STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
The Honorable Robert J. Bonds, Circuit Court Judge

Appellate Case No. 2024-001818

THE STATE, ...RESPONDENT

v.

RYAN LENARD MANIGO.....APPELLANT.

FINAL BRIEF RESPONDENT

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ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases

Statutes

Rules

APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court judge erred in failing to find that pretrial detainee telephone calls are not subject to the Freedom of Information Act?

2. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates the pretrial detainee's state and federal constitutional rights?

3. Whether the circuit court judge erred in failing to find that the Freedom of Information Act's statutory exemptions prevent the release of pretrial detainee telephone calls?

4. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates public policy?

RESPONDENT'S COUNTERSTATEMENT OF THE ISSUE ON APPEAL

Whether this Court has jurisdiction to entertain Appellant's issues related to pre-trial rulings in his criminal case when Appellant has not been tried, convicted and sentenced and shows no exception under S.C. Code Ann. § 14-3-330 that would allow this interlocutory appeal to be heard?

STATEMENT OF THE CASE

Appellant is a pretrial detainee in Colleton County currently charged with multiple crimes including: five counts of murder; arson first degree; two counts of criminal sexual conduct first degree; two counts of criminal sexual conduct with a minor; two counts of kidnapping; six counts of possession of a deadly weapon in the commission of a violent crime, burglary first degree; attempted murder and incest. The charges remain pending at this time.

RESPONDENT'S STATEMENT OF FACTS

Appellant has not been tried and convicted on his pending charges in the court of general sessions in Colleton County. At some point, Appellant became aware that the media, pursuant to the Freedom of Information Act[1] (FOIA), had requested access to Appellant's recorded jail calls. On August 9, 2023, Appellant moved, in general sessions, to prevent the recordings from being released. The Honorable Robert J. Bonds heard Appellant's motion. Judge Bonds found that the recordings were subject to the FOIA provisions and no constitutional infringements by disclosure had been shown. The judge also provided a review process for *specific* challenges, and restricted release of any of the jail calls until a final ruling could be made. (R. 126-131, Order, at 2).[2] Thereafter, Judge Bonds conducted a detailed review and ruled on objections and/or arguments on *specific* calls having rejected the defense's request for complete exemption. (*See* R. 126-131, Order at 4-6). Notably, Judge Bonds found multiple records subject to redaction before release and seven records not subject to release. (R. 126-131, Order at 5-6). Appellant filed a notice of appeal and moved for supersedeas, or to quash the order.

On May 5, 2025, this Court denied Appellant's motions to prevent the release of jail calls to the media pursuant to Judge Bonds' order. The Court found, in relevant part, that "Appellant will not suffer irreparable harm or a miscarriage of justice due to the release of the recordings in accordance with the circuit court's well-reasoned order," and denied the petition. (May 5, 2025 Order). This Court subsequently denied Appellant's petition for rehearing on June 5, 2025.

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1 S.C. Code Ann. §§ 30-40-10 through 165.

2 After this ruling, Appellant attempted an appeal and filed a motion to quash and petition for supersedeas to challenge the ruling and stop disclosures. This Court denied the motion to quash, declined to rule on the petition for supersedeas, and dismissed the notice as interlocutory. (Appellate Case No. 2023-001747).

On May 23, 2025, the State moved to dismiss the appeal as improperly interlocutory given Appellant had not yet been tried, convicted and sentenced. This Court denied the State's motion to dismiss the appeal with the following provision:

> ...this order merely allows the appeal to proceed at this time and does not finally determine whether the underlying order is subject to immediate review. The parties are free to address these questions of appealability in their briefing as the appeal progresses.

(June 5, 2025 Order).

STANDARD OF REVIEW

"'An appellate court may determine the question of appealability of a decision from a lower court as a matter of law.'" *Levi v. N. Anderson Cnty. EMS*, 409 S.C. 374, 379, 762 S.E.2d 44, 47 (Ct. App. 2014) (quoting *Ashenfelder v. City of Georgetown,* 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct.App.2010) (citing S.C.Code Ann. § 14–3–330 (1976 & Supp.2009) (creating appellate jurisdiction in law cases)).

ARGUMENT

Appellant's notice of appeal should be dismissed as an unauthorized, improper interlocutory appeal which fails to support appellate jurisdiction.

