

The South Carolina Court of Appeals

Justin McGee, Respondent,

v.

Lindsay F. McGee, Petitioner.

Appellate Case No. 2023-001376

RECEIVED

Feb 20 2026

SC Court of Appeals

ORDER

Lindsay McGee (Wife) filed a motion pursuant to the South Carolina Homeland Security Act (the Act)¹ to suppress electronic communications which she argues Justin McGee (Husband) "intercepted" from the interior of her home in violation of the Act and Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (the Federal Act).²

The Act prohibits "[t]he interception of wire, electronic, or oral communications" except "in the manner permitted by this chapter." § 17-30-10; *see also* 18 U.S.C. § 2511. The Act defines an "interception" 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." § 17-30-15(3); *see also* 18 U.S.C.A. § 2510(4). Additionally, the Act defines an "oral communication" as "any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the

¹ S.C. Code Ann. § 17-30-10 to -145 (2014). This court reviews motions to suppress under the Act in its original jurisdiction. *See* S.C. Code Ann. § 17-30-110(A) (2014) (providing such motions "must be made before the reviewing authority"); S.C. Code Ann. § 17-30-15(9) (2014) (defining "[r]eviewing authority" 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"); *see also State v. Whitner*, 399 S.C. 547, 553, 732 S.E.2d 861, 864 (2012) ("[T]he Federal Act is substantively the same as South Carolina's Wiretap Act . . .").

² 18 U.S.C.A § 2510 to -2523.

expectation" § 17-30-15(2); *see also* 18 U.S.C.A. § 2510(2). "The [Act] is patterned after [the Federal Act]." *State v. Guerrero-Flores*, 402 S.C. 530, 534, 741 S.E.2d 577, 580 (Ct. App. 2013). "The . . . Act is violated when a person intercepts oral communications that are not otherwise exempt from or subject to an exception contained in section 17-30-30." "Whenever any wire, oral, or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, . . . if the disclosure of that information would be in violation of [the Act]." § 17-30-65(A); *Whitner*, 399 S.C. at 553, 732 S.E.2d at 864. Notably, "[i]t is lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception." S.C. Code Ann. § 17-30-30(C) (2014); *Whitner*, 399 S.C. at 553, 732 S.E.2d at 864 ("[The] Act parallels the Federal Act passed by Congress in 1968, which similarly permits lawful interception where one party to the communication consents.").

Wife and Husband married in March 2012. On or about February 1, 2021, Wife moved into a home (the Residence) without Husband. Husband complained the Residence lacked USB connections for his electronic devices, and he installed various devices throughout the interior of the home, including Wife's garage and bedroom. On October 20, 2022, Husband filed an action for divorce on the ground of adultery. Wife subsequently filed a motion to suppress, asserting her belief that Husband had intercepted her private communications. Using an expert, Wife discovered multiple electronic devices had been placed throughout her home and had been utilizing the Residence's Wi-Fi network. She eventually found a hidden camera (the Device) in her bedroom at the Residence. Wife's experts found the Device contained a combination of over 5,000 audio and visual recordings collected over a period of eight months.

Through discovery, Wife learned Husband had purchased several electronic devices, including some which had already been removed from the Residence, with the capability of recording audio and video data and which could be accessed remotely using Wi-Fi and a smart phone application named CIXICM. She also learned Husband's Apple purchase history showed he had downloaded CIXICM on his phone. The application specifically allows for users to remotely view, save, and delete recordings collected by compatible devices. Wife's experts determined someone with the CIXICM application used it to access the Device on August 24, 2022, and August 27, 2022, and deleted hundreds of files from it. Husband admitted to purchasing the Device and placing it in the Residence "in the summer

of 2022," but he claims he removed the Device in August 2022. He alleged Wife then placed the Device back in her home at some later date. All communications recovered from the Device were recorded prior to Husband filing his divorce action.

We find the preponderance of the evidence indicates Husband placed the Device within Wife's bedroom at the Residence, and that he was responsible for using it to intercept Wife's oral communications.³ We further find Husband used information derived from these communications as a basis for his divorce action. We grant Wife's motion to suppress the oral communications intercepted through the Device in which Husband was not a party.⁴ However, we deny Wife's requests for a hearing, attorney's fees, and to seal these communications. *See* § 17-30-110(A) ("The reviewing authority may, *in its discretion*, conduct a hearing and require additional testimony or documentary evidence." (emphasis added)); § 17-30-135(A)(4) ("Any person whose wire, oral, or electronic communication is *intercepted* . . . has a civil cause of action . . . and is entitled to recover . . . a reasonable attorney's fee and other litigation costs reasonably incurred." (emphasis added)); § 17-30-65(A) ("Whenever any wire, oral, or electronic communication has been *intercepted*, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding" (emphasis added)); Rule 41(b), SCRCP ("The burden is on the party seeking to seal [the record] to satisfy the court that the balance of public and private interests favors sealing the [record]."). Any further motions concerning these cases should be addressed to the family court.

³ Wife originally moved to suppress a variety of communications she alleged Husband illegally obtained, including recordings from other hidden devices, text messages, emails, and information concerning her personal bank accounts. However, following discovery, the only intercepted communications provided to this court were those found on the Device; accordingly, this order applies only to those communications.

⁴ We note the Device contains hundreds of hours' worth of recordings. Wife may present any intercepted oral communications from the Device to the family court to demonstrate which portions of Husband's allegations were derived from the intercepted communications, and the family court should consider the content of any such information suppressed.

H. Bruce Williams

C.J.

John D. Best

J.

AT

J.

Columbia, South Carolina

cc:

Nicholas Jerry Theos, Esquire
Marie-Louise Ramsdale, Esquire
Matthew A. Abee, Esquire
Peter George Currence, Esquire
Richard Giles Whiting, Esquire
Julie J. Armstrong
The Honorable Spiros S. Ferderigos
The Honorable Michèle Patrão Forsythe
Elizabeth J. Stringer, Esquire

FILED
Aug 20 2025

The South Carolina Court of Appeals

Justin McGee, Petitioner

v.

Lindsay F. McGee, Respondent.

Appellate Case No. 2023-001376

ORDER

After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.

 J.

 J.

Columbia, South Carolina

FILED
Jan 21 2026

cc:

Nicholas Jerry Theos, Esquire

Marie-Louise Ramsdale, Esquire

Matthew A. Abee, Esquire

Peter George Currence, Esquire

Richard Giles Whiting, Esquire

Brandon Robert Gottschall, Esquire

The Honorable Spiros S. Ferderigos

The Honorable Michèle Patrão Forsythe

Elizabeth J. Stringer, Esquire

The South Carolina Court of Appeals

Justin McGee, Respondent

v.

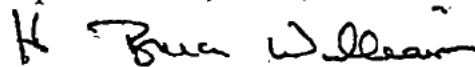
Lindsay F. McGee, Petitioner.

Appellate Case No. 2023-001376

ORDER

Respondent has filed a motion requesting this court dismiss Petitioner's motion to suppress intercepted communications, asserting this court lacks original jurisdiction over Petitioner's motion. He further requests that if this court denies his motion to dismiss it alternatively grant him an extension of time to file a return to Petitioner's motion. In response, Petitioner filed a motion requesting this court confirm the automatic stay of the underlying case in the family court.

