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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Family Court

Family Court Case No. 2022-DR-10-3072
Appellate Court Case No. 2023-001376

Justin McGee. …….....…….Respondent,

v.

Lindsay F. McGee…….....…….Petitioner.

PETITIONER'S RETURN TO RESPONDENT'S PETITION FOR REHEARING AND SUGGESTION FOR HEARING EN BANC

Respectfully submitted,

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October 6, 2025

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INTRODUCTION

By Order dated August 20, 2025, and based on *overwhelming* evidence of extensive, highly intrusive, and illegal interceptions by Respondent Justin McGee ("Husband"), this Court entered a well-reasoned and tailored Order granting a petition by Petitioner Lindsay F. McGee ("Wife") to suppress certain electronic communications obtained by Husband in violation of the South Carolina Homeland Security Act (the "Act") and Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (the "Federal Act"). Thereafter, on September 2, 2025, Husband filed a Petition for Rehearing and Rehearing *En Banc*.

As set forth below, Respondent's Petition is subject to outright dismissal and the Court need not even reach the merits. Respondent's Petition, on its face, is improper in form and violates Rule 221, SCACR. Moreover, Respondent's Petition is procedurally improper given that this matter is not an appeal but simply involves a motion for suppression.

In addition, while the Court need not reach the merits given the grounds for outright dismissal, the Petition also fails to set forth any grounds that would support rehearing. Plainly stated, Respondent's arguments fail under the well-established law of this state and the well-established record before this Court. The Court had both subject matter jurisdiction and personal jurisdiction. The Court properly issued its ruling in light of the clear and equivocal evidence of intent by Respondent, who under pretense of adding additional USB connections in Petitioner's home, intentionally purchased recording devices and placed them throughout Petitioner's home. The Court properly issued its ruling in light of law regarding contemporaneous acquisition—there is no question Respondent contemporaneously acquired the recordings in this matter. The Court properly entered its Order over Respondent's meritless arguments attempting to assert independent source and inevitable discovery defenses—defenses that stretch the bounds of credulity and fly in

the face of the record before the Court. Finally, the Respondent's alleged procedural issues regarding the scope of discovery, the evidence in the record, and preservation issues—fall flat based on straightforward review of the record itself and the procedural history in this matter.

For these reasons, Respondent's petition is subject to both dismissal and denial.

ARGUMENT

I. HUSBAND'S PETITION SHOULD BE DISMISSED

a. Husband's Petition is Improper Under Rule 221(c), SCACR, Because the Court Has Not Acted to Dismiss or Finally Decide an Appeal.

Rule 221(c), SCACR expressly prohibits petitions for rehearing on a motion or petition "unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."[1] Here, Husband seeks rehearing of an Order granting a motion to suppress, *not* rehearing of an Order "dismissing or finally deciding a party's appeal." Indeed, the parties have never disagreed on this issue. As Husband has frequently emphasized in his filings to this Court, this motion to suppress before the Court of Appeals is *not* an appeal. *See*, *e.g.*, Husband's Response to Petitioner's Motion to Confirm Automatic Stay Pursuant to S.C. Code Ann. § 17-30-110, filed September 14, 2023 (arguing that "Petitioner has not served a notice of appeal, and indeed, there is no order from which she could appeal"); Husband's Motion for Extension of Time to File Return to Petitioner's Amended Motion to Suppress Evidence, filed September 8, 2023 (asserting that "there is nothing from which Petitioner may appeal or seek this Court to review").

[1] Rule 221(c)'s prohibition applies equally to petitions for rehearing and for suggestions for rehearing *en banc*. *See* Rule 219, SCACR (providing that requests for rehearing *en banc* are to be included in the petition for rehearing, which are governed, in turn, by Rule 221, SCACR).

To the extent Husband attempts to style the Petition for Rehearing, in the alternative, as a Motion for Reconsideration under Rule 59, SCRCP, this does not save Husband's Petition. To the contrary, Rule 59, SCRCP does not apply to the motion to suppress before the Court of Appeals. *See*, e.g., Rule 101, SCACR (providing that "Part II" of the South Carolina Appellate Court Rules apply to, among other things, "petitions" and "motions in… the Court of Appeals"). As set forth above, Part II of the South Carolina Appellate Court Rules, under Rule 221(c), bars Husband's attempt to seek rehearing of the Court's Order of suppression.

