response to a complaint under the color of law establishes legal cause). An accused may not be convicted when invited back to the forbidden premises by a tenant, agent, or representative of authority. Com. v. Richardson, 313 Mass. 632, 638, 48 N.E.2d 678, 682 (1943). Likewise, the common law defense of necessity frees a person subject to a no-trespass warning if compliance would create a greater harm to the person than non-compliance would. See, Com. v. Magadini, 474 Mass. 593, 600, 52

N.E.3d 1041, 1049 (2016) (reversing a homeless defendant from conviction where trial court failed to instruct on the defense of necessity when facts supported defendant was subject to chilling outdoor weather). When the State makes out a prima facie case under a statute and the defendant claims to fall within an “exception” in the statute, the burden is on the defendant to establish the defense. State. V. Attardo, 263 S.C. 546, 211 S.E.2d 868 (1975). Furthermore, when dealing with a statutory crime to which there are exceptions, the defendant bears the burden of showing his actions fit within the exception and the State is not required to negate each exception to the offense to sustain its burden of proof. State v. Clarke, 302 S.C. 423, 396 S.E.2d 827 (1990)

In the instant case, Appellant argues that he had the legal right or good cause to trespass onto 225 Tarpon Boulevard, Fripp Island to have his golf cart registered. In support of his argument, Appellant introduced emails noting a citation for having an unregistered golf cart. However, the State produced evidence, and this Court has reviewed the same, that Appellant had reasonable alternatives to getting his golf cart registered. Namely, evidence existed that a member of his family could, and did respond to the location, only after his arrest. The State further produced uncontradicted evidence that Appellant was found at 225 Tarpon Boulevard, Fripp Island, after receiving the trespass notice not to be on that property.

After hearing arguments from both sides and a review of the lower court record, this Court agrees with the Magistrate’s Court’s denial of Appellant’s directed verdict motion. This Court finds that the State offered evidence, when viewed, as it must be, in the light most favorable to the State, that Appellant knowingly and voluntarily trespassed onto 225 Tarpon Boulevard, Fripp Island after receiving. As such, thus Court must affirm the Magistrate’s Decision to deny the directed verdict motion.

**CONCLUSION**

Accordingly, and for the reasons set forth above, IT IS THEREFORE ORDERED that the Magistrate's decisions, specifically the denial of Appellant's directed verdict motion are AFFIRMED.

IT IS FURTHER ORDERED that the jury's verdict will not be disturbed, the conviction is AFFIRMED, and that this appeal is hereby dismissed.

AND IT IS SO ORDERED!

---

Marvin H. Dukes, III  
Presiding Judge, Fourteenth Judicial Circuit

\_\_\_\_\_, 2024.  
Beaufort, South Carolina



**Beaufort Common Pleas**

**Case Caption:** Ben Hays VS South Carolina State Of  
**Case Number:** 2023CP0701829  
**Type:** Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2024-05-03 09:55:17 page 6 of 6

RECEIVED

Jun 03 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 ) CASE NUMBER 2023-CP-07-01829  
 COUNTY OF BEAUFORT ) Ticket number 202330190172065

State of South Carolina )  
 ) Respondent )  
 Vs. ) MAGISTRATE'S RETURN  
 Benjamin J. Hays )  
 ) Appellant )

2023 SEP 27 PM 3:10  
 JERRI ANN ROSE  
 BEAUFORT COUNTY, S.C.  
 CLERK OF COURT

This matter was before me on September 26, 2023, for a jury trial in the above referenced matter in which the Defendant Benjamin Hayes was accused of a violation of South Carolina Code Section 16-11-620 which prohibits trespassing after notice. Present in Court were the Defendant and his attorney William McGuire as well as Brian Kiel for the State of South Carolina. Also present were the witnesses who testified in the matter. They were sequestered at the request of the Defendant.

Mr. Kiel called several witnesses all of whom testified generally that Mr. Hayes went on the property at 225 Tarpon Boulevard, Fripp Island, South Carolina, on June 27, 2023, after having been served a formal notice by the Beaufort County Sheriff's Department that Fripp Island Security would prosecute him if he returned to the property located at 225 Tarpon Boulevard.

The first witness was Mr. McCarter who testified that he is employed by Fripp Island to enforce the covenants on the island. He testified that he knows Mr. Hayes because there have been several disturbances involving him at the office that he shares with Fripp Island Security. He testified (without objection) that the attorney for the Property Owner's Association had written two letters to the Defendant asking him not to return to 225 Tarpon Boulevard. He testified that on June 26, 2023, the Defendant came to the offices at 225 Tarpon Boulevard because the Defendant needed an inspection sticker for one of his golf carts. Mr. McCarter explained to the Defendant that he could not inspect the vehicle for a sticker because he had unpaid fees owed to Fripp Island. The Defendant became angry and Mr. McCarter asked him to leave. The Sheriff's Department was contacted and asked to issue the trespass notice to the Defendant, which they did.

The second witness was Chief Christian Gonzales, the chief of security at Fripp Island. Mr. Gonzales generally corroborated the testimony of Mr. McCarter regarding the events of June 26. He testified further that when the Sheriff's Department deputies arrived on June 26, he asked that they arrest the Defendant because the Defendant had received notice from Fripp Island's lawyer that he was not to go to 225 Tarpon Boulevard, but he had ignored that request. The Sheriff's deputy did not arrest the Defendant, but did serve him with a "Trespass after Notice" document which the Defendant signed. Chief Gonzales indicated that the Defendant was supposed to make an appointment for inspections and that no appointment had been made. Chief Gonzales testified that the following day on June 27, the Defendant sent him an email stating that the person who had rented the uninspected golf cart had received a ticket and that "I have attached forms, complete on my part, to register golf carts today." Chief Gonzales testified that later that morning, the Defendant was in the parking lot of 225 Tarpon Boulevard towing a golf cart saying that he wanted it inspected. Chief Gonzales called the Sheriff's Department complaining that the Defendant was trespassing. Deputy Nicholas Horne of the Beaufort County Sheriff's Department arrived and arrested the Defendant.

The third witness was Deputy Nicholas Horne. Deputy Horne arrived at 225 Tarpon Boulevard on June 27, 2023, to find the Defendant seated in a golf cart that was located on a trailer in the parking lot. The deputy spoke with the Defendant who admitted that he had received the trespass notice, but said he thought it would be okay to be in the parking lot. During the ride to the jail, the Defendant indicated to the deputy that he was a lawyer and had argued before the United States Supreme Court.

On cross examination of these witnesses, the Defendant's attorney brought out that the Defendant was at 225 Tarpon Boulevard to comply with the regulations requiring that the Defendant have his golf carts (which he rented to visitors to Fripp Island) inspected. He had Chief Gonzales testify that the Defendant wrote him an email saying that his renter had received a ticket for driving an uninspected golf cart on the evening before he was arrested. He said that it was the same golf cart that he had refused to inspect because the Property Owner's Association had a balance owed on his account. The email is submitted herewith as Defendant's exhibit 3.

The Defendant moved for a directed verdict on the grounds that the statute has a caveat, "without legal cause or good excuse," in its prohibition against entering premises after notice and that the evidence was that the Defendant entered for the purpose of having his golf cart inspected and not with the intention of trespassing. The motion was denied and the case was submitted to the jury for a decision. The jury found the Defendant guilty of Trespassing.

This is merely a summary of the trial testimony. I have submitted with this return a thumb drive which contains a recording of the trial and Plaintiff's exhibits 1 through 3 and Defendant's exhibits 3 and 4 for the appellate court's consideration.

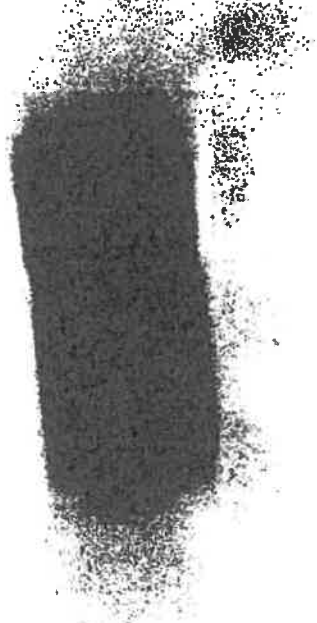
**Respectfully submitted,**

A handwritten signature in cursive script, appearing to read "Nancy Sadler", is written over a solid horizontal line.

**Nancy Sadler, Magistrate for Beaufort County**

**September 26, 2023**

**USB FLASH DRIVE #1**



## County's Exhibits



Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901

MR. 000000-000  
20220626-1  
01132\_0006



- DASHCAM
- BODY CAM FE-INT
- SURVEILLANCE
- SLED DATAMASTER

CASE# 20220190172065  
STATE V. BENJAMIN J. HAYES

DATE 9/26/22

IDENTIFIED: [Signature]



235090385  
Trespassing

**BEAUFORT COUNTY SHERIFF'S OFFICE**

**TRESPASS AFTER NOTICE**

This is a formal notice of trespass. The property owner or agent has requested the Beaufort County Sheriff's Office to issue a Trespass Notice to you. You are hereby formally notified of their intent of prosecution if you return to this property.

Date: 6/21/23

Subject Name: Hayes, Benjamin

Address: [Redacted]

D.O.B.: 4/03/1943 S.S.#:                      Race W Sex M

D.L./A.D.: [Redacted] State SC

Comp./Business Name: Fripp Island Security

Address: 225 Tarpon Blvd. Fripp Island

South Carolina State Statute 16-11-620

Entering premise after warning or refusing to leave on request: jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premise of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business or on the premise of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction be not fined more than two hundred twenty five dollars (\$225.00) or imprisoned for not more than thirty (30) days

I forbid the above listed subject to enter or be about the above property, and will prosecute said subject if he/she is about the property. I attest that I am the property owner, or acting as representative or agent for said property owner.

Signature of Property Owner [Signature]  
I affirm that I have received a copy of this notice.

Signature of Subject [Signature] 6/26/23

Witness [Signature] Case Officer Sgt Noack

BCSO Case Number 235090385

Accepted for service and delivery of copy of the above notice to the subject at the residence of the Office of Sheriff for Beaufort County  
Michael M. Hofffield  
Deputy Sheriff



DASHCAM  
 BODY CAM  
 SLED  
 SURVEILLANCE  
 DATA MASTER

CASE # 20230190172065  
 STATE # BENSON D. HAYES  
 INSTRUMENT # 11111111111111111111



Office of the  
 Sheriff  
 Beaufort County  
 Post Office Box 1738  
 Beaufort, S.C. 29901

DATE 9-21-23



## Defendant's Exhibit

**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Tuesday, June 27, 2023 9:03 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

As I mentioned to you yesterday, you have an outstanding balance on your POA account that you need to clear up before security can register your carts. Your guest may appeal the ticket to the appeals committee. Have a wonderful day sir and if I can be of any assistance to you please let me know.

Sincerely,  
Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Tuesday, June 27, 2023 8:36 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Re: Security jurisdiction

**Chief Gonzales:**

I have attached forms, complete on my part, to register golf carts today. A citation was issued to one of my guests last evening. They were driving the golf cart you refused to register yesterday despite there being no authority in the rules and regulations for the reason you decided to relate to me. Regardless, that issue no longer exists. I suggest you void the citation.  
Ben Hays

CC BOD  
Michael O'Brien  
Sharon Lawton  
Bob Jordan  
Claude "Skip" Shriver  
Dan Smith  
Lou Wood  
Monte Runfola  
Scott Reale  
Nancy Wingenbach



**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Monday, June 26, 2023 8:48 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security Jurisdiction

What day and time? I will make myself available.

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Monday, June 26, 2023 8:14 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Fw: Security jurisdiction

**Christian:**  
Would still like that cup of coffee when you have a bit of time.  
Ben

----- Forwarded Message -----  
**From:** Ben And Twana <benandtwana@aol.com>  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Sent:** Friday, June 23, 2023 at 08:35:25 AM EDT  
**Subject:** Re: Security jurisdiction

**Chief:**  
If you are available I will come visit later this morning.  
Ben Hays

On Thursday, June 22, 2023 at 02:38:59 PM EDT, Christian Gonzales <chiefgonzales@frippislandliving.com> wrote:

We had an opinion from the POA attorney and a review of the signed agreement it was determined security has enforcement on all island property. Please feel free to call me if you would like to discuss further. (843) 838-2334

Thank you,

Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Thursday, June 22, 2023 12:01 PM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Security jurisdiction



**Chief:**

I believe the recorded covenants for Fripp Island exclude all multi-family complexes on Fripp from POA and thus Security jurisdiction. Below was copied from the POA website to which you have access.

It may be appropriate to add this to any "training guide" you use with security personnel. Some officers are apparently unaware of the exclusion.

Ben Hays

## Covenant Enforcement

Enforcement is to ensure that the **single-family, residential properties** adhere to the amended and restated declaration of covenants, ARB Guidelines, and the **rules and regulations adopted by the Board of Directors**. Compliance is focused on areas such as yard maintenance, lot appearance, and home appearance, including, but not limited to, peeling paint, broken windows and broken boards.

NOTES

Form 5-438  
REV. 02/2017

# UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA  
VERSUS

CITY OF BEAUFORT

INCIDENT NO. 235090938

AGENCY/IDDP: BEAUFORT COUNTY SHERIFF'S OFFICE

VIOLATOR

VEHICLE

TRIAL COURT

VIOLATION

ARREST OFFICER

COURT INFORMATION

FIRST NAME: BENJAMIN MIDDLE NAME: J LAST NAME: HAYES

STREET: [REDACTED]

CITY: SAINT HELENA STATE: SC ZIP CODE: 29920

DL STATE: SC DRIVER'S LICENSE NO.: 011503597 CLASS: D2

RACE: W SEX: M BIRTH DATE: [REDACTED] HGT: [REDACTED] WGT: [REDACTED] HAIR: [REDACTED] EYES: [REDACTED]

VEH LIC NO: [REDACTED] STATE: [REDACTED] MAKE OF VEH: [REDACTED] YEAR: [REDACTED]

VEHICLE OWNER FIRST NAME: [REDACTED] MIDDLE NAME: [REDACTED] LAST NAME: [REDACTED]

OWNER STREET: [REDACTED] CITY: [REDACTED] STATE: [REDACTED] ZIP CODE: [REDACTED]

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT: 07104 BEAUFORT, MAGISTRATE STREET: 104 Ribaut Road

DATE OF TRIAL: 07/11/2023 TIME OF TRIAL: 11:00 CITY: Beaufort STATE: SC ZIP CODE: 29901

VIOLATION SECTION NO.: 16-11-0620 VIOLATION - COURT APPEARANCE REQUIRED YES (NO) ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST

DATE OF VIOLATION: 06/27/2023 TIME OF VIOL: 1049 SC POINTS: [REDACTED] B.A. LEVEL: REP

VIOLATION LOCATION: CITY: COUNTY: 07

LAT: 32.33025 LONG: -80.4678 CITY: BEAUFORT

NAME AND RANK OF ARRESTING OFFICER: HORNE, NICHOLAS A D/S SCCJA OFFICER NUMBER: 7104-1050

BAIL DEPOSITED: NONE DATE OF ARREST: 06/27/2023 BOND AMOUNT REQUESTED: [REDACTED]

DATE BAIL REC'D: [REDACTED] BY: [REDACTED]

CASE BEFORE: MAGISTRATE  MUN. COURT  CIRCUIT COURT  FAMILY COURT  FEDERAL COURT

TRIAL BY: TRIAL JUDGE  JURY  DEFENDANT: DID NOT APPEAR  APPEARED

DISPOSITION DATE: 9-26-2023 DISPOSITION: NOLLE PROSSD  GUILTY  PLED: NOLLO CONTENDERE  FORFEITED BOND  NOT GUILTY  DETERMINED BAC:

CHARGE CONVICTED OF: [REDACTED] SAME AS ORIGINAL:  SC POINTS: [REDACTED]

JAIL: [REDACTED] SUSPEND: [REDACTED] FINE: 465.00 AMT. COLLECTED: 465.00 AMT. SUSPENDED: [REDACTED] COMMITTED TO: [REDACTED] Vehicle Searched: NO

CERTIFIED CORRECT: [Signature] DATE: 9-26-2023 Arrest as Result of Collision: NO

Electronic Copy - Trial Officer / Driver's Record TICKET # 20230190172065



*542500*  
*Maguire*  
*Scott*  
*Bischoff*  
*Kiel*

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

vs.

Benjamin J Hayes

Defendant

20230190172065  
CASE NUMBER

IN THE SUMMARY COURT  
JURY TRIAL VERDICT SHEET

**Offense Charged:**

Trespassing / Entering premises after warning or refusing to leave on request

We, the Jury, duly empaneled and sworn in the above entitled action, return as our unanimous verdict that the defendant is

\_\_\_\_\_ Not Guilty X \_\_\_\_\_ Guilty

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
 Foreperson

9/26/2023  
Date

## Certificate of Electronic Notification

### Recipients

**Brian Kiel** - Notification transmitted on 04-29-2024 09:21:49 AM.

**William Hammett** - Notification transmitted on 04-29-2024 09:21:49 AM.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**NOTICE OF ELECTRONIC FILING [NEF]**

-

**A filing has been submitted to the court RE:** 2023CP0701829

**Official File Stamp:** 04-29-2024 09:21:32 AM

**Court:** CIRCUIT COURT  
Common Pleas  
Beaufort

**Case Caption:** Ben Hays VS South Carolina State Of

**Event(s):**  
Order/Order Cover Sheet \$25.00

**Document(s) Submitted:** Proposed Order/Other

**Filed by or on behalf of:** Brian Christopher Kiel

This notice was automatically generated by the Court's auto-notification system.

-

**The following people were served electronically:**

Brian Christopher Kiel for South Carolina State Of  
William Sylvester Hammett, III for Ben Hays

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Mary Jordan Neal Lempesis for South Carolina State Of  
Ben Hays for Ben Hays  
Ben Hays for Ben Hays

ELECTRONICALLY FILED - 2024 Apr 29 10:22 AM - BEAUFORT - COMMON PLEAS - CASE#2023CP0701829

**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT**

**BEN HAYES,**

**Appellant,**

**vs.**

**STATE OF SOUTH CAROLINA,  
Res ondent.**

**IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT**

**CASE NO.: 2023-CP-07-1829**

**ORDER OF REFERRAL  
(Clerk of Court)**

**THIS MATTER** was scheduled to come before the Special Circuit Court before the Honorable Marvin H. Dukes, III, on February 1, 2024 for Appellant to be heard on his appeal under case number 2023-CP-07-1829.

As the prior Administrative Order that referred the Appeal to Judge Dukes of the Special Circuit Court is no longer in effect, the February 1, 2023 hearing was continued.

Appellant submits this Order of Reference, along with the required \$50.00 filing fee to the Beaufort County Clerk of Court, as the Clerk of Court in Beaufort County has jurisdiction to sign off on the Orders of Reference. The Plaintiff is responsible for paying the Reference Fee set forth in South Carolina Code of Laws Section 14-11-310; however, if the Plaintiffs case has ended, any remaining party seeking Affirmative Relief shall be responsible for the fee (in this case, Appellant). If the case is a Partition Action or Lien Foreclosure the fee amount is \$100.00; for all other types of cases the fee is \$50.00. The Reference Fee shall be paid to the Office of the Master in Equity for Beaufort County within 30 days of the date of this Order or the Master will dismiss the case for non-payment of the Reference Fee without further notice.

