

**RECEIVED**

**Jun 13 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM RICHLAND COUNTY  
Magistrate Court

The Honorable Benjamin F. Byrd, Magistrate Court Judge  
The Honorable Kristi F. Curtis, Circuit Court Judge

---

Case No. 2024-001566

---

James Major,

Respondent,

v.

Emily Major,

Appellant.

---

RESPONSE TO AMICUS CURIAE

---

Micheal Laubshire  
SC Bar # 79078  
The Laubshire Law Firm, LLC  
459 St. Andrews Road  
Columbia, SC 29210  
michael@laubshirelaw.com  
Attorney for Respondent

TABLE OF CONTENTS

Table of Authorities.....1

Statement of Issues on Appeal.....3

Statement of the Case.....3

Standard of Review.....3

Facts.....4

Arguments.....6

1. While stalking and harassment can be serious conduct and reason for concern, to compare this case to other cases of stalking and harassment is misleading.....6

2. The Family Court has exclusive jurisdiction over this case under the S.C. Code Ann. § 63-3-530(A) (35), S.C. Code Ann. § 20-4-30(A), and or in the alternative S.C. Code Ann. § 63-3-530(A) (18-19) ..... 9

3. The Appellant is essentially circumventing the jurisdiction of the family court and seeking a restraining order in magistrate court which will ultimately decide the Respondent’s rights and access to marital assets, property, and child custody..... 11

4. The Appellant has an available remedy and may file for an order of protection, an order of separate support and maintenance, or an order of divorce in South Carolina Family Court.....12

Conclusion.....13

TABLE OF AUTHORITIES\*

CASES

*Seels v. Smalls*, 437 S.C. 167, 877 S.E.2d 351 (2022)..... 4,9

*Kosciusko v. Parham*, 428 S.C. 481, 836 S.E.2d 362 (Ct. App. 2019)..... 9

STATUTES

S.C. Code Ann. § 63-3-530(A)(35) (2008, as amended).....9,10  
S.C. Code Ann. § 63-3-530(A)(18-19).....9,11,13  
S.C. Code Ann. § 20-4-30 (1984, as amended).....9,10,13  
S.C. Code Ann. § 16-3-1700 (1995, as amended).....6  
S.C. Code Ann. § 16-3-1750 (1995, as amended) .....3,4,12  
S.C. Code Ann. § 20-4-20 (1984, as amended).....10  
S.C. Code Ann. § 16-25-20 et seq. (2015).....12

OTHER

Compl. and Mot. For Restraining Order, Emily Major v. James Major, (2023)(No. 2023OR4010500079).....3,4,10  
Judicial Return, Emily Major v. James Major (2023) (No. 2023OR4010500079).....3  
Judgment in a Civil Case, Emily Major v. James Major (2024) (No. 2023CP4003612).....3  
Order Denying Motion to Reconsider, Emily Major v. James Major (2024) (No. 2023CP4003612).....3  
Summons and Complaint, Emily Major v. James Major (2023) (No. 2023DR3200706).....4  
Summons and Complaint, James Major v. Emily Major (2023) (No. 2023DR3200952).....4  
Temporary Order, Emily Major v. James Major (2023) (No. 2023DR3200706).....5  
Order of Dismissal, Emily Major v. James Major (2023) (No. 2023DR3200706).....5

## STATEMENT OF ISSUES ON APPEAL

1. DID THE LOWER COURT ERR IN FINDING THE FAMILY COURT HAD SUBJECT MATTER JURISDICTION IN THIS CASE?

### STATEMENT OF THE CASE

Appellant, Emily Major, filed a Complaint and Motion for a Restraining Order on May 5, 2023, in Richland County Magistrate Court (R.pp.10-11).<sup>1</sup> The restraining order was filed pursuant to S.C. Code Ann. § 16-3-1750 (R.pp.10-11).<sup>2</sup> In the Motion for a Restraining Order the Appellant alleged that she was receiving “unwanted letters, emails, and gifts,” as well as “rape threats,” and that she was “in fear for her safety and son’s safety (R.pp.10-11).”<sup>3</sup> On June 15, 2023, the case was heard by the Honorable Benjamin F. Byrd, and on June 16, 2023, he filed a Return outlining his ruling which dismissed this case and concluded that this was a “Family Court matter”(R.pp.23-26).<sup>4</sup> The matter was appealed to the Circuit Court and heard by the Honorable Kristi F. Curtis. Judge Curtis affirmed the magistrate’s decision and held that S.C. Code Ann. § 20-4-10 et seq. gave the family court exclusive jurisdiction over the matter (R.pp.4-5).<sup>5</sup> The Appellant filed a Motion to Reconsider, and Judge Curtis denied the motion (R.pp.7-8).<sup>6</sup> The case is now before this court.