In short, because there is no action by the Court dismissing or finally deciding a party's appeal, and because Rule 59, SCRCP is not applicable, Husband's Petition is improper, cannot be entertained, and must be dismissed.

b. Husband's Petition is Not in Compliance with Rule 221, SCACR.

Husband's Petition for Rehearing is also improper under Rule 221(a), SCACR, which sets a mandatory page limit for a petition for rehearing. Specifically, Rule 221(a) states that "[a] petition for rehearing *shall not* exceed fifteen (15) pages." Rule 221(a), SCACR (emphasis added).[2] Here, Husband's Petition is 22 pages, far exceeding the mandatory page limit.[3]

As a result, Husband's petition should be dismissed for failure to comply with the South Carolina Appellate Court Rules. *See*, *e.g.*, Rule 260, SCACR ("Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall

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[2] The inclusion of a suggestion for rehearing *en banc* does not modify the page limit requirement; to the contrary, Rule 219, SCACR, which provides for requests for rehearing *en banc*, requires that the suggestion for rehearing *en banc* be included in the petition for rehearing. Petitions for rehearing, in turn, are governed by Rule 221, SCACR, which includes the 15-page limit.

Nor is Husband relieved of Rule 221's page limit requirement by his attempt, in the alternative, to style the petition as a Rule 59 Motion for Reconsideration. Rule 59, SCRCP, is not applicable to this matter. *See* discussion *supra* at Section I.a.

issue an order of dismissal, which shall have the same force and effect as an order of the appellate court."); Rule 240, SCACR ("[w]here an appeal, petition, motion, or return… is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose… such sanctions as the circumstances of the case and discouragement of like conduct in the future may require").

To the extent the Court allows Husband to exceed the 15-page limit, Wife requests that the Court permit additional briefing by Wife beyond the 15-page limit.

II. HUSBAND'S PETITION IS ALSO SUBJECT TO DENIAL ON THE MERITS

a. The Court Had Both Subject Matter Jurisdiction and Personal Jurisdiction to Issue the Suppression Order.

i. Subject Matter Jurisdiction

Husband challenges this Court's Order of suppression on the grounds that the Court lacked subject matter jurisdiction to entertain Wife's motion to suppress. Specifically, Husband argues that under the South Carolina Constitution, the Court of Appeals "shall have such jurisdiction as the General Assembly shall prescribe by general law." *See* Petition at pp. 5-6. Husband's argument, however, quickly breaks down.

It is well-established in South Carolina that motions to suppress intercepted communications "must be made before the reviewing authority". S.C. Code Ann. § 17-30-110(A). The "reviewing authority," in turn, is defined as "a panel of three judges of the South Carolina Court of Appeals designated by the Chief Judge of the South Carolina Court of Appeals." S.C. Code Ann. § 17-30-15(9). Thus, the law of the state, as established by the General Assembly, expressly grants the South Carolina Court of Appeals—and specifically, a three-judge panel—jurisdiction to hear motions to suppress. Indeed, this process has been recognized by the South Carolina Supreme Court, including in *State v. Whitner*, 399 S.C. 547, 551, 732 S.E.2d 861, 863

(2012) ("[T]he Wiretap Act requires that a motion to suppress be made before a panel of judges of the court of appeals.").

Moreover, the Court of Appeals' jurisdiction is not limited to criminal matters. To the contrary, S.C. Code Ann. § 17-30-135 specifically recognizes a civil action for wrongful interceptions, and § 17-30-135(A)(1) specifically provides that appropriate relief may include "preliminary or equitable or declaratory relief as may be appropriate…". Moreover, § 17-30-110, governing motions to suppress, provides for motions to suppress "[p]rior to *any* trial, hearing, or proceeding in or before *any* court….". S.C. Code Ann. § 17-30-110(A) (emphasis added).