**IT IS SO ORDERED!**

[Signature Block on Next Page]

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Beaufort County Clerk of Court  
102 Ribaut Road  
Suite #208  
Post Office Drawer 1128  
Beaufort, South Carolina 29901

January 30, 2024



**Beaufort Common Pleas**

**Case Caption:** Ben Hays VS South Carolina State Of  
**Case Number:** 2023CP0701829  
**Type:** Order/Referred to Master or Special Referee

So Ordered

s/Jerri Ann Roseneau, Beaufort County Clerk of  
Court

Electronically signed on 2024-02-21 17:23:27 page 3 of 3

2023 OCT 24 PM 12:57

2023 CP 070 1829

COMMON PLEAS CASE NUMBER

STATE OF SOUTH CAROLINA

JERRI ANN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

COUNTY OF Beaufort

2023 381 961 72065

MAGISTRATE CIVIL CASE NUMBER

BEN HAYS  
APPELLANT(S)

IN THE COURT OF COMMON PLEAS

VS.

2<sup>ND</sup> AMENDED  
NOTICE OF CIVIL APPEAL  
*Criminal*

South Carolina  
RESPONDENT(S)

The plaintiff (defendant) (circle one), BEN HAYS hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Beaufort.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 26<sup>TH</sup> day of September, 2023.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

See ATTACHED

Dated: Oct. 24, 2023

Ben Hays  
Appellant (or his attorney) Pro Se  
141 Janelle Dr.  
St. Helena A., SC 29920  
(843) 271.0449  
email: BENANDTWANA@aol.com

SCCA/720 (Amended 8/1/2011)

BEAUFORT MAGISTRATE  
24 OCT '23 PM 1:08

**Ben Hays, Appellant, vs South Carolina, Respondent, Common Pleas Case # 2023CP0701829**

**DEFENDANTS 2ND AMENDED EXCEPTIONS**

**Amendment to correct dates only.**

Defendant appeals the denial of a directed verdict motion at the close of the prosecution's case. The basis of said motion was:

1. Fripp Island regulations required the defendant to register golf carts operated on Fripp Island, SC. Such registrations have historically occurred at the property of the Fripp Island Property Owners Association and the Fripp Island Security Office, each of which is located at 225 Tarpon Blvd., Fripp Island, SC.

2. On **June 26, 2023** the Defendant was served with a "Beaufort County Sheriff's Office Trespass After Notice".

3. On **June 26, 2023** the Defendant notified the Fripp Island Chief of Security, via email, that Defendant would be at the Fripp Island Security Offices on **Sept 27, 2023** for the purpose of registering a golf cart.

4. On the morning of **June 27, 2023** the defendant arrived at said location and was promptly detained by 4 Fripp Island Security officers. A short while thereafter Defendant was arrested by the Beaufort County Sheriff's office and charged with trespassing after notice.

5. The applicable S. C. Code 16-11-620 states, in part, as follows: "Any person who, **WITHOUT LEGAL CAUSE OR GOOD EXCUSE** (emphasis added), enters the dwelling house, place of business, or on the premises of another person after having been warned not to do so...shall, on conviction be fined not more than \$200.00 or imprisoned not more than 30 days. At the close of the prosecution's case Defendant moved the Court for a directed verdict of acquittal. This Motion was denied and the case was submitted to the jury. Defendant was convicted.

S. C. Code section 16-11-620 is clear. Defendant had a right to be on the premises in question for the purpose of registering his golf cart and the Court should have directed a verdict for the Defendant.

**BEAUFORT MAGISTRATE  
24 OCT '23 PM1:08**

CERTIFICATE OF SERVICE

I certify a copy of the foregoing document was served upon the Appellee by mailing a true copy to Mary Jordam Lempesis, P. O. Box 1880, Blufton, SC 29910, and via email to mlempesis @ scsollicitor14.org, this 24 day of October, 2023.

  
Ben Hays, Pro Se

BEAUFORT MAGISTRATE  
24 OCT '23 PM1:08

RECEIVED

Jun 03 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
 )  
 )  
 COUNTY OF BEAUFORT )  
 )  
 )

IN THE COURT OF COMMON PLEAS  
 CASE NUMBER 2023-CP-07-01829  
 Ticket number 202330190172065

State of South Carolina )  
 Respondent )  
 Vs. )  
 Benjamin J. Hays )  
 Appellant )

MAGISTRATE'S RETURN

2023 SEP 27 PM 3:10  
 JERRI ANN ROSE  
 BEAUFORT COUNTY, S.C.  
 CLERK OF COURT

This matter was before me on September 26, 2023, for a jury trial in the above referenced matter in which the Defendant Benjamin Hayes was accused of a violation of South Carolina Code Section 16-11-620 which prohibits trespassing after notice. Present in Court were the Defendant and his attorney William McGuire as well as Brian Kiel for the State of South Carolina. Also present were the witnesses who testified in the matter. They were sequestered at the request of the Defendant.

Mr. Kiel called several witnesses all of whom testified generally that Mr. Hayes went on the property at 225 Tarpon Boulevard, Fripp Island, South Carolina, on June 27, 2023, after having been served a formal notice by the Beaufort County Sheriff's Department that Fripp Island Security would prosecute him if he returned to the property located at 225 Tarpon Boulevard.

The first witness was Mr. McCarter who testified that he is employed by Fripp Island to enforce the covenants on the island. He testified that he knows Mr. Hayes because there have been several disturbances involving him at the office that he shares with Fripp Island Security. He testified (without objection) that the attorney for the Property Owner's Association had written two letters to the Defendant asking him not to return to 225 Tarpon Boulevard. He testified that on June 26, 2023, the Defendant came to the offices at 225 Tarpon Boulevard because the Defendant needed an inspection sticker for one of his golf carts. Mr. McCarter explained to the Defendant that he could not inspect the vehicle for a sticker because he had unpaid fees owed to Fripp Island. The Defendant became angry and Mr. McCarter asked him to leave. The Sheriff's Department was contacted and asked to issue the trespass notice to the Defendant, which they did.

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The second witness was Chief Christian Gonzales, the chief of security at Fripp Island. Mr. Gonzales generally corroborated the testimony of Mr. McCarter regarding the events of June 26. He testified further that when the Sheriff's Department deputies arrived on June 26, he asked that they arrest the Defendant because the Defendant had received notice from Fripp Island's lawyer that he was not to go to 225 Tarpon Boulevard, but he had ignored that request. The Sheriff's deputy did not arrest the Defendant, but did serve him with a "Trespass after Notice" document which the Defendant signed. Chief Gonzales indicated that the Defendant was supposed to make an appointment for inspections and that no appointment had been made. Chief Gonzales testified that the following day on June 27, the Defendant sent him an email stating that the person who had rented the uninspected golf cart had received a ticket and that "I have attached forms, complete on my part, to register golf carts today." Chief Gonzales testified that later that morning, the Defendant was in the parking lot of 225 Tarpon Boulevard towing a golf cart saying that he wanted it inspected. Chief Gonzales called the Sheriff's Department complaining that the Defendant was trespassing. Deputy Nicholas Horne of the Beaufort County Sheriff's Department arrived and arrested the Defendant.

The third witness was Deputy Nicholas Horne. Deputy Horne arrived at 225 Tarpon Boulevard on June 27, 2023, to find the Defendant seated in a golf cart that was located on a trailer in the parking lot. The deputy spoke with the Defendant who admitted that he had received the trespass notice, but said he thought it would be okay to be in the parking lot. During the ride to the jail, the Defendant indicated to the deputy that he was a lawyer and had argued before the United States Supreme Court.

On cross examination of these witnesses, the Defendant's attorney brought out that the Defendant was at 225 Tarpon Boulevard to comply with the regulations requiring that the Defendant have his golf carts (which he rented to visitors to Fripp Island) inspected. He had Chief Gonzales testify that the Defendant wrote him an email saying that his renter had received a ticket for driving an uninspected golf cart on the evening before he was arrested. He said that it was the same golf cart that he had refused to inspect because the Property Owner's Association had a balance owed on his account. The email is submitted herewith as Defendant's exhibit 3.

The Defendant moved for a directed verdict on the grounds that the statute has a caveat, "without legal cause or good excuse," in its prohibition against entering premises after notice and that the evidence was that the Defendant entered for the purpose of having his golf cart inspected and not with the intention of trespassing. The motion was denied and the case was submitted to the jury for a decision. The jury found the Defendant guilty of Trespassing.

This is merely a summary of the trial testimony. I have submitted with this return a thumb drive which contains a recording of the trial and Plaintiff's exhibits 1 through 3 and Defendant's exhibits 3 and 4 for the appellate court's consideration.

**Respectfully submitted,**

A handwritten signature in cursive script, appearing to read "Nancy Sadler", is written over a solid horizontal line.

**Nancy Sadler, Magistrate for Beaufort County**

**September 26, 2023**

USB FLASH DRIVE #1

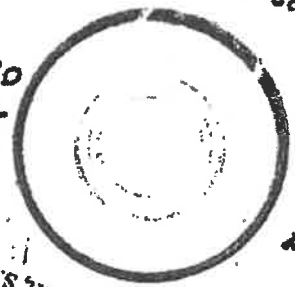


**County's Exhibits**



CASE# 20230190172065  
 STATE V. BENJAMIN J. HAYES  
 AGENT/CLERK: *[Signature]*  
 DATE: 9/26/23

MR. 000000-000  
 20220626-1  
 01133-0006



Office of the  
 Sheriff  
 Beaufort County  
 Post Office Box 1758  
 Beaufort, S.C. 29901



- DASHCAM
- BODY CAM FEED
- SURVEILLANCE
- SLED
- DATAMASTER

235090385  
Trespassing

BEAUFORT COUNTY SHERIFF'S OFFICE

TRESPASS AFTER NOTICE

This is a formal notice of trespass. The property owner or agent has requested the Beaufort County Sheriff's Office to issue a Trespass Notice to you. You are hereby formally notified of their intent of prosecution if you return to this property.

Date: 6/21/23

Subject Name: Hays, Benjamin

Address: 

D.O.B.: 4/03/1943 S.S.#: \_\_\_\_\_ Race W Sex M

D.L.I.D.:  State SC

Comp./Business Name: Fripp Island Security


Address: 225 Tarpon Blvd. Fripp Island

South Carolina State Statute 16-11-620

Entering premise after warning or refusing to leave on request: jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premise of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business or on the premise of another person without having been warned this and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction be not fined more than two hundred twenty five dollars (\$225.00) or imprisoned for not more than thirty (30) days

I forbid the above listed subject to enter or be about the above property, and will prosecute said subject if he/she is about the property. I attest that I am the property owner, or acting as representative or agent for said property owner.

Signature of Property Owner   
I affirm that I have received a copy of this notice.

Signature of Subject Benjamin Hays 6/26/23

Witness Chris [Signature] Case Officer Sgt Noack

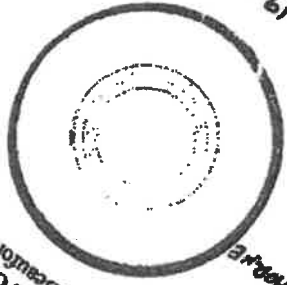
BCSO Case Number 235090385

Certified to be a true and correct copy of the original as recorded in the Office of Sheriff for Beaufort County  
Michael D. Hixfield  
Chief Deputy Sheriff





STATE OF SOUTH CAROLINA  
 COUNTY OF BEAUFORT  
 DEPARTMENT OF PROBATION AND PAROLE  
 CASE NO. 20230190172065  
 NAME: *Stanley, Matthew D.*  
 DATE: *9-16-23*



Office of the  
 Beaufort County  
 Sheriff  
 Post Office Box 1758  
 Beaufort, S.C. 29901



- DASHCAM
- BODY CAM *Heqje*
- SURVEILLANCE
- SLED
- DATA MASTER

## Defendant's Exhibit

**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Tuesday, June 27, 2023 9:03 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

As I mentioned to you yesterday; you have an outstanding balance on your POA account that you need to clear up before security can register your carts. Your guest may appeal the ticket to the appeals committee. Have a wonderful day sir and if I can be of any assistance to you please let me know.

Sincerely,  
Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Tuesday, June 27, 2023 8:36 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Re: Security jurisdiction

**Chief Gonzales:**

I have attached forms, complete on my part, to register golf carts today. A citation was issued to one of my guests last evening. They were driving the golf cart you refused to register yesterday despite there being no authority in the rules and regulations for the reason you decided to relate to me. Regardless, that issue no longer exists. I suggest you void the citation.  
Ben Hays

- CC BOD
- Michael O'Brien
- Sharon Lawton
- Bob Jordan
- Claude "Skip" Shriver
- Dan Smith
- Lou Wood
- Monte Runfola
- Scott Reale
- Nancy Wingenbach



**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Monday, June 26, 2023 8:48 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

What day and time? I will make myself available.

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Monday, June 26, 2023 8:14 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Fw: Security jurisdiction

**Christian:**  
Would still like that cup of coffee when you have a bit of time.  
**Ben**

----- Forwarded Message -----  
**From:** Ben And Twana <benandtwana@aol.com>  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Sent:** Friday, June 23, 2023 at 08:35:25 AM EDT  
**Subject:** Re: Security jurisdiction

**Chief:**  
If you are available I will come visit later this morning.  
**Ben Hays**

On Thursday, June 22, 2023 at 02:38:59 PM EDT, Christian Gonzales <chiefgonzales@frippislandliving.com> wrote:

We had an opinion from the POA attorney and a review of the signed agreement it was determined security has enforcement on all island property. Please feel free to call me if you would like to discuss further. (843) 838-2334

Thank you,

Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Thursday, June 22, 2023 12:01 PM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Security jurisdiction



**Chief:**

I believe the recorded covenants for Fripp Island exclude all multi-family complexes on Fripp from POA and thus Security jurisdiction. Below was copied from the POA website to which you have access.

It may be appropriate to add this to any "training guide" you use with security personnel. Some officers are apparently unaware of the exclusion.

Ben Hays

## Covenant Enforcement

Enforcement is to ensure that the **single-family, residential properties** adhere to the amended and restated declaration of covenants, ARB Guidelines, and the **rules and regulations adopted by the Board of Directors**. Compliance is focused on areas such as yard maintenance, lot appearance, and home appearance, including, but not limited to, peeling paint, broken windows and broken boards.

NOTES

Form 5-438 Rev. 08/2017

# UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA

VERSUS

FIRST NAME: BENJAMIN MIDDLE NAME: J LAST NAME: HAYES

STREET: [REDACTED]

CITY: SAINT HELENA STATE: SC ZIP CODE: 29920

DL STATE: SC DRIVER'S LICENSE NO.: 011503597 NONE CLASS: B CDL: YES/NO

RACE: W SEX: M BIRTH DATE: [REDACTED] HGT: [REDACTED] WGT: [REDACTED] HAIR: [REDACTED] EYES: [REDACTED]

VEH LIC NO: NONE STATE: MAKE OF VEH: YEAR: MAKE: MODEL: MAKE: MODEL: OTHER

VEHICLE OWNER FIRST NAME: MIDDLE NAME: LAST NAME:

OWNER STREET: CITY: STATE: ZIP CODE:

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT: 07104 STREET: BEAUFORT MAGISTRATE 104 Ribaut Road

DATE OF TRIAL: 07/11/2023 TIME OF TRIAL: 11:00 CITY: Beaufort STATE: SC ZIP CODE: 29901

VIOLATION SECTION NO.: 16-11-0620 VIOLATION - COURT APPEARANCE REQUIRED: YES/NO ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST

DATE OF VIOLATION: 06/27/2023 TIME OF VIOL: 1049 SC POINTS: B.A. LEVEL: REP

VIOLATION LOCATION: CITY: COUNTY: 07

EAT: 32-33025 LONG: -80.4678 CITY: BEAUFORT

NAME AND RANK OF ARRESTING OFFICER: HORNE NICHOLAS A D/S SCGA OFFICER NUMBER: 7104-1050

BAIL DEPOSITED: NONE DATE OF ARREST: 06/27/2023 BOND AMOUNT REQUESTED:

DATE BAIL REC'D: BY:

CASE BEFORE: MAGISTRATE MUN. COURT CIRCUIT COURT FAMILY COURT FEDERAL COURT

TRIAL BY: TRIAL JUDGE JURY DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION DATE: 9-26-2023 DISPOSITION: NOLLE PROSSED FORFEITED BOND GUILTY NOT GUILTY PLED: NOLLO CONTENDERE DETERMINED BAC:

CHARGE CONVICTED OF: SAME AS ORIGINAL SC POINTS:

JAIL: SUSPEND: FINE: 465.00 AMT. COLLECTED: 465.00 AMT. SUSPENDED: COMMITTED TO: Vehicle Searched: NO

CERTIFIED CORRECT: DATE: 9-26-2023 Arrest as Result of Collision: NO

Electronic Copy - Trial Officer / Driver's Record TICKET # 20230190172065



*5425.00*  
*Magistrate*  
*Scott Bischoff*  
*Kiel*

VIOLATOR: VEHICLE: TRIAL COURT: VIOLATION: ARREST OFFICER: COURT INFORMATION:

CITY: SAINT HELENA BEAUFORT INCIDENT NO: 235090939 AGENCY/RIDE: BEAUFORT COUNTY SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

vs.

Benjamin J Hayes

Defendant

20230190172065  
CASE NUMBER

IN THE SUMMARY COURT  
JURY TRIAL VERDICT SHEET

**Offense Charged:**

Trespassing / Entering premises after warning or refusing to leave on request

We, the Jury, duly empaneled and sworn in the above entitled action, return as our unanimous verdict that the defendant is

\_\_\_\_\_ Not Guilty X \_\_\_\_\_ Guilty

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Foreperson

9/26/2023  
Date

STATE OF SOUTH CAROLINA )  
 COUNTY OF BEAUFORT )  
 )  
 Ben Hays, )  
 )  
 Plaintiff(s), )  
 )  
 vs. )  
 )  
 State of South Carolina, )  
 )  
 Defendant(s). )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

CASE NO: 2023CP0701829

**ORDER**

This came before me on Appellant Ben Hays' Motion to Reconsider the May 3<sup>rd</sup>, 2024, Order Affirming Conviction and Dismissing Appeal; filed May 13<sup>th</sup>, 2024.

After reviewing the record, I hereby deny the motion.

**IT IS SO ORDERED:**

\_\_\_\_\_  
 Honorable Marvin H. Dukes, III  
 Master in Equity and Special Circuit Court Judge  
 for Beaufort County

May \_\_\_\_, 2024  
 Beaufort, South Carolina



**Beaufort Common Pleas**

**Case Caption:** Ben Hays VS South Carolina State Of  
**Case Number:** 2023CP0701829  
**Type:** Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2024-06-03 14:28:41 page 2 of 2

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

Ben Hays

Plaintiff(s)

2023 SEP 26

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2023-CP-07-01829

vs.