"[A] criminal defendant has no constitutional right to appeal." *State v. Rearick*, 417 S.C. 391, 398, 790 S.E.2d 192, 196 (2016). "Rather, a defendant's right to appeal is authorized by statutes and appellate court rules of procedure." *Id.*

"'An appeal ordinarily may be pursued only after a party has obtained a final judgment.'" *Hagood v. Sommerville*, 362 S.C. 191, 194–95, 607 S.E.2d 707, 708 (2005) (quoting *Mid–State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 781 (1993)). *See also* Rule 201(a), SCACR ("Appeal may be taken, as provided by law, from any final judgment, appealable order or decision."). "'A final judgment disposes of the whole subject matter of the action or terminates the particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined.'" *State v. Looper*, 421 S.C. 384, 388, 807 S.E.2d 203, 205 (2017) (quoting *Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010)).

Whether an appeal may be entertained by an appellate court is a matter of such primary importance that "[e]ven if not raised by the parties, this court may address the issue of appealability *ex mero motu*." *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct. App. 2010).

In this case, Appellant has shown no viable exception that allows him to maintain his appeal. This is so for two distinct reasons.

First, Appellant previously asserted that he was not intending to pursue an ordinary appeal. In responding to Gray Media Group's motion to dismiss the appeal, Appellant wrote:

> Gray attempts to treat this matter as a traditional appeal with ordinary briefing schedules pursuant to Rule 204 of the South Carolina Appellate Court Rules. However, the Petitioner's Notice of Appeal was nothing more than a vehicle to have this Court consider the Appellant's Writ of Supersedeas pursuant to Rule 240 of the South Carolina Court Rules.

(December 6, 2024, Reply to Gray Media Group, Inc.'s Motion to Dismiss Appeal, at 2).

Yet, supersedeas is not as readily available to a criminal defendant as it is for a civil party. A civil party may apply for supersedeas under Rule 241, SCACR.[3] Stays in criminal cases are controlled by Rule 246, SCACR. And, a writ of supersedeas is only available where there is an appealable order. *State v. Hill*, 314 S.C. 330, 331–32, 444 S.E.2d 255, 256 (1994). Pre-trial orders that do not involve the merits or "affect a substantial right which discontinues the action" are not immediately appealable and supersedeas is unavailable. *Id.* At any rate, Appellant's request to this court, *i.e.*, the matter of supersedeas, has been ruled upon and no further action required.[4]

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[3] Appellant has also disavowed attempting to fall under Rule 241, SCACR, as that only applies in civil actions. (Nov. 27, 2024 Reply to State's Return, at 2). Nonetheless, this Court cited to Rule 241 in denying the petition for rehearing of the order denying the petition for writ of supersedeas. (June 5, 2025 Order). Even so, under the rule applicable to civil actions, it is still anticipated that appellate jurisdiction can attach.

[4] There are also additional areas of confusion in Appellant's position. FOIA is civil in nature and there are civil remedies available. *See, e.g., Brawley v. Richland Cnty.*, 445 S.C. 80, 89, 911 S.E.2d 156, 161 (Ct. App. 2025), *reh'g denied* (Jan. 28, 2025), *cert. denied* (June 3, 2025) ("A declaratory judgment action under ... FOIA to determine whether certain information should be disclosed is an action at law.")(quoting *Miramonti v. Richland Cnty. Sch. Dist. One*, 438 S.C. 612, 616, 885 S.E.2d 406, 408 (Ct.App. 2023)). By the method of litigation chosen, Appellant missed including an important party to the litigation— the entity that requested the release under FOIA. (*See* May 5, 2025 Order n. 1 ("Gray Media is not a party to this appeal. This court invited Gray Media to file a return to the petition for a writ of supersedeas because Gray Media sought release of Appellant's recorded phone calls from the detention centers. The release of these phone calls is the subject of the petition for a writ of supersedeas.")). Appellant's motion below and subsequent appeal outside the provisions of the Act posits unnecessary challenge to the narrow exemptions for appeals from general sessions matters.

