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Jul 08 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Case No.: 2024-001241

THE MATTER OF JASON BOYLE, Appellant

SUPPLEMENTAL MOTION IN OPPOSITION TO MOTION TO DISMISS
(Justification and Request to Cure Late Service)

COMES NOW the Appellant, Jason M. Boyle, PhD, acting pro se, and respectfully submits this supplemental motion in further opposition to the State's Motion to Dismiss the above-captioned appeal. This supplement is intended to address one narrow issue not fully developed in Appellant's prior reply: whether the appeal should be dismissed for failure to serve the Attorney General, assuming *arguendo* that the matter is now classified as criminal. Even under that assumption, dismissal is not appropriate, and this Court has the authority to allow late service in the interest of justice. Moreover, if the Motion to Dismiss is not granted on these grounds, Appellant respectfully requests additional time to present full evidence demonstrating that the underlying case was, at all times, treated and adjudicated as a civil matter—not a criminal one—both procedurally and substantively.

I. Procedural Background

As documented in Appellant's primary reply, this case was consistently treated as a civil matter by the Oconee County Probate Court, the Tenth Circuit Court, and the South Carolina Court of Appeals—until only recently, when the Court of Appeals issued an order reclassifying it as criminal. At no point prior to that reclassification was Appellant ever instructed, warned, or informed—by any court, clerk, or opposing party—that service on the Attorney General was required.

Accordingly, Appellant acted in good faith, paid all civil filing fees, and followed the only procedural rules presented to him—those governing civil appeals under S.C. Code Ann. § 62-1-308.

II. Good Faith and Lack of Prejudice Warrant Cure Rather Than Dismissal

South Carolina courts have consistently held that procedural defects should not result in dismissal where there is a good faith effort to comply and no prejudice to the opposing party. In *Mictronics, Inc. v. S.C. Dep't of Revenue*, 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001), the Court of Appeals emphasized that where delay or error is due to excusable neglect, and the opposing party suffers no prejudice, courts have discretion to grant relief in the interest of justice. Similarly, in *McClurg v. Deaton*, 389 S.C. 445, 699 S.E.2d 175 (Ct. App. 2008), the court reaffirmed that timely corrective action and a meritorious position may justify relief from procedural missteps.

Here, Appellant respectfully asserts that:

- He reasonably relied on all available documentation, court statements, and communications from court staff indicating that this was a civil matter;
- There was no intent to avoid or delay service on the Attorney General;
- The Attorney General has now been served, has full notice, and has already responded to the merits of the appeal;
- This Court has discretion to deem service timely or to permit re-service *nunc pro tunc* in the interest of fairness and judicial economy.

To dismiss this appeal under these circumstances would be to penalize Appellant for relying on court procedures and representations, while elevating form over substance. A dismissal would serve no legitimate interest and would unjustly reward procedural ambiguity at the expense of due process.

III. Request to Cure (In the Alternative)

If this Court determines that the matter is properly designated criminal and that service on the Attorney General is mandatory, Appellant respectfully requests leave to cure any defect in service by immediately serving the Attorney General in full compliance with Rule 37(a), SCRCrimP.

Appellant further asks that such service be deemed timely or accepted *nunc pro tunc*, in light of the extraordinary circumstances, the good faith shown throughout these proceedings, and the complete absence of prejudice to the State. In the alternative, should the Court find that late service cannot be permitted, Appellant respectfully requests

additional time to file a comprehensive submission with supporting evidence demonstrating that the matter has consistently been treated as a civil proceeding—by the probate court, by the parties, and through the procedural posture of the case—until the South Carolina Court of Appeals issued its recent determination reclassifying the case as criminal. This evidence will further support the argument that the procedural requirements of a criminal appeal were not reasonably known or applicable prior to that ruling.

PRAYER FOR RELIEF

WHEREFORE, the Appellant, Jason M. Boyle, PhD, respectfully prays that this Court:

1. **Deny** the State’s Motion to Dismiss in its entirety;
2. **Alternatively**, grant leave to cure any alleged defect in service upon the Attorney General;
3. **Deem such service timely** or allow it to be accepted *nunc pro tunc* in the interest of justice;
4. **In the further alternative**, grant Appellant additional time to file a comprehensive report with supporting evidence demonstrating that the case was, at all times prior to the recent ruling by the Court of Appeals, treated as a civil matter;
5. And for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Respectfully Submitted, this July 8, 2025.

A handwritten signature in blue ink that reads "Jason Boyle". The signature is written in a cursive style and is positioned above a horizontal line.

DR. JASON MICHAEL BOYLE, Ph.D., Appellant
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IN THE STATE OF SOUTH CAROLINA,

IN THE COURTS OF APPEALS

APPEAL FROM THE OCONEE COUNTY COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

Order of Honorable Judge Lewton McIntosh

APPELLATE CASE NO: 2024-001241

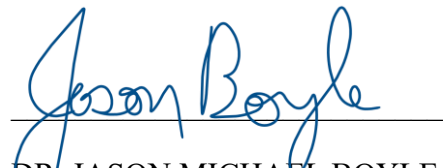
JASON MICHAEL BOYLE----- Appellant,

PROOF OF SERVICE

I hereby certify that on this July 8, 2025, a copy of the SUPPLEMENTAL MOTION IN OPPOSITION TO MOTION TO DISMISS was delivered to the following parties:

1. Jim Logan: logan@loganandjolly.com
2. **Oconee County Detention Center:** jchapman@oconeelaw.com
3. **Oconee County Sheriff's Department:** mcrenshaw@oconeelaw.com
4. Oconee County Administrator: abrock@oconeesc.com
5. AG's Office, Susan Spencer: susanspencer@scag.gov
6. AG Attorney, Andrew Powell: andrewpowell@scag.gov
7. AG's Office, Grace Sommer: gracesommer@scag.gov

Respectfully Submitted, this July 8, 2025.



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