South Carolina

Defendant(s)

Submitted By: W<sup>m</sup> McGuire  
Address: 171 Church St Suite 360  
Chas SC 29401

SC Bar #: 9722  
Telephone #: 803 201 4366  
Fax #:  
Other:  
E-mail: bmcguire@adamsbischoff.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |   |  |  |   |
|---|--|--|---|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Fraud/Bad Faith (150)</li> <li><input type="checkbox"/> Failure to Deliver/Warranty (160)</li> <li><input type="checkbox"/> Employment Discrim (170)</li> <li><input type="checkbox"/> Employment (180)</li> <li><input type="checkbox"/> Other (199)</li> </ul> <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul> <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> <li><input type="checkbox"/> Permanent Restraining Order (680)</li> <li><input type="checkbox"/> Interpleader (690)</li> </ul> | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20__-NI-__-__</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul> <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Drv. License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture—Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul> | <p><b>Torts – Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Assault/Battery (370)</li> <li><input type="checkbox"/> Slander/Label (380)</li> <li><input type="checkbox"/> Other (399)</li> </ul> <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate’s Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Confession of Judgment (770)</li> <li><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)</li> <li><input type="checkbox"/> Incapacitated Adult Settlement (790)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic’s Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul> <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input checked="" type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker’s Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Comm. (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
|---|--|--|---|
- Submitting Party Signature: W<sup>m</sup> McGuire Date: 9.26.2023

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.**

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

2023 SEP 26 PM 10:00

2023CP0701829  
COMMON PLEAS CASE NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

Ben Hays  
APPELLANT(S)

VS.

South Carolina  
RESPONDENT(S)

2023 301 901 72065  
MAGISTRATE CASE NUMBER

IN THE COURT OF COMMON PLEAS

NOTICE OF CRIMINAL/TRAFFIC APPEAL

The plaintiff/~~defendant~~ (circle one), Ben Hays hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Beaufort.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 26<sup>th</sup> day of September, 2023.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

Defendant appeals the denial of the Directed Verdict Motion and other legal errors that may become apparent after review of the record

Dated: 9/26/2023

W<sup>MM</sup> McGuire  
Appellant (or his attorney)

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

vs.

Benjamin J Hayes

Defendant

20230190172065  
CASE NUMBER

IN THE SUMMARY COURT  
JURY TRIAL VERDICT SHEET

**Offense Charged:**

Trespassing / Entering premises after warning or refusing to leave on request

We, the Jury, duly empaneled and sworn in the above entitled action, return as our unanimous verdict that the defendant is

\_\_\_\_\_ Not Guilty   X   Guilty

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Foreperson

9/26/2023  
Date

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS  
CASE NUMBER 2023-CP-07-01829  
Ticket number 202330190172065

State of South Carolina )  
 Respondent )  
 Vs. )  
 Benjamin J. Hays )  
 Appellant )

MAGISTRATE'S RETURN

2023 SEP 27 PM 3:10  
SHERIFF  
BEAUFORT COUNTY  
SOUTH CAROLINA

This matter was before me on September 26, 2023, for a jury trial in the above referenced matter in which the Defendant Benjamin Hayes was accused of a violation of South Carolina Code Section 16-11-620 which prohibits trespassing after notice. Present in Court were the Defendant and his attorney William McGuire as well as Brian Kiel for the State of South Carolina. Also present were the witnesses who testified in the matter. They were sequestered at the request of the Defendant.

Mr. Kiel called several witnesses all of whom testified generally that Mr. Hayes went on the property at 225 Tarpon Boulevard, Fripp Island, South Carolina, on June 27, 2023, after having been served a formal notice by the Beaufort County Sheriff's Department that Fripp Island Security would prosecute him if he returned to the property located at 225 Tarpon Boulevard.

The first witness was Mr. McCarter who testified that he is employed by Fripp Island to enforce the covenants on the island. He testified that he knows Mr. Hayes because there have been several disturbances involving him at the office that he shares with Fripp Island Security. He testified (without objection) that the attorney for the Property Owner's Association had written two letters to the Defendant asking him not to return to 225 Tarpon Boulevard. He testified that on June 26, 2023, the Defendant came to the offices at 225 Tarpon Boulevard because the Defendant needed an inspection sticker for one of his golf carts. Mr. McCarter explained to the Defendant that he could not inspect the vehicle for a sticker because he had unpaid fees owed to Fripp Island. The Defendant became angry and Mr. McCarter asked him to leave. The Sheriff's Department was contacted and asked to issue the trespass notice to the Defendant, which they did.

The second witness was Chief Christian Gonzales, the chief of security at Fripp Island. Mr. Gonzales generally corroborated the testimony of Mr. McCarter regarding the events of June 26. He testified further that when the Sheriff's Department deputies arrived on June 26, he asked that they arrest the Defendant because the Defendant had received notice from Fripp Island's lawyer that he was not to go to 225 Tarpon Boulevard, but he had ignored that request. The Sheriff's deputy did not arrest the Defendant, but did serve him with a "Trespass after Notice" document which the Defendant signed. Chief Gonzales indicated that the Defendant was supposed to make an appointment for inspections and that no appointment had been made. Chief Gonzales testified that the following day on June 27, the Defendant sent him an email stating that the person who had rented the uninspected golf cart had received a ticket and that "I have attached forms, complete on my part, to register golf carts today." Chief Gonzales testified that later that morning, the Defendant was in the parking lot of 225 Tarpon Boulevard towing a golf cart saying that he wanted it inspected. Chief Gonzales called the Sheriff's Department complaining that the Defendant was trespassing. Deputy Nicholas Horne of the Beaufort County Sheriff's Department arrived and arrested the Defendant.

The third witness was Deputy Nicholas Horne. Deputy Horne arrived at 225 Tarpon Boulevard on June 27, 2023, to find the Defendant seated in a golf cart that was located on a trailer in the parking lot. The deputy spoke with the Defendant who admitted that he had received the trespass notice, but said he thought it would be okay to be in the parking lot. During the ride to the jail, the Defendant indicated to the deputy that he was a lawyer and had argued before the United States Supreme Court.

On cross examination of these witnesses, the Defendant's attorney brought out that the Defendant was at 225 Tarpon Boulevard to comply with the regulations requiring that the Defendant have his golf carts (which he rented to visitors to Fripp Island) inspected. He had Chief Gonzales testify that the Defendant wrote him an email saying that his renter had received a ticket for driving an uninspected golf cart on the evening before he was arrested. He said that it was the same golf cart that he had refused to inspect because the Property Owner's Association had a balance owed on his account. The email is submitted herewith as Defendant's exhibit 3.

The Defendant moved for a directed verdict on the grounds that the statute has a caveat, "without legal cause or good excuse," in its prohibition against entering premises after notice and that the evidence was that the Defendant entered for the purpose of having his golf cart inspected and not with the intention of trespassing. The motion was denied and the case was submitted to the jury for a decision. The jury found the Defendant guilty of Trespassing.

This is merely a summary of the trial testimony. I have submitted with this return a thumb drive which contains a recording of the trial and Plaintiff's exhibits 1 through 3 and Defendant's exhibits 3 and 4 for the appellate court's consideration.

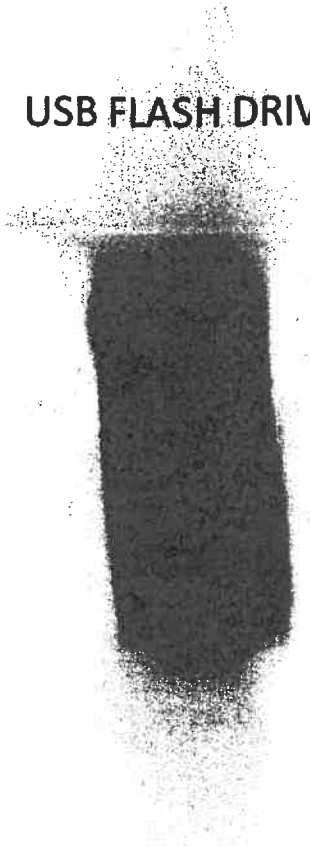
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Nancy Sadler", is written over a solid horizontal line.

Nancy Sadler, Magistrate for Beaufort County

September 26, 2023

**USB FLASH DRIVE #1**



## County's Exhibits



Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901

- DASHCAM
- BODY CAM FR-IPP
- SURVEILLANCE
- SLED DATAMASTER



NR-000000-000  
20220626-1-  
01133\_0006

CASE# 20230190172065

DATE: 9-26-23

STATE V. BENJAMIN J. HAYES

IDENTIFIED: *[Signature]*



235090385  
Trespassing

**BEAUFORT COUNTY SHERIFF'S OFFICE**

**TRESPASS AFTER NOTICE**

This is a formal notice of trespass. The property owner or agent has requested the Beaufort County Sheriff's Office to issue a Trespass Notice to you. You are hereby formally notified of their intent of prosecution if you return to this property.

Date: 6/21/23

Subject Name: Hays, Benjamin

Address: 141 Janette Dr.

D.O.B.: 4/03/1943 S.S.#: \_\_\_\_\_ Race W Sex M

D.L./D.# 011503597 State SC

Comp./Business Name: Fripp Island Security

Address: 225 Tarpon Blvd. Fripp Island

South Carolina State Statute 16-11-620  
Entering premise after warning or refusing to leave on request: jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premise of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business or on the premise of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction be not fined more than two hundred twenty five dollars (\$225.00) or imprisoned for not more than thirty (30) days

I forbid the above listed subject to enter or be about the above property, and will prosecute said subject if he/she is about the property. I attest that I am the property owner, or acting as representative or agent for said property owner.

Signature of Property Owner [Signature]  
I affirm that I have received a copy of this notice.

Signature of Subject [Signature] 6/26/23

Witness [Signature] Case Officer Sgt Noack

BCSO Case Number 235090385

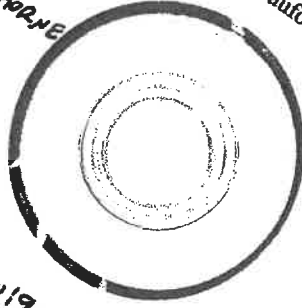
Approved by: [Signature]  
Copy of the original notice must be filed with the Office of Sheriff for Beaufort County  
Michael M. Holzfeld  
Chief Deputy Beaufort County Sheriff's Office





Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901

- DASHCAM
- BODY CAM *None*
- SURVEILLANCE
- SLED
- DATAMASTER



CASE# *20230190172065*  
 STATE V. *BENJAMIN C. HAYES*  
 AUTHENTICATED: *[Signature]*

DATE: *9-26-23*



## Defendant's Exhibit

**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Tuesday, June 27, 2023 9:03 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

As I mentioned to you yesterday; you have an outstanding balance on your POA account that you need to clear up before security can register your carts. Your guest may appeal the ticket to the appeals committee. Have a wonderful day sir and if I can be of any assistance to you please let me know.

Sincerely,  
Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Tuesday, June 27, 2023 8:36 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Re: Security jurisdiction

Chief Gonzales:

I have attached forms, complete on my part, to register golf carts today, A citation was issued to one of my guests last evening. They were driving the golf cart you refused to register yesterday despite there being no authority in the rules and regulations for the reason you decided to relate to me. Regardless, that issue no longer exists. I suggest you void the citation.  
Ben Hays

CC BOD  
Michael O'Brien  
Sharon Lawton  
Bob Jordan  
Claude "Skip" Shriver  
Dan Smith  
Lou Wood  
Monte Runfola  
Scott Reale  
Nancy Wingenbach



**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Monday, June 26, 2023 8:48 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

What day and time? I will make myself available.

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Monday, June 26, 2023 8:14 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Fw: Security jurisdiction

Christian:  
Would still like that cup of coffee when you have a bit of time.  
Ben

----- Forwarded Message -----  
**From:** Ben And Twana <benandtwana@aol.com>  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Sent:** Friday, June 23, 2023 at 08:35:25 AM EDT  
**Subject:** Re: Security jurisdiction

Chief:  
If you are available I will come visit later this morning.  
Ben Hays

On Thursday, June 22, 2023 at 02:38:59 PM EDT, Christian Gonzales <chiefgonzales@frippislandliving.com> wrote:

We had an opinion from the POA attorney and a review of the signed agreement it was determined security has enforcement on all island property. Please feel free to call me if you would like to discuss further. (843) 838-2334

Thank you,

Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Thursday, June 22, 2023 12:01 PM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Security jurisdiction



Chief:

I believe the recorded covenants for Fripp Island exclude all multi-family complexes on Fripp from POA and thus Security jurisdiction. Below was copied from the POA website to which you have access.

It may be appropriate to add this to any "training guide" you use with security personnel. Some officers are apparently unaware of the exclusion.

Ben Hays

## Covenant Enforcement

Enforcement is to ensure that the **single-family, residential properties** adhere to the amended and restated declaration of covenants, ARB Guidelines, **and the rules and regulations adopted by the Board of Directors**. Compliance is focused on areas such as yard maintenance, lot appearance, and home appearance, including, but not limited to, peeling paint, broken windows and broken boards.

NOTES

Form 5-438 Rev. 08/2017

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA

VERSUS

CITY: QUINCY BEAUFORT

INCIDENT NO: 235090939

AGENCY/TROOP:

BEAUFORT COUNTY SHERIFF'S OFFICE

VIOLATOR

VEHICLE

TRIAL COURT

VIOLATION

ARREST OFFICER

COURT INFORMATION

FIRST NAME MIDDLE NAME LAST NAME  
BENJAMIN J HAYES

STREET  
141 JANETTE DR

CITY STATE ZIP CODE  
SAINT HELENA SC 29920

DL STATE DRIVER'S LICENSE NO. NONE CLASS CDL  
SC 011503597 D YES NO

RACE SEX BIRTH DATE HGT. WGT. HAIR EYES  
W M 04/03/1943 70 165 GRY HAZ

VEH LIC NO. NONE STATE MAKE OF VEH YEAR 16 PSGR. VER. AUTO BICYCLE COMB. COMM. VEH.  
HAZ. MT. MOPED MTRCYCL. PEDESTRIAN OTHER

VEHICLE OWNER FIRST NAME MIDDLE NAME LAST NAME

OWNER STREET CITY STATE ZIP CODE

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT 07104 STREET  
BEAUFORT MAGISTRATE 104 Ribaut Road

DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE  
07/11/2023 1100 Beaufort SC 29901

VIOLATION SECTION NO. VIOLATION - COURT APPEARANCE REQUIRED YES NO  
16-11-0620 ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST

DATE OF VIOLATION TIME OF VIOL. SC POINTS B.A. LEVEL REF  
06/27/2023 1049

VIOLATION LOCATION COUNTY  
CTY 07

LAT LONG CITY  
32.33025 -80.4678 BEAUFORT

NAME AND RANK OF ARRESTING OFFICER SCCIA OFFICER NUMBER  
HORNE NICHOLAS A D/S 7104-1050

BAIL DEPOSITED DATE OF ARREST BOND AMOUNT REQUESTED  
NONE 06/27/2023

DATE BAIL REC'D. BY

CASE BEFORE: MAGISTRATE MUN. COURT CIRCUIT COURT FAMILY COURT FEDERAL COURT  
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:

TRIAL BY: TRIAL JUDGE JURY DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION DATE DISPOSITION: NOLLE PROSSED GUILTY PLED: NOLLO CONTENDERE  
9-26-2023 FORFEITED BOND NOT GUILTY DETERMINED BAC:

CHARGE CONVICTED OF SAME AS ORIGINAL SC POINTS

JAIL SUSPEND FINE AMT. COLLECTED AMT. SUSPENDED COMMITTED TO Vehicle Searched  
465.00 465.00 NO

CERTIFIED CORRECT DATE 9-26-2023 Arrest as Result of Collision NO

Electronic Copy - Trial Officer / Driver's Record TICKET # 20230190172065



*\$465.00*  
*Mcquire*  
*Scott*  
*Bischoff*  
*Kiel*

STATE OF SOUTH CAROLINA )  
 COUNTY OF BEAUFORT )  
 STATE OF SOUTH CAROLINA )  
 vs. )  
Benjamin J Hayes )  
 Defendant )

20230190172065

CASE NUMBER

IN THE SUMMARY COURT  
JURY TRIAL VERDICT SHEET

**Offense Charged:**

Trespassing / Entering premises after warning or refusing to leave on request

We, the Jury, duly empaneled and sworn in the above entitled action, return as our unanimous verdict that the defendant is

\_\_\_\_\_ Not Guilty   X   Guilty

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
 Foreperson

9/26/2023  
Date

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**

---

APPEAL FROM BEAUFORT COUNTY  
Common Pleas

Marvin H. Dukes III, Master-In-Equity

**RECEIVED**

**Jul 05 2024**

**SC Court of Appeals**

---

Appellate Case No. 2024-000929

---

State of South Carolina,  
*Respondent*

v.

Ben Hays,  
*Appellant*

---

**INITIAL BRIEF OF APPELLANT**

---

William S. Hammett, III, Esq. (SC Bar #100627)  
Cobb Dill & Hammett, LLC  
222 W. Coleman Boulevard  
Mt. Pleasant, SC 29464  
(P) 843-936-6680  
(M) 864-426-8293  
(F) 843-353-2529  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

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## STATEMENT OF FACTS

This is an appeal from a Magistrate Court (“Trial Court”) conviction, that was then appealed to the Honorable Marvin Dukes III (“the Court”).

Appellant was convicted of Entering Premises after Notice or Refusing to Leave on Request pursuant to S.C. Code Ann. § 16-11-620 *Order Affirming Conviction* at 1 paragraph 1.

Appellant raised three issues with the conviction: (1) the lack of a record necessitated a new trial, or in the alternative, the record would have to be confined to the Magistrate’s Return and the stipulated facts, which the State stipulated to at the hearing, (2) the order fails to include facts that were stipulated to, (3) a reasonable jury could not have found Appellant guilty because the evidence established a legal cause and good excuse for entering the property in question, and (4) the order concludes that the conviction is affirmed because Appellant could have directed a third party to the Premises in lieu of going himself. *Id.* and *Motion to Reconsider Order Affirming Conviction and Dismissing Appeal*, p. 1, paragraph 1.

The undisputed facts are as follows:

On or about June 27, 2023, Appellant was found on the premises of 225 Tarpon Boulevard, Fripp Island, in Beaufort County, South Carolina. *Id.* paragraph 2.

One day prior, on June 26, 2023, Appellant was issued a formal notice of trespass by the Beaufort County Sheriff’s Office (hereinafter “BCSO”) for the same premises. *Id.*

Appellant had been warned in writing he was not to enter the premises in question without permission. *Id.*

On June 27, 2023, the day of his arrest, Appellant sent an email to Fripp Island with completed forms for registration of golf carts he owns that are an expressed benefit he guarantees to his customers when they enter a short-term vacation lease contract to one of his residential properties. *Id.* p. 2, paragraph 1.

Shortly [after sending the email and receiving a response], the same Appellant, with golf cart in tow, arrived on the premises of the Fripp Island Offices for which he had been officially trespassed by BCSO. *Id.*

Fripp Island Security Officers requested BCSO assistance. BCSO arrived, investigated, and cited Appellant for violation of S.C. Code 16-11-620 for trespassing onto 225 Tarpon Boulevard, Fripp Island. *Id.*

At trial, Appellant presented evidence that one of his short-term vacation lease contract clients received a citation while operating an unregistered golf cart belonging to Appellant. *Id.* paragraph 3.

Appellant argued his presence was necessary because the golf cart had to be inspected at this location; 225 Tarpon Boulevard on Fripp Island. *Id.*

At the close of evidence, Appellant moved for a directed verdict on the ground that legal cause or good excuse existed for the violation of the trespass notice. The motion was denied, the question submitted to the jury, and the jury found Appellant guilty. *Id.*

Appellant filed his Notice of Appeal from the Magistrate Court to the Court of Common Pleas on September 26, 2023.

The Magistrate's Return was filed September 27, 2023.