Husband previously raised the subject matter jurisdiction argument before this Court, and this Court has properly denied Husband's arguments. *See, e.g.,* Order dated September 14, 2023). The Court should again deny Husband's Petition for Rehearing premised on the same grounds.

ii. Personal Jurisdiction

Husband next argues, without support, that this Court lacks personal jurisdiction over Husband. Specifically, Husband appears to argue that Wife was required to issue a Summons and other process to Husband to establish personal jurisdiction in the Court of Appeals. This argument is utterly without merit.

As an initial matter, it is uncontested that Husband—and not Wife—instituted the Family Court Action of which Wife's Motion to Suppress forms a part. *See*, *e.g.*, Husband's Motion to Dismiss, filed September 8, 2023. The Motion to Suppress is not a new action in which a new summons and other process must be issued. On the contrary, it is simply a motion arising out of the existing family court case. The South Carolina Rules of Appellate Procedure make no requirement of a new summons or other service of process beyond service of the motion on the opposing party, and Husband notably cites no supporting authority to the contrary. As a result, this

argument should be considered abandoned. (*See*, *e.g.*, *Hunt v. Forestry Com'm*, 358 S.C. 564, 573, 595 S.E.2d 846, 851 (Ct. App. 2004) (finding that party abandoned arguments raised without supporting authority).

It is also uncontested that Husband was provided notice of the Motion to Suppress, that Husband appeared in the Court of Appeals, and that Husband opposed the Motion to Suppress on the merits. *See*, *e.g.*, September 1, 2023 email from Wife's counsel to the Court of Appeals' filing email address, copying Husband's Counsel; Husband's September 8, 2023 Motion to Dismiss; Husband's Return to Petitioner's Amended Motion to Suppress evidence. Thus, even had the South Carolina Court of Appeals lacked personal jurisdiction at the outset (it did not), Husband has long waived any argument to personal jurisdiction by appearing and opposing the motion to suppress. *See*, *e.g.*, *Wellin v. Wellin*, 427 S.C. 15, 24–25, 828 S.E.2d 767, 772 (Ct. App. 2019) ("A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.").

b. The Court Issued Proper and Well-Founded Factual and Legal Conclusions.

i. The Court Has Not Misapprehended the Applicable Intent Standard

Husband next argues that, despite the overwhelming and, in many cases, uncontroverted evidence of intentional and illegal interception of Wife's communications, the Court somehow overlooked Husband's arguments regarding the intent necessary to establish a violation of the Homeland Security Act. Specifically, Husband argues that inadvertent interceptions are not a basis for criminal or civil liability under the Federal Electronic Communications Privacy Act of 1986 ("ECPA"). Husband's argument is without merit.

Civil violations of the South Carolina Homeland Security Act must be proven by the preponderance of the evidence. *See Rutledge v. St. Paul Fire & Marine Ins. Co.*, 286 S.C. 360,

371, 334 S.E.2d 131, 138 (Ct. App. 1985) ("In South Carolina, a party having the burden of an issue ordinarily must carry it by a preponderance of the evidence."). *See also* S.C. Code Ann. § 17-30-135 (discussing civil actions for wrongful interceptions without any indication that a higher standard of proof applies). Here, the Court, applying the proper preponderance of the evidence standard, properly found that Husband violated the Act and the Federal Act. *See* Order at p. 4. Moreover, the Court's Order was properly supported by ample evidence in the record of Husband's willful and intentional interceptions. Among other things:

- Husband purchased a multitude of recording devices, including the "Camduck" recording device (the "Device") hidden in Wife's bedroom at the home she lived in without husband. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶¶ 3.a., 3.b.

- Husband installed the recording devices in the home, without Wife's knowledge or consent, and under the pretense of adding more USB connections to the house. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 3.j.

- Moreover, the Device was shipped with audio recording disabled, yet the device recorded video *with embedded audio* for approximately 8 months, establishing that Husband, as the purchaser and only individual who knew of the recording Device, had enabled the audio recording. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 7.

- Also, the Device was connected to Wife's Wi-Fi. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶¶ 3.g. Further, evidence reflects that Wife was not home at the time the Device was first connected to Wife's Wi-Fi, and the metadata from Husband's iPhone shows that Husband was in Wife's home at the time the Device initially connected to Wife's Wi-Fi *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 23.

