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Jun 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AIDEYAN AFAMEFUNA OMOREGBEE,

APPELLANT

APPELLATE CASE NO. 2024-001588

ANDERS BRIEF OF APPELLANT

SARAH E. SHIPE
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred by modifying a permanent restraining order prohibiting threatening or harassing conduct to a full no contact order against appellant on motion by the state and without request by the complainant as is required by the statute?

STATEMENT OF THE CASE

Appellant was charged with domestic violence, first degree in York County South Carolina. R. 2, ll. 3-16; 31-32. On December 17, 2021, appellant pled guilty to domestic violence, third degree before the Honorable Daniel Hall. Appellant was represented by Robert Bruce and Daniel Porter prosecuted for the state. R. 1.

Pursuant to negotiations Judge Hall sentenced appellant to time served and signed a permanent restraining order, that appellant “be restrained from committing further acts of abuse or threats of abuse.” R. 2, ll. 10-16; 9, ll. 3-14; 11—14; 45—46.

On July 21, 2022, a York County grand jury indicted appellant for violation of the permanent restraining order. R. 33—34. On October 26, 2023, a York County grand jury indicted appellant for four counts of violation of the permanent restraining order, and harassment, first degree.¹ R. 34—44.

On September 11, 2024, appellant appeared before Judge Hall on the state’s motion to modify the permanent restraining order to full no contact. R. 15—22. Appellant was represented by Thomas Bowen and Chris Epting appeared for the state. R. 115. At the conclusion of the hearing Judge Hall granted the state’s motion and modified the permanent restraining order to reflect full no contact. R. 20, ll. 8-18; 23—26.

This appeal follows.

¹ According to the notice of appeal filed by appellant’s former counsel the state dismissed all of these charges. R. 27—30

STANDARD OF REVIEW

The decision to issue and or modify a restraining order is within the sound discretion of the circuit court or family court. *See State v. Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976). (Finding “[t]he power to issue a restraining order rests in the sound discretion of the trial judge but this discretion should not be exercised except on the plainest grounds.”)

ARGUMENT

The circuit court erred by modifying a permanent restraining order prohibiting threatening or harassing conduct to a full no contact order against appellant on motion by the state and without request by the complainant as is required by the statute.

Relevant facts

At appellant's December 17, 2021, guilty plea hearing the solicitor told the court appellant had been incarcerated since October 28, 2021, and was pleading "nolo" to the indictment for domestic violence, second degree which had not been presented to the grand jury.² The solicitor stated appellant was originally charged with domestic violence, first degree but was pleading guilty to domestic violence, third degree "under the nolo doctrine for a negotiation of time served and PRO" (permanent restraining order). R. 2, ll. 5-13. The solicitor requested the court make one exception in the order that if there is any approved contact by the family court going forward that it be allowed by the permanent restraining order. R. 2, ll. 14-16.

The state alleged that on October 23, 2021, police responded to a domestic call and spoke with appellant's then wife. She stated appellant chased her with a screwdriver and jumped on her car with their minor children present. R. 5, l. 20—6, l. 3.

The court found appellant had served fifty-three days and signed a restraining order. The court stated, "he's not to have any contact with [] I guess his wife for the next . . . fifty years." R. 4, ll. 6-12. The court asked appellant if he was pleading guilty. R. 4, ll. 13-14. Appellant told the

² While it is not raised here, the transcript of the guilty plea does not reflect any discussion of appellant's constitutional rights or verbal waiver of those rights during the guilty plea. Similarly, there is no discussion in the transcript of the underlying charges or sentence exposure. There is no finding by the court of a factual basis for appellant's guilty plea and no finding that appellant's plea was voluntary, intelligent, and knowing.

plea court he was pleading guilty because he had been “suffering” and when the state offered a negotiated guilty plea he accepted. Appellant denied ever touching his wife. R. 5, ll. 12-147

At the conclusion of the hearing the court sentenced appellant to time served and signed a permanent restraining order. R 9, ll. 11-14; 11—14.