Respondent's motion to dismiss is denied. *See* S.C. Code Ann. § 17-30-110(A) (2014) (explaining a motion to suppress intercepted communications "must be made before the reviewing authority and must be decided on an expedited basis); S.C. Code Ann. § 17-30-15(9) (defining "reviewing authority" 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"); *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."). Further, all proceedings in the family court are stayed pending this court's review of Petitioner's motion to suppress. *See* § 17-30-110(A) ("All proceedings requiring the use of the contents of any intercepted communication that are the subject of the motion to suppress pursuant to this section are automatically stayed pending the determination of the motion to suppress."). Respondent's request for an extension of time to file his return is granted and his return is due September 25, 2023.



C.J.

FOR THE COURT

FILED
Sep 14 2023

Columbia, South Carolina

cc:

Nicholas Jerry Theos, Esquire

Marie-Louise Ramsdale, Esquire

Matthew A. Abee, Esquire

Peter George Currence, Esquire

Richard Giles Whiting, Esquire

Julie J. Armstrong

Elizabeth J. Stringer, Esquire

The Honorable Alice Anne Richter

The South Carolina Court of Appeals

Justin McGee, Respondent

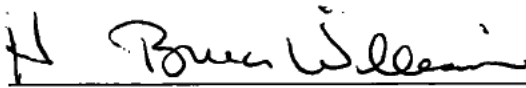
v.

Lindsay F. McGee, Petitioner.

Appellate Case No. 2023-001376

ORDER

Petitioner has filed motions requesting to supplement the record and the reply she filed in response to Respondent's return to her motion to suppress evidence. Petitioner's motions are granted. *See* Rule 15(d), SCRCP ("Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading . . ."); *Tanner v. Florence Cnty. Treasurer*, 336 S.C. 552, 558, 521 S.E.2d 153, 156 (1999) ("Even though a supplemental pleading is technically different than a motion to amend the pleadings . . . the standard for granting or denying these motions is the same."); Rule 15(a), SCRCP ("[L]eave [to amend a pleading] shall be freely given when justice so requires and does not prejudice any other party."); Rule 26(d), SCRCP ("Unless the court upon motion, for the convenience of the parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence . . ."); *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003) ("The gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party.").

 C.J.
FOR THE COURT

Columbia, South Carolina

FILED
Nov 27 2023

cc:

Nicholas Jerry Theos, Esquire

Marie-Louise Ramsdale, Esquire

Matthew A. Abee, Esquire

Peter George Currence, Esquire

Richard Giles Whiting, Esquire

Julie J. Armstrong

Elizabeth J. Stringer, Esquire

The Honorable Alice Anne Richter

The South Carolina Court of Appeals

Justin McGee, Respondent

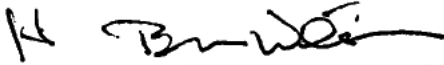
v.

Lindsay F. McGee, Petitioner.

Appellate Case No. 2023-001376

ORDER

Petitioner's motion to suppress communications pursuant to the South Carolina Homeland Security Act (the Act) is currently pending before this court. *See* S.C. Code Ann. § 17-30-10 to - 145 (2014). We believe additional discovery is required before this court can rule on Petitioner's motion; thus, we certify 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 Act. *See* S.C. Code Ann. § 14-8-280 ("[W]henever the determination of any question of fact shall be necessary to the exercise of the jurisdiction conferred upon the Court of Appeals, the court may frame an issue therein and certify such issue . . . to the circuit court of the county in which the cause of action has arisen."). The family court shall consult with the parties in any manner it deems appropriate to resolve any discovery requests relevant to the motion to suppress and shall oversee the completion of this discovery within ninety (90) days of the date of this order. The family court should prioritize the collection and analysis of any electronic devices referenced in the parties' requests and has the authority to extend these deadlines to ensure these devices are properly analyzed. Should the family court extend these deadlines, the family court must notify this court within ten days of its decision to do so. Thereafter, the family court shall have sixty (60) days to conduct any hearing it deems appropriate and to present its report and the collected discovery to this court. *See id.* ("The Court shall also have the same powers as are now possessed by the circuit courts of the State for the appointment of referees to take testimony and report thereon, under such instructions as may be prescribed by the court. . . .").


C.J.
FOR THE COURT

Columbia, South Carolina

cc:

Nicholas Jerry Theos, Esquire
Marie-Louise Ramsdale, Esquire
Matthew A. Abee, Esquire
Peter George Currence, Esquire
Richard Giles Whiting, Esquire
Julie J. Armstrong
Elizabeth J. Stringer, Esquire
The Honorable Alice Anne Richter

FILED
Dec 05 2023

The South Carolina Court of Appeals

Justin McGee, Respondent

v.

Lindsay F. McGee, Petitioner.

Appellate Case No. 2023-001376

ORDER

Petitioner's motion to suppress communications pursuant to the South Carolina Homeland Security Act (the Act) is currently pending before this court. *See* S.C. Code Ann. § 17-30-10 to - 145 (2014). On May 3, 2024, the family court submitted its proposed factual findings to this court, within which the family court indicated it had preserved over 5,000 recordings from a CAMDUCK device, at least some of which may have been intercepted in violation of the Act.¹ We believe analysis of these recordings may be important to the resolution of Petitioner's motion; accordingly, we certify the family court to supervise further discovery regarding these recordings and to issue a report with its proposed findings as to (1) the content of the recordings, and (2) whether any of the recordings were intercepted in violation of the Act. *See* S.C. Code Ann. § 14-8-280 ("[W]henever the determination of any question of fact shall be necessary to the exercise of the jurisdiction conferred upon the Court of Appeals, the court may frame an issue therein and certify such issue . . . to the circuit court of the county in which the cause of action has arisen."). The family court shall consult with the parties in any manner it deems appropriate to determine which party bears the costs of analyzing the recordings, and shall oversee the completion of this analysis within sixty (60) days of the date of this order. Should the family court extend these deadlines, the family court must notify this court within ten days

¹ We acknowledge that since the family court filed its initial report, both parties have requested this court rule on additional matters related to the report. We decline to address the merits of these matters until after the family court completes the additional discovery requested in this order.

of its decision to do so. Thereafter, the family court shall have thirty (30) days to conduct an evidentiary hearing and allow the parties to examine any witnesses deemed relevant to the motion to suppress. It shall then have an additional thirty (30) days to present its report to this court. *See id.* ("The Court shall also have the same powers as are now possessed by the circuit courts of the State for the appointment of referees to take testimony and report thereon, under such instructions as may be prescribed by the court. . . ."). Any further extensions require approval by this court.



FOR THE COURT C.J.

Columbia, South Carolina

cc:

Nicholas Jerry Theos, Esquire
Marie-Louise Ramsdale, Esquire
Matthew A. Abee, Esquire
Peter George Currence, Esquire
Richard Giles Whiting, Esquire
Morgan Elizabeth Spires, Esquire
Julie J. Armstrong
The Honorable Spiros S. Ferderigos
The Honorable Michèle Patrão Forsythe
Elizabeth J. Stringer, Esquire

FILED
Jun 10 2024

FILED

2023 DEC 15 PM 12:34

JULIE ARMSTRONG
CLERK OF COURT

RY

15

STATE OF SOUTH CAROLINA) IN THE FAMILY COURT OF THE
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
) CASE NO: 2022-DR-10-3072
)
Justin McGee,)
)
Plaintiff,) ORDER FROM INITIAL
vs.) STATUS CONFERENCE
)
Lindsay F. McGee,)
)
Defendant.)