The Court of Common Pleas confirmed the conviction on May 3, 2024. *Order Affirming Conviction and Dismissing Appeal.*

Appellant sought reconsideration of that decision on May 13, 2024. *Motion to Reconsider Order Affirming Conviction and Dismissing Appeal.*

The Court of Common Pleas denied Appellant's motion on June 3, 2024. See *Order* filed June 3, 2024.

This appeal follows.

### **STANDARD OF REVIEW**

1. Appellant states that the standard of review for this case is abuse of discretion. *State v. Moore*, 374 S.C. 468, 649 S.E. 84 (Ct. App. 2007). On appeal from a denial of directed verdict motion, the reviewing court is required to consider the evidence in the light most favorable to the State. *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011).

## ARGUMENT

### I. **When the Record was incomplete and the State stipulated to limit the Record to the Magistrate's Return and stipulated facts, it was error for the Court to deny a new trial.**

1. Appellant argued to the Court the lack of the Trial Court's recording necessitated a new trial (especially if the State would rely on facts established at trial but for which there was no record), or, in the alternative, the State stipulated at the March 26, 2024 hearing that the Record would be confined to the Magistrate's Return and stipulated facts. *Motion to Reconsider Order Affirming Conviction and Dismissing Appeal*, p. 1, paragraph 1, *Final Appellant Brief* p. 5, paragraphs 7-8, *Transcript*, p. 5, ll 2-7 and p. 15, ll 20-25 and 3.20.24 email.

2. Notwithstanding same, the State argued extensively about facts outside the Magistrate's Return and stipulations, including the point about Appellant's ability to enlist assistance from a family member to bring the golf cart to the premises negating (per the State's argument) any legal cause he may have to present himself at the premises. *Id.* p. 9, l 14 – p. 10, l 22 and p. 13, ll 12-18.

3. In response, Appellant reiterated that the confined record (Magistrate Return + stipulations) did not reflect much of what the State was arguing. *Transcript*, p. 14, ll 7-10. All of the State's argument that Appellant's wife could have transported the golf cart or staff of the premises could have gone to Appellant's home to inspect it directly contradicted the Magistrate Return and stipulations, and this cannot be circumvented by the mere fact Appellant's wife appeared at the premises once he was arrested. *Id.* ll 22-25.

4. When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. See *Whitehead v. State*, 352 S.C. 25, 574 S.E.2d 200 (2002), and *China v. Parrott*, 251 S.C. 329, 162 S.E.2d 276 (1968). See also *State v. Ladson*, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007), where the Court granted the appellant's motion to set aside his conviction and remand for a

new trial when attempts to reconstruct the incomplete trial transcript were unsuccessful, thus denying appellant meaningful appellate review.

5. Therefore, Appellant moved the Court for reconsideration and specifically, a new trial to reconstruct the record which the Court denied. *Order* filed May 3, 2024.

6. Because the Court erred in addressing Appellants motion to reconstruct the record or grant a new trial, Appellant seeks this court to order reconstruction of the record or in the alternative, a new trial.

**II. When the State stipulated to certain facts, it was error for the Court to fail to include them in the list of undisputed facts.**

7. Appellant secured stipulated facts from the State that were omitted from the Court's *Order Affirming Conviction and Dismissing Appeal*. *Transcript*, p. 4, ll 18-23. Those facts were specifically<sup>1</sup>:

- a. Appellant's paying guest, staying in one of Appellant's rental units had been stopped and ticketed the day before Appellant was arrested for appearing at the Premises, because the registration on the Appellant's golf cart in question had expired;
- b. the golf cart in question is an advertised feature of the Appellant unit's rental, and providing guests with an unregistered golf cart exposed Appellant to liability for breach the rental contract with his guest;
- c. Appellant had no balance due to the HOA as of June 27, 2023, thus there was no barrier to the golf cart being inspected;
- d. Appellant's golf cart was in fact inspected on June 27, 2023, immediately prior to his arrest; and

---

<sup>1</sup> See *Motion to Reconsider Order Affirming Conviction and Dismissing Appeal*, p. 2, paragraphs 2(a)-(e).

e. there was no mechanism for Appellant's golf cart to be inspected other than to transport it to the Offices.

8. These stipulations were essential to Appellant's trial and appeal.

9. The Court correctly references the common law doctrine of necessity as freeing a person subject to a no-trespass when compliance would create a greater harm than non-compliance. *Order Affirming Conviction and Dismissing Appeal*, p. 3, paragraph 2. See *Com. v. Magadini*, 474 Mass. 593, 600, 52 N.E.3d 1041, 1049 (2016).

10. The referenced stipulations explained why Appellant's compliance with the no-trespass would create a greater harm than non-compliance (i.e. via subparagraphs a and b, Appellant was threatened with unlimited liability to contracted guests of his rental properties).

11. The referenced stipulations also explained how transporting the golf cart to the premises was necessary (subparagraphs c – e explain that the premises are equivalent to a taxing authority which Appellant had to comply with in order to receive the inspection and avoid further citations regarding the golf carts).

12. Because the Court erred by omitting stipulated facts that were material to Appellant's defense of necessity, Appellant seeks the stipulated facts be included in the list of undisputed facts and based on that record, his conviction be overturned.

**III. When it found Appellant could have enlisted a third party to transport the golfcart to the premises, the Court erred because 16-11-620 does not apply to these facts.**

13. The Court held "evidence existed that a member of [Appellant's] family could, and did respond to the location, only after his arrest." *Order Affirming Conviction and Dismissing Appeal*, page 4 of 5, paragraph 2.

14. As stated previously, because this fact is not stated in the Magistrate Return or stipulations<sup>2</sup>, it was error for the Court to include this finding of fact as a basis to affirm Appellant's conviction. In the alternative, if it is appropriate to include this finding of fact, Appellant's position was that it was not legally possible for a jury to find that the State had proven beyond a reasonable doubt that [Appellant] had violated the trespass notice without justification. *Transcript*, p. 4, ll 14-17.

15. Per the State, Appellant argued this point extensively at trial. *Id.* p. 9, ll 9-13.

16. Legal cause is a matter of law for the Court to decide. *Id.* p. 7, ll 3-17.

17. Per the State, it was the State's obligation to prove Appellant did not have a legal cause to be there. *Id.* p. 10, ll 14-18.

18. Upon information and belief, the a government / quasigovernmental office such as the premises cannot impose a burden with both civil and criminal liability that can only be satisfied by Appellant securing the assistance of a third party, because 16-11-620 does not apply to the premises. See *State v. Hanapole*, 255 S.C. 258, 178 S.E.2d 247 (1970) (the State Supreme Court ruled that Section 16-11-620 applies only to private property and has no applicability to public property). In that case, the Court further stated that since the trespass statutes "...applies only to private property, a conviction thereunder for an alleged trespass upon public property is not warranted and cannot be sustained." *Ibid.*

19. Upon information and belief, there are no reported cases or relevant statutory amendments which would revise this statement of law.

20. Upon information and belief, the civil penalty was the fines that Fripp Island was imposing for not having the golf cart registered and the larger civil liability was from Appellant's renting tenants who had a lease contract that allowed them to use the golf cart and had actually received the ticket for the cart not being inspected. *Transcript*, p. 7, ll 18 – p. 8, ll 10.

---

<sup>2</sup> It was an exhibit, submitted with the Magistrate Return on a zip drive, consisting of the arresting officer's body camera footage.

21. The Court took note of the fact the premises constituted a legal office. *Id.* ll 11-12.
22. Upon information and belief, if a governmental / quasigovernmental office has the ability to place those within its jurisdiction on a trespass notice, it must either allow said persons to satisfy any and all obligations imposed remotely, or said person coming to the government / quasigovernmental office to satisfy any and all obligations must constitute *legal cause or good excuse* to enter an otherwise restricted premises.
23. It cannot be correct that the law can force persons to enlist the services of a third party to comply with such requirements.
24. Upon information and belief, because the premises had governmental / quasigovernmental powers, it should be treated as public property.
25. Even if the premises is not considered public property, upon information and belief, the Court erred in finding Appellant's wife being able to transport the golf cart for Appellant defeated his legal cause / good excuse to be there.
26. Because the Record as modified with the inclusion of Appellant's requested stipulations demonstrates *legal cause or good excuse* to enter the premises, the Court erred in confirming Appellant's conviction and Appellant seeks reversal on this point and that his conviction be overturned.
- IV. When Appellant informed staff of the premises in advance that he was coming to the premises to register his golf cart and the staff responded and failed to inform Appellant he could not, the Court erred in finding Appellant did not have good excuse to appear on the premises.**
27. On June 27, 2023 at 8:36 a.m., Appellant informed Chief Gonzales he was coming to have his golf cart registered. *Transcript*, p. 20, ll 11-15 and *Magistrate Return*. Chief Gonzales responded reminding Appellant he had an outstanding balance on his POA account that needed to be cleared before security can register the golf cart in question. *Id.* ll 16-22, *Final Appellant Brief* p. 5, paragraphs 11, and *Magistrate Return*. At trial, Chief Gonzales testified Defendant was at the premises to comply with regulations of Fripp Island. *Final Appellant Brief* p. 6, paragraphs 13 and *Magistrate Return* at 2.
28. Appellant argued staff of the premises allowed Appellant to return with an appointment which he

clearly interpreted as having to let them know in advance of returning. *Id.* p. 22, ll 8-20.

29. Because the Record as limited demonstrates *legal cause or good excuse* to enter the premises, the Court erred in confirming Appellant's conviction and Appellant seeks reversal on this point and that his conviction be overturned.

### CONCLUSION

Because the Court erred in confirming his conviction, Appellant is entitled to reversals and an order overturning his conviction, or, in the alternative, reconstruction of the record and / or a new trial.

Respectfully Submitted,

William Sylvester Hammett III  
S.C. Bar No. 100627  
Cobb Dill & Hammett, LLC  
222 W. Coleman Blvd.  
Mt. Pleasant, South Carolina  
843-936-6680  
843-353-2529  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**

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APPEAL FROM BEAUFORT COUNTY  
Common Pleas

Marvin H. Dukes III, Master-In-Equity

**RECEIVED**  
**Jul 05 2024**  
**SC Court of Appeals**

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Appellate Case No. 2024-000929

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State of South Carolina,  
*Respondent*

v.

Ben Hays,  
*Appellant*

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**PROOF OF SERVICE**

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Appellant's Initial Brief was served on counsel of record contemporaneously with filing, via email to: Caroline Collins at [CCollins@scag.gov](mailto:CCollins@scag.gov); Mary Jordan Neal at [maryjordanneal@gmail.com](mailto:maryjordanneal@gmail.com); Brian Kiel at [bkiel@charlestonlaw.edu](mailto:bkiel@charlestonlaw.edu) and [brian.kiel@bcgov.net](mailto:brian.kiel@bcgov.net); Mary Lempeis at [mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org); and Mark Farthing at [mfarthing@scag.gov](mailto:mfarthing@scag.gov).

William S. Hammett, III, Esq. (SC Bar #100627)  
Cobb Dill & Hammett, LLC  
222 W. Coleman Boulevard  
Mt. Pleasant, SC 29464  
(P) 843-936-6680  
(M) 864-426-8293  
(F) 843-353-2529  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

**RECEIVED**  
**Jun 10 2024**  
**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

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**AMENDED NOTICE OF APPEAL IN A CRIMINAL CASE**

**APPEAL FROM BEAUFORT COUNTY**  
**Court of Common Pleas**

**Judge Marvin H. Dukes, III**

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**Court of Common Pleas Appellate Case No.: 2024-000929**

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State of South Carolina

Respondent

v.

Benjamin J. Hays

Appellant.

---

**AMENDED NOTICE OF APPEAL**

---

Ben Hayes, Appellant in the underlying action, appeals the original Magistrate Order of Conviction filed September 23, 2023, the Order Affirming Conviction (Appeal Dismissed) of the Honorable Marvin H. Dukes, III filed May 3, 2024, and the Order [Denying Defendant’s Motion for Reconsideration] also filed June 3, 2024. Because today is June 10, 2024, this amended notice of appeal is timely.

June 10, 2024

[See Next Page for Signature Block]

William Hammett  
WILLIAM S. HAMMETT, III,  
ATTORNEY FOR DEFENDANT  
Cobb Hammett, LLC  
222 W. Coleman Blvd.  
Mount Pleasant, SC 29464  
O: (843) 936-6675  
C: (864) 426-8293  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

**Other Counsel of Record:**

Mary Jordan Lempesis, [mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org)  
Brian C. Kiel, [brian.kiel@bcgov.net](mailto:brian.kiel@bcgov.net)  
Alan McCrory Wilson and Mark Reynolds Fathering  
SC Attorney General's Office  
PO Box 11549  
Columbia SC 29211

RECEIVED

Jun 10 2024

SC Court of Appeals

FORM 7  
PROOF OF SERVICE OF  
AMENDED NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes, Circuit Court Judge

Appellate No. 2024-000929

State of South Carolina,

Respondent,

v.

Benjamin J. Hays,

Appellant.

PROOF OF SERVICE

I certify that I have served the Amended Notice of Appeal on Mary Jordan Neal Lempesis and Brian Christopher Kiel by email to [mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org) and [brian.kiel@bcgov.net](mailto:brian.kiel@bcgov.net), on June 3, 2024, and Alan McCrory Wilson and Mark Reynolds Fathering by placing a copy of same in the mail with adequate postage addressed to The Honorable Alan Wilson and Mark Fathering P.O. Box 11549 Columbia, S.C. 29211 on June 10, 2024.

Respectfully Submitted,

William S. Hammett III

William S. Hammett, III, (SC Bar #100627)

Deanne Gray, (SC Bar #17221)

Christopher R. Kitter (SC Bar #106495)

Cobb Hammett, LLC

516 E. Main St.

Spartanburg SC 29302

(P) 843-285-5746

[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

[dgray@cobbhammett.com](mailto:dgray@cobbhammett.com)

[ckitter@cobbhammett.com](mailto:ckitter@cobbhammett.com)

*Attorney(s) for Appellant*

**RECEIVED**

**Jun 03 2024**

**SC Court of Appeals**

ELECTRONICALLY FILED - 2024 Jun 05 2:17 PM - BEAUFORT - COMMON PLEAS - CASE#2023CP0701829

**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

**NOTICE OF APPEAL IN A CRIMINAL CASE**

**APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas**

**Judge Marvin H. Dukes, III**

**Court of Common Pleas Case No.: 2024-CP-07-01829**

Ben Hayes

Appellant

v.

State of South Carolina

Respondent.

**NOTICE OF APPEAL**

Ben Hayes, Appellant in the underlying action, appeals the original Magistrate Order of Conviction filed September 23, 2023 and the Order Affirming Conviction (Appeal Dismissed) of the Honorable Marvin H. Dukes, III filed May 3, 2024. Because today is June 3, 2024 and a Monday, this notice of appeal is timely.

(see next page)

June 3, 2024

  
WILLIAM S. HAMMETT, III, ESQ.  
ATTORNEY FOR APPELLANT  
Cobb Hammett, LLC  
222 W. Coleman Blvd.  
Mount Pleasant, SC 29464  
O: (843) 936-6675  
C: (864) 426-8293  
[whammett@cobbhammett.com](mailto:whammett@cobbhammett.com)

**Other Counsel of Record:**

Mary Jordan Lempesis,  
Brian C. Kiel,

Fourteenth Circuit Solicitor's Office  
PO Box 1880  
Bluffton, SC 29910-1880  
[mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org)  
[brian.kiel@bcgov.net](mailto:brian.kiel@bcgov.net)  
(843) 474-4806

STATE OF SOUTH CAROLINA

2023CP0701829  
COMMON PLEAS CASE NUMBER

COUNTY OF BEAUFORT

2023 301 901 72065  
MAGISTRATE CRIMINAL CASE NUMBER

BEN HAYS, APPELLANT

VS.

MOTION FOR EXTENSION OF TIME TO FILE BRIEF

SOUTH CAROLINA, RESPONDENT

2023 OCT 25 PM 4:18  
JERRI ANN ROSENBERG  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

Appellant, Ben Hays, moves the Court for an extension of time to file Appellant's Brief.

In support hereof Appellant states:

1. Appellant's trial attorney, William McGuire, prepared and filed a Notice of Appeal immediately following the trial of this case.
- 2 Appellant believed said attorney was going to pursue the appeal.
3. On or about Oct. 10, 2023 Appellant learned from said attorney that it was necessary for Appellant to retain an attorney to persecute an appeal.
4. Appellant made diligent efforts to retain an appellate attorney, communicating with approximately 7 law offices who advertised they handled appeals.
5. On or about October 22, 2023 Appellant retained the services of attorney William Hammett III to assist Appellant with the appeal. It is understood Appellant will Pro Se with Mr. Hammett's guidance.
6. On October 23 Appellant filed an Amended Notice of Appeal and on October 24 Appellant filed a 2nd Amended Notice of Appeal correcting some dates.
7. On Oct. 24 Appellant received from the Court Clerk a copy of the Magistrates Return. If this document was served upon Appellant's trial attorney a copy was not forwarded th Appellant.
8. On October 25, 2023 Appellant retained the services of a stenographer, Jan Hayward, for the purpose of transcribing the trial. Copies of email communications with Ms. Hayward are attached hereto.
9. Appellant left messages on Oct. 22 and October 23 for Mary Jordan Lempesis, the attorney with the Solicitor's office handling the appeal for Respondent, requesting a call and has not had a response.
10. On October 24, 2023 Appellant emailed Ms. Lempesis requesting she respond to this motion, anticipating she might have no objection. There has been no response.
11. On October 24, 2023 Appellant also requested Ms. Lempesis to agree to less than a full transcript of the trial. There has been no response.

Appellant says he has made diligent efforts to process this appeal in accordance with the S. C. Rules of Appellate Procedure; that as a result of

issues stated herein, much beyond his control, additional time is needed to prepare Appellant's Brief.

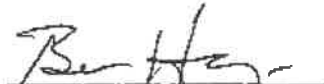
WHEREFORE, Appellant prays the judgment of the Court on this his motion and for all proper orders.

Respectively submitted:

  
Ben Hays, Appellant, Pro Se

CERTIFICATE OF SERVICE

I certify a copy of the foregoing document was served upon the Appellee by mailing a true copy to Mary Jordan Lempesis, P. O. Box 1880, Blufton, SC 29910, and via email to mlempeis @ scsolicitor14.org, this 25 day of October, 2023.

  
Ben Hays, Pro Se

Re: Ben Hays ve South Carolina

From: Ben And Twana (benandtwana@aol.com)

To: janhayward1@gmail.com

Date: Wednesday, October 25, 2023 at 03:04 PM EDT

Jan:  
Understood.  
Ben

On Wednesday, October 25, 2023 at 02:11:57 PM EDT, Jan Hayward <janhayward1@gmail.com> wrote:

Mr. Hays,

I will prepare a transcript of the taped proceedings if I can understand the recording well enough to make a usable transcript. I have not heard the recording, so at this point I cannot promise that I can make a transcript. Upon receipt of the USB of the hearing, I will let you know if I feel comfortable transcribing the requested portion of the trial, being the three witness and the jury instructions. The charge for this recording, if delivered in the normal ten business day turnaround, is \$10.00 per page.

Please let me know if you have any questions.

Thank you.