At the September 2024, hearing the solicitor told the court appellant violated the 2021 permanent restraining order. The solicitor contended that the 2021 order did not reflect the court’s intention that appellant be prohibited from all contact with the complainant because a box on the order was not checked. The state requested the court modify the order to include checking the “any contact” box. R. 16, ll. 2-23.

Defense counsel objected to the modification arguing the complainant was using the permanent restraining order as a “sword” to prohibit appellant from seeing their children and from working. Tr. 17, ll. 1-18. Defense counsel told the court appellant informed him the family court judge in appellant’s divorce from complainant had denied complainant’s request for no contact. R. 18, l. 8—19, 24.

The court stated he had never, to his knowledge, signed an order that was not for the purpose of no contact. The court found it was a “scrivener’s error” that the box was left unchecked and granted the state’s motion to modify the order. The court stated if allowed by family court judge to see his children or grandchildren it would “supersede” this order. R. 20, ll. 8-25.

Discussion

The trial court abused its discretion where it modified the permanent restraining order on motion by the state and without request of the complainant.

The relevant portion of the statute regarding permanent restraining orders states:

(M)(1) A permanent restraining order remains in effect for a period of time to be determined by the judge. If a victim or witness is a

minor at the time a permanent restraining order is issued on the minor's behalf, the victim or witness, upon reaching the age of eighteen, may file a motion with the circuit court to have the permanent restraining order removed.

(2) The court may modify the terms of a permanent restraining order upon request of the complainant, including extending the duration of the order or lifting the order.

S.C. Code Ann. § 16-3-1910 (emphasis added).

Here the state, not the complainant, moved for the modification. The state's requested modification to the order is not minor and instead changes the meaning of the order entirely. The 2021, order reflected that appellant was "restrained from committing further acts of abuse or threats of abuse." R. 11. The modified order reflected that appellant was "restrained from any contact with the protected person." R. 23. As argued by counsel below appellant shares children with the complainant and this erroneous modification has made a difficult situation untenable. There is nothing in the record to suggest that the complainant requested this modification. Instead, the solicitor contended it was the intention of all parties at the plea that the order reflect no contact.

CONCLUSION

Based on the foregoing argument, appellant would request the modification of the permanent restraining order be vacated in this case and the original order be reinstated.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 23rd day of June, 2025.

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APPELLATE CASE NO. 2024-001588

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Aideyan Omoregbee states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's guilty plea before Judge Daniel D. Hall, which was held on Dec. 17, 2021, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for Aideyan Omoregbee.

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments: 2021-GS-46-06680, 2022-GS-46-01132, 2023-GS-46-04637, 2023-GS-46-04638, 2023-GS-46-04639, 2023-GS-46-04640, 2023-GS-46-04641;
- (2) December 17, 2021 Guilty Plea Hearing Transcript;
- (3) September 11, 2024 Motion to Modify Hearing Transcript;
- (4) Permanent Restraining Order;
- (5) Modified Permanent Restraining Order;
- (6) Notice of Appeal;
- (7) Sentence sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.


Sarah E. Shipe
Appellate Defender

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This 23rd day of June, 2025.

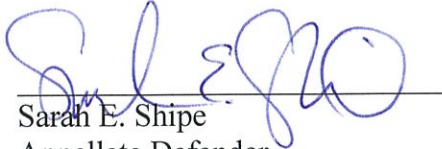
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."


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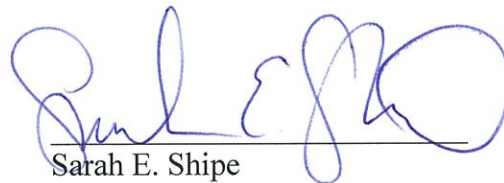
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APPELLANT

APPELLATE CASE NO. 2024-001588

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Aideyan Omoregbee, at 661 Ravenglass Drive, Fort Mill, SC 29715, this 23rd day of June, 2025.



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