### STANDARD OF REVIEW

The question of subject matter jurisdiction and whether a court has the power to hear a

---

<sup>1</sup> Compl. and Mot. For Restraining Order, Emily Major v. James Major (2023) (No. 2023OR4010500079).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 1.

<sup>4</sup> Judicial Return at 1, Emily Major v. James Major (2023) (No. 2023OR40105500079).

<sup>5</sup> Judgment in a Civil Case at 1, Emily Major v. James Major (2024) (No. 2023CP4003612).

<sup>6</sup> Order Denying Motion to Reconsider, Emily Major v. James Major (2024) (No. 2023CP4003612).

particular case is a question of law.<sup>7</sup> “Questions of law involving subject matter jurisdiction and statutory interpretation are reviewed de novo, without deference to the lower courts.”<sup>8</sup>

## FACTS

The Appellant, Emily Major, and Respondent, James Major, are currently married. They were married on June 31, 2019. They have one three-year-old child in common. The parties have been living separate and apart since March of 2021. On or about April 12, 2023, the Appellant, Emily Major, filed for Divorce in the Lexington County Family Court, case number 2023DR3200706.<sup>9</sup> On or about, May 12, 2023, prior to being served, Respondent, James Major filed for divorce in Lexington County Family Court, case number 2023DR3200952.<sup>10</sup> These cases were combined with the Appellant’s case taking priority since it was filed first (R.pp.84-89). Neither party filed for an expedited or emergency hearing to seek a restraining order. The Appellant did not file for an Order of Protection.

Prior to going to the first temporary hearing in the Lexington County Family Court, the Appellant filed a Complaint and Motion for a Restraining Order on May 5, 2023, in Richland County Magistrate Court (R.pp.10-11).<sup>11</sup> The restraining order was filed pursuant to S.C. Code Ann. § 16-3-1750 (R.pp.10-11).<sup>12</sup> In the Motion for a Restraining Order the Appellant alleged that she was receiving “unwanted letters, emails, and gifts,” as well as “rape threats,” and that she was “in fear for her safety and son’s safety” (R.pp.10-11).<sup>13</sup> This case was dismissed by Richland County

---

<sup>7</sup> *Seels v. Smalls*, 437 S.C. 167, 172, 877 S.E.2d 351, 353 (2022).

<sup>8</sup> *Id.*

<sup>9</sup> Summons and Complaint, Emily Major v. James Major (2023) (No. 2023DR3200706).

<sup>10</sup> Summons and Complaint, James Major v. Emily Major (2023) (No. 2023DR3200952).

<sup>11</sup> Compl. and Mot. For Restraining Order, Emily Major v. James Major (2023) (No. 2023OR4010500079).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 1.

Magistrate Judge Byrd (R.pp.23-26).

A Temporary Hearing, in family court, was held on August 24, 2023, by the Honorable W. Greg Seigler (R.pp.74-77). The Appellant and Respondent plead several issues including the issue of restraining orders against the Respondent (R.pp.84-91). The temporary order addressed temporary child custody, visitation, and child support; the Court did not issue any restraining order against the Respondent (R.pp.74-77).<sup>14</sup> The Temporary Order was clocked on September 8, 2024, no motion was filed by the Appellant to reconsider the issue of the restraining orders in the Family Court (R.pp.74-77).<sup>15</sup>

Eventually, the Family Court case was dismissed on May 15, 2024, pursuant to the 365 Rule (R.p.78).<sup>16</sup> The Appellant made a Motion to Vacate that order, but then withdrew the motion prior to hearing(R.pp.79-83). Respondent still pays child support, goes to visitations, and is trying to maintain a relationship with his son.

At the conclusion of the restraining order hearing on or about, June 15, 2024, the Respondent was arrested, by the Richland County Sheriff's Office, for stalking and harassing charges based upon the allegations made by the Appellant in this Appeal. However, those charges are still pending, and no trial has been scheduled. Subsequently, this Appeal followed.

---

<sup>14</sup> Temporary Order, Emily Major v. James Major (2023) (No. 2023DR3200706).

<sup>15</sup> *Id.*

<sup>16</sup> Order of Dismissal, Emily Major v. James Major (2023) (No. 2023DR3200706).