Janice D. Hayward, RMR

On Wed, Oct 25, 2023 at 10:29 AM Ben And Twana <benandtwana@aol.com> wrote:

Jan:

Below you will find the relevant portion of S. C. Appellate Rule 207 related to the agreement with the court reporter regarding a transcript. As a consequence of my trial attorney neglecting to communicate with my I am in a bit of a rush to comply with all rules.

Please confirm your understanding that you will prepare a transcript of the trail from the USB recording to be furnished by me.

I have attached a copy of the "Magistrates Return" that contains the court caption and a summary of the testimony. I am seeking an agreement with the Solicitor's office for the transcription of the testimony of all witnesses (3 for the prosecution) and the jury instruction. If I am unable to reach an agreement with the Solicitor's office the entire trial will need to be transcribed. It is my intention to mail you a copy of the USB today as soon as I get it duplicated. I will also mail a copy for William Hammett III.

Thanks for your assistance.

Ben Hays

**RULE 207  
TRANSCRIPT OF PROCEEDING****(a) Appeals From a Lower Court.**

(1) **Ordering the Transcript.** Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas, masters-in-equity, special referees or the family court in domestic actions, the transcript must be ordered within ten (10) days after the date of service of the notice of appeal. In appeals from the court of general sessions or the family court in juvenile actions, the transcript must be ordered within thirty (30) days of the date of service of the notice of appeal. Appellant shall contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter. **The court reporter must acknowledge receipt of the request by responding to the appellant within five business days.** Where required by paragraph (a) (7) and by Order of the Supreme Court, copies of all correspondence must also be provided by electronic means. Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below. If a party to the appeal unjustifiably refuses to agree to ordering less than the entire transcript, appellant may move to be awarded costs for having unnecessary portions transcribed; this motion must be made no later than the time the final briefs are due under Rule 211.

On Tuesday, October 24, 2023 at 04:56:38 PM EDT, Jan Hayward <[janhayward1@gmail.com](mailto:janhayward1@gmail.com)> wrote:

Ben,

Nice talking with you.

My mailing address is Jan Hayward, 240 Oak View Way, Summerville, SC 29483. Please send me the USB and I'll see if I can hear adequately to transcribe. Thank you.

Jan

On Tue, Oct 24, 2023 at 3:56 PM Ben And Twana <[benandtwana@aol.com](mailto:benandtwana@aol.com)> wrote:

William Hammett III gave me your email address. I understand you may be willing to prepare a transcript of a Beaufort County trial in Magistrates Court. Please call (843) 271-0449.

Ben Hays

2023 OCT 24 PM 12:59 2023 CP 0701829  
COMMON PLEAS CASE NUMBER  
JERRI ANN ROSENBAUM  
BEAUFORT COUNTY CLERK OF COURT 2023 381 961 72065  
MAGISTRATE CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

BEN HAYS

APPELLANT(S)

VS.

South Carolina

RESPONDENT(S)

IN THE COURT OF COMMON PLEAS

2nd AMENDED  
NOTICE OF ~~CIVIL~~ APPEAL  
Criminal

The plaintiff (defendant) (circle one), BEN HAYS hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Beaufort.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 26<sup>th</sup> day of September, 2023.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

See ATTACHED

Dated: Oct 24, 2023

Ben Hays  
Appellant (or his attorney) Pro Se  
141 Janette Dr  
St. Helena Is., SC 29920  
(843) 271-0449  
email benandtwanna  
@aol.com

Ben Hays, Appellant, vs South Carolina, Respondent, Common Pleas Case # 2023CP0701829

**DEFENDANTS 2ND AMENDED EXCEPTIONS**

**Amendment to correct dates only.**

Defendant appeals the denial of a directed verdict motion at the close of the prosecution's case. The basis of said motion was:

1. Fripp Island regulations required the defendant to register golf carts operated on Fripp Island, SC. Such registrations have historically occurred at the property of the Fripp Island Property Owners Association and the Fripp Island Security Office, each of which is located at 225 Tarpon Blvd., Fripp Island, SC.
2. On **June 26, 2023** the Defendant was served with a "Beaufort County Sheriff's Office Trespass After Notice".
3. On **June 26, 2023** the Defendant notified the Fripp Island Chief of Security, via email, that Defendant would be at the Fripp Island Security Offices on **Sept 27, 2023** for the purpose of registering a golf cart.
4. On the morning of **June 27, 2023** the defendant arrived at said location and was promptly detained by 4 Fripp Island Security officers. A short while thereafter Defendant was arrested by the Beaufort County Sheriff's office and charged with trespassing after notice.

5. The applicable S. C. Code 16-11-620 states, in part, as follows: "Any person who, **WITHOUT LEGAL CAUSE OR GOOD EXCUSE (emphasis added)**, enters the dwelling house, place of business, or on the premises of another person after having been warned not to do so...shall, on conviction be fined not more than \$200.00 or imprisoned not more than 30 days. At the close of the prosecution's case Defendant moved the Court for a directed verdict of acquittal. This Motion was denied and the case was submitted to the jury. Defendant was convicted.

S. C. Code section 16-11-620 is clear. Defendant had a right to be on the premises in question for the purpose of registering his golf cart and the Court should have directed a verdict for the Defendant.

CERTIFICATE OF SERVICE

I certify a copy of the foregoing document was served upon the Appellee by mailing a true copy to Mary Jordam Lempeis, P. O. Box 1880, Blufton, SC 29910, and via email to mlempesis @ scsollicitor14.org, this 24 day of October, 2023.

  
Ben Hays, Pro Se

**RECEIVED**  
**Oct 09 2024**  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas  
Marvin H. Dukes, III, Circuit Court Judge

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Ticket No. 2023-01-901-72065  
Intermediate Appellate Case No. 2023-CP-07-01829

---

Appellate Case No. 2024-000929

BENJAMIN HAYS,

Appellant,

vs.

THE STATE,

Respondent.

---

**MOTION TO HOLD TIME LIMITS IN ABEYANCE**

---

The State, with the consent of Appellant, respectfully moves this Court to hold all time limits in the instant appeal in abeyance until the matter described below has been resolved to the satisfaction of the Court. The State would respectfully show unto this Court as follows.

1. The Initial Brief of Respondent and Designation of Matter in the above referenced appeal are due to be served and filed on October 9, 2024.
2. One of the arguments raised by Appellant in the current appeal (Argument I) relies in part on the fact that neither an audio recording nor a transcript of the September 26, 2023 trial was considered by the circuit court when hearing and ruling on the underlying appeal.
3. In her Return to the circuit court, the magistrate stated: "This is merely a summary of the trial testimony. I have submitted with this return a thumb drive which contains a recording of the trial and Plaintiff's exhibits 1 through 3 and Defendant's exhibits 3 and 4 for the appellate court's consideration."

4. A photocopy page attached to the magistrate's return shows a small gray rectangle which is labeled "USB FLASH DRIVE #1."
5. In his Appellate brief to the circuit court and at the hearing before that court, Appellant noted the record in this case does not include a transcript and that a transcript could not be produced because the actual recording of the trial was corrupted. (Tr.p.4-p.5). The State did not dispute this representation during the appeal. In a recent telephone call with the attorney for the Beaufort County Sheriff's Department, who represented the State at trial, undersigned counsel was advised that the circuit court judge, the Honorable Marvin H. Dukes, III, had advised the parties the audio recording sent by the magistrate was corrupted. Consequently, they proceeded with the appeal with only briefs, arguments, the magistrate's return, and the exhibits introduced during trial.
6. In gathering documents and materials for responding to the appeal and in an effort to be thorough, this Office contacted the Clerk's Office for Beaufort County Magistrate Nancy Sadler in order to determine if an audio recording of the trial might still be available. Surprisingly it was, and on October 4, 2024, a copy of the audio file was shared with the State. An employee with the Attorney General's Office listened to the approximately two-hour long recording and opined that, although of relatively poor quality, the recording seemed sufficiently audible for possible transcription.
7. The State subsequently shared the same audio file with Counsel for Appellant, William Hammett, who has now also had the opportunity to listen to the recording. Although not as confident the recording was sufficient for transcription, Mr. Hammett agreed a professional transcription service might have success in doing so.
8. At this time, since it is unclear whether a transcription service would be capable of producing a sufficient transcript for review, the parties wish to seek an opinion from such a service before determining how to proceed. The State is now making this inquiry with an individual who was formerly a court reporter and now offers transcription services. If transcription is possible, the parties are likely to seek a consent order remanding this matter to the circuit court for a new appellate hearing where that transcript could be part of the review.

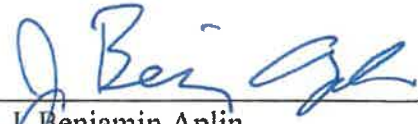
For the reasons above, I respectfully request that all time limits be held in abeyance until this audio recording is reviewed and possibly transcribed by a professional transcription service, and until this matter has been resolved to the satisfaction of the Court.

I have consulted with Mr. Hammett, counsel for appellant, and he consents to this motion to hold time limits in abeyance.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. BENJAMIN APLIN  
Assistant Attorney General

By:   
J. Benjamin Aplin  
S.C. Bar Number 8729

October 9, 2024

**RECEIVED**

**Oct 09 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas  
Marvin H. Dukes, III, Circuit Court Judge

---

Ticket No. 2023-01-901-72065  
Intermediate Appellate Case No. 2023-CP-07-01829

---

Appellate Case No. 2024-000929

BENJAMIN HAYS,

Appellant,

vs.

THE STATE,

Respondent.


---

**PROOF OF SERVICE**

---

I, Susan Spencer, certify I have served the within Motion to Hold Time Limits in Abeyance on Appellant by sending an electronic copy via email to William Sylvester Hammett, III to the address listed in AIS.

I further certify all parties required by Rule to be served have been served.  
This 9<sup>th</sup> day of October, 2024.



SUSAN SPENCER  
Legal Assistant  
Office of the Attorney General

**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT**

**BEN HAYES,**

**Appellant,**

**vs.**

**STATE OF SOUTH CAROLINA,**

**Respondent.**

**IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT**

**CASE NO.: 2023-CP-07-01829**

**MOTION TO RECONSIDER ORDER  
AFFIRMING CONVICTION AND  
DISMISSING APPEAL**

**COMES NOW** the Appellant Ben Hayes (hereinafter “Appellant”) by and through his undersigned counsel, hereby moves this Court to reconsider the Order entered on May 3, 2024 as set forth more specifically herein below.

- 1. The Order fails to address the Appellant’s oral motion for a new trial based upon the lack of a full record.**

In his brief and as supplemented orally in argument, Appellant argued the lack of a record necessitated a new trial, or in the alternative, the record would have to be confined to the Magistrate’s Return and the stipulated facts, which the State stipulated to at the hearing.

The Order both fails to address Appellant’s request for a new trial and includes facts that go beyond the Magistrate’s Return and those stipulated to.

- 1. The Order, filed on May 3, 2024, fails to address Appellant’s oral motion for a new trial based upon the lack of a full record. Appellant argued the lack of the trial court’s recording necessitates a new trial. Or, in the alternative, the State stipulated at the March 26, 2024 hearing that the record would have to be confined to the Magistrate’s Return.**
- 2. When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. See Whitehead v. State, 352 S.C. 25, 574 S.E.2d 200 (2002), and China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968). See also State v. Ladson, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007), where the Court granted the appellant’s motion to set aside his conviction and remand for a new trial when attempts to reconstruct the incomplete trial transcript were unsuccessful, thus denying appellant meaningful appellate review.**
- 3. Therefore, Appellant moves this Court for reconsideration and specifically, a new trial to reconstruct the record.**

**2. The Order fails to include facts that were stipulated to.**

As reflected in his brief, the Appellant secured stipulated facts which were not reflected in the established facts of the Court's order, specifically:

- a. Appellant's paying guest, staying in one of Appellant's rental units had been stopped and ticketed the day before Appellant was arrested for appearing at the Premises, because the registration on the Appellant's golf cart in question had expired;
- b. the golf cart in question is an advertised feature of the Appellant unit's rental, and providing guests with an unregistered golf cart exposed Appellant to liability for breach the rental contract with his guest;
- c. Appellant had no balance due to the HOA as of June 27, 2023, thus there was no barrier to the golf cart being inspected;
- d. Appellant's golf cart was in fact inspected on June 27, 2023, immediately prior to his arrest; and
- e. there was no mechanism for Appellant's golf cart to be inspected other than to transport it to the Offices.

Therefore, Appellant moves this Court for reconsideration and specifically to include the aforementioned stipulated facts in its order.

**3. The Order concludes that the conviction is affirmed because Appellant could have directed a third party to the Premises in lieu of going himself.**


The Court held "evidence existed that a member of his family could, and did respond to the location, only after his arrest." Order Affirming Conviction, page 4 of 5, paragraph 2.

This is error because, upon information and belief, the State / a quasigovernmental office cannot impose a burden with both civil and criminal liability that can only be satisfied by securing the assistance of a third party.

If a governmental / quasigovernmental office has the ability to place those within its jurisdiction on a trespass notice, it must either allow said persons to satisfy any and all obligations imposed remotely, or said person coming to the government / quasigovernmental office to satisfy any and all obligations must constitute *legal cause or good excuse* to enter an otherwise restricted premises.

Therefore, Appellant moves this Court for reconsideration and specifically to vacate this conviction.

Respectfully submitted,

  
\_\_\_\_\_  
WILLIAM S. HAMMETT, III, ESQ.  
ATTORNEY FOR DEFENDANT  
Cobb, Hammett, Scapellato, and Andrews, LLC  
222 W. Coleman Blvd.  
Mount Pleasant, SC 29464  
O: (843) 936-6675  
C: (864) 426-8293  
[whammett@chsalawfirm.com](mailto:whammett@chsalawfirm.com)

May  
~~April~~ 13<sup>th</sup>, 2024  
Mt. Pleasant, South Carolina

RECEIVED

Jun 03 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS  
 CASE NUMBER 2023-CP-07-01829  
 Ticket number 202330190172065

State of South Carolina )  
 Respondent )  
 Vs. )  
 Benjamin J. Hays )  
 Appellant )

MAGISTRATE'S RETURN

2023 SEP 27 PM 3:10  
 JERRI ANN ROSE  
 BEAUFORT COUNTY, S.C.  
 CLERK OF COURT

This matter was before me on September 26, 2023, for a jury trial in the above referenced matter in which the Defendant Benjamin Hayes was accused of a violation of South Carolina Code Section 16-11-620 which prohibits trespassing after notice. Present in Court were the Defendant and his attorney William McGuire as well as Brian Kiel for the State of South Carolina. Also present were the witnesses who testified in the matter. They were sequestered at the request of the Defendant.

Mr. Kiel called several witnesses all of whom testified generally that Mr. Hayes went on the property at 225 Tarpon Boulevard, Fripp Island, South Carolina, on June 27, 2023, after having been served a formal notice by the Beaufort County Sheriff's Department that Fripp Island Security would prosecute him if he returned to the property located at 225 Tarpon Boulevard.

The first witness was Mr. McCarter who testified that he is employed by Fripp Island to enforce the covenants on the island. He testified that he knows Mr. Hayes because there have been several disturbances involving him at the office that he shares with Fripp Island Security. He testified (without objection) that the attorney for the Property Owner's Association had written two letters to the Defendant asking him not to return to 225 Tarpon Boulevard. He testified that on June 26, 2023, the Defendant came to the offices at 225 Tarpon Boulevard because the Defendant needed an inspection sticker for one of his golf carts. Mr. McCarter explained to the Defendant that he could not inspect the vehicle for a sticker because he had unpaid fees owed to Fripp Island. The Defendant became angry and Mr. McCarter asked him to leave. The Sheriff's Department was contacted and asked to issue the trespass notice to the Defendant, which they did.

ELECTRONICALLY FILED - 2024 Jun 05 2:17 PM - BEAUFORT - COMMON PLEAS - CASE#2023CP0701829

The second witness was Chief Christian Gonzales, the chief of security at Fripp Island. Mr. Gonzales generally corroborated the testimony of Mr. McCarter regarding the events of June 26. He testified further that when the Sheriff's Department deputies arrived on June 26, he asked that they arrest the Defendant because the Defendant had received notice from Fripp Island's lawyer that he was not to go to 225 Tarpon Boulevard, but he had ignored that request. The Sheriff's deputy did not arrest the Defendant, but did serve him with a "Trespass after Notice" document which the Defendant signed. Chief Gonzales indicated that the Defendant was supposed to make an appointment for inspections and that no appointment had been made. Chief Gonzales testified that the following day on June 27, the Defendant sent him an email stating that the person who had rented the uninspected golf cart had received a ticket and that "I have attached forms, complete on my part, to register golf carts today." Chief Gonzales testified that later that morning, the Defendant was in the parking lot of 225 Tarpon Boulevard towing a golf cart saying that he wanted it inspected. Chief Gonzales called the Sheriff's Department complaining that the Defendant was trespassing. Deputy Nicholas Horne of the Beaufort County Sheriff's Department arrived and arrested the Defendant.

The third witness was Deputy Nicholas Horne. Deputy Horne arrived at 225 Tarpon Boulevard on June 27, 2023, to find the Defendant seated in a golf cart that was located on a trailer in the parking lot. The deputy spoke with the Defendant who admitted that he had received the trespass notice, but said he thought it would be okay to be in the parking lot. During the ride to the jail, the Defendant indicated to the deputy that he was a lawyer and had argued before the United States Supreme Court.

On cross examination of these witnesses, the Defendant's attorney brought out that the Defendant was at 225 Tarpon Boulevard to comply with the regulations requiring that the Defendant have his golf carts (which he rented to visitors to Fripp Island) inspected. He had Chief Gonzales testify that the Defendant wrote him an email saying that his renter had received a ticket for driving an uninspected golf cart on the evening before he was arrested. He said that it was the same golf cart that he had refused to inspect because the Property Owner's Association had a balance owed on his account. The email is submitted herewith as Defendant's exhibit 3.

The Defendant moved for a directed verdict on the grounds that the statute has a caveat, "without legal cause or good excuse," in its prohibition against entering premises after notice and that the evidence was that the Defendant entered for the purpose of having his golf cart inspected and not with the intention of trespassing. The motion was denied and the case was submitted to the jury for a decision. The jury found the Defendant guilty of Trespassing.

This is merely a summary of the trial testimony. I have submitted with this return a thumb drive which contains a recording of the trial and Plaintiff's exhibits 1 through 3 and Defendant's exhibits 3 and 4 for the appellate court's consideration.

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read "Nancy Sadler", is written over a solid horizontal line.

**Nancy Sadler, Magistrate for Beaufort County**

**September 26, 2023**

USB FLASH DRIVE #1

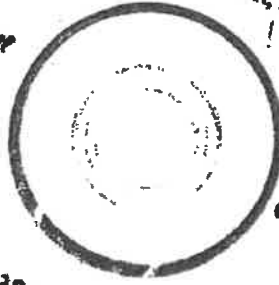


**Country's Exhibits**



Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901

- DASHCAM
- BODY CAM FR-117
- SURVEILLANCE
- SLED DATAMASTER



NR. 000000-000  
20220626-1-  
01131\_0006

CASE# 20230190172065 DATE 9-26-23  
 STATE V. BENJAMIN J. HAYES  
 AUTHENTICATED: [Signature]



235090385  
Trespassing

**BEAUFORT COUNTY SHERIFF'S OFFICE**

**TRESPASS AFTER NOTICE**

This is a formal notice of trespass. The property owner or agent has requested the Beaufort County Sheriff's Office to issue a Trespass Notice to you. You are hereby formally notified of their intent of prosecution if you return to this property.