Presiding Judge: Spiros S. Ferderigos
Date of Conference: December 13, 2023
Attorney for Plaintiff: Nicholas Jerry Theos, Marie-Louise Ramsdale, and
Matthew A. Abee
Attorney for Defendant: Peter George Currence and Richard Giles Whiting
Guardian ad Litem: Elizabeth Stringer
Court Reporter: Web Ex

The Court of Appeals issued an order filed December 7, 2023 certifying the Family Court to supervise additional discovery relating to the Petitioner's motion to suppress communications pursuant to the South Carolina Homeland Security Act. The Family Court filed an order on December 7, 2023 designating the issue(s) certified by the Court of Appeals as complex, and the Undersigned was assigned to preside over all issues certified to the Family Court by the Order of the Court of Appeals. This matter came before the Court for an initial informal status conference that was conducted via the Web Ex platform on December 13, 2023. The above listed counsel appeared on behalf of their clients, as well as the Guardian *ad Litem*. The named party litigants were not present, as the Court previously informed counsel that only the parties' attorneys and Guardian *ad Litem* were permitted to attend the initial informal status conference. Although the Web Ex platform records as a matter of course, the status conference was an informal conference, and not intended to be part of the record. Following the conference, the Court issues the following initial discovery order. It is

ORDERED that the parties are only authorized to issue a first set of interrogatories/requests (as set forth herein) that are limited to discovery related to **physical devices** requested to be collected and/or analyzed, and is further limited to the specific allegations set forth in the Amended Motion to Suppress filed with the Court of Appeals, and the specific defenses thereto filed with the Court of Appeals. It is further

ORDERED that the discovery is to be divided into sections that clearly identify/refer to the allegations in the Amended Motion to Suppress/defenses thereto. It is further

ORDERED that the discovery requests/responses are to be filed with the Clerk of Court in the pending Family Court case number, with a courtesy copy to be emailed to the Undersigned in the manner previously directed by the Court. It is further

ORDERED that the Court is authorizing Interrogatories (25 question limit), Requests for Production, and/or Requests to Admit (20 question limit) regarding the aforementioned first set of discovery, and within the very strict parameters set forth above. It is further

ORDERED that subpoenas are not authorized at this time, but the Court may consider requests for subpoenas after the first set of discovery is completed/responded to. It is further

ORDERED that the parties shall file and serve their first set of discovery by Wednesday, December 20, 2023 at 4:00 pm. Responses to discovery shall be filed and served by Monday, January 8, 2024 at 4:00 pm. It is further

ORDERED that counsel for each party shall promptly inform opposing counsel of the forensic evaluator(s) that they will be using to extract information from physical devices that are produced pursuant to this order. Counsel shall release the physical devices directly to the forensic evaluator(s), and any information extracted from the physical devices obtained pursuant to this order by the forensic evaluator(s) shall remain confidential and shall be securely stored by the forensic evaluator(s) until further Court order. The information extracted from the physical devices obtained pursuant to this order shall not be released to the parties, counsel for the parties, or other individuals until further Court order.¹

IT IS SO ORDERED.

This 15 day of December, 2023
Charleston, South Carolina



Spiros S. Ferderigos, Family Court Judge
Ninth Judicial Circuit

¹ This confidentiality provision is intended to protect any possible attorney-client or other confidential material that may be stored on the physical devices, while also preserving the information for later review to accomplish the directives set forth in the Court of Appeals' order.

) IN THE FAMILY COURT OF THE
) NINTH JUDICIAL CIRCUIT
) CASE NO: 2022-DR-10-3072

possible, the forensic evaluator(s) will use every possible effort not to view the information extracted/copied, unless otherwise ordered herein. It is further

3. **ORDERED** that the Plaintiff shall immediately release the following physical devices to the Plaintiff's forensic evaluator(s), and the forensic evaluator(s) shall extract/copy any and all information (including, but not limited to device imaging and collection of ID markers) from said devices:

- a. HP Surface Pro Computer in Plaintiff's possession;
- b. iPhone 14 in Plaintiff's possession purchased in 2023;
- c. All computers located at the McGee law firm and/or used by the McGee law firm⁴;
- d. iPhone XS Max in Plaintiff's possession;
- e. All devices identified in bate stamp "McGEE(HAS)_001-003," with the exception of the Vtech. Monitor;
- f. All routers from the Eddie Farm home and routers that have been used/located at the McGee law firm;⁵ and
- g. Any and all USB and/or external hard drives in the Plaintiff's possession from January 1, 2022 through the present date. It is further

4. **ORDERED** that the forensic evaluator(s) is hereby authorized to access and extract/copy the identification markers for the devices [for example the IP address, Mac address, IMEI No., etc.] listed in provision 3 and 6 herein, and shall provide the same via affidavit to counsel which has retained the forensic evaluator(s). Counsel shall then provide said affidavit(s) through supplemental discovery response without redaction of the identification markers to opposing counsel. Counsel shall file said supplemental discovery response with a redaction of the identification number, except for the last four digits. The supplemental discovery response(s) is due no later than Friday, January 26, 2024 at 4:00 pm.⁶ It is further

5. **ORDERED** that the Plaintiff shall immediately release the iPhone 8 Plus with SIM Card, IMEI # 356713086860820, to the Plaintiff's forensic evaluator(s), and the forensic evaluator(s) shall extract any and all information (including, but not limited

⁴ The Plaintiff's counsel informed the Court that the Plaintiff believes there are approximately six (6) such computers, including HP and Dell computers.

⁵ The Plaintiff's counsel informed the Court that, at the time of the hearing, the Plaintiff is not certain whether the routers belong to the parties, or belong to the landlord where the McGee law firm is located. If any of the aforementioned routers belong to the landlord and are therefore unavailable to be provided to the Plaintiff's forensic evaluator(s) for extraction/copying, the Plaintiff shall supplement his discovery responses accordingly and either party may file a subsequent motion for the Court to consider the matter further.

⁶ Counsel may request an extension for production if the forensic evaluator(s) is unable to obtain the information set forth herein by the deadline set forth herein. The request for extension shall include the date and time the ordered information will be available.

to device imaging and collection of ID markers) from said device and SIM Card using the "Gray Key Tool." No other method shall be used to attempt to extract information from the aforementioned iPhone 8 Plus and SIM card without further order of the Court or written agreement of the parties.⁷ It is further

6. **ORDERED** that the Defendant shall immediately release the alarm clock with hidden camera identified in her discovery response to the Defendant's forensic evaluator(s), and the forensic evaluator(s) shall extract/copy any and all information (including, but not limited to device imaging and collection of ID markers) from said device. It is further
7. **ORDERED** that the Defendant shall immediately release her iPhone 11, iPhone 12, and iPhone 13 to her forensic evaluator(s), and the forensic evaluator(s) shall extract/copy any and all information (including, but not limited to device imaging and collection of ID markers) from said device. Nothing in this provision shall prohibit the Defendant, the Defendant's counsel, and/or the Defendant's forensic evaluator(s) from further accessing and viewing the information from the Defendant's aforementioned iPhones.

