STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Barnwell County
Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

APPELLANT,

V.

JOHN WILSON WILLIAMSON, III,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

COREY LAMONT RIVERA,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

KESHAWN LAMAR KELLEY,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

JASIAH M. BRABHAM,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

JERICHO KNIGHT-HUDSON,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

SHEMAR MCKAY DONALDSON,

RESPONDENT

AND

THE STATE,

APPELLANT,

V.

JONATHAN WILLIAM EUGENE BLOCKER,

RESPONDENT

APPELLATE CASE NO. 2024-001535

FINAL BRIEF OF RESPONDENTS

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COUNTER STATEMENT OF THE ISSUES

1. Is a circuit court's order dismissing arrest warrants immediately appealable where indictments for those warrants have not been quashed or dismissed?

2. Should this Court reinstate arrest warrants in the court of general sessions when the state concedes that court lacks jurisdiction over the charges?

3. Is the potential sentencing range for contraband cases tried in magistrates court ripe for review and is the issue preserved for appeal? If it is, did the General Assembly intend for a magistrate to impose sentences of up to ten years in prison?

4. Should Respondents' indictments be quashed because the circuit court and the grand jury lack subject matter jurisdiction over them?

STATEMENT

Respondents generally accept the state's recitation of the procedural and factual history of these cases with one addendum: for all but Respondent Corey Rivera, Respondents' indictments are technically still pending in the court of general sessions. Mr. Rivera's indictments (Nos. 2024-GS-06-00205, 2024-GS-06-00206, 2024-GS-06-00207, & 2024-GS-06-00208) have handwritten notations stating: "nolle prosequi per Judge Clyburn Pope order dated August 31, 2024. Under appeal." R. 157, 161, 165. The notes are signed by Assistant Solicitor Tyler Sanderlin and dated February 21, 2025.

STANDARD OF REVIEW

"Determining the proper interpretation of a statute is a question of law, and this Court reviews questions of law de novo." *Town of Summerville v. City of N. Charleston*, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008) (citing *Catawba Indian Tribe of S.C. v. State*, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007)). "The question of subject matter jurisdiction is a question of law, which [appellate courts] review de novo." *U.S. Bank Nat'l Ass'n v. Mack*, 445 S.C. 103, 107, 912 S.E.2d 236, 238 (2025) (citing *Seels v. Smalls*, 437 S.C. 167, 172, 877 S.E.2d 351, 354 (2022)).

ARGUMENT

I. The appeal should be dismissed as premature and impermissibly interlocutory because the indictments on these charges are still pending.

The state appeals from an order dismissing arrest warrants. The order did not dismiss the corresponding indictments, which, excepting those for Mr. Rivera, are still technically pending in the court of general sessions. Therefore, the order is not appealable because it is not a final adjudication of any issue in the case. *See Ex parte Wilson*, 367 S.C. 7, 12, 625 S.E.2d 205, 208 (2005) ("As a general rule, only final judgments are appealable." (citing *Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996))); S.C. Code Ann. § 14-3-330 (providing appellate court jurisdiction and the limited circumstances for appeals prior to final order). In principle, subject to challenge by Respondents, the state could have still proceeded on these indictments prior to appeal because the validity of an indictment does not depend on the existence or validity of an arrest warrant. *See Thompson v. State*, 251 S.C. 593, 596, 164 S.E.2d 760, 761 (1968) (refusing to decide if arrest warrant was proper because validity of indictment does not depend on the warrant). The state should have either proceeded on the indictments, or, as the order instructed, obtained new arrest warrants and brought them in magistrates court, R. 46.[1] Appealing was premature.