Second, no further relief can be due as Appellant's appeal is interlocutory and does not fall under any exception listed in S.C. Code Ann. § 14-3-330. "The General Assembly has expressly limited those decisions that are immediately appealable." *Rearick*, 417 S.C. at 399, 790 S.E.2d at 196. But those exceptions are narrowly construed. *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019) ("[t]he provisions of section 14-3-330 are narrowly construed and serve the underlying policy favoring judicial economy by avoiding 'piecemeal appeals.'") (quoting *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005)). Though Appellant suggests a substantial right is involved, that stand alone assertion fails to satisfy the statute. The exceptions regarding "a substantial right" read as follows:

> 2) An order affecting a substantial right made in an action ***when*** such order (a) in effect determines the action and ***prevents a judgment*** from which an appeal might be taken or discontinues the action, (b) grants or refuses a ***new trial*** or (c) ***strikes out an answer*** or any part thereof or any pleading in any action;
>
> (3) A final order affecting a substantial right made in any ***special proceeding or*** upon a summary application in any action ***after judgment***; ...

S.C. Code Ann. § 14-3-330 (emphasis added).

Appellant is facing trial on criminal charges. Nothing has been determined that "prevents judgment," or goes to a "new trial," or "strikes out" any part of any pleading. Further, the matter at issue was not heard in "special proceeding" or "after judgment." Appellant cannot qualify for an interlocutory appeal. Further, it is a well-settled principle that a criminal defendant may not appeal prior to being sentenced. *See, e.g., Rearick,* 417 S.C. at 400, 790 S.E.2d at 196 ("defendant may appeal only after sentence has been imposed"); *see also State v. Isaac*, 405 S.C. 177, 183, 747 S.E.2d 677, 680 (2013) (our Supreme Court acknowledges that "generally, a criminal defendant may not appeal until sentence is imposed" and collecting cases). Appellant does not show appealability and the appeal should be dismissed.

Moreover, simply alleging one is "aggrieved" is not enough. *See* Rule 201 (b), SCACR ("Only a party aggrieved by an order, judgment, sentence or decision may appeal."). That would qualify for almost any ruling to be appealable which is clearly not contemplated by the statute or case law. *See, e.g., State v. Looper*, 421 S.C. 384, 389, 807 S.E.2d 203, 205 (2017) (determining that "the twin pillars of appealability, aggrieved and a final judgment" are necessary). The appeal should be dismissed.

Even so, if the Appellant could overcome the interlocutory nature of this appeal by some exception (which Respondent maintains he cannot), there is a complete impossibility of evaluating prejudice in context of the general sessions matter. There is no evidence that can be referenced to determine prejudice, only speculation, and a premature ruling as to impact on potential jurors would be contrary to the precedent that sets out how such prejudice or lack thereof is shown:

> After careful consideration, we deny the petition for a writ of supersedeas. We find Appellant will not suffer irreparable harm or a miscarriage of justice due to the release of the recordings in accordance with the circuit court's well-reasoned order. *See State v. Evins*, 373 S.C. 404, 412-13, 645 S.E.2d 904, 908 (2007) (noting adequate voir dire examination of jurors on their abilities to set aside any impressions or opinions resulting from exposure to pretrial publicity or a change of venue effectively protect a criminal defendant's right to a fair trial in cases involving significant pretrial publicity).

(May 5, 2025 Order).

Of course, a necessary component to voir dire is that the case must be called and the jurors presented. In essence, this Court has already determined that Appellant must stand trial before an appeal would be allowable. At the least, this Court's finding that Appellant will not be subjected either to "irreparable harm or a miscarriage of justice" from the release of calls after the lower court's careful consideration of those calls shows no harm can attach should proceedings continue in the ordinary course. Thus, there is no valid cause to continue the premature appeal at all.

In sum, from any view, the instant appeal is premature and subject to dismissal.

CONCLUSION

For the foregoing reasons, this Court should dismiss the appeal.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned certifies that pursuant to Rule 262(c)(3), SCACR and the Supreme Court order of April 24, 2024, the Final Brief of Respondent, along with Certificate of Service has been forwarded to Appellant's counsel, Robert L. Banks, Jr., Esquire and S. Boyd Young, Esquire, via email today, October 1, 2025 to rbank@sccid.sc.gov and byoung@sccid.sc.gov.

A courtesy copy of the brief is also being provided to Gray Media Counsel, Michael J. Anzelmo, Esq., at manzelmo@mcguirewoods.com; and Mark A. Peper, Esq., at Mark@peperlawfirm.com

I further certified that all parties required by Rule to be served have been served.

This 1st day of October, 2025.

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