In addition, the Defendant's forensic evaluator(s) shall provide an affidavit detailing any information extracted/copied from the aforementioned iPhones regarding any software updates (including, but not limited to dates of software updates, types of software updates, and any other specific information regarding software updates that can be extracted/imaged). Defense counsel shall then provide said affidavit(s) through supplemental discovery response. The supplemental discovery response is due no later than Friday, January 26, 2024 at 4:00 pm. It is further

8. **ORDERED** that the Defendant shall have her forensic evaluator(s) submit an affidavit regarding whether all the recordings from the CAMDUCK camera in her possession include "intelligible audio" and the location of the CAMDUCK camera (location to be identified with as much specificity as possible) for each recording.⁸ Defendant's counsel shall then immediately provide said affidavit through supplemental discovery response no later than Friday, January 26, 2023 at 4:00 pm.
9. **ORDERED** that neither party, nor any third person at the direction of either party, may delete any information contained on the McGee law firm SharePoint. At the request of Plaintiff's counsel, and with the consent of Defendant's counsel, the Court is hereby allowing the parties until Wednesday, January 17, 2024 at 3:00 pm to enter

⁷ If the Plaintiff's forensic evaluator(s) is unable to access and copy the information on the iPhone 8 Plus and the iPhone 8 Plus SIM card using the "Gray Key Tool," either party may file a motion to request that the Court allow the phone and SIM card to be accessed/copied in a different manner.

⁸ The Court notes that the Defendant's counsel conferred with the Defendant's forensic evaluator/expert at the hearing, and the Defendant's counsel confirmed that such information has been extracted from the CAMDUCK camera, can be provided, and that all the recordings include "intelligible audio." The term "intelligible audio" is a term that Plaintiff's counsel specifically requested be use in the proposed affidavit in an effort to rule out any white noise being considered as audio.

into a proposed consent order setting parameters for the copying/imaging of the SharePoint by either party's forensic evaluator(s).

If the parties are unable to enter into such a proposed consent order, the Plaintiff shall grant full access to the Defendant's forensic evaluator to copy/image the McGee law firm SharePoint in its entirety by Wednesday, January 17, 2024 at 3:01 pm; subject to Provision 2 ordered above. It is further

10. **ORDERED** that the Plaintiff shall immediately release access to his Apple Library (for photos and videos) to his forensic evaluator(s), and the forensic evaluator(s) shall extract/copy any and all photos and/or videos from said library. The forensic evaluator shall securely store said extraction until further Court order. Nothing in this provision shall prohibit the Plaintiff, the Plaintiff's counsel, and/or the Plaintiff's forensic evaluator(s) from further accessing and viewing the information extracted/copied from the Plaintiff's Apple Library. It is further
11. **ORDERED** that the Plaintiff shall supplement his answer to "Plaintiff's Responses to Defendant's First Set of Request" to Admit #5 without limiting his response to "contemporaneously" recordings, and shall further supplement said Request to Admit with the clarification that the term "conversation" refers to any audio by Defendant with another individual (including, but not limited to, audio that appears to be between Defendant and another individual, whether on a phone call or otherwise) and with the clarification that the term "home" refers to the 664 McCutchen Street residence. The supplemental discovery response(s) is due no later than Friday, January 26, 2024 at 4:00 pm. It is further
12. **ORDERED** that Defendant's objections to "Plaintiff's First Requests for Production" #6 and #7 are sustained at this time. This provision does not prohibit the Plaintiff from making such request at a subsequent time as may be relevant. It is further
13. **ORDERED**, as was stipulated on the record by the Defendant's counsel, that the Defendant shall supplement her response to "Defendant's Responses to Plaintiff's First Requests for Production" # 8 and #9 to produce all requested documents that have not already been produced to Plaintiff's counsel by Defendant's counsel. The supplemental discovery response(s) is due no later than Friday, January 26, 2024 at 4:00 pm. It is further
14. **ORDERED**, as was stipulated on the record by the Defendant's counsel, the Defendant shall supplement her response to "Defendant's Supplemental Answers to Plaintiff's First Set of Interrogatories" #6 to remove the word "definitively" from her response. The Defendant shall supplement her answer to provide any information that Defendant (including information from her forensic evaluator) has regarding software updates as requested in the interrogatory. The supplemental discovery response(s) is due no later than Friday, January 26, 2024 at 4:00 pm. It is further

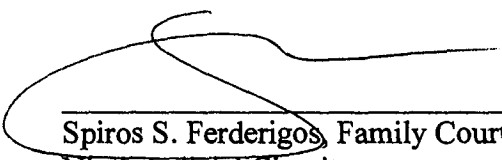
15. ORDERED, by consent of both parties, that the Plaintiff may issue a subpoena, as may be permitted by law, to Proton Mail and its subsidiaries. It is further

16. ORDERED that Defendant's counsel may provide a list of proposed subpoenas, including a description of the specific information to be sought in the subpoenas, regarding companies from which the Plaintiff allegedly purchased electronic surveillance devices and/or used the companies service to access electronic surveillance devices. These companies include, but are not limited to, Amazon, CAMDUCK, Comcast, AT&T, and Frontier. If the parties agree, they may submit a proposed consent order to the Undersigned allowing discovery to be extended to allow said discovery. If the parties do not agree, the Defendant may file a motion requesting the Court to allow said discovery. It is further

17. ORDERED that any deficiency letters regarding submitted discovery shall be provided to opposing counsel by Wednesday, January 17, 2024 at 4:00 pm. Responses to the deficiency letters shall be due by Wednesday, January 24, 2024 at 4:00 pm.

IT IS SO ORDERED.

This 16 day of January, 2024
Charleston, South Carolina


Spiros S. Ferderigos, Family Court Judge
Ninth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED
IN THE FAMILY COURT
NINTH JUDICIAL CIRCUIT
CASE NO.: 2022-DR-10-3072

FILED
2024 FEB 12 PM 2:10

JULIE J. ARMSTRONG
CLERK OF COURT

JULIE J. ARMSTRONG
CLERK OF COURT

Justin M. McGee,

Plaintiff,

vs.

Lindsay F. McGee,

Defendant.

BY

BY

SEM

ORDER FROM THIRD
STATUS CONFERENCE

Presiding Judge:	Spiros S. Ferderigos
Date of Conference:	February 2, 2024
Attorney for Plaintiff:	Matthew A. Abee and Brittany Point
Attorney for Defendant:	Peter G. Currence and Richard G. Whiting
Guardian ad Litem:	Elizabeth Stringer (Not Present)
Court Reporter:	Maria Dempsey

This matter came before the Court for a Third Status Conference on February 2, 2024. The parties were present with their respective counsel identified above. Having heard from the parties' respective counsel, the Court issues the following Order.¹ It is therefore

1. **ORDERED** that, at the request of the Defendant, the Court will disregard the letter sent to the Court by the Defendant's counsel via email on February 1, 2024. It is further
2. **ORDERED** that the parties' forensic evaluators² shall participate in a conference call to work through the necessary steps to ascertain the MAC addresses for the following devices: (a) two Alarm Clocks provided by the Defendant's counsel to the Plaintiff's counsel, (b) two Oumeiou Power Banks, (c) the MEE007 Power Adapter provided by the Plaintiff, (d) the three SCS devices for which the Defendant asserts the Plaintiff did not provide valid MAC addresses, and (e) the weather station devices for which the Defendant asserts the Plaintiff did not provide valid MAC addresses. Counsel for the parties shall coordinate the conference call to occur by the end of the day on Tuesday, February 6, 2024. It is further

¹The Defendant's counsel informed the Court that the Defendant has the evidence she requires to prove that the Plaintiff violated the Homeland Security Act and is ready to submit her findings. The Defendant's counsel specifically stated "We are done and we are ready."