## ARGUMENTS

### I. WHILE STALKING AND HARASSMENT CAN BE SERIOUS CONDUCT AND REASON FOR CONCERN, TO COMPARE THIS CASE TO OTHER CASES OF STALKING AND HARASSMENT IS MISLEADING.

Under S.C. Code Ann. § 16-3-1700(A) “Harassment in the first degree means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress.”<sup>17</sup> Under S.C. Code Ann. § 16-3-1700(B) “Harassment in the second degree means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress.”<sup>18</sup> Under S.C. Code Ann. § 16-3-1700(C) “Stalking means a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person's position to fear.”<sup>19</sup>

It is a difficult argument to prove that one spouse can, by definition, stalk or harass the other spouse. Stalking and harassment should be taken seriously by courts and the justice system in general. However, it is also necessary to consider the specific conduct, relationships, and parties involved on a case-by-case basis. To compare the case at hand to other instances of stalking, harassment, and violence is misleading. In this specific case Emily Major and James Major are current spouses and have a child in common, which they co-parent. This case is very different

---

<sup>17</sup> S.C. Code Ann. § 16-3-1700(A) (1995 as amended).

<sup>18</sup> S.C. Code Ann. § 16-3-1700(B) (1995 as amended).

<sup>19</sup> S.C. Code Ann. § 16-3-1700(C) (1995 as amended).

from a case that would involve ex-spouses with no children, or an ex-boyfriend and girlfriend with no children, or ex-spouses with children that are fully grown, etc... Different relationships and whether or not there are shared assets, children, and property, require different analysis. For example, an ex-boyfriend and girlfriend that did not have any children, shared assets, property, or marital property, will not require further communication after the two are separated. However, in the case at hand, the parties do have some shared assets, such as cars and furniture. The parties also currently co-parent their minor child. Therefore, a substantial amount of communication is needed between the parties to settle remaining issues and successfully co-parent. It is reasonable to expect some level of cooperation and communication between the two even if they are separated. Furthermore, at the time of these allegations and to this day, the parties are still legally married. For Emily Major to block communication with James Major including communication with his son, demand that he ceases communicating with her after he continued to attempt to reach out once his number was blocked, and then file stalking and harassment charges against him for “unwanted emails, letters, and gifts,” is completely unreasonable.

Communication, parenting plans, shared responsibilities, and cooperation for the best interests of the child is often encouraged and routinely ordered by the family court. The communication and cooperation expected and required to co-parent brings most of Appellants allegations and the charge of stalking and harassment to a screeching halt. Without orders from the family court, either ordering terms of separation, or a final divorce decree, spouses cannot, by definition, stalk or harass the other spouse. Generally, when two people are still married one cannot intrude into the “private life” of another spouse. When there is no order dividing property, child custody, splitting assets, or resolving other issues, then the spouses are still considered

married and as such share property, assets, child custody etc.... Therefore, between spouses there is not much of a “private life” to intrude upon. Furthermore, in this case most of the communication directed at the Appellant has served a “legitimate purpose.” The Respondent intended to check on the wellbeing of his son as well as ask if anything is needed. The Respondent is also concerned about the wellbeing of Appellant, and has been encouraging her to seek help, especially since she is the primary caregiver of his child.

Overall, the case at hand should not be compared to other stalking and harassment cases. Each case brings its own set of facts and circumstances. In the current case Appellant and Respondent are still currently married and have a child in common that they co-parent. While it is true that the parties had been living separate and apart, the Respondent, James Major, still wanted to be an active father in his son’s life. Appellant, Emily Major, demanded that James Major stop all communication with her and blocked his number, which understandably worried him. He could no longer communicate with her or with his son. He began to try to communicate by other means such as email, letters, and gifts. The only goal was to check on the well being of his son and the mother of his child. James Major has not shown any violence towards Emily or their son. All the communication directed at the Appellant served a “legitimate purpose” even if it was to just receive some sort of response. James Major’s worry, concern, and request for communication was well intended and fathomable given the situation. To call Respondent’s behavior in this case stalking and harassment is erroneous and to compare this case to extremely violent cases of stalking and harassment is fallacious.

II. THE FAMILY COURT HAS EXCLUSIVE JURISDICTION OVER THIS CASE UNDER S.C. CODE ANN. § 63-3-530(A) (35), S.C. CODE ANN. § 20-4-30(A), AND OR IN THE ALTERNATIVE S.C. CODE ANN. § 63-3-530(A) (18-19).

“Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong.”<sup>20</sup> “In other words, subject-matter jurisdiction refers to a court's constitutional or statutory power to adjudicate a case.”<sup>21</sup> “The family court is a statutory court created by the legislature and, therefore, is of limited jurisdiction.”<sup>22</sup> The South Carolina Supreme Court has continuously found that the jurisdictional authority of the family court is set forth by the Children’s Code.<sup>23</sup> S.C. Code Ann. § 63-3-530(A) states that the family court has exclusive jurisdiction over a list specified matters.<sup>24</sup> More Specifically, S.C. Code Ann. § 63-3-530(A)(18) grants the family court exclusive jurisdiction “to make an order for support of a husband or wife and children by his or her spouse, even though he or she may have left the home, in cases where the spouse's conduct or condition or his or her cruel or inhuman behavior made it unsafe or improper for the deserting spouse to continue to live with him or her. Such orders may require either spouse or any other party to the proceeding: (a) **to stay away from the home or from the other or either spouse or children;** (b) to permit either spouse to visit the children at stated periods; (c) to **abstain from offensive conduct against the other spouse or either of them,** or against the children; (d) to give proper attention to the care of the home; (e) to **refrain from acts of commission or omission that tend to make the home not a proper place for the other,** or either spouse, or the children.”<sup>25</sup> Also, S.C. Code Ann. § 63-3-530(A)(35) gives the family court exclusive jurisdiction “to hear and

---

<sup>20</sup> *Seels v. Smalls*, 437 S.C. 167, 171, 877 S.E.2d 351, 353 (2022).

<sup>21</sup> *Kosciusko v. Parham*, 428 S.C. 481, 492, 836 S.E.2d 362, 368 (Ct. App. 2019).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 493. *See also*, S.C. Code Ann. § 63-3-530(A)(35) (2008, as amended).

<sup>24</sup> *See*, S.C. Code Ann. § 63-3-530(A).

<sup>25</sup> S.C. Code Ann. § 63-3-530(A)(18).

determine actions for protection from domestic abuse.”<sup>26</sup> Furthermore, the Protection from Domestic Abuse Act provides the family court with jurisdiction “over all proceedings under this chapter except that, during nonbusiness hours or at other times when the court is not in session, the petition may be filed with a magistrate.”<sup>27</sup>

In this case, the Appellant filed a Motion for a Restraining Order against her spouse, Respondent, on May 5, 2023, in Richland County Magistrate Court (R.pp.10-11). As stated, the family court has exclusive jurisdiction over “domestic matters” including orders to stay away from the home or from the other or either spouse or children and actions for protection from domestic abuse.<sup>28</sup> The Protection from Domestic Abuse Act defines abuse as “physical harm, bodily injury, assault, or the **threat of physical harm.**”<sup>29</sup> Considering the Respondent and Appellant are spouses, and the Appellant is claiming that she has **received “rape threats”** and “is in fear for her safety and her son’s safety,” (R.pp.10-11) the matter clearly falls within the purview of S.C. Code Ann. § 63-3-530(A)(35) and S.C. Code Ann. § 20-4-30(A), which grants the family court exclusive jurisdiction over the matter.<sup>30</sup> Rape threats are surely threats of physical harm and were alleged on the face of the Motion for a Restraining Order, even if unsupported by the evidence, this allegation is probably what led to the matter being deemed a family court matter and dismissed by the lower courts.<sup>31</sup>

Furthermore, even if the Appellant is not alleging “abuse” the protections sought after still fall within the exclusive jurisdiction of the family court under S.C. Code Ann. § 63-3-530(A) (18-

---

<sup>26</sup> S.C. Code Ann. § 63-3-530(A)(35).

<sup>27</sup> S.C. Code Ann. § 20-4-30(A) (1984, as amended).

<sup>28</sup> S.C. Code Ann. § 63-3-530(A) (18-19,35). See also, S.C. Code Ann. § 20-4-30(A).

<sup>29</sup> S.C. Code Ann, § 20-4-20(a) (1984 as amended).

<sup>30</sup> See, Compl. and Mot. For Restraining Order at 1, Emily Major v. James Major (2023) (No. 2023OR4010500079). See also, S.C. Code Ann. § 20-4-30(A).