- The Device contained approximately 5,000 audio and visual recordings made over a period of *eight months*, establishing not only that the Device was capable of making audio recordings but further that Husband, via the Device, actually made audio recordings. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶¶ 3.f., 3.i. (indicating the Camduck spy camera recorded both audio and video in the Petitioner's master bedroom for approximately 8 months); June 19, 2024 Stipulation Regarding Camduck Recordings submitted by Attorney Richard G. Whiting to The Honorable Spiros S. Ferderigos, Charlston County Camily Court, and filed with this Court on the same date.

- The audio and video data could be accessed remotely using Wi-Fi and CIXICM, a smartphone application. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 12.

- Husband, in fact, had downloaded CIXICM on his phone, as shown by Husband's Apple purchase history. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶¶ 3.c., 3.g, 13.

- CIXICM was, in fact, used to access the Device on August 24, 2022, and August 27, 2022, and to delete hundreds of files from the Device. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner

In short, the record before the Court contained extensive evidence of affirmative actions by the Husband going directly to intent and willfulness in his interception of Wife's communications. The evidence shows at least nine affirmative acts by Husband, in that he (1) purchased the devices; (2) installed the devices in Wife's home; (3) manufactured a pretense for the installation of the devices in Wife's home; (4) enabled audio recording on the Device; (5) was in Wife's home at the time the Device was first connected to Wife's Wi-Fi; (6) actually intercepted thousands of recordings on the Device; (7) downloaded the app that enabled him to access the recordings; 8) actually accessed the Device; and (9) deleted hundreds of files from the Device.

Husband attempts to evade these facts by arguing that Wife placed the Device in the bedroom. This argument should be forcefully rejected. It is utterly unremarkable that the Wife would move the Device—a spy device planted by Husband and disguised as USB ports—from one room to another in her residence to another. Husband's argument attempts to blame the wife for his own actions: Husband purchased the Device, planted it in Wife's home as extra USB devices, connected it to Wi-Fi, enabled audio recording, and actually accessed the recordings. He cannot now absolve himself of his intentional conduct by blaming the wife for moving the Device to a different room. Moreover, Husband's the device recorded over the course of *eight months*,

without Husband taking steps to prevent the interception. These facts alone firmly support the Court's Order.

Husband next attempts to evade the consequences of his actions by arguing that Wife provided no evidence that the app downloaded by husband was a version of the app capable of activating audio on the Device. This argument falls flat: Husband purchased the Device, which had audio disabled upon purchase; the Device later had its audio enabled; the Device actually recorded audio; only the Husband knew the Device was a recording device; and Husband had to access the Device in order to delete thousands of audio files on August 24, 2022 and August 27, 2022. These facts amply support the Court's Order.

The Court should also easily sidestep Husband's efforts to compare his actions to a hypothetical, accidental, and potentially unaccessed recording on a Ring doorbell, home security device, or baby monitor. The expectations of privacy in the Ring doorbell and baby monitor situations—where the family inhabiting the house is aware of the devices—differ entirely from Husband's placement here of a clandestine recording device in Wife's private residence, on false pretenses and without her knowledge, with recording taking place over eight months, and with documented evidence that the Device was accessed. Thus, Husband's attempts to compare the Device to Ring doorbells and baby monitors fail on all fronts.

Finally, Husband's arguments regarding the Family Court Judge's findings and objections to same are addressed *infra* at Section II.c.ii.

For these reasons, Husband's Petition for Rehearing should be denied.

ii. The Court Has Not Misapprehended the Contemporaneous Requirement.

Husband next argues that Wife has failed to allege that Husband "acquired the audio contemporaneously with its transmission." *See* Petition at 13. This argument deserves short shrift.

"An 'intercept' for purposes of the Wiretap Act is defined as 'the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.'" *Luis v. Zang*, 833 F.3d 619, 627 (6th Cir. 2016) (citing 18 U.S.C. § 2510(4)). Here, Husband's Device recorded Wife's communications, and the recordings were made on a Wi-Fi-connected device for which Husband had an app to access. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 16 ("This spy camera [e.g. the Device] had its internal microphone enabled, which allowed it to record audio in the Petitioner's master bedroom. The only individual that had the CIXICM mobile application installed on a mobile device and was in direct proximity to this camera was the Respondent."). In other words, the Husband's Device caught the communication "in flight". *See Luis,* 833 F.3d 619 at 627–28. Unquestionably, the Husband, using the Device, contemporaneously intercepted Wife's communications as they were being made.

