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SC Court of Appeals

**STATE OF SOUTH CAROLINA**

**IN THE COURT OF APPEALS**

**Case No.: 2024-001241**

**The Matter of Jason Michael Boyle**

# APPELLANT'S REPLY BRIEF - FINAL

Jason M. Boyle, Pro Se

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## ARGUMENT

### I. The State's Jurisdictional Argument Fails.

### A. The Court cured any alleged defect by adding the State as a respondent.

The Attorney General argues this Court lacks jurisdiction because Appellant did not originally serve the notice of appeal on the State. But on May 30, 2025, this Court issued an order expressly clarifying the caption to add the State as the respondent. Once the Court itself brought the State into the case, any alleged defect was cured. The State has since fully participated by filing motions and briefs. **(See Motion to Dismiss, Replies to Appellant Motion to Strike and Motion to Accept Email Service as well as the Initial Brief of Respondents)** To now dismiss for lack of jurisdiction would contradict this Court's own prior ruling recognizing the State as a party.

### B. The Proceedings Themselves Were Conducted as Civil, Not Criminal.

Respondent selectively quotes from the January 31, 2025 transcript to argue this was "criminal contempt" all along. But the record is clear that the June 17, 2024 hearing before Judge Singleton was handled under civil procedure, not criminal. **(R 17)** Most telling, in defense of the appeal in the 10th Circuit, Judge Singleton appeared with private counsel, Jim Logan, as if defending a civil action. **(R 118, 135 & 172)** If this were truly a criminal prosecution, it would have been the responsibility of the solicitor or Attorney General to prosecute, not the judge himself through private representation.

Moreover, the Chief Public Defender stated on the record that the matter was not criminal contempt, it was a civil contempt **(R 24 L 14 - 16)**, which is why his office declined

representation. No solicitor was present, no criminal information was filed, and Appellant was not advised of his right to counsel. All hallmarks of civil, not criminal, procedure.

This inconsistency exposes the flaw in Respondent's argument. The State cannot insist the case was "criminal" for jurisdictional purposes while simultaneously defending proceedings that were conducted entirely under civil procedure. **If the case was truly criminal, the absence of a prosecutor, indictment, and counsel would itself be fatal error. If the case was civil, *In re Martel* and the Attorney General's service rule do not apply.** Either way, dismissal on jurisdictional grounds is improper, and the merits must be heard.

**C. *In re Martel* cannot be applied retroactively.**

The State relies on *In re Martel*, 444 S.C. 517, 909 S.E.2d 402 (2024), to argue that notices of appeal in criminal contempt cases must be served on the Attorney General. But Appellant's notice of appeal was filed February 14, 2025, at a time when the case was still formally captioned against Oconee County parties and before the Court clarified the State's involvement. Applying *Martel* retroactively to penalize Appellant for following the caption as it stood at the time of filing would be manifestly unfair and inconsistent with principles of due process.

**D. The State had actual notice and has suffered no prejudice.**

Even if there was an initial defect, the Attorney General has been aware of this case for months, has filed motions (including a motion to dismiss on June 2, 2025), and has now filed a full brief on the merits. The purpose of the service rule is to ensure notice. Here, the State has had notice, has actively litigated, and cannot claim prejudice. This Court should not dismiss a constitutional appeal on a hyper-technical service argument where the State has been fully engaged.

**E. Dismissing the appeal would violate due process and access to justice.**

This case involves Appellant being incarcerated for contempt without counsel, without a jury trial, and under a gag order that punished core First Amendment speech. To deny appellate review based on a service technicality, especially one the Court itself has already cured, would deprive Appellant of meaningful access to appellate review in violation of the Due Process Clause. Courts routinely hold that procedural rules must yield where their rigid application would extinguish constitutional rights.

***The Attorney General's reliance on technical service arguments is a smokescreen. The real reason for this strategy is clear: the merits of this case cannot withstand review.***

## II. The Merits of the Appeal Must Be Heard.

Assuming, solely for the sake of argument, that this Court were to reach Respondent's alternative merits contentions, the February 7, 2025 order cannot withstand constitutional scrutiny.

### A. The contempt proceedings denied Appellant fundamental constitutional rights.

- Appellant was sentenced to jail after the case was treated as civil, his public defender abandoned the courtroom, a continuance was denied, and he was forced to defend himself pro se.
- The contempt was classified as criminal only after the fact, depriving Appellant of proper notice and procedure.
- Under *Bloom v. Illinois*, 391 U.S. 194 (1968), criminal contempt is "a crime in every fundamental respect," requiring criminal process. That process was denied here.
- The denial of counsel and jury rights in a criminal contempt proceeding is reversible error. See *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

### B. The orders were retaliatory and exceeded judicial authority.

- The contempt findings and gag orders punished protected speech, violating the First Amendment.
- Judge Singleton and Judge McIntosh exceeded their authority by imposing restrictions unrelated to any legitimate judicial interest.
- Retaliatory contempt orders based on public criticism of judges are unconstitutional. See *Bridges v. California*, 314 U.S. 252 (1941).