² Forensic evaluator(s) includes any proposed forensic expert(s) used to extract/copy information from devices or other source(s) ordered herein.



3. **ORDERED** that the Plaintiff's counsel shall return the two Alarm Clocks to the Defendant's counsel by 1:00 pm on Monday, February 5, 2024. It is further
4. **ORDERED** that the Defendant's forensic evaluators are authorized to immediately access the two Alarm Clocks to extract the MAC addresses (or other identification markers) for each device to determine whether the devices contain any audio recording and/or video recording capabilities. It is further
5. **ORDERED** that the Defendant shall supplement her discovery responses by 3:00 pm on Monday, February 12, 2024 to provide the following information for the two Alarm Clocks:
 - a. The MAC addresses (or other identification markers) for each device³; and
 - b. Confirmation of whether the devices contain any audio recording and/or video recording capabilities and, if so, where such capability is located within each device. It is further
6. **ORDERED** that that the Plaintiff's counsel shall provide the two Oumeiou Power Banks and the MEE007 Power Adapter identified on Lines 4, 5, and 7 of McGee(HSA)_02271 to the Defendant's counsel by 1:00 pm on Monday, February 5, 2024. It is further
7. **ORDERED** that the Defendant's forensic evaluators are hereby authorized to extract/copy any and all information (including, but not limited to device imaging and collection of ID markers) from the two Oumeiou Power Banks and the MEE007 Power Adapter as set forth herein.⁴ The Defendant's forensic evaluators are authorized to immediately extract the MAC addresses (or other identification markers) for each device and determine whether the devices contain any audio recording and/or video recording capabilities. It is further
8. **ORDERED** that the Defendant shall supplement her discovery responses by 3:00 pm on Monday, February 12, 2024 to provide the following information for the two Oumeiou Power Banks and the MEE007 Power Adapter:
 - a. The MAC addresses (or other identification markers) for each device⁵; and
 - b. Confirmation of whether the devices contain any Wi-Fi and/or audio recording and/or video recording capabilities and, if so, where such capability is located within each device. It is further

³ In the event the devices do not contain MAC addresses or any other identification markers, then the Defendant's supplemental discovery responses shall state that same.

⁴ The information extracted/copied from the physical devices and/or other digital source by the forensic evaluator(s) pursuant to this order shall be subject to all prior confidentiality orders and shall not be released to the parties, counsel for the parties, and/or other third party, unless specifically stated otherwise herein, and/or until further Court order.

⁵ In the event the devices do not contain MAC addresses or any other identification markers, then the Defendant's supplemental discovery responses shall state that same.

9. **ORDERED** that, by consent of the parties, the Plaintiff shall provide an affidavit to the Defendant by 3:00 pm on Monday, February 12, 2024, containing the following information associated with the Apple applications delineated on McGee(HSA)_0001-03:
- a. For each application, the Plaintiff shall provide: (1) the date he downloaded the application; (2) to which device(s) the application was downloaded; and (3) the specific date the application was downloaded to each device.
 - b. The Plaintiff shall attempt to obtain his Apple purchase history to ascertain all information associated with his software application purchases and downloads and shall corroborate the information provided in his affidavit with a picture, physical document, or other report of his Apple purchase and/or download history.
 - c. The Plaintiff's forensic evaluators are authorized to access the Plaintiff's devices, including his iPhone 10 XS Max, to ascertain the information associated with the purchase and download history of the software applications.
 - d. The Plaintiff shall supplement his discovery responses regarding his software application purchases and downloads by 3:00 pm on Monday, February 12, 2024. It is further
10. **ORDERED** that the updated proposed Consent Order regarding the SharePoint and the proposed Confidentiality Order shall be submitted to the Court by Wednesday, February 7, 2024 for the Court's consideration. It is further
11. **ORDERED**, as was stipulated on the record by the Defendant's counsel, that the Defendant shall supplement her discovery responses by 4:00 pm on February 5, 2024 to verify that the text messages exchanged between the Defendant and Stephen Daniel Fowler from August 2022 through April 2023 are no longer in her possession. It is further
12. **ORDERED**, as was consented to on the record by the Defendant, that the Defendant shall contact Stephen Fowler to obtain a copy of text messages exchanged between the Defendant and Stephen Daniel Fowler from August 2022 through April 2023 directly from Stephen Daniel Fowler. The Defendant shall supplement her discovery responses on or before February 5, 2024 with the aforementioned text messages if received. It is further
13. **ORDERED** that the Plaintiff is authorized to issue a subpoena, as may be permissible by law, to Stephen Daniel Fowler commanding the inspection and production of text messages sent to and/or received from the Defendant and Stephen Daniel Fowler from August 1, 2022 through present.⁶ It is further

⁶ The parties agree that Mr. Fowler shall be provided until end of day on February 6, 2024 to accept service of said subpoena at the Theos Law Firm, LLC located at 11 State Street, Charleston, South Carolina 29401. Should Mr. Fowler fail to accept service, the Plaintiff may perfect service of said subpoena as may permissible by law.

14. **ORDERED** that the Plaintiff shall supplement discovery responses to add the aforementioned two Oumeiou Power Banks and the MEE007 Power Adapter as devices on the device list set forth on bate stamp "McGee(HSA)_001-003". The Plaintiff shall provide all information for the two Oumeiou Power Banks and the MEE007 Power Adapter as delineated on the list set forth on bate stamp "McGee(HSA)_001-003".⁷ It is further
15. **ORDERED** that the Defendant shall provide a proposed Memorandum of Findings of Fact to the Plaintiff and the Court by 3:00 pm on Friday, February 16, 2024. The Memorandum shall include:
- a. A complete list of findings of fact that the Defendant desires from the Court with an explanation in support of each proposed finding of fact.
 - b. An Exhibit shall be provided for each proposed finding which contains supporting evidence to substantiate the proposed finding of fact.⁸
 - c. The Defendant may advise the Court if she needs additional time and may request a reasonable extension of time to file the Memorandum. It is further
16. **ORDERED** that the Plaintiff's request for depositions is denied at this time. This provision does not prohibit the Plaintiff from making such request in the future. The Plaintiff reserves his jurisdictional and related objections about the discovery as previously addressed on the record.⁹ It is further
17. **ORDERED** that all prior orders of the Court shall remain in full force and effect unless specifically modified herein.

AND IT IS SO ORDERED!



The Honorable Spiros S. Ferderigos

February 12, 2024

⁷ The identification and information for the aforementioned devices were not included in the Plaintiff's initial discovery responses.

⁸ The Defendant is authorized to submit an affidavit of the Defendant and/or her expert(s) to substantiate each allegation; however, the affidavit must include copies of the evidence substantiating and corroborating the testimony of the affiant as to the proposed finding of fact. By way of example, the Defendant shall provide metadata, photos, router logs, or other physical documents, records, or other similar information to support the fact asserted.