Dismissing the arrest warrants did not sufficiently decide the case such that the state can appeal the order. The state's right to appeal in criminal cases is extremely limited. There appear to be only two established circumstances where the state can appeal an order entered prior to

[1] Except for the title of the order of dismissal for Respondent John Williamson, all of the orders for each of the Respondents are identical. For an unknown reason, Williamson's order is entitled "Order Dismissing Warrants and Indictments" while all of the other orders are entitled merely "Order Dismissing Warrants." R. 39. Williamson's order does not actually order the indictments dismissed. R. 42. For simplicity, citation will be made only to Mr. Williamson's order of dismissal.

conviction: (1) "an order quashing an indictment" or (2) an order "granting the suppression of evidence which significantly impairs the prosecution of a criminal case." *State v. McKnight*, 353 S.C. 238, 239 n.2, 577 S.E.2d 456, 457 n.2 (2003) (citations omitted); *State v. Looper*, 421 S.C. 384, 387, 807 S.E.2d 203, 204 (2017) (citations omitted). This order did not quash or dismiss the indictments because the order states no such thing, and for all but Mr. Rivera the indictments are still pending. The order also clearly is not a suppression order, nor does it in any other way "significantly impair[]" the prosecution of the criminal cases. *Looper*, 421 S.C. at 387, 807 S.E.2d at 204; *see* § 14-3-330 (providing appellate jurisdiction to review an intermediate order that "in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action"). The order is therefore not appealable, and the appeal should be dismissed for lack of appellate jurisdiction. *See State v. Rearick*, 417 S.C. 391, 400, 790 S.E.2d 192, 196-97 (2016) (citing *State v. Hughes*, 56 S.C. 540, 35 S.E. 214, 215 (1900)) (explaining premature interlocutory appeals must be dismissed).

Two additional reasons should preclude the state from appealing at this juncture. First, because the indictments are still pending, dismissing the arrest warrant is irrelevant—it is a moot issue and any decision by this court as to the arrest warrants would not change the state's or Respondents' positions. Second, the circuit court's order expressly provided the state can obtain new arrest warrants in the original jurisdiction of the magistrates court. The state had available an alternative path that perfectly preserved its rights, and it chose not to take it.

Respondents recognize it was likely an administrative oversight that led to the indictments not being dismissed with the arrest warrants. Nonetheless, the circuit court's order is very clear it

dismisses only the warrants, and except those for Mr. Rivera,[2] none of the indictments have been dismissed by any other action. They are technically still pending. At this point on appeal, however, Respondents are powerless to do more than point out the state's procedural fault and ask this Court for redress.

Should the Court find this appeal is proper, and insofar as Rivera's case arguably presents a different appellate posture, Respondents will address the merits of the issue raised by the state.

II. Respondents agree magistrates court has exclusive jurisdiction; thus, the warrants were properly dismissed.

In its brief the state clearly expressed its position: magistrates court has exclusive jurisdiction over these charges. App. Br. 16-17. Respondents agree. As the statute provides, these charges—because they do not involve weapons or illegal drugs—"must be tried exclusively in magistrates court." S.C. Code Ann. § 24-3-965. That is what the General Assembly decided, and that is what should be done. It is also what the circuit court ordered: "violations of § 24-7-155 that do not involve weapons or illegal drugs must be brought in magistrate court with magistrate court warrants and are not properly filed in general sessions court." R. 41.

While accepting the state's premise, Respondents part company with the state's disconnected conclusion that, because these cases must be tried in magistrates court, the circuit court erred by dismissing the arrest warrants. The state asks this Court to "reinstate the dismissed arrest warrants as to all seven Respondents." App. Br. at 19. This request must be denied because

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[2] While the note on Mr. Rivera's indictments might blame the circuit court's order for the disposition, the order simply did not do that. The indictments were apparently voluntarily dismissed by the solicitor; they were not quashed by the court. It is self-evident the state has no right to appeal its own voluntary dismissal, so any procedural dissimilarity between his case and the rest should be inconsequential. Therefore *all* of the appeals are either premature or, for Mr. Rivera, improper because there is no relevant order from which the state appeals. Thus, all of the appeals should be dismissed.