## III. Respondent's Failure to Address Appellant's Issues Constitutes Abandonment and Waiver

Respondent's brief is almost entirely jurisdictional and leaves the overwhelming majority of Appellant's properly presented issues unanswered. South Carolina law is clear: issues not argued in a party's brief are deemed abandoned and will not be considered. See Rule 208(b)(1)(D), SCACR (brief must present argument and supporting authority for each issue); Wright v. Craft, 372 S.C. 1, 20, 640 S.E.2d 486, 497 (Ct. App. 2006) ("An issue raised on appeal but not argued in the brief is deemed abandoned.") (quoting Fields v. Melrose Ltd. P'ship, 312 S.C. 102, 106, 439 S.E.2d 283, 285 (Ct. App. 1993)); First Sav. Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (declining to address issue without supporting argument/authority); see also Brown v. American Telecommunication & Cable, Op. No. 2011-UP-280 (S.C. Ct. App. 2011) (same).

Rule 208 is not a technicality; it is the mechanism by which the Court ensures adversarial testing of the issues. Where a respondent elects not to engage the merits, this Court may treat those points as conceded and proceed accordingly. See Rule 208(b)(1)(D), SCACR; cf. Rule 220(b)(2), SCACR (Court need not address points manifestly without merit).

### A. Count of Unaddressed Issues

Appellant's Initial Brief identified **twenty-three (23)** discrete issues. Respondent meaningfully addressed only fragments of three (the criminal/civil classification, jury-right discussion by way of a <6-month sentence aside, and a generalized "jurisdiction" theme—aimed at appellate service, not the trial-level jurisdictional defects). That leaves twenty (20) issues unaddressed and therefore abandoned:

- **Issues 1–5** (vague gag order; firearms restriction; prior restraint on public information; interstate travel restriction; alcohol prohibition).
- **Issue 7** (sua sponte contempt used to chill defense/criticism).
- **Issues 8, 10–12** (ex parte communications; improper subpoena/discovery during appeal; judicial vindictiveness; coercion to delete evidence).
- **Issues 9 & 14** (premature adjudication before merits response; retroactive assignment of appellate case number).
- **Issues 15–20** (misuse of 2023 Administrative Order as criminal law; lack of notice/willfulness; double jeopardy; selective enforcement; mislabeling "direct contempt"; denial of confrontation).
- **Issue 22** (cumulative denial of criminal-process safeguards).
- **Issue 23** (cumulative pattern demonstrating bias and due-process violations).

Each of these was set out in Appellant's Statement of Issues on Appeal and argued with record cites and authority in the Application of Facts and Argument section. Respondent's silence operates as waiver under South Carolina appellate practice. See Wright, 372 S.C. at 20, 640 S.E.2d at 497; Fields, 312 S.C. at 106, 439 S.E.2d at 285; 2015-UP-111 (issues not argued within the body of the brief—abandoned).

**B. Requested Disposition**

Given Respondent's forfeiture:

1. **Deny** Respondent's request for dismissal and decline to craft arguments Respondent chose not to make. See Rule 208(b)(1)(D), SCACR; First Sav. Bank, 314 S.C. at 363, 444 S.E.2d at 514.

2. **Deem abandoned** the twenty (20) unaddressed issues and accept Appellant's arguments on those points. See Wright, Fields, and related authorities.

3. Proceed to the **merits** of the remaining issues actually joined, recognizing that Respondent's limited discussion of "criminal contempt" only underscores the due-process defects Appellant has identified throughout (denial of counsel, confrontation, notice, and misclassification).

*Respectfully, Respondent's strategy to avoid the merits cannot defeat Appellant's right to meaningful appellate review. Where the State elects silence on core constitutional challenges, Rule 208 and this Court's precedents require treating those points as abandoned and granting appropriate relief.*

**IV. Respondent's Misuse of Case Law to Evade the Merits**

Respondent's brief underscores its desperation to avoid this Court reaching the merits. Instead of addressing the twenty-three constitutional issues Appellant has properly raised, Respondent leans almost entirely on procedural authorities—many of which are outdated, irrelevant, or actually support Appellant's position.