⁹ The Court notes that it has allowed significant discovery by means of Interrogatories, Request for Production, and Requests to Admit. The Court has further advised the parties that it is inclined to allow additional discovery by means of Interrogatories, Request for Production, and Requests to Admit upon request, so long as the discovery is relevant to the matter certified by the Court of Appeals to the Family Court. The Court has further allowed the parties to issue subpoenas as set forth in this order and prior orders since the Court of Appeals certification to the Family Court.

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE FAMILY COURT
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 2022-DR-10-3072

2024 MAR -4 AM 11:31

JULIE ARMSTRONG
CLERK OF COURT

Justin M. McGee,

Plaintiff,

vs.

Lindsay F. McGee,

Defendant.

ORDER FROM FOURTH
STATUS CONFERENCE

BY 15

Presiding Judge:	Spiros S. Ferderigos
Date of Conference:	February 8, 2024
Attorney for Plaintiff:	Matthew A. Abee and Brittany Point
Attorney for Defendant:	Peter G. Currence and Richard G. Whiting
Guardian ad Litem:	Elizabeth Stringer (Not Present)
Court Reporter:	Maria Dempsey

This matter came before the Court for a Fourth Status Conference on February 28, 2024. The Defendant was present with her respective counsel identified above. The Plaintiff was not present, however, his counsel identified above was present. Having heard from the parties' respective counsel, the Court issues the following Order.¹ It is therefore

1. **ORDERED** that Defendant's counsel shall submit the following to opposing counsel within five (5) business days of the date this order is filed:
 - a. Supplemental discovery via affidavit by the Defendant's expert (and supporting documentation) detailing the process by which the Defendant's expert extracted the alleged audio recordings from the CAMDUCK device, whether any decryption was required to extract and view the alleged audio from the CAMDUCK, and whether the expert used the CIXICM application or other process (to be detailed) in extracting and viewing the alleged audio recording;
 - b. Supplemental discovery via affidavit by the Defendant's expert (and supporting documentation) of whether the CIXICM mobile application downloaded by the Plaintiff to his iPhone XS allows for the application/iPhone to remotely manage (or otherwise manage) the CAMDUCK, what type of management the application

¹Counsel for both parties confirmed on the record that they are not requesting that any of the alleged recordings extracted from the recording devices (or other source) be viewed by the parties or the Court. The only exception to this is the Defendant requesting the Family Court or the Court of Appeals review the three recordings she has submitted that the Defendant alleges were extracted from the CAMDUCK.

15

allows via iPhone or other device (with specificity), and whether such management allows the user to remotely view recordings live or on the CAMDUCK's SIM Card (such as the recordings allegedly extracted by the Defendant's experts from the CAMDUCK).

- c. Supplemental discovery via affidavit by the Defendant's expert (and supporting documentation) of whether the IOT Living Application downloaded by the Plaintiff to his iPhone XS Max allows for the application/iPhone to remotely manage (or otherwise manage) the SCS WF-113 Spy Camera (hereinafter Spy Camera), what type of management the application allows via iPhone or other device (with specificity), and whether such management allows the user to record or view recordings, whether live or previously recorded by the Spy Cameras.
 - d. Supplemental discovery via affidavit by the Defendant's expert (and supporting documentation) of whether the HD LiveCam application purchased and downloaded by the Plaintiff can be used to manage the RXAMYDE Wi-Fi mini Spy Hidden Camera (hereinafter Mini Camera) purchased by the Plaintiff, whether the application allows for the remote management (or non-remote management) of the Mini Camera, what type of management the application allows via iPhone or other device (with specificity), and whether such management allows the user to record or view recordings, whether live or previously recorded by the Mini Camera.
 - e. Supplemental discovery via affidavit by the Defendant's expert that he has attempted to extract a copy of all text messages between the Defendant and Stephen Daniel Fowler from the Defendant's imaged iPhone. The affidavit shall attach a complete copy of any text messages recovered from the following dates: August 2022 – February 2, 2024. The Defendant's expert shall include any deleted or "empty" messages (as they may be evidence of possibly deleted texts) in the production. It is further
2. **ORDERED**, the Defendant's counsel shall provide a copy of all communications between the Defendant's counsel and the two identified testifying experts for the Defendant (i.e. Burmgarner and Abrams) within ten (10) business days of the filing of this order. It is further
 3. **ORDERED** that the Defendant shall supplement the exhibits as set forth on the record for her previously submitted proposed Memorandum of Findings of Fact by Friday, March 1, 2024 at 3:00 pm.
 4. **ORDERED** that the Plaintiff shall provide a proposed Memorandum of Findings of Fact to the Defendant and the Court by 3:00 pm on Friday, March 22, 2024. The Memorandum shall include:
 - a. A complete list of findings of fact that the Plaintiff desires from the Court with an explanation in support of each proposed finding of fact.

- b. An Exhibit shall be provided for each proposed finding which contains supporting evidence to substantiate the proposed finding of fact.
5. **ORDERED** that the Plaintiff's request for depositions is denied at this time. This provision does not prohibit the Plaintiff from making such request in the future. The Plaintiff reserves his jurisdictional and related objections about the discovery as previously addressed on the record.² It is further
6. **ORDERED** that all prior orders of the Court shall remain in full force and effect unless specifically modified herein.

AND IT IS SO ORDERED!



The Honorable Spiros S. Ferderigos
Family Court Judge, Ninth Judicial Circuit

March 4, 2024

² The Court notes that it has allowed significant discovery by means of Interrogatories, Request for Production, and Requests to Admit. The Court has further advised the parties that it is inclined to allow additional discovery by means of Interrogatories, Request for Production, and Requests to Admit upon request, so long as the discovery is relevant to the matter certified by the Court of Appeals to the Family Court. The Court has further allowed the parties to issue subpoenas as set forth in this order and prior orders since the Court of Appeals certification to the Family Court.

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE FAMILY COURT
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 2022-DR-10-3072

2024 JUN 24 AM 8: 53

JULIE J. ARMSTRONG
CLERK OF COURT

Justin M. McGee,

Plaintiff,

vs.

Lindsay F. McGee,

Defendant.

ORDER FROM FIFTH
STATUS CONFERENCE

Presiding Judge:	Spiros S. Ferderigos
Date of Conference:	June 21, 2024
Attorney for Plaintiff:	Matthew A. Abee and Brittany Point
Attorney for Defendant:	Peter G. Currence and Richard G. Whiting
Guardian ad Litem:	Elizabeth Stringer (Not Present)
Court Reporter:	Sharon Vizer

This matter came before the Court for a Fifth Status Conference on June 21, 2024 after the Court of Appeals certified the matter back to the family court for additional discovery by order filed June 10, 2024. Counsel for the parties were present as identified above. The Plaintiff and the Defendant were not present. In part, the Court of Appeals order states that “the family court indicated it had preserved over 5,000 recordings from a CAMDUCK device, at least some of which may have been intercepted in violation of the Act. We believe analysis of these recordings may be important to the resolution of Petitioner’s motion; accordingly, we certify the family court to supervise further discovery regarding these recordings and to issue a report with its proposed findings as to (1) the content of the recordings, and (2) whether any of the recordings were intercepted in violation of the Act ... [t]he family court shall consult with the parties in any manner it deems appropriate to determine which party bears the costs of analyzing the recordings ... [t]he Court shall also have the same powers as are now possessed by the circuit courts of the State for the appointment of referees to take testimony and report thereon, under such instructions as may be prescribed by the court.” Defense counsel filed a “Stipulation Regarding Camduck Recordings” stipulating that the CAMDUCK contains 833 hours of recordings.