the state cannot bring arrest warrants to a court without jurisdiction over them. The circuit court had before it arrest warrants and indictments for offenses which "must be tried *exclusively* in magistrates court." § 24-3-965 (emphasis added). Because section 24-3-965 provides exclusive jurisdiction to the magistrates court, the circuit court had no jurisdiction over these cases. S.C. Const. art. V, § 11 ("The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, *except those cases in which exclusive jurisdiction shall be given to inferior courts* . . . ." (emphasis added)). Under the statute—and as the state concedes—the circuit court lacked jurisdiction to hear the cases. Thus, there was no error in dismissing the warrants. *See State v. Castleman*, 219 S.C. 136, 137-39, 64 S.E.2d 250, 251-52 (1951) (reversing conviction on appeal following circuit court trial because magistrates court had exclusive jurisdiction over the offense).

In its brief the state offered no argument whatsoever to support reinstating these warrants in the court of general sessions despite exclusive jurisdiction resting in magistrates court. General sessions court cannot entertain arrest warrants with charges for possession of contraband unless the alleged contraband is weapons or illegal drugs. § 24-3-965; 16 Corpus Juris, *Criminal Law* § 163, at 147 (1918) ("There can be no valid prosecution and conviction for crime unless the court in which the prosecution is instituted and carried on . . . has jurisdiction of the offense charged [and] of the person of the defendant . . . ." (footnotes omitted)). To reinstate the warrants in general sessions court would be error because they fall outside of its jurisdiction. It would be just as erroneous to allow the state to file the arrest warrants with this Court.

III. The sentencing range for this offense is not properly before this Court, but if it was the General Assembly did not intend for this magistrates court offense to carry a ten-year sentence.

a. This Court should not address the sentencing issue because it is not yet ripe for review and the issue was not preserved below.

Whether the magistrates court can sentence a defendant to ten years in prison under section 24-7-155 is not yet ripe for review. No defendant has yet been convicted, and no court with jurisdiction over the charges has made any determination about the potential sentence for these offences. "In South Carolina, a criminal defendant may not appeal until sentence has been imposed." *State v. Miller*, 289 S.C. 426, 426, 346 S.E.2d 705, 705 (1986) (citations omitted); *see generally State v. Rearick*, 417 S.C. 391, 398-401, 790 S.E.2d 192, 196-97 (2016) (discussing criminal defendant's appeals prior to sentencing). There is no sound reason the state should be treated differently and allowed to litigate a sentencing issue before any sentence is imposed. For now, this abstract question about the sentencing authority of the magistrates court is just that—abstract. It is not yet "ripe and appropriate for judicial determination" and should not be considered by this Court. *Pee Dee Elec. Co-op., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983) (citing *Orr v. Clyburn*, 277 S.C. 536, 290 S.E.2d 804 (1982)); *see also Jowers v. S.C. Dep't of Health & Env't Control*, 423 S.C. 343, 353, 815 S.E.2d 446, 451 (2018) (quoting *Colleton Cnty. Taxpayers Ass'n v. Sch. Dist. of Colleton Cnty.*, 371 S.C. 224, 242, 638 S.E.2d 685, 694 (2006)) ("[A]n issue that is contingent, hypothetical, or abstract is not ripe for judicial review."). The state is premature to request an order that these charges shall be "subject to the statutory punishment" in section 24-7-155. App. Br. 19.

Further, the sentencing question was not decided below and therefore the issue is not properly preserved. *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal." (citing *Humbert v. State,* 345 S.C. 332, 548 S.E.2d 862 (2001))). Our Supreme Court "has consistently held that a challenge to sentencing must be raised at trial, or the issue will not be

preserved for appellate review." *State v. Johnston*, 333 S.C. 459, 462, 510 S.E.2d 423, 425 (1999). There is no logical reason to permit the state to circumvent this ordinary requirement and process in its attempt to raise this issue now without a ruling from the circuit court. *Contra State v. Plumer*, 439 S.C. 346, 351, 887 S.E.2d 134, 137 (2023) (holding courts may, rarely, remedy "illegal sentences" without objection below *if* the parties agree it is an illegal sentence). The relief granted by the circuit court was to dismiss the arrest warrants and state these charges can be brought again in magistrates court upon new arrest warrants. Nothing came of the court's statement, "the legislature could not have intended for the category of cases that does not involve weapons or illegal drugs to be subject to the same ten-year maximum penalty." R. 41. The circuit court did not actually rule on this issue, and it could not do so because—as explained above—it lacks jurisdiction over the charges *and* the sentencing issue is not yet ripe for review. The state failed to preserve the issue, so this Court should not now decide the matter.