<sup>31</sup> *Id.*

19), which grant the family court exclusive jurisdiction to make orders “(a) to stay away from the home or from the other or either spouse or children; (b) to permit either spouse to visit the children at stated periods; (c) to abstain from offensive conduct against the other spouse or either of them, or against the children; (d) to give proper attention to the care of the home; (e) to refrain from acts of commission or omission that tend to make the home not a proper place for the other, or either spouse, or the children.”<sup>32</sup> Clearly, the Appellant is requesting the court to order the Respondent to stay away from the home or Appellant, and refrain from certain conduct, which again falls within the jurisdiction of the family court not the magistrate court.

III. THE APPELLANT IS ESSENTIALLY CIRCUMVENTING THE JURISDICTION OF THE FAMILY COURT AND SEEKING A RESTRAINING ORDER IN MAGISTRATE COURT WHICH WILL ULTIMATELY DECIDE THE RESPONDENT’S RIGHTS AND ACCESS TO MARITAL ASSETS, PROPERTY, AND CHILD CUSTODY.

The family courts in South Carolina were created to consolidate and specialize matters involving domestic or family relationships. The Family Court is the sole forum for the hearing of all cases concerning marriage, divorce, legal separation, custody, visitation rights, termination of parental rights, adoption, support, alimony, division of marital property, and change of name.<sup>33</sup> The Appellant is seeking a restraining order in magistrate court without resolving any of the domestic or family issues prior.

In this case, the family court has not yet determined the issues of marital property division, child custody, or any other rights or obligations that could be affected by the issuance of a restraining order. It is paramount that the family court determines the issues involved before the Respondent is deprived of his rights to marital assets, marital property, child custody, visitation, etc.... by the

---

<sup>32</sup> S.C. Code Ann. § 63-3-530(A)(18).

<sup>33</sup> S.C. Code Ann. § 63-3-530(A)(2).

issuance of a restraining order. Surely, the legislature did not intend to allow spouses to circumvent family court and be able to restrict a spouse from their home, their ability to communicate with their children, their ability to see their children, and so much more just by way of a restraining order issued by the magistrate court. Furthermore, it is logical to assume that a certain amount of communication and visitation is required between spouses or ex-spouses when children are involved. When spouses, ex-spouses, or other “household members” are involved the magistrate court may issue a restraining order under S.C. Code Ann. § 16-3-1750, but the court must give deference to any family court orders. In this case, the family court has not issued any specific orders or final decrees. Therefore, the magistrate court must submit to the family court’s jurisdiction in this particular case to protect the rights of the parties involved. If the magistrate court were to issue a restraining order in this case it would essentially be deciding the Respondent’s rights and access to marital property, shared assets, and child custody, which should be the family court’s jurisdiction. The family court was created for and is the court best suited to decide issues regarding domestic and family relationships. This case and the issues involved are clearly domestic and family related. The magistrate court’s decision in this case would not only grant or deny a restraining order, but would also rule on accompanying familial matters essentially sidestepping the jurisdiction of the family court.

IV. THE APPELLANT HAS AN AVAILABLE REMEDY AND MAY FILE FOR AN ORDER OF PROTECTION IN SOUTH CAROLINA FAMILY COURT.

The Appellant is not left without remedy and may file for separate support and maintenance, a divorce, restraining orders, and request an order of protection in family court. The family court will be able to determine the parameters of the separation, and all of the issues involved in the divorce.

The family court can order property division, child custody, visitation, and parenting agreements.<sup>34</sup> The family court can also issue orders that require one spouse to stay away from the home, or other spouse, or child, require a spouse to abstain from offensive conduct, and require a spouse to refrain from acts of commission or omission that make the home an improper place.<sup>35</sup> The family court may also issue orders of protection if needed.<sup>36</sup> There is no deadly “ping pong” effect between the magistrate court and family court in this matter. The matter is clearly a family court issue, and all the relief Appellant is seeking can be granted by a family court.

### CONCLUSION

For the reasons stated, this Court should affirm the judgment of the lower court.

Respectfully submitted,

/s/ Michael Laubshire

---

Michael Laubshire, Esq.  
SC Bar # 79078  
The Laubshire Law Firm, LLC  
459 St. Andrews Road  
Columbia, SC 29210  
(803)708-4755 (Phone)  
(803)708-4888 (Fax)  
michael@laubshirelaw.com  
*Attorney for the Respondent*

Columbia, SC  
June 13, 2025

---

<sup>34</sup> S.C. Code Ann. § 63-3-530(A).

<sup>35</sup> S.C. Code Ann. § 63-3-530(A)(18).

<sup>36</sup> S.C. Code Ann. § 20-4-30(A).