Several of the cases cited predate modern constitutional doctrine (*Wallace v. Carter* from 1889; *In re Moore* from 1908) and cannot govern the constitutional requirements of a criminal contempt proceeding after *Bloom v. Illinois* made clear that contempt is "a crime in every fundamental respect." Respondent even cites a 1948 Utah divorce case (*Limb v. Limb*) and a Kentucky newspaper case (*Courier-Journal v. Lawson*) to bolster its service argument—irrelevant out-of-state law that has no bearing on South Carolina appellate procedure. These citations are not serious legal authorities; they are filler, offered in the hope that this Court will look past the glaring deficiencies in Respondent's position.

Even more telling, several of Respondent's own cases actually strengthen Appellant's claims. *Bloom* confirms that criminal contempt requires full constitutional protections. *Ex parte Kent* makes clear that contempt requires willful violation of a clear and specific order—yet the record here is riddled with ambiguity, hearsay, and retroactive reclassification. *State v. Goff* emphasizes that the record must clearly establish the basis for contempt—something wholly absent where the allegations of a "threat" appear only in a judge's unsworn closing remarks, without testimony, confrontation, or evidence.

The pattern is unmistakable. Rather than engage with the serious constitutional defects at the heart of this case—denial of counsel, retroactive criminal classification, ex parte

communications, retaliation for speech—the Attorney General clings to century-old dicta and irrelevant out-of-state cases. That approach is not advocacy; it is avoidance. It demonstrates the State's overriding priority: to shut the courthouse door before this Court can scrutinize the unlawful manner in which contempt powers were wielded.

Appellant respectfully submits that this Court should not reward such tactics. The merits must be heard, and the Respondent's reliance on outdated, irrelevant, and even self-defeating authorities only underscores that the State cannot defend what was done here on constitutional grounds.

## V. Motion for Sanctions Against the Attorney General's Office

Appellant respectfully moves this Court to impose sanctions on Respondent, the South Carolina Attorney General's Office, for filing a frivolous and misleading brief that disregards the Court's prior orders, mischaracterizes contested facts, and fails to engage the issues properly before this Court.

### A. Legal Standard for Sanctions

This Court has inherent authority, as well as authority under Rule 413, SCACR (Rules for Lawyer Disciplinary Enforcement) and Rule 11, SCRCP, to sanction counsel who file frivolous or misleading arguments that waste judicial resources and prejudice the opposing party. See *In re Anonymous Member of the South Carolina Bar*, 709 S.E.2d 633 (S.C. 2011) (discipline appropriate where counsel misrepresents law or fact); *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) (sanctions warranted for filing frivolous pleadings that needlessly consume court resources).

Frivolous arguments include those (1) directly contrary to binding precedent, (2) already resolved by order of the Court, (3) supported only by irrelevant or misleading authorities, or (4) asserted without any meaningful application to the facts at hand.

### B. Frivolous Arguments Presented by the Attorney General

#### 1. Recycling the "Service Defect" Argument Already Resolved by this Court

Respondent's central argument is that this Court lacks jurisdiction because Appellant failed to serve the Attorney General with the Notice of Appeal filed February 14, 2025. This position is frivolous because:

- On **May 30, 2025**, this Court expressly granted Appellant's motion to clarify the State as the proper respondent and amended the caption accordingly. The alleged service defect was therefore cured by order of this Court.
- Despite that, Respondent presents the same defect as a jurisdictional bar, insisting the Court "never acquired jurisdiction" — an assertion flatly contradicted by the Court's own action.
- Arguments that directly contradict binding orders of this Court are not made in good faith and constitute sanctionable conduct.

**2. Mischaracterizing Contested Allegations as Facts**

Respondent's Statement of Facts repeatedly asserts, as if established, that Appellant "threatened Singleton" by calling Court Administration and that Appellant "attempted to approach him at a church function." The record does not support these claims. Nowhere in the June 17, 2024 transcript is there any sworn testimony, affidavit, or exhibit alleging that Appellant attempted to approach Judge Singleton at a church function. The only references appear in Judge Singleton's own unsworn monologue at the close of the hearing (Tr. 91–97), after the evidentiary phase had ended. There is nothing on the record to support the accusation that appellant attempted to approach Sington at a church function. These remarks were not subject to cross-examination, were not offered through a witness, and do not constitute evidence. By recasting such unsupported assertions as "facts," Respondent misrepresents the record and improperly seeks to prejudice this Court against Appellant.

By presenting these absent, contested, uncorroborated assertions as fact, Respondent misstates the record and fails its duty of candor under Rule 3.3, RPC. This mischaracterization is especially prejudicial in an appeal where fidelity to the record is paramount.