b. If necessary to address now, Respondents assert the ten-year-sentence in § 24-7-155 cannot apply to contraband cases not concerning illegal drugs and weapons.

Respondents strongly contend the Court should not now address the sentencing issue for the several reasons raised above. However, for fear of waiving the issue, Respondents will now outline two reasons the legislature did not intend for magistrates to sentence a defendant to up to ten years in prison for violation of this contraband statute.[3]

First, the statute should not be interpreted to allow such an extreme sentence because if the General Assembly intended the two classes of the offense to carry the same penalty, there would have been no reason to segregate some of them to magistrates court. Section 24-3-965 divides the

[3] Because they were not ruled upon below and were argued only preliminarily below, any constitutional concerns with this potential sentencing range must wait to be addressed once, and if, a Respondent or future defendant is sentenced to more than thirty days for a contraband violation not involving weapons or illegal drugs.

contraband offense into two classes: those cases concerning drugs or illegal weapons and all other cases. If all contraband offenses regardless of class were intended to be subject to a potential ten year term, they all would be heard in general sessions court. As the circuit court wrote: "the legislature could not have intended for the category of cases that does not involve weapons or illegal drugs to be subject to the same ten-year maximum penalty." R. 42.

The more reasonable interpretation is that the General Assembly assigned the class of lesser offenses to magistrates court subject to the typical sentencing authority of that court. *See* S.C. Code Ann. § 22-3-540 (providing magistrates court with "exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days"). Section 24-7-155 provides for a *minimum* sentence of one year (or a minimum fine of $1,000, or both). It strains credulity to assert that even though almost every offense tried in magistrates court is subject to a maximum thirty-day sentence or $100 fine, the General Assembly intended a minimum sentence of a one year and/or fine of $1,000 for simply possessing, for example, a phone charger.

Second, the limited legislative history of the statutes supports this interpretation. Section 24-7-155 criminalized the possession or provision of contraband in 1979. 1979 Act No. 20, § 1. After some time prosecuting offenses under this law, the General Assembly apparently saw the large number of minor infractions—those not involving drugs or illegal weapons—and sought to avoid them bogging down the general sessions court. Thus, it passed section 24-3-965 in 2000. 2000 Act No. 376, § 3. It therefore intended to classify those less substantial offenses as minor crimes to be tried in magistrates court and subject to the typical thirty-day sentencing cap like any other.

IV. The remaining indictments should also be dismissed because the circuit court and grand jury lack jurisdiction over the offenses.

In addition to affirming the circuit court's order, Respondents request this Court vacate or quash their related indictments pending before the circuit court or to direct the circuit court do so on remand.[4] For the same reason the arrest warrants were appropriately dismissed—the magistrates court has exclusive jurisdiction—the indictments must be dismissed as well.

The rule has long been that a grand jury has jurisdiction coextensive with that of the court to which it returns indictments:

> In order that an indictment or presentment may be valid the grand jury must of course have jurisdiction. As a general rule its jurisdiction is coextensive with that of the court in which it is impaneled and for which it is to make inquiry. Therefore, to render an indictment or presentment valid, the court in which the grand jury is acting must have jurisdiction; and this includes jurisdiction of the offense . . . with respect to the character of the offense.