Date: 6/21/23

Subject Name: Axys, Benjamin

Address: 

D.O.B.: 4/03/1943 S.S.#: \_\_\_\_\_ Race W Sex M

D.L./I.D.#:  State SC

Comp./Business Name: Fripp Island Security


Address: 225 Teepee Blvd. Fripp Island

South Carolina State Statute 16-11-620

Entering premise after warning or refusing to leave on request: jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premise of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business or on the premise of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction be not fined more than two hundred twenty five dollars (\$225.00) or imprisoned for not more than thirty (30) days

I forbid the above listed subject to enter or be about the above property, and will prosecute said subject if he/she is about the property. I attest that I am the property owner, or acting as representative or agent for said property owner.

Signature of Property Owner   
I affirm that I have received a copy of this notice.

Signature of Subject Benjamin Axys 6/26/23

Witness Chris [Signature] Case Officer Sgt Noack

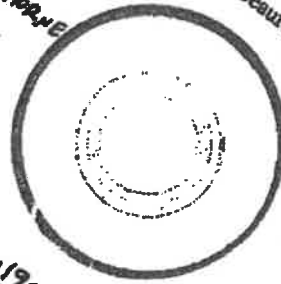
BCSO Case Number 235090385

Certified to be a true and correct copy of the original filed with the Office of the Sheriff, Beaufort County  
Michael M. Hixfield  
Chief Deputy Sheriff



Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901

- DASHCAM
- BODY CAM *None*
- SURVEILLANCE
- SLED
- DATAMASTER



CASE# *20230190172065*  
 STATE# *Beaufort Co. 4442*  
 INITIALED: *[Signature]*

DATE: *9-26-23*



## Defendant's Exhibit

**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Tuesday, June 27, 2023 9:03 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

As I mentioned to you yesterday; you have an outstanding balance on your POA account that you need to clear up before security can register your carts. Your guest may appeal the ticket to the appeals committee. Have a wonderful day sir and if I can be of any assistance to you please let me know.

Sincerely,  
Christian Gonzales

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Tuesday, June 27, 2023 8:36 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Re: Security jurisdiction

**Chief Gonzales:**

I have attached forms, complete on my part, to register golf carts today, A citation was issued to one of my guests last evening. They were driving the golf cart you refused to register yesterday despite there being no authority in the rules and regulations for the reason you decided to relate to me. Regardless, that issue no longer exists. I suggest you void the citation.  
Ben Hays

- CC BOD
- Michael O'Brien
- Sharon Lawton
- Bob Jordan
- Claude "Skip" Shriver
- Dan Smith
- Lou Wood
- Monte Runfoia
- Scott Reale
- Nancy Wingenbach



**Christian Gonzales**

---

**From:** Christian Gonzales  
**Sent:** Monday, June 26, 2023 8:48 AM  
**To:** 'Ben And Twana'  
**Subject:** RE: Security jurisdiction

What day and time? I will make myself available.

**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Monday, June 26, 2023 8:14 AM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Fw: Security jurisdiction

**Christian:**  
Would still like that cup of coffee when you have a bit of time.  
**Ben**

----- Forwarded Message -----  
**From:** Ben And Twana <benandtwana@aol.com>  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Sent:** Friday, June 23, 2023 at 08:35:25 AM EDT  
**Subject:** Re: Security jurisdiction

**Chief:**  
If you are available I will come visit later this morning.  
**Ben Hays**

On Thursday, June 22, 2023 at 02:38:59 PM EDT, Christian Gonzales <chiefgonzales@frippislandliving.com> wrote:

We had an opinion from the POA attorney and a review of the signed agreement it was determined security has enforcement on all island property. Please feel free to call me if you would like to discuss further. (843) 838-2334

Thank you,

**Christian Gonzales**



**From:** Ben And Twana <benandtwana@aol.com>  
**Sent:** Thursday, June 22, 2023 12:01 PM  
**To:** Christian Gonzales <chiefgonzales@frippislandliving.com>  
**Subject:** Security jurisdiction

**Chief:**

I believe the recorded covenants for Fripp Island exclude all multi-family complexes on Fripp from POA and thus Security jurisdiction. Below was copied from the POA website to which you have access.

It may be appropriate to add this to any "training guide" you use with security personnel. Some officers are apparently unaware of the exclusion.

Ben Hays

## Covenant Enforcement

Enforcement is to ensure that the **single-family, residential properties** adhere to the amended and restated declaration of covenants, ARB Guidelines, and the **rules and regulations adopted by the Board of Directors**. Compliance is focused on areas such as yard maintenance, lot appearance, and home appearance, including, but not limited to, peeling paint, broken windows and broken boards.

NOTES

Form 5-438 Rev. 08/2017

# UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA

VERSUS

FIRST NAME BENJAMIN			MIDDLE NAME J			LAST NAME HAYES		
STREET								
CITY SAINT HELENA						STATE SC		ZIP CODE 29920
DL STATE SC	DRIVER'S LICENSE NO. 011503597				NONE <input type="checkbox"/>	CLASS B	CDI <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
RACE W	SEX M	BIRTH DATE		HGT.	WGT.	HAIR	EYES	
VEH LIC NO	NONE <input type="checkbox"/>	STATE	MAKE OF VEH	YEAR	REGISTRATION	SALES TAX	TITLES	COMMENTS
VEHICLE OWNER FIRST NAME	MIDDLE NAME			LAST NAME				
OWNER STREET			CITY		STATE		ZIP CODE	
<b>YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT</b>								
NAME OF TRIAL COURT BEAUFORT MAGISTRATE			STREET 104 Ribaut Road					
DATE OF TRIAL 07/11/2023		TIME OF TRIAL 11:00		CITY Beaufort		STATE SC	ZIP CODE 29901	
VIOLATION SECTION NO. 16-11-0620		VIOLATION - COURT APPEARANCE REQUIRED YES: <input checked="" type="checkbox"/> NO: <input type="checkbox"/>						
ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST								
DATE OF VIOLATION 06/27/2023		TIME OF VIOL. 10:49		SC POINTS		B.A. LEVEL - REP		
VIOLATION LOCATION CITY								COUNTY 07
LAT 32.33025		LONG -80.4678		CITY BEAUFORT				
NAME AND RANK OF ARRESTING OFFICER HORNE NICHOLAS A D/S				SCJA OFFICER NUMBER 7104-1050				
BAIL DEPOSITED NONE		DATE OF ARREST 06/27/2023		BOND AMOUNT REQUESTED				
DATE BAIL REC'D.		BY						
CASE BEFORE: MAGISTRATE <input checked="" type="checkbox"/> MUN. COURT <input type="checkbox"/> CIRCUIT COURT <input type="checkbox"/> FAMILY COURT <input type="checkbox"/> FEDERAL COURT <input type="checkbox"/>								
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:								
TRIAL BY: TRIAL JUDGE <input type="checkbox"/> JURY <input checked="" type="checkbox"/>			DEFENDANT: DID NOT APPEAR <input type="checkbox"/> APPEARED <input checked="" type="checkbox"/>					
DISPOSITION DATE 9-26-2023		DISPOSITION: NOLLE PROSSED <input type="checkbox"/> GUILTY <input type="checkbox"/> PLED: NOLLO CONTENDERE <input type="checkbox"/> FORFEITED BOND <input type="checkbox"/> NOT GUILTY <input checked="" type="checkbox"/> DETERMINED BAC: <input type="checkbox"/>						
CHARGE CONVICTED OF				SAME AS ORIGINAL <input type="checkbox"/>		SC POINTS		
JAIL	SUSPEND	FINE 465.00	AMT. COLLECTED 465.00	AMT. SUSPENDED	COMMITTED TO		Vehicle Searched NO	
CERTIFIED CORRECT <i>Nancy Sule</i>				DATE 9-26-2023		Arrest as Result of Collision NO		
Electronic Copy - Trial Officer / Driver's Record				TICKET # 20230190172065				

VIOLATOR  
VEHICLE  
TRIAL COURT  
VIOLATION  
ARREST OFFICER  
COURT INFORMATION

BEAUFORT  
INCIDENT NO. 235099939  
AGENCY/IDDP: BEAUFORT COUNTY SHERIFF'S OFFICE

*5425.00*  
*Magistrate*  
*Scott Dischhoff*  
*Kiel*

STATE OF SOUTH CAROLINA )  
 COUNTY OF BEAUFORT )  
 STATE OF SOUTH CAROLINA )  
 vs. )  
Benjamin J Hayes )  
 Defendant )

20230190172065  
 CASE NUMBER

**IN THE SUMMARY COURT  
 JURY TRIAL VERDICT SHEET**

**Offense Charged:**

Trespassing / Entering premises after warning or refusing to leave on request

We, the Jury, duly empaneled and sworn in the above entitled action, return as our unanimous verdict that the defendant is

\_\_\_\_\_ Not Guilty X \_\_\_\_\_ Guilty

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
 Foreperson

9/26/2023  
 Date

STATE OF SOUTH CAROLINA )  
 COUNTY OF BEAUFORT )  
 )  
 Ben Hays, )  
 )  
 Plaintiff(s), )  
 )  
 vs. )  
 )  
 State of South Carolina, )  
 )  
 Defendant(s). )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 CASE NO: 2023CP0701829

**ORDER**

This came before me on Appellant Ben Hays' Motion to Reconsider the May 3<sup>rd</sup>, 2024, Order Affirming Conviction and Dismissing Appeal; filed May 13<sup>th</sup>, 2024.

After reviewing the record, I hereby deny the motion.

**IT IS SO ORDERED:**

\_\_\_\_\_  
**Honorable Marvin H. Dukes, III**  
**Master in Equity and Special Circuit Court Judge**  
**for Beaufort County**

May \_\_\_\_, 2024  
 Beaufort, South Carolina



**Beaufort Common Pleas**

**Case Caption:** Ben Hays VS South Carolina State Of  
**Case Number:** 2023CP0701829  
**Type:** Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

Electronically signed on 2024-06-03 14:28:41 page 2 of 2

**In The Matter Of:**  
*Ben Hays v.*  
*State of South Carolina*

---

*WEBEX Videoconference Hearing*  
*March 26, 2024*

---

*Janice D. Hayward, RMR*  
*Independent Court Reporter*  
*843.478.6756*  
*JanHayward1@gmail.com*

Original File 05-20-24 Ben Hays Appeal Hearing.txt  
Min-U-Script® with Word Index

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STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

BEN HAYS, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
Defendant. )

-----

WEBEX VIDEOCONFERENCE HEARING

BEFORE: HON. MARVIN H. DUKES III  
MASTER-IN-EQUITY  
DATE: Tuesday, March 26, 2024  
LOCATION: WEBEX VIDEOCONFERENCE  
TRANSCRIBED BY: Janice D. Hayward, RMR  
NCRA Registered Merit Reporter  
240 Oak View Way  
Summerville, South Carolina 29483  
843.478.6756  
JanHayward1@gmail.com

**Janice D. Hayward, RMR**

1 Any Court, party, or person who has purchased  
2 a transcript, may, without paying a further fee  
3 to the reporter, reproduce a copy or portion  
4 thereof as an exhibit pursuant to Court order  
5 or rule or for internal use, but shall NOT  
6 otherwise provide or sell a copy or copies to  
7 any other party or person.

5

6

## APPEARANCES

7 FOR BEN HAYS

8

William S. Hammett  
whammett@cdhlawfirm.com  
9 Cobb Hammett Scapellato & Andrews LLC  
222 West Coleman Boulevard  
10 Building 2  
11 Mount Pleasant, South Carolina 29464

12 FOR BEAUFORT COUNTY

13

Mary Jordan Lempesis  
mjlempesis@scsolicitor14.org  
14 and  
Brian C. Kiel  
15 bckiel@scsolicitor14.org  
Fourteenth Circuit Solicitor's Office  
16 Post Office Box 1880  
Bluffton, South Carolina 29910-1880

17

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20

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25

Janice D. Hayward, RMR

1 (The recording begins:)

2 THE COURT: -- Hays versus State of  
3 South Carolina. This is an appeal of magistrate's  
4 court -- from a jury trial conviction in the  
5 magistrate's court, a trespass after notice charge.

6 Matter was referred to me for  
7 the appeal by way of order of reference filed  
8 February 22nd, 2024. And I'm happy to hear from  
9 you, sir.

10 MR. HAMMETT: Thank you, your Honor.

11 THE COURT: And you can sit or stand,  
12 however you're comfortable.

13 MR. HAMMETT: Thank you, your Honor.  
14 I filed an appellate brief to provide the Court a  
15 very brief summary of the facts as laid out in that  
16 brief.

17 My client was convicted by a  
18 jury of violating a trespass notice notwithstanding  
19 the fact that the code section provides an excuse.  
20 And it is our position that he had a valid excuse to  
21 be at the premises on the day he was arrested.

22 My client had gone to offices  
23 and his purpose of being at those offices was to  
24 have his golf cart inspected because if the golf  
25 cart was not inspected, he would be ticketed and

**Janice D. Hayward, RMR**

1 fined for violating regulation of Fripp Island.

2 And he was asked to leave. He  
3 left. That evening he emailed one of the office  
4 staff members, the chief, and he informed the chief  
5 that he would be returning the next day for the  
6 purposes of having his golf cart inspected.

7 He actually came the next day to  
8 the offices. The golf cart inspection was  
9 completed. And he was then arrested.

10 So that is the entire record.  
11 Our request to this Court is that the conviction be  
12 overturned either because it was err by the trial  
13 Court to not grant my client's motion for a directed  
14 verdict, or in the alternative, it was not legally  
15 possible for a jury to find that the state had  
16 proven beyond a reasonable doubt that my client had  
17 violated the trespass notice without justification.

18 In the alternative, your Honor,  
19 the appellate brief notes that the record in this  
20 case does not include a transcript which is normally  
21 part of the record. It's confined to simply the  
22 magistrate's return and five stipulations as set  
23 forth in my brief.

24 The reason for that is the  
25 transcript could not be produced because the record

**Janice D. Hayward, RMR**

1 was corrupted, the actual recording of the trial.

2                   And if for some reason the Court  
3 is not inclined to simply reverse the conviction,  
4 then, in the alternative, my client's request would  
5 be for a new trial especially if the state intends  
6 to argue things that were established at the trial  
7 that there is no record of.

8                   Because my understanding is that  
9 all of our argument is simply summary of the  
10 evidence, it's not evidence in and of itself.

11                   So in this case the record is  
12 very finite. It confirms that my client was  
13 provided notice not to return, he had to return or  
14 face civil and criminal penalty and liability.

15                   When he did return for the  
16 purposes of a golf cart inspection required by Fripp  
17 Island regulation, his golf cart was inspected and  
18 then he was arrested in the parking lot of the  
19 offices sitting in his golf cart. Thank you, your  
20 Honor.

21                   THE COURT: Let me ask you just a  
22 couple of quick questions. So this boils down to  
23 good excuse, whether he had a good excuse or not.

24                   MR. HAMMETT: Yes, your Honor.

25                   THE COURT: And that was argued, I

**Janice D. Hayward, RMR**

1 assume, before the jury?

2 MR. HAMMETT: Yes, your Honor.

3 THE COURT: And I guess I ask because  
4 good excuse, whether an excuse is good or not, seems  
5 like a factual finding, a subjective factual finding  
6 as opposed to an objective finding. Do you agree  
7 with that, or --

8 MR. HAMMETT: I would agree that the  
9 finding of good excuse is a factual finding.

10 THE COURT: And the reason I ask is,  
11 of course, this was jury trial, so the jury came  
12 back with a factual finding in theory based on  
13 everything, I think you're telling me, that whatever  
14 this excuse was did not rise to the level of good,  
15 that it fell somewhere short of good excuse is, I  
16 guess, the way I'm thinking about this.

17 If you've got a jury trying to  
18 determine whether or not he had a good excuse and  
19 they found him guilty, they were aware, of course,  
20 of the statute requiring a good excuse to find him  
21 not guilty, then, good, which is an inherently  
22 subjective word, I mean, who knows what good is,  
23 it's anywhere in the spectrum, but the jury  
24 collective came up with the decision, I think, from  
25 a factual basis that his excuse was not simply good

**Janice D. Hayward, RMR**

1 enough to rise to the level of good as it defined --  
2 or contained, rather, in the statute.

3 MR. HAMMETT: I would agree with the  
4 Court's recitation but I would suggest that it's  
5 half the inquiry I'm focusing on. Because the  
6 statute says a person without legal cause or a good  
7 excuse.

8 I think the jury gets to  
9 determine good excuse. I think the Court gets to  
10 determine legal cause.

11 THE COURT: But his legal cause, as I  
12 understand from what I read -- 'cause I read this  
13 before y'all came in, and your argument -- the legal  
14 cause is -- which you're right, I think that's not a  
15 factual finding, I think that's for the Court to  
16 determine -- was that he needed to get his golf cart  
17 inspected.

18 MR. HAMMETT: Well, the way I would  
19 say it, your Honor, is Fripp Island required him to  
20 or face civil penalty and even larger unknown civil  
21 liability if he didn't.

22 The civil penalty would be the  
23 fines that Fripp Island was imposing for not having  
24 the golf cart inspected and the larger civil  
25 liability would be one of his renting tenants who

**Janice D. Hayward, RMR**

1 had a lease contract that allowed them use of a golf  
2 cart had actually been the person to receive the  
3 ticket for the golf cart not being inspected.

4 So you got the issue of the  
5 tickets from Fripp Island plus you've got my client  
6 could be sued by somebody that he contractually  
7 stated, I will give you a house on Fripp Island that  
8 you can rent and use of a golf cart, and that he was  
9 not able to provide that because of these  
10 uninspected golf carts.

11 THE COURT: It was at a legal office.  
12 Interesting.

13 MR. HAMMETT: That was my  
14 interpretation.

15 THE COURT: For my record. Okay.  
16 All right.

17 Well, I'm happy to hear from the  
18 state.

19 MR. KIEL: Thank you. Judge, may it  
20 please the Court.

21 THE COURT: Yes, sir.

22 MR. KIEL: Obviously, I tried the  
23 case. And may I ask, are the body-worn cameras that  
24 were introduced into evidence, are they part of the  
25 record?

**Janice D. Hayward, RMR**

1 THE COURT: There's a USB flash  
2 drive. Actually probably -- yeah, body camera,  
3 there's a DVD.

4 MR. KIEL: And, your Honor, the  
5 reason I ask is on that body-worn camera you will  
6 see that this defendant's wife was called by this  
7 defendant after he was arrested and asked to come to  
8 the location.

9 And it was argued extensively on  
10 both sides whether or not -- that was the sole issue  
11 of the case, always the sole issue of the case,  
12 whether or not he had the legal cause or good excuse  
13 to come to that location.

14 He had been told by Fripp Island  
15 Security multiple times that his behavior was  
16 unwarranted. I think defense put in some emails and  
17 they put in some communication from Fripp Island as  
18 evidence.

19 And their argument was and  
20 always was that he had to go up there with the golf  
21 cart. I think the evidence in the case was he had  
22 multiple golf carts and he could have given those to  
23 his clients as well. Also, he had a wife who was  
24 available to come up there.

25 Furthermore, there's evidence in

**Janice D. Hayward, RMR**

1 the case that Fripp Island Security had gone above  
2 and beyond to say, we will come to your house, if  
3 needed. You can actually come here, you just need  
4 to make the appointment because your behavior  
5 warranted doing that.