At the status conference, the court informed the parties that it would be appointing a special referee to review the over 5,000 CAMDUCK recordings (833 hours of recordings) pursuant to the Court of Appeals order (filed June 10, 2024). The special referee will be a licensed attorney in the State of South Carolina, with the hourly rate of \$300.00 per hour.¹ Defense counsel informed

¹ The court informed the parties that the cost of reviewing the 866 hours of recordings alone will be \$249,900.00. The Court informed the parties that after having thoroughly reviewed the file as it relates to the certification, the court intends to order a 50/50 division of said costs, subject to reallocation at the final or subsequent hearing. This results

the Court that it does not believe that the Court of Appeals order (filed June 10, 2024) requires the family court to review (or supervise the review of) the 833 hours of video recordings. The court informed the parties that it disagrees with defense counsel's interpretation of the Court of Appeals order.² Defense counsel informed the court that it would file an emergency/expedited motion with the Court of Appeals seeking clarification regarding whether the Court of Appeals certified to the family court that it is to review (or supervise review of) the 833 hours of video recordings. Defense counsel further informed the court that it would be requesting in the motion that the Court of Appeals stay its order filed June 10, 2024 until an order is issued on defense counsel's forthcoming motion. As further ordered below, the family court will provide defense counsel with an opportunity to file such motion with the Court of Appeals, however, a more detailed order regarding discovery related to the 833 hours of video recordings will be promptly issued to ensure that the family court is in compliance with the certification by the Court of Appeals.³

It is therefore

ORDERED that defense counsel shall have until Tuesday, June 25, 2024 at 1:00 pm to file the aforementioned motion with the Court of Appeals requesting stay of its June 10, 2024 order pending resolution of defense counsel's motion; and it is further

ORDERED that the parties are to file any affidavits in support of their position regarding allocation of fees and costs for the review of the recordings by Wednesday, June 26, 2024 at 5:00 pm.

IT IS SO ORDERED!



The Honorable Spiros S. Ferderigos
Family Court Judge, Ninth Judicial Circuit

June 21, 2024

in a retainer by each party of \$124,950.00. The parties requested the opportunity to file affidavits in support of their respective positions regarding which party should bear such costs. The Court is withholding its decision regarding what percentage of the \$249,900.00 retainer each party shall pay until it reviews the filings of the parties due June 26, 2024. Both parties informed the court that they do not have the ability to pay for review of the recordings.

² The Undersigned takes this moment to note that he agrees with the Court of Appeals that review of all the recordings on the CAMDUCK may be necessary to properly adjudicate the allegations raised in Defendant's Motion to Suppress currently pending with the Court of Appeals.

³ Plaintiff's counsel preserved all prior objections during the status conference. Plaintiff's counsel further raised objections alleging that the family court lacks the authority to appoint a special referee to review the recordings, and lacks the authority to apportion any fees and costs related to review of the recordings. The Court denied Plaintiff's counsel's objections at this time, however, allowed Plaintiff's counsel to raise said objections once more in a subsequent motion that would be considered on a de novo basis.



State of South Carolina
The Family Court of the Ninth Judicial Circuit

Spiros Ferderigos
Judge

Charleston County Judicial Center
100 Broad Street, Suite 241
Charleston, SC 29401
Phone: (843) 958-4406
Fax: (843) 958-4415
sferderigosj@sccourts.org

May 3, 2024

BY U.S. MAIL

The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Justin McGee, Respondent v. Lindsay F. McGee, Petitioner
Appellate Case No. 2023-001376

To whom it may concern,

By Court order filed December 5, 2023, the South Carolina Court of Appeals (hereinafter Court of Appeals) issued a certification to the Charleston County Family Court (hereinafter Family Court) "to supervise additional discovery relating the Petitioner's motion [Petitioner's motion to suppress communications pursuant to the South Carolina Homeland Security Act] and to issue a report with its proposed findings as to what, if any, of Respondent's actions constituted violations under the Act." In compliance with the Court of Appeals certification, the Family Court supervised and directed significant discovery in the form of Interrogatories, Requests for Production, and Requests to Admit. The Family Court further ordered the collection,

preservation, and analysis¹ of all of the electronic devices reasonably related to the motion to suppress. The Family Court issued four Orders in this matter related to the Court of Appeals Certification. (Exhibit 1, attached hereto)

Given the extensive discovery conducted pursuant to the Court of Appeals certification, the Family Court makes the following proposed findings as to what, if any, of Respondent's actions may have constituted violations of the Act (as well as other findings relevant to said violations):

I. Proposed Findings of Fact

- a. That Respondent has a history of using spy cameras (some with audio, some without) in residences and the parties' business office with the knowledge of both parties. That Respondent has purchased and used numerous such devices as set forth in detail below, including a CAMDUCK spy camera that was located at the 664 McCutchen Street residence. Numerous other spy camera devices have also appeared on the router of the 664 McCutchen Street residence, but are no longer available for analysis.
- b. That Appellant has been aware of Respondent using spy cameras in the past, including where the parties reside.
- c. That Appellant informing Respondent that she was concerned that he was spying on her, and Respondent's response that he is not, evidences that Appellant did not authorize and/or consent to Respondent recording her at the 664 McCutchen Street residence.
- d. That Respondent has a history of spying on Appellant as reflected by Respondent admitting to logging into the Netflix account to determine when Appellant was home, and by his admission of leaving a cell phone in Appellant's vehicle so he can track her whereabouts. Respondent has further admitted to using "nanny cameras" at the 664 McCutchen Street residence out of concerns for Appellant's behaviors and to ensure the safety of the children.
- e. That Respondent purchased the CAMDUCK spying device located at the 664 McCutchen Street residence.

¹ The parties informed the Court that they are not requesting the Court allow them to review the video and audio recordings collected as part of the discovery process. Furthermore, the Court is informed that there is a massive amount of recordings, which this Court believes would require a special referee to be appointed to review said recordings at a significant cost to the parties. By way of example, at least one of the devices at issue for the motion to suppress (CAMDUCK) was set to continuously record on an ongoing basis for at least eight (8) months.

- f. That the CAMDUCK located at the 664 McCutchen Street residence did record/intercept audio (and video) of Appellant, and said recording is eligible for consideration under the Act.
- g. That the remaining spy devices with audio capability listed herein are no longer in either party's possession for the devices to be analyzed to determine if they were possibly used in violation of the Act.
- h. That there is no evidence that Respondent contemporaneously intercepted or attempted to intercept any audio recording made by the CAMDUCK, however, with Respondent purchasing and downloading the CIXICM application on his iPhone XS; Respondent had the ability to contemporaneously intercept audio (and video) recordings.
- i. That the CAMDUCK did intercept/record over 5,000 recordings (including audio and video recordings) that were saved on the CAMDUCK's SD card. Furthermore, other recordings were deleted from the CAMDUCK's SD card.
- j. That with Respondent purchasing and downloading the CIXICM application on his iPhone XS, Respondent had the ability to intercept audio (and video) recorded by the CAMDUCK, as well as manage the CAMDUCK and its recordings remotely (including deleting videos).
- k. That there is no direct evidence presented to the Family Court that Respondent has intercepted or attempted to intercept any audio records from the CAMDUCK or other spying device.
- l. That there is no circumstantial evidence that Respondent intentionally intercepted audio recordings from the CAMDUCK.
 - i. The evidence to support such a finding, however, has been preserved by the Family Court. The Family Court ordered the imaging and/or collection of all known devices that could store such recordings that were in Respondent's possession at the time of certification. As set forth herein, neither party requested that the large volume of audio recordings preserved be reviewed at this time, presumably due to the cost associated with such review.
- m. That there is circumstantial evidence as set forth herein that Respondent attempted to intercept audio recordings from the CAMDUCK by purchasing said device, the device being located in the 664 McCutchen Street residence, downloading the application that allows management and viewing/deleting recordings from said device, and the device actually recording audio of Appellant.