31 Corpus Juris, *Indictments and Informations* § 23, at 574 (1923) (footnotes omitted). This is the rule in South Carolina: "No indictment may be true billed by the grand jury when the circuit court lacks jurisdiction since the grand jury's jurisdiction is co-extensive with the criminal jurisdiction of the court in which it is impaneled and for which it is to make inquiry." *State v. McClure*, 277

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[4] This issue can be raised for the first time on appeal. *State v. Gentry*, 363 S.C. 93, 100, 610 S.E.2d 494, 498 (2005) ("[I]ssues related to subject matter jurisdiction may be raised at any time."); *see also State v. Funderburk*, 259 S.C. 256, 261, 191 S.E.2d 520, 522 (1972) (citations omitted) ("It is elementary that lack of jurisdiction of the cause or subject matter can be raised at any time, including for the first time on appeal in this Court."). This challenge is not to the sufficiency of the indictment, which cannot be raised for the first time on appeal, *Gentry*, 363 S.C. at 102-03, 610 S.E.2d at 500, but directly to the subject matter jurisdiction of the circuit court and grand jury and their authority to consider contraband cases of this class. *See Bayly v. State*, 397 S.C. 290, 295, 724 S.E.2d 182, 184 (2012) ("[S]ubject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong." (quoting *Gentry*, 363 S.C. at 100, 610 S.E.2d at 498)). Even if this issue would otherwise be not yet capable of appeal, where an interlocutory appeal is taken on another issue, appellate courts can consider issues concerning jurisdiction. *See Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 658, 916 S.E.2d 320, 330 (2025).

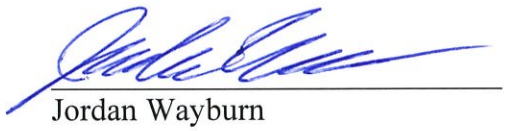
S.C. 432, 434, 289 S.E.2d 158, 160 (1982); *see also Funderburk*, 259 S.C. at 261, 191 S.E.2d at 522 (citations omitted). Because the circuit court lacked jurisdiction over the offense, the indictments too are invalid as outside the jurisdiction of the Barnwell County grand jury. The indictments were true billed without jurisdiction, and this Court should quash them.[5]

[5] In order for this Court to vacate the still-pending indictments, Respondents ask this Court to, if necessary, consider this request and argument in the nature of a petition for a writ of prohibition to prevent the prosecution of these indictments because they clearly exist outside the jurisdiction of the circuit court, as the state argues. *See* 50 Corpus Juris, *Prohibition* § 1, at 653-54 (1930) ("Prohibition is a legal remedy, provided by the common law, . . . to prevent courts . . . from usurping or exercising a jurisdiction with which they have not been vested by law" (footnotes omitted)); *In re State ex. rel Leonard*, 37 S.C.L. (3 Rich.) 111, 113-14 (1846) ("The true office of a writ of prohibition is . . . to restrain the usurpations of inferior tribunals, and to compel them to observe the limits of their jurisdiction . . . ."). This Court has authority to issue writs of prohibition. S.C. Const. art. V, § 20 ("Each of the . . . judges of the Court of Appeals . . . shall have the same power at chambers to issue writs of . . . prohibition, and interlocutory writs or orders of injunction as when in open court.); *see also* S.C. Code Ann. §§ 14-8-220, 14-8-290 (codifying the same authority).

CONCLUSION

This appeal should be dismissed as impermissibly interlocutory because these indictments are still pending in the circuit court, so there is no final order from which the state can appeal. The Court also should not reach the merits of the sentencing issue because it is not yet ripe for review and the state failed to preserve the issue. In the alternative, the circuit court's order should be affirmed because under the express language of section 24-3-965, the circuit court lacked jurisdiction over these warrants—as the state concedes—and correctly dismissed them.

Additionally, this Court should either quash the indictments remaining in circuit court or remand the case with instructions to do so.



Jordan Wayburn
Appellate Defender

ATTORNEY FOR RESPONDENTS

This 4th day of September, 2025.

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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this final brief of respondent 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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This 4th day of September, 2025.

STATE OF SOUTH CAROLINA

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APPELLATE CASE NO. 2024-001535

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies true copies of the Final Brief of Respondent in the above-referenced case have been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 4th day of September, 2025.

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