For these reasons, Husband's Petition for Rehearing based on the so-called contemporaneousness requirement should be denied.

iii. The Court Has Not Overlooked Husband's Independent Source and Inevitable Discovery Defenses.

Husband's arguments regarding independent source and inevitable discovery defenses are also without merit. In certain circumstances, the independent source doctrine may permit the introduction of evidence *other than* an illegally-intercepted recording to establish, independently of the recording, facts that might also be shown by the recording. *Silverthorne Lumber Co. v. U.S.*, 251 U.S. 385 (1920). Here, however, the independent source issue is not ripe, and Court's Order made no rulings with regard to any independent sources. Instead, the Order states that "[w]e grant Wife's motion to suppress the *oral communications intercepted through the Device* in which Husband was not a party." Order at 3. If issues arise later on regarding independent sources of

information, admissibility and related issues can be determined at the appropriate time. *See id.* (directing that "[a]ny further motions concerning these cases should be addressed by the family court"). As a result, the Court did not overlook any independent source issues; such issues were not before the Court, and the Court properly ruled regarding the admissibility of the oral communications only.

Similarly, Husband asks this Court to speculate regarding future impeachment issues. *See* Petition at 14-15. Husband does not identify any current impeachment issue, nor could he, as the Family Court action is stayed. To the extent evidentiary issues arise in the future, including issues regarding impeachment, such issues should be addressed at the appropriate time.

Finally, as to Husband's "unclean hands" defense, Husband argues that "[c]ourts have routinely applied the unclean hands doctrine in equitable proceedings." Petition at 14. Husband cites *Ingram v. Kasey's Assocs.*, 340 S.C. 98, 531 S.E.2d 287 (2000), a landlord-tenant act involving a request for equitable relief in the form of specific performance of purchase option. In stark contrast, the present action and the Court's Order here involve a statutory claim for suppression of evidence. Husband's unclean hands argument, and the case he cites in support, have no bearing on this matter.

For these reasons, Husband's Petition for Rehearing should be denied.

c. The Court's Suppression Order was Procedurally Proper.

i. Husband Has Not Been Deprived of Appropriate Discovery or Proceedings.

Husband next argues that the Court overlooked Husband's arguments that he should be permitted to seek discovery from Wife's experts, to depose or examine Wife and her witnesses, and to be granted an evidentiary hearing. *See* Petition at 15.

Pursuant to S.C. Code Ann. ¶ 17-30-110, "[t]he reviewing authority may, in its discretion, conduct a hearing and require additional testimony or documentary evidence." Here, the reviewing authority—the three-judge panel of the Court of Appeals—has amply and properly exercised its discretion. Among other things, the Court of Appeals:

- On December 5, 2023, the Court of Appeals "certif[ied] the family court to supervise additional discovery relating to the Petitioner's motion and to issue a report with its proposed findings as to what, if any, of Respondent's actions constituted violations under the [South Carolina Homeland Security Act]. December 5, 2023 Order Regarding Additional Discovery.

- On or about May 3, 2024, the Family Court submitted proposed findings of fact to the Court of Appeals. *See, e.g.*, June 10, 2024 Order at 1.

- On or about June 10, 2024, this Court entered an Order directing the Family Court to conduct additional discovery and to issue an additional report.

- On or about July 22, 2024, this Court noted the extensive discovery that had already occurred. July 22, 2024 Order at 1 ("After extensive discovery related to the motion, Petitioner uncovered one device located in her home which contained over five thousand (5,000) recordings….")