The Undersigned does not make a proposed finding as to whether the circumstantial evidence is sufficient to meet Appellant's burden that Respondent attempted to intercept the audio of Appellant in violation of the Act. Such a finding was not requested in the certification to the Family Court.

- n. That the Family Court is not able to provide a proposed finding as to any specific information or evidence that should be precluded from use in a trial, hearing, or other proceeding due to the parties not requesting that the over 5,000 recordings on the CAMDUCK (and additional recordings from devices preserved) be reviewed to determine what audio may have been intercepted or attempted to be intercepted from an alleged violation of the Act.
 - i. The Undersigned has, however, preserved all such possible recordings in Respondent's possession by imaging numerous devices, and securing other devices (including external storage devices) in a secured lock box (by consent of the parties). Neither party has requested that they review audio recordings on these devices; however, any such possible recording is preserved in the event the Court of Appeals directs the parties to expend funds to have said devices reviewed for possible audio recordings that may be in violation of the Act. The Undersigned notes that while the matter was under certification to the Family Court, the parties did not request that a special referee be appointed by the Undersigned to go through the voluminous amounts of recordings preserved. This is presumably due to the large expense that would be associated with doing so.

II. Background

- a. On February 5, 2021, Appellant signed a lease for the 664 McCutchen Street residence.
 - i. Residential rental Agreement dated February 5, 2021. Ex. A to Appellant's Affidavit in Support of Motion to Suppress (Exhibit 2, attached hereto)
- b. Respondent admits that he used "nanny cameras" at 664 McCutchen Street while he lived there out of concerns about Appellant's behaviors, for security, for safety of the children, and "for the reasons set forth in [his] affidavit that was submitted at the Temporary Hearing."

- i. Affidavit of Respondent Justin McGee In Opposition to Petitioner's Amended Motion to Suppress dated September 29, 2023, ¶ 61 (Exhibit 3, attached hereto)
 - ii. In "Husband's Response to Wife's Proposed Findings of Fact," "[Respondent] admits that he used nanny cameras at McCutchen House to ensure the safety of the parties' children and out of concerns about [Appellant's] behavior." (See ¶ 47, to be filed separately upon request)
- c. Respondent did not live at the 664 McCutchen Street residence from February 21, 2021 until June 2021.
 - i. Respondent's affidavit dated June 12, 2023, ¶ 62 (Exhibit 4, attached hereto without exhibits)
- d. There is evidence to support that Respondent did not reside at the 664 McCutchen Street residence from June 2021 until May 30, 2022.
 - i. August 19, 2021 text message (Exhibit 5, attached hereto)
 - ii. Stipulation drafted by Respondent on June 6, 2022 (Exhibit 6, attached hereto)
- e. Respondent did not spend the night at the 664 McCutchen Street residence after May 29, 2022, except for July 6, 2022 and July 29, 2022.
 - i. Respondent's Affidavit dated June 12, 2023, p. 1, ¶ 3 (Exhibit 7, attached hereto without exhibits)
- f. On May 17, 2021, Respondent admitted to hiding his iPhone in Appellant's vehicle to track her whereabouts as early as March 2021 for the purpose of "divorce and evidence gathering." Respondent admitted he "was dishonest at times about it when [Appellant] asked," and "mislead [Appellant] about how [Respondent] knew things ..." Respondent also admitted to monitoring Appellant's Netflix account viewing activity to know whether Appellant was home or not. Respondent further admitted that he was "desensitized to tracking because we do it professionally." Respondent has further admitted to using "nanny cameras" in the 664 McCutchen Street residence out of concerns of Appellant's behaviors and to protect the children.
 - a. Text message dated May 17, 2021 (Exhibit 8, attached hereto)

- b. In "Husband's Response to Wife's Proposed Findings of Fact," "[Respondent] admits that he used nanny cameras at McCutchen House to ensure the safety of the parties' children and out of concerns about [Appellant's] behavior." (See ¶ 47, to be filed separately upon request)
- g. On August 19, 2021, Appellant expressed concern to Respondent over hidden cameras in her bedroom at which time Respondent denied "spying on" her or "lying to" her.
 - a. Text message dated August 19, 2021 (Exhibit 9, attached hereto)
- h. On July 29, 2023, the router logs from the Wi-Fi network at Appellant's home at the 664 McCutchen Street residence indicated numerous covert recording devices had connected to the Wi-Fi network.
 - a. Router logs with summary (Exhibit 10, attached hereto)
- i. Respondent admits to having placed two devices with audio capability inside of the 664 McCutchen Street residence, however, admits only inasmuch as Respondent states it was with Appellant's knowledge and/or consent. Respondent further admits to having purchased the CAMDUCK device located in the 664 McCutchen Street residence, however, qualifies his admission that the CAMDUCK device he purchased did not have audio capabilities.
 - a. See Plaintiff's Responses to Defendant's First Set of Requests to Admit, #1, dated January 8, 2024 (Exhibit 31, attached hereto)
 - b. See Husband's First Supplemental Responses to Wife's First Set of Requests to Admit dated January 26, 2024, # 5 Supplemental Response (Exhibit 32, attached hereto)
 - c. In addition to the evidence set forth herein, Respondent admits to purchasing the CAMDUCK in "Husband's Response to Wife's Proposed Findings of Fact" (See ¶ 10, to be filed separately upon request)

III. LUOHE 5 USB Hidden Camera (hereinafter CAMDUCK)

- a. On January 30, 2022, Respondent purchased a CAMDUCK charger which has video, audio, Wi-Fi and remote management capability.
 - i. Purchase receipt for CAMDUCK McGee(HSA_2119-2027) (Exhibit 12, attached hereto)

- ii. In addition to the evidence set forth herein, Respondent admits to purchasing the CAMDUCK in “Husband’s Response to Wife’s Proposed Findings of Fact” (See ¶ 10, to be filed separately upon request).
- b. Respondent admits that the CAMDUCK was taken to the 664 McCutchen Street residence in the summer of 2022 (does not state by whom in Exhibit 16 below), and removed by Respondent in August of 2022. Respondent alleges, upon information and belief, that Appellant placed the CAMDUCK back in the 664 McCutchen residence in August 2022.
 - i. McGee (HSA) 00002A (Exhibit 16, attached hereto)
 - ii. In response to Appellant’s proposed findings of facts submitted to the Family Court, Respondent replied that “[Respondent] admits that he originally took the CAMDUCK to McCutchen House while he was living there.” (See ¶ 