6 That was a point of contention  
7 and opposing exhibits made clear to the jury from  
8 both sides that that was the single factual question  
9 that they had, to be honest with you. And I think  
10 they did that.

11 The Judge, at the directed  
12 verdict on the motion, she took that under  
13 advisement. She heard both arguments.

14 I argued that it was an element  
15 that I had to prove that the legal cause and the  
16 good excuse element you have to prove. The  
17 legislature put that in the statute twice for a  
18 reason: To draw our attention to it.

19 And I argued it was a fact that  
20 I had to prove that he didn't have the right to be  
21 there. And I think we did that. We argued that he  
22 had three or four warnings not to come.

23 The sheriff's office had been  
24 out there the day before and actually refused to  
25 arrest him on that day when he was told to leave and

**Janice D. Hayward, RMR**

1 wouldn't leave.

2                   They put him on official  
3 trespass notice from the sheriff's office, then he  
4 came back the next morning.

5                   As to the one fact that he came  
6 after being told to come, that was true, that was  
7 part of the record, but nobody responded to him.

8                   He came before anybody had a  
9 chance to respond to him so he just showed up  
10 unannounced, so that was the issue and that was  
11 always the single issue.

12                   I equated the legal excuse --  
13 legal problem, good excuse as to what we all learned  
14 in law school, you're going down a mountain and it  
15 gets, you know, snowy and you're trapped in a  
16 building, you have a right to be there so you're  
17 not -- you know, necessity was the issue. And I  
18 think that was the argument I made.

19                   That is different from somebody  
20 who needs to break into a house because they need  
21 shelter and food. I think that's what the  
22 legislature intended when they put that in the  
23 statute.

24                   I thought that the facts of this  
25 case were substantial that the defendant himself

**Janice D. Hayward, RMR**

1 being a lawyer -- and that was noted by the trial  
2 judge -- that he would have understood the law and  
3 he did on those body cameras tell our deputies that  
4 he understood what he did and what he did was wrong  
5 and that he should have done it differently. He  
6 admitted to that. That is in the record.

7 Your Honor, as you know -- and  
8 I'll just quickly do this. The directed verdicts,  
9 you know, that we're arguing about, the standard is  
10 not a de novo review, as you know. It's whether the  
11 (audio interruption) err of law or not.

12 I do believe that the defense  
13 counsel at trial did preserve this several times.  
14 And it's not the weight of the evidence, your Honor,  
15 it's just the existence of it.

16 I think the record is complete  
17 with the existence that he was told not come  
18 multiple times and that he had other options.

19 And there was no actual legal  
20 cause for him that day or a good excuse for him that  
21 day to come to that particular premises which he was  
22 told him not to come to.

23 And, your Honor, this should be  
24 denied. And there's more than one inference that  
25 the evidence -- and that's exactly what happened at

**Janice D. Hayward, RMR**

1 trial. The judge sat here, heard the argument on  
2 the directed verdict, and then the jury heard the  
3 exact same arguments (audio interruption) directed  
4 verdict as a factual argument and they deliberated  
5 on that.

6 Reversal is only proper in this  
7 case when there's no evidence to support the ruling  
8 below. That's from Steinke -- I get that one wrong  
9 every time, Judge -- but Steinke versus South  
10 Carolina Department of Labor, 336 S.C. 373. That's  
11 only when it's unsupported by the evidence.

12 I understand there was a  
13 corruption of something in this case, your Honor,  
14 but I will tell you that the evidence -- you have  
15 the body-worn camera and you have the magistrate  
16 return which is accurate, her return is accurate to  
17 what happened that day and the witnesses that were  
18 called, your Honor.

19 That defendant put in evidence  
20 in this case state everything -- their burden -- I  
21 believe we did -- to prove that he had absolutely no  
22 legal cause or good excuse to come back to that  
23 particular premises.

24 It was actually noted that he  
25 could -- and through testimony that he could go

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1 anywhere on Fripp Island other than there and  
2 without permission.

3 So, your Honor, I don't think we  
4 have a brief on this but I would stand on our  
5 arguments.

6 THE COURT: Any follow-up thoughts?

7 MR. HAMMETT: The biggest issue in my  
8 opinion, your Honor, with this case is the record  
9 actually will not reflect much of what the state's  
10 counsel has argued.

11 I was not there at the trial. I  
12 have no idea if that was actually presented to the  
13 trial. But when I was filing this appeal and  
14 reviewing the record, once I became informed of the  
15 fact that we couldn't get a transcript and we  
16 couldn't get a complete record, I did reach out to  
17 the state and I said, I need to know that there are  
18 five stipulations that we can agree to and the last  
19 one is there's no mechanism for the defendant's golf  
20 cart to be inspected other than to transport it to  
21 the offices.

22 So all of the argument that his  
23 wife could have done it or that people from the  
24 offices could have gone to his home to inspect it,  
25 that is in direct contradiction of the stipulations

**Janice D. Hayward, RMR**

1 that I understood were acceptable.

2 Because when I understood that  
3 stipulations were acceptable, I was having to  
4 proceed with the appeal because the record is  
5 finite. If those stipulations had not been  
6 acceptable, instead of moving forward with the  
7 appeal today, I would have simply motioned the Court  
8 for a new trial because we didn't have a complete  
9 record.

10 THE COURT: Were the stipulations  
11 filed? I'm looking for them.

12 MR. HAMMETT: They're actually in my  
13 brief, your Honor. Before I filed it I emailed the  
14 state's counsel to verify if these were acceptable.

15 MS. LEMPESIS: Notice to me, Your  
16 Honor -- 'cause at that time I was the only one  
17 listed as being on the -- representing the state.

18 MR. HAMMETT: Specifically, page 5,  
19 your Honor, paragraph A, is where I listed them out.

20 MS. LEMPESIS: And I had agreed to  
21 the stipulations prior to realizing that Mr. Kiel  
22 actually handled this case and actually from now is  
23 going to be handling all the appeals that come from  
24 the Beaufort County Sheriff's Office Magistrate's  
25 Court.

**Janice D. Hayward, RMR**

1 MR. KIEL: Just to speak to that  
2 stipulation or not, and I understand that, I think  
3 the record is ripe with the evidence.

4 There is evidence that the  
5 defense actually put in that there was communication  
6 between the defendant and Fripp Island about when he  
7 could and could not come, your Honor.

8 And I know that the return  
9 speaks to that too, especially the evidence and the  
10 first two witnesses that were called, I believe.

11 THE COURT: Stipulation E is what I'm  
12 thinking of, the mechanism for defendant's golf  
13 carts to be inspected other than to transport it to  
14 the offices.

15 First of all, that doesn't talk  
16 about does he have to be here? Can anyone else do  
17 it? I mean, golf cart's got to be there, granted,  
18 stipulated.

19 But, I mean, what y'all told me  
20 is -- nobody's told me that he has to actually be  
21 there. They're just looking at the golf cart, not  
22 him, I assume.

23 MR. HAMMETT: So I would fall back on  
24 who has the burden of proof there? It's the state.  
25 They would have to prove.

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1                   And I've gone through the  
2 record, I can't find any reference in the return or  
3 any exhibit where the state established that  
4 somebody else could transport the golf cart.

5                   Now, maybe that happened at  
6 trial, but it's clearly not part of the record,  
7 unless somebody can point out how I missed it.

8                   THE COURT: And it might be on the  
9 body-worn camera that's an Exhibit -- I usually do  
10 one on it. Here it is.

11                   You marked it --

12                   MR. HAMMETT: I have your note. I  
13 wasn't involved in this thing until a month and a  
14 half ago. I finished the appeal about two weeks  
15 ago.

16                   THE COURT: How long is it?

17                   MR. KIEL: I don't remember, your  
18 Honor.

19                   There was discussion at some  
20 point if his wife actually does want to show up on  
21 this one. I know that that was argued to the jury.

22                   THE COURT: They put a staple right  
23 where it's going to ruin -- (inaudible) scratches.

24                   (Conversation between the judge and  
25 secretary, and discussion off the record.)

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1 THE COURT: Defendant entered into  
2 the record that it speaks of the balance that he had  
3 to clear up. So the communications were, it looks  
4 like, an hour and forty minutes, give or take,  
5 before he came up there.

6 And so I don't know whether --  
7 you know, he got this email that gets him up there  
8 but I know that it was sent. So y'all have all seen  
9 this. I can't seem to make that screen work today  
10 anyway. So I'm watching it just go back and forth.

11 MR. HAMMETT: This isn't a part of  
12 the record, but if (audio interruption) and he  
13 provided the proof that it was taken care of and  
14 they gave him a document showing he had no  
15 balance --

16 THE COURT: Right.

17 MR. HAMMETT: -- but that's not part  
18 of the records.

19 (Pause, and discussion off the record.)

20 THE COURT: How many golf carts does  
21 he have?

22 MR. KIEL: I think it's like 20.

23 MR. HAMMETT: Oh, 20?

24 MR. KIEL: I can't remember exactly,  
25 Judge. It's a lot, but...

**Janice D. Hayward, RMR**

1 MR. HAMMETT: Oh, okay. I'll go with  
2 this answer. I think that helps.

3 MR. KIEL: It's more than one, I can  
4 assure you of that.

5 MR. HAMMETT: 'Cause, you know, I  
6 could probably get my wife to go get one golf cart.  
7 She'd want to kill me if I said go get 20.

8 MR. KIEL: That came out in trial. I  
9 don't remember how many.

10 (Pause.)

11 THE COURT: You might want to  
12 negotiate a cart as part of your fee.

13 MR. HAMMETT: You know, I used to  
14 have a golf cart on Daniel Island. (Inaudible.)

15 (Pause.)

16 THE COURT: Certainly was  
17 cooperative.

18 MR. HAMMETT: Yes.

19 (Pause.)

20 THE COURT: Was there anything else  
21 or (inaudible) use the transport?

22 MR. KIEL: No, your Honor, he was a  
23 lawyer and things like that.

24 THE COURT: Okay.

25 You guys have anything else or

**Janice D. Hayward, RMR**

1 is that it?

2 MR. HAMMETT: I don't believe it's  
3 necessary, your Honor. But if I could make two more  
4 points before -- unless there's further discussion  
5 and argument.

6 THE COURT: Okay. Yeah. Go ahead.

7 MR. HAMMETT: So I could have missed  
8 it, I didn't hear anything in that record  
9 establishing that his wife could have brought the  
10 golf carts in lieu of him.

11 And I would further like to  
12 point out that the email that my client sent  
13 June 27th, 2023 at 8:36 AM -- which is in the  
14 record, provides Chief Gonzales notice that he's  
15 coming today to have his golf cart registered.

16 And Chief Gonzales emails back  
17 within an hour and does not state, no, you have to  
18 have an appointment. His entire communication is,  
19 as I mentioned to you yesterday, you have an  
20 outstanding balance on your POA account that you  
21 need to clear up before security can register the  
22 golf carts.

23 And my client cleared that up  
24 that morning before he was arrested. He actually  
25 didn't have a balance and he got a confirmation that

**Janice D. Hayward, RMR**

1 his balance was zero.

2 And then Chief Gonzales says,  
3 your guest may appeal the ticket to the appeals  
4 committee. Have a wonderful day, sir. If I can be  
5 of any further assistance, let me know.

6 And I think that's important  
7 because I think it was either argued at trial or in  
8 the state's argument that he sent an email stating  
9 he was coming before anybody could respond. So  
10 Chief Gonzales clearly got that communication and  
11 responded.

12 And I would also direct the  
13 Court's attention to the trespass notice itself  
14 because it specifically states, middle of the  
15 document, any person without legal cause or good  
16 excuse enters the dwelling house, place of business,  
17 or premises of another person having been warned not  
18 to do so, or any person who having entered the  
19 dwelling house, place of business, or premises of  
20 another person without having been warned, fails and  
21 refuses without good cause or excuse to leave  
22 immediately upon being ordered or requested to do so  
23 by the person in possession or his agent -- and then  
24 it goes on. So...

25 THE COURT: That's a two-point,

**Janice D. Hayward, RMR**

1 right? The first one was the trespass notice and  
2 the second one -- I can't remember which one. One  
3 of them is if you tell somebody to leave and they  
4 don't leave, they're guilty.

5 The second one is if you give  
6 them the notice, then they show up, in theory  
7 they're guilty, right?

8 MR. HAMMETT: And that's exactly my  
9 point. This isn't a case where he was told, leave  
10 and don't ever come back. This is a case where he  
11 was told, leave and don't ever come back unless you  
12 let us know in advance you're coming and you have an  
13 appointment.

14 So that leaves some gray area.  
15 'Cause my client clearly interpreted his obligation  
16 was to let the state -- sorry, let the offices and  
17 staff know that he was coming. And their  
18 interpretation was, we must specifically tell you  
19 your appointment is at 9:00, you can be here from  
20 9:00 to 9:30.

21 THE COURT: That's what I'm saying  
22 about the factual issues. Because those are -- you  
23 know, can be certainly findings of fact, you know,  
24 what was reasonable, I believe, you know, they're  
25 not, again, objective or subjective. But I

**Janice D. Hayward, RMR**

1 understand what you're saying.

2 MR. HAMMETT: Thank you, your Honor.

3 THE COURT: Anything else?

4 MR. KIEL: Nothing, your Honor. Just  
5 in short response, those are jury questions. That's  
6 why it was sent to the jury. That was the decision  
7 that the jury had to make whether or not he had  
8 permission to be there, whether or not he had the  
9 right to be there at the time he did, and they  
10 answered in the negative.

11 THE COURT: Let me finish this thing  
12 up. Then I'll get back with you guys.

13 (The recording ended.)

14 ---oOo---

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**Janice D. Hayward, RMR**

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF DORCHESTER ) : CERTIFICATE

3 I, Janice D. Hayward, Registered Merit  
 4 Reporter and Notary Public, certify that I  
 5 did transcribe the foregoing WebEx hearing, and that  
 6 the transcript is an accurate record of the  
 7 proceedings to the best of my ability.

8 I further certify that I am not of  
 9 counsel or kin to any of the parties in this cause  
 10 of action, nor am I interested in any manner in  
 11 its outcome.

12 IN WITNESS WHEREOF I have hereunto set  
 13 my hand and seal this the 24th day of May 2024.

14  
 15 *Janice D. Hayward*

16 \_\_\_\_\_  
 17 Janice D. Hayward, RMR  
 18 Notary Public, South Carolina  
 19 My Comm. Expires 10-13-32

20  
 21  
 22  
 23  
 24  
 25

**Janice D. Hayward, RMR**



ALAN WILSON  
ATTORNEY GENERAL

October 25, 2024

The Honorable Jenny Abbott Kitchings  
Clerk, The South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Benjamin J. Hays v. State of South Carolina  
Appellate Case No. 2024-000929

Dear Ms. Kitchings:

On October 9, 2024, the State, with consent of Appellant, filed a motion to hold this appeal in abeyance while the parties sought an opinion from a transcription service as to whether a transcript could be produced from a recently discovered audio recording of the underlying trial before the magistrate judge. In an order dated October 22, 2024, the Court granted the State's motion, ordered the appeal would be held in abeyance for thirty (30) days from the order, and directed the parties to provide a status update immediately upon receipt of the transcript or upon expiration of the 30 days, whichever occurs first.

Please be advised that counsel for Mr. Hays has communicated with a retired court reporter regarding the possible transcription of the September 26, 2023 magistrate trial. She listened to the entire recording and has now advised that the quality is so bad in areas that she does not think she would be able to prepare a sufficient transcript for review. She noted that in some places it is perfectly clear and in others there is some kind of white noise rendering the speakers inaudible. Based on this opinion and the parties understanding that she cannot successfully transcribe the entire recording, the State intends to simply file the Initial Brief of Respondent and Designation of Matter by the expiration of the 30 days indicated in the Court's order, which would be November 21, 2024. Counsel for Mr. Hays indicates he consents to this proposal. Please advise if this is acceptable to the Court and I will calendar the due date

accordingly. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Benjamin Aplin". The signature is fluid and cursive, with the first name "J." and last name "Aplin" clearly distinguishable.

J. Benjamin Aplin  
Assistant Attorney General  
S.C. Bar Number 8729

JBA/ss

cc: William Sylvester Hammett, III, Esquire (via electronic service)  
Victim Advocacy Division

**Subject:** RE: Courtesy NEF RE: 2023CP0701829  
**Date:** Wednesday, March 20, 2024 at 8:36:51 PM Eastern Daylight Time  
**From:** William S. Hammett III  
**To:** Mary Jordan Lempesis  
**CC:** Geri Lynn Murray, Karen A. Forman, MSW, JD.

MJ,

Thanks. Don't hesitate to let me know if there's any issue. I'll be available by cell: 864-426-8293 if we need to discuss anything.

Sincerely,

Will

---

**From:** Mary Jordan Lempesis <mjlempesis@scsolicitor14.org>  
**Sent:** Wednesday, March 20, 2024 4:48 PM  
**To:** William S. Hammett III <whammett@chsalaw.com>  
**Subject:** Re: Courtesy NEF RE: 2023CP0701829

[THIS MESSAGE IS FROM AN EXTERNAL SOURCE]

Hey Will. I've been in GS court every day this week and didn't have a chance to get back to you. I haven't even had a chance to look at what you sent but will this evening. I know you went ahead and filed it which is totally fine. I'm sure the stipulations are fine.

Thanks,  
Mary Jordan

Sent from my iPhone

On Mar 19, 2024, at 1:01PM, William S. Hammett III <[whammett@chsalaw.com](mailto:whammett@chsalaw.com)> wrote:

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mary J.,

Please see attached my draft final brief for this appeal. Can you just review paragraph 8 and verify for me if those stipulations are agreeable to you? I tried to do this just on the Magistrate Return but without those stipulations I just don't think I can do the appeal on the record as it exists. There's just too much that is incomplete.

I understand from my client that the proposed stipulations in paragraph 8 were established at trial, I just can't prove it since my stenographer could not complete the transcript because the recording was corrupted.

Sincerely,

Will

<image001.png>

**William S. Hammett III**  
*Partner*

<image002.png>  
(843) 936-6680

<image003.png>  
[whammett@chsalaw.com](mailto:whammett@chsalaw.com)

<image004.jpg>  
516 E. Main St. Spartanburg, SC 29302

<image005.png>  
[www.chsalaw.com](http://www.chsalaw.com)

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**From:** William S. Hammett III  
**Sent:** Thursday, February 22, 2024 9:31 AM  
**To:** Mary J. Lempesis <mjlempesis@scsolicitor14.org>  
**Cc:** Karen A. Forman, MSW, JD. <kforman@chsalaw.com>  
**Subject:** FW: Courtesy NEF RE: 2023CP0701829

Mary J.,

FYI.