In addition, Husband has had the opportunity to retain an expert or experts, and in fact previously retained an expert, Mr. Sean Leonard. *See*, *e.g.*, Seventh Supplemental Affidavit of John Bumgarner at ¶ 4. Husband also had the opportunity to re-engage Mr. Leonard or other experts, but it appears Husband opted not to do so. *See id.*

In short, the Court of Appeals and Family Court have acted well within their discretion to allow extensive discovery. The Court has a well-developed and thorough record on the issues before it and on the issues addressed in the Court's Order granting the Motion to Suppress, which record includes extensive documentary and affidavit evidence, information from witnesses, the Family Court's reports, and otherwise. Moreover, the issues raised by Husband as grounds for additional discovery are simply not relevant to the issues before the Court and appear to be aimed

at further delay in this matter that has already continued for years. For these reasons, the Petition should be denied.

ii. The Court Has Been Provided Recordings from The Device

Husband's argument regarding access to the Device recordings is without merit. Wife provided the Device recordings to the Family Court, and this Court's order granting the motion to suppress contains specific instructions regarding the Family Court's handling of those issues (*see, e.g.,* discussion *infra* at Section II.c.iv.).

For these reasons, Husband's Petition for Rehearing based on production of the Device recordings should be denied.

iii. Wife Has Fully Preserved, and Has Not Waived, any Arguments Regarding the Family Court's Report.

Husband next attempts to argue that Wife failed to preserve arguments and objections by failing to file "exceptions" to the Family Court judge's report. Husband weaves this argument around his incorrect descriptions of the Family Court judge as a "special referee" and of his report to the Court of appeals as a "Report and Recommendation." *See* Petition at 19-20. Specifically, Husband argues that Wife "conceded two key findings from the Special Referee's Report": (1) that there was no direct evidence presented to the Family Court that Husband intercepted or attempted to intercept any audio records; and (2) that there is no circumstantial evidence that Husband intentionally intercepted audio recordings from the Device. *Id.*

But Husband's arguments are wrong. First, the Family Court judge was not a "Special Referee." Under South Carolina law, "special referee" has a specific meaning: "a member of the South Carolina Bar to whom a matter has been referred under S.C. Code Ann. § 14-11-60." Section 14-11-60, in turn, provides that a "circuit court judge" may appoint a special referee "[i]n case of vacancy in the office of master-in-equity or in case of the disqualification or disability of the

master-in-equity from interest or any other reason for which cause can be shown the presiding circuit court judge, upon agreement of the parties…". Moreover, special referees are "compensated by the parties involved in the action." *Id.* Thus, a special referee is a member of the Bar appointed (a) by a circuit judge, (b) where the office of master-in-equity is vacant, the master-in-equity is disqualified or disabled**,** or where cause is otherwise shown, and (c) who is compensated by the parties. S.C. Code Ann. § 14-11-60 (emphasis added).

Here, the Family Court Judge was not appointed by the circuit court, was not appointed in the absence or disability of the master-in-equity and is not being compensated by the parties. Thus, the Family Court judge was not acting as a "special referee," and Husband's reliance on cases governing exceptions to a master-in-equity's report or special referee's report is misplaced.

Moreover, because Wife's Motion to Suppress was properly before the Court of Appeals as the reviewing authority, which is demonstrated by the full record of briefing with this Court, Wife's arguments regarding the Family Court judge's report were properly presented to the Court of Appeals and have been fully preserved.

For these reasons, Husband's Petition for Rehearing based the alleged absence of "exceptions" should be denied.

iv. The Court Has Acted Properly in Regard to Future Motions and Consideration of the Device Recordings.

Finally, the Court should reject Husband's arguments regarding the Court's instructions to the Family Court regarding future motions and regarding future limited determinations regarding of the content of the Device recordings. Specifically, Husband argues that the Court erred in delegating to the Family Court the determination of "what portion of the Husband's allegations were derived from the intercepted communications." Petition at 20.

However, Husband's argument fails. Husband cites no authority that would prohibit the Court, after entering its suppression ruling, from permitting the Family Court to hear future motions. Further, Husband cites no authority that would prevent the Court from requiring the Family Court to determine, pursuant to the Court of Appeals' instructions, which statements made by Husband are based on the suppressed evidence. The Court has entered a straightforward ruling: Wife's Motion to Suppress is granted as to "oral communications intercepted through the Device in which Husband was not a party." Order at 3. Husband provides no reason that the Family Court would not be equipped to execute the Court's Order, and neither the Act nor the Federal Act bar such instruction from the Court.

CONCLUSION

For these reasons, Husband's Petition for Rehearing should be dismissed or, in the alternative denied.

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