**3. Reliance on Irrelevant and Outdated Authority**

Respondent devotes significant space to citing *Limb v. Limb* (Utah 1948) and *Courier-Journal, Inc. v. Lawson* (Ky. 2010) in support of its service argument. These cases are wholly irrelevant: one is a mid-20th century divorce appeal from Utah, and the other concerns a Kentucky newspaper. Neither has any bearing on South Carolina appellate procedure, which is governed by binding authority such as *Conner v. City of Forest Acres*, *Elam v. SCDOT*, and *In re Martel*.

This reliance on outdated and foreign law exemplifies a broader pattern outlined in Appellant's discussion of misuse of case law: the State repeatedly cites authority that is either inapplicable, superseded, or affirmatively supports Appellant's position when read in context. Such padding of the brief with irrelevant precedent is improper and underscores the Respondent's determination to avoid engaging the controlling law that governs this appeal.

**4. Contradictory Claim That the Court Has "No Discretion"**

Respondent insists that this Court "has no discretion" to excuse a service defect. Yet the Court already exercised discretion by amending the caption and designating the State as respondent. Having benefited from that correction, Respondent now argues the Court lacked the very power it used. This contradictory position is frivolous on its face.

**5. Abandonment of Substantive Issues**

Respondent devotes nearly its entire brief to the service argument and fails to respond to at least 20 of the 23 issues raised in Appellant's Initial Brief. Its only merits argument is a single

paragraph reciting generic contempt principles (*Kent*, *Brandt*), without analysis or application to Appellant's constitutional claims.

This abandonment of substantive issues violates Rule 208(b)(1)(D), SCACR, and constitutes waiver. Filing a brief that strategically ignores the merits in favor of recycling a jurisdictional objection already denied wastes judicial resources and obstructs meaningful review.

**6. Misrepresentation of "Direct Contempt" Law**

Respondent asserts that Appellant was properly convicted of *direct contempt* because his conduct occurred "in the presence of the court." In fact, the record shows the conduct occurred in the courthouse lobby and hallways, outside the judge's immediate presence. South Carolina law (*Ex parte Stone*, *In re Brown*) requires such conduct to be treated as *constructive contempt*, with full notice and due process. By collapsing these categories, Respondent misstates controlling law to uphold an invalid conviction.

**C. Requested Sanctions**

Appellant respectfully requests that this Court:

1. **Formally admonish the Attorney General's Office** for filing a frivolous brief that misstates law, mischaracterizes facts, and recycles a jurisdictional argument already rejected by order of this Court.
2. **Strike Respondent's service-of-process argument** as frivolous, given that this Court cured the issue by amending the caption.
3. **Deem waived** all issues not substantively addressed by Respondent under Rule 208(b)(1)(D), SCACR.

4. **Refer counsel** to the Office of Disciplinary Counsel under Rule 413, SCACR, for violations of Rule 3.1 (frivolous claims), Rule 3.3 (candor), and Rule 8.4(d) (conduct prejudicial to the administration of justice).

5. **Award Appellant costs and any additional relief** this Court deems just and proper.

## CONCLUSION

The State's jurisdictional argument fails because this Court itself cured any defect by adding the State as a respondent, *In re Martel* cannot be applied retroactively, and the Attorney General has had full notice and active participation throughout. To dismiss now on grounds already resolved would contradict this Court's own order.

Even more, Respondent's strategy underscores what is really at stake. The Attorney General has ignored twenty of the twenty-three issues raised in Appellant's Initial Brief—issues that go to the core of due process, the right to counsel, freedom of speech, and protection against retaliatory use of contempt. Under Rule 208, those unaddressed issues are waived. The few authorities Respondent does cite are outdated, irrelevant, or actually confirm Appellant's position, including *Bloom v. Illinois*, which squarely holds that criminal contempt is a crime requiring full constitutional safeguards.

Respondent's reliance on antiquated dicta and irrelevant out-of-state decisions is not serious advocacy—it is avoidance. If the contempt orders below were constitutionally sound, the Attorney General would defend them on the merits. Its refusal to do so is the clearest admission that it cannot.

The contempt power, properly used, preserves the dignity of the courts. But when used to silence criticism, deny counsel, and retroactively reclassify proceedings, it becomes a weapon against constitutional liberty. This Court should not allow technicalities or outdated precedent to shield such misuse from review.

**For these reasons, Appellant respectfully requests that this Court deny Respondent's motion to dismiss, deem waived the issues Respondent has abandoned, and reverse the**

**February 7, 2025 order for violations of due process, denial of counsel, and retaliation against protected speech.**

Respectfully Submitted, this December 11, 2025.

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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**

The Matter of Jason M. Boyle

**PROOF OF SERVICE**

**APPELLANT'S REPLY BRIEF - FINAL**

I hereby certify that a copy of this reply was delivered to the following parties:

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Respectfully Submitted, this December 11, 2025,

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