Sincerely,

Will

<image001.png>

**William S. Hammett III**  
*Partner*

<image002.png>

[\(843\) 936-6680](tel:8439366680)

<image003.png>

[whammett@chsalaw.com](mailto:whammett@chsalaw.com)

<image004.jpg>

516 E. Main St. Spartanburg, SC 29302

<image005.png>

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**Sent:** Thursday, February 22, 2024 8:33 AM

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**Subject:** Courtesy NEF RE: 2023CP0701829

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**Court:** CIRCUIT COURT  
Common Pleas  
Beaufort  
**Case Caption:** Ben Hays VS South Carolina State Of  
**Document(s) Submitted:** Order of Referral Order/Referred to Master or Special Referee  
**Filed by or on behalf of:** Jerri Roseneau

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**From:** William S. Hammett III  
**Sent:** Tuesday, March 19, 2024 1:01 PM  
**To:** Mary J. Lempesis <[mjlempesis@scsolicitor14.org](mailto:mjlempesis@scsolicitor14.org)>  
**Cc:** Karen A. Forman, MSW, JD. <[kforman@chsalaw.com](mailto:kforman@chsalaw.com)>; Geri Lynn Murray <[gmurray@chsalaw.com](mailto:gmurray@chsalaw.com)>  
**Subject:** RE: Courtesy NEF RE: 2023CP0701829

Mary J.,

Please see attached my draft final brief for this appeal. Can you just review paragraph 8 and verify for me if those stipulations are agreeable to you? I tried to do this just on the Magistrate Return but without those stipulations I just don't think I can do the appeal on the record as it exists. There's just too much that is incomplete.

I understand from my client that the proposed stipulations in paragraph 8 were established at trial, I just can't prove it since my stenographer could not complete the transcript because the recording was corrupted.

Sincerely,


Will



**William S. Hammett III**  
*Partner*

 (843) 936-6680

 [whammett@chsalaw.com](mailto:whammett@chsalaw.com)

 516 E. Main St. Spartanburg, SC 29302

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**Filed by or on behalf of:** Jerri Roseneau

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**THE STATE OF SOUTH CAROLINA  
In the Court of Common Pleas**

---

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Nancy Sadler, Magistrate for Beaufort County

---

Case No. 2023-CP-07-01829

---

Benjamin Hays,  
Appellant

v.

The State of South Carolina,  
Respondent.

---

**FINAL APPELLATE BRIEF**

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South Carolina Code Section 16-11-620

## STATEMENT OF FACTS

1. Defendant, Ben Hayes appeared before Magistrate Nancy Sadler in Beaufort County, South Carolina on September 26, 2023. The matter was tried by jury. Defendant was accused of a violating South Carolina Code Section 16-11-620<sup>1</sup> which prohibits trespassing after notice or failing to leave after demand (collectively “the Proceeding”).
2. Defendant was specifically charged with entering the premises of the Property Owners Association and Security Offices for Fripp Island, located at 225 Tarpon Boulevard (“the Offices”).
3. Prior to the jury deliberating, the Defendant moved for a directed verdict on the grounds that the exception provided in South Carolina Code Section 16-11-620 applied to his facts and thus there could be no evidence of his guilty to submit to the jury. Defendant specifically argued because he was required to return to the premises after receiving a warning against returning to the premises, the State failed to demonstrate that his action was “without legal cause or good excuse.” Defendant argued that he had both a legal cause and a good excuse for entering the premises after being warned not to return less than twenty-four (24) hours prior, supported by the fact he informed staff of the Offices that he was returning prior to actually doing so.
4. The motion for a directed verdict was denied and the case was submitted to the jury for a verdict. The jury found Defendant guilty of Trespassing/ Entering premises after a warning or refusing to leave on request, pursuant to South Carolina Code Section 16-11-620.

---

<sup>1</sup> Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premises of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business, or on the premises of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction, be fined not more than two hundred dollars or be imprisoned for not more than thirty days.

5. Defendant filed a Notice of Civil Appeal with this Court on September 26, 2023. Defendant then filed an Amended Notice of Appeal on October 24, 2023, correcting incorrect dates he discovered on the original notice.

6. Nothing else substantive has been filed in the record at this matter is set for argument before this Court on March 26, 2024.

7. No transcript of the Proceeding is provided with this appeal because the recording system failed to preserve a record allowing for a stenographer to transcribe the record. See Rule 210(c) and (e) SCRAC.<sup>2</sup> Thus the Record on Appeal is confined to the Magistrate's Return and Stipulations for the Record (collectively "the Record").

8. In addition to the Magistrate's Return, the State has stipulated to the following facts that were established through witness testimony: (a) Defendant's paying guest, staying in one of Defendant's rental units had been stopped and ticketed the day before Defendant was arrested for appearing at the Premises, because the registration on the Defendant's golf cart in question had expired; (b) the golf cart in question is an advertised feature of the Defendant unit's rental, and providing guests with an unregistered golf cart exposed Defendant to liability for breach the rental contract with his guest; (c) Defendant had no balance due to the HOA as of June 27, 2023, thus there was no barrier to the golf cart being inspected; (d) Defendant's golf cart was in fact inspected on June 27, 2023, immediately prior to his arrest; and (e) there was no mechanism for Defendant's golf cart to be inspected other than to transport it to the Offices.

---

<sup>2</sup> Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted . . . . Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins.

9. Taking the facts as set forth in the Record, the following facts are established (in addition to the stipulations immediately cited herein above):

10. Mr. Carter (“Witness 1”) testified that on June 26, 2023, Defendant returned to the Offices after being warned to not return because Defendant needed an inspection sticker for one of his golf carts. Record at 1.

11. Mr. Gonzales (“Witness 2) testified consistent with Witness 1 and that also on June 26, 2023, Defendant was served with a Trespass after Notice. Record at 2. Witness 2 also testified that Defendant was told he was supposed to make an appointment for inspections. Id. Witness 2 also testified that on June 27, 2023, Defendant sent him an email stating that the person who had rented the uninspected golf cart had received a ticket and that ‘[Defendant] attached forms, complete[d] [his] part, to register golf carts today.’ Id. Witness 2 finally testified that later that day, Defendant returned to the Offices. Id.

12. Mr. Horne (“Witness 3) testified that Defendant was located on a golf cart in the parking lot of the Offices when he was placed under arrest. Id.

13. On cross examination, Witness 2 testified Defendant was at the offices to comply with regulations of Fripp Island. Id. at 2. Witness 2 also testified that Defendant had already received a ticket for his golf cart not being inspected when he returned to the Offices for his inspection.

14. Appellant argues the trial court erred when it denied his directed verdict motion at the close of the State’s case because the State failed to establish that Defendant did not have “good cause” to return to the Offices.

15. Appellant further argues that even if this Court determines the trial court did not err in denying his Motion for Directed Verdict, a reasonable Jury could not have found him guilty beyond a reasonable doubt.

## STANDARD OF REVIEW

16. Review on appeal is limited to the trial transcript and must be conducted without witness examination. S.C. Code Ann. 18-3-70.
17. The circuit court may not conduct a *de novo* trial. *Cf. City of Cayce v. Norfolk S. Ry. Co.*, 391 S.C. 395, 706 S.E.2d 6 (2011); *City of Aiken v. Koontz*, 368 S.C. 542, 629 S.E.2d 686 (Ct. App. (2006)).
18. On appeal, the parties are restricted to the arguments raised to the magistrate court and the circuit court cannot consider questions not presented to the magistrate. See *State v. Henderson*, 347 S.C. 455, 556 S.E.2d 691 (2001) (“In criminal appeals from magistrate . . . court, the circuit court does not conduct a *de novo* review, but instead reviews for preserved error raised to it by appropriate exception.”).
19. The circuit court may affirm, review, modify the magistrate’s sentence or grant a new trial. S.C. Code Ann. 18-3-70.
20. When reviewing a decision by the trial court to grant or deny a directed verdict, an appellate court’s role is simply to determine whether there was evidence sufficient to warrant submission of the case to the Jury. *State v. Peer*, 320 S.C. 546, 466 S.E.2d 375 (Ct. App. 1996).
21. The standard is abuse of discretion. *State v. Moore*, 374 S.C. 468, 649 S.E. 84 (Ct. App. 2007).
22. On appeal from a denial of directed verdict motion, the reviewing court is required to consider the evidence in the light most favorable to the State. *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011).

23. The trial judge should grant a directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. *State v. Schrock*, 283 S.C. 129, 322 S.E.2d 450 (1984).

## ARGUMENT

**I. Because the Only Evidence in the Record establishes Defendant had legal cause and good excuse to be at the Offices when he was, it was error for the trial Court to submit the matter to the Jury.**

24. The trial court must deny the motions when the evidence yields more than one inference or its inference is in doubt. *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).. *Id.* This Appellate Court will reverse the trial court only when there is no evidence to support the ruling below. *Id.*

25. Here, Appellant submitted evidence establishing that he had legal cause and good excuse to be at the Office when he was the State failed to offer any counter evidence to create more than one inference for a jury to decide.

26. Because there was no counter evidence for the jury to weigh, it was error to deny Defendant's motion for a directed verdict.

**II. Because the Only Evidence in the Record establishes Defendant had legal cause and good excuse to be at the Offices when he was, a reasonable jury could not have found Defendant guilty beyond a reasonable doubt.**

27. In *State v. Manning*, 305 S.C. 413, 409 S.E.2d 372 (1991), the South Carolina Supreme Court approved a circumstantial evidence charge derived from earlier decisions:

[E]very circumstance relied upon by the State [must] be proven beyond a reasonable doubt; and all of the circumstances so proven [must] be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis. It is not sufficient that they create a probability, though a strong one and if, assuming them to be true they may be accounted for upon any reasonable hypothesis which does not include the guilt of the accused, the proof has failed.

Id., citing State v. Edwards, 295 S.C. 272, 379 S.E.2d 858 (1989), citing State v. Littlejohn, 228 S.C. 324, 89 S.E.2d 924 (1955).

28. Because the State provided no alternative explanation for the Defendant's presence at the Offices beyond the fact that he was there, the State failed to establish beyond a reasonable doubt that he was guilty.

## CONCLUSION

29. The Trial Court should be reversed and Defendant's sentence vacated.

Respectfully Submitted,

---

William S. Hammett, III, (SC Bar #100627)  
 Deanne Gray, (SC Bar #17221)  
 Christopher Kitter (SC Bar # 106495)  
Cobb Dill & Hammett, LLC  
222 W. Coleman Boulevard  
Mt. Pleasant, SC 29464  
(P) 843-936-6680  
(F) 843-353-2529  
[whammett@chsalaw.com](mailto:whammett@chsalaw.com)  
[dgray@chsalaw.com](mailto:dgray@chsalaw.com)  
[ckitter@chsalaw.com](mailto:ckitter@chsalaw.com)  
*Attorney(s) for Defendant*

March \_\_\_\_\_, 2024

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Common Pleas**

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APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Nancy Sadler, Magistrate for Beaufort County

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**FINAL APPELLATE BRIEF**

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## STANDARD OF REVIEW

16. Review on appeal is limited to the trial transcript and must be conducted without witness examination. S.C. Code Ann. 18-3-70.
17. The circuit court may not conduct a *de novo* trial. *Cf. City of Cayce v. Norfolk S. Ry. Co.*, 391 S.C. 395, 706 S.E.2d 6 (2011); *City of Aiken v. Koontz*, 368 S.C. 542, 629 S.E.2d 686 (Ct. App. (2006).
18. On appeal, the parties are restricted to the arguments raised to the magistrate court and the circuit court cannot consider questions not presented to the magistrate. See *State v. Henderson*, 347 S.C. 455, 556 S.E.2d 691 (2001) (“In criminal appeals from magistrate . . . court, the circuit court does not conduct a *de novo* review, but instead reviews for preserved error raised to it by appropriate exception.”).
19. The circuit court may affirm, review, modify the magistrate’s sentence or grant a new trial. S.C. Code Ann. 18-3-70.
20. When reviewing a decision by the trial court to grant or deny a directed verdict, an appellate court’s role is simply to determine whether there was evidence sufficient to warrant submission of the case to the Jury. *State v. Peer*, 320 S.C. 546, 466 S.E.2d 375 (Ct. App. 1996).
21. The standard is abuse of discretion. *State v. Moore*, 374 S.C. 468, 649 S.E. 84 (Ct. App. 2007).
22. On appeal from a denial of directed verdict motion, the reviewing court is required to consider the evidence in the light most favorable to the State. *State v. Odems*, 395 S.C. 582, 720 S.E.2d 48 (2011).
23. The trial judge should grant a directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. *State v. Schrock*, 283 S.C. 129, 322 S.E.2d 450 (1984).

## ARGUMENT

**I. Because the Only Evidence in the Record establishes Defendant had legal cause and good excuse to be at the Offices when he was, it was error for the trial Court to submit the matter to the Jury.**

24. The trial court must deny the motions when the evidence yields more than one inference or its inference is in doubt. *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).. *Id.* This Appellate Court will reverse the trial court only when there is no evidence to support the ruling below. *Id.*

25. Here, Appellant submitted evidence establishing that he had legal cause and good excuse to be at the Office when he was the State failed to offer any counter evidence to create more than one inference for a jury to decide.

26. Because there was no counter evidence for the jury to weigh, it was error to deny Defendant's motion for a directed verdict.

**II. Because the Only Evidence in the Record establishes Defendant had legal cause and good excuse to be at the Offices when he was, a reasonable jury could not have found Defendant guilty beyond a reasonable doubt.**

27. In *State v. Manning*, 305 S.C. 413, 409 S.E.2d 372 (1991), the South Carolina Supreme Court approved a circumstantial evidence charge derived from earlier decisions:

[E]very circumstance relied upon by the State [must] be proven beyond a reasonable doubt; and all of the circumstances so proven [must] be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis. It is not sufficient that they create a probability, though a strong one and if, assuming them to be true they may be accounted for upon any reasonable hypothesis which does not include the guilt of the accused, the proof has failed.

*Id.*, citing *State v. Edwards*, 298 S.C. 272, 379 S.E.2d 858 (1989), citing *State v. Littlejohn*, 228 S.C. 324, 89 S.E.2d 924 (1955).

28. Because the State provided no alternative explanation for the Defendant's presence at the Offices beyond the fact that he was there, the State failed to establish beyond a reasonable doubt that he was guilty.

### CONCLUSION

29. The Trial Court should be reversed and Defendant's sentence vacated.

Respectfully Submitted,

/s/ William Hammett

William S. Hammett, III, (SC Bar #100627)

Deanne Gray, (SC Bar #17221)

Christopher Kitter (SC Bar # 106495)

Cobb Dill & Hammett, LLC

222 W. Coleman Boulevard

Mt. Pleasant, SC 29464

(P) 843-936-6680

(F) 843-353-2529

[whammett@chsalaw.com](mailto:whammett@chsalaw.com)

[dgray@chsalaw.com](mailto:dgray@chsalaw.com)

[ckitter@chsalaw.com](mailto:ckitter@chsalaw.com)

*Attorney(s) for Defendant / Appellant*

March 20, 2024

NOTES

Form 5-438 Rev. 08/2017

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA

VERSUS

FIRST NAME MIDDLE NAME LAST NAME  
BENJAMIN J HAYES

STREET  
141 JANETTE DR

CITY STATE ZIP CODE  
SAINT HELENA SC 29920

DL STATE DRIVER'S LICENSE NO. NONE CLASS CDI  
SC 011503597 D

RACE SEX BIRTH DATE HGT WGT HAIR EYES  
W M 04/03/1943 70 165 GRY HAZ

VEH LIC NO NONE STATE MAKE OF VEH YEAR MAKE OF VEH MAKE OF VEH MAKE OF VEH MAKE OF VEH  
HAZ MC NOB2 Q10V2L Q23TR2M OTHER

VEHICLE OWNER FIRST NAME MIDDLE NAME LAST NAME

OWNER STREET CITY STATE ZIP CODE

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT 07104 STREET  
BEAUFORT MAGISTRATE 104 Ribaut Road

DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE  
07/11/2023 11:00 Beaufort SC 29901

VIOLATION SECTION NO. VIOLATION - COURT APPEARANCE REQUIRED YES NO  
18-11-0620 ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST

DATE OF VIOLATION TIME OF VIOL SC POINTS B.A. LEVEL REP  
06/27/2023 1049

VIOLATION LOCATION COUNTY  
CITY 07

LAT LONG CITY  
32.33025 -80.4678 BEAUFORT

NAME AND RANK OF ARRESTING OFFICER SOCIAL OFFICER NUMBER  
HORNE NICHOLAS A D/S 7104-1050

BAIL DEPOSITED DATE OF ARREST BOND AMOUNT REQUESTED  
NONE 06/27/2023

DATE BAIL REC'D BY

CASE BEFORE: MAGISTRATE  MUN. COURT  CIRCUIT COURT  FAMILY COURT  FEDERAL COURT   
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE:

TRIAL BY: TRIAL JUDGE  JURY  DEFENDANT: DID NOT APPEAR  APPEARED

DISPOSITION DATE DISPOSITION: NOLLE PROSSED  GUILTY  PLED: NOLLE CONTENDERE   
FORFEITED BOND  NOT GUILTY  DETERMINED BAC:

CHARGE CONVICTED OF SAME AS ORIGINAL  SC POINTS

JAIL SUSPEND FINE AMT. COLLECTED AMT. SUSPENDED COMMITTED TO Vehicle Searched  
465.00 465.00 NO

CERTIFIED CORRECT DATE Arrest as Result of Collision  
9-26-2023 NO

Electronic Copy - Trial Officer / Driver's Record

TICKET # 20230190172065



VIOLATOR  
VEHICLE  
TRIAL COURT  
VIOLATION  
ARREST OFFICER  
COURT INFORMATION

CRIMINALS - BEAUFORT  
INCIDENT NO. 23090939  
AGENCY/ROBP - BEAUFORT COUNTY SHERIFF'S OFFICE

*465.00*  
*Magistrate*  
*Scott Dischhoff*  
*Kiel*

235090385  
Trespassing

**BEAUFORT COUNTY SHERIFF'S OFFICE**  
**TRESPASS AFTER NOTICE**

This is a formal notice of trespass. The property owner or agent has requested the Beaufort County Sheriff's Office to issue a Trespass Notice to you. You are hereby formally notified of their intent of prosecution if you return to this property.

Date: 6/21/23

Subject Name: Hays, Benjamin

Address: 141 Janette Dr.

D.O.B.: 4/03/1943 S.S.#: \_\_\_\_\_ Race W Sex M

D.L.A.D.# 011503597 State SC

Comp./Business Name: Fripp Island Security

Address: 225 Tarpon Blvd. Fripp Island

South Carolina State Statute 16-11-620

Entering premise after warning or refusing to leave on request: jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premise of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business or on the premise of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction be not fined more than two hundred twenty five dollars (\$225.00) or imprisoned for not more than thirty (30) days

I forbid the above listed subject to enter or be about the above property, and will prosecute said subject if he/she is about the property. I attest that I am the property owner, or acting as representative or agent for said property owner.

Signature of Property Owner [Signature]  
I affirm that I have received a copy of this notice.

Signature of Subject [Signature] 6/26/23

Witness [Signature] Case Officer Sgt Noack

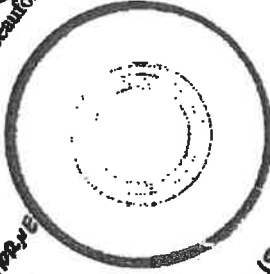
BCSO Case Number 235090385

Certified to be a true and correct copy of the original document on file with the Office of Sheriff for Beaufort County  
Michael M. Hestfield  
Chief Deputy Sheriff for Beaufort County





Office of the  
Beaufort County  
Sheriff  
Post Office Box 1758  
Beaufort, S.C. 29901



- DASHCAM
- BODY CAM *HAYES*
- SURVEILLANCE
- SLED
- DATA MASTER

CASE# *26230190172065*  
 STATE V. *PER SHAW D. HAYES*  
 AUTHENTICATED: *[Signature]*

DATE: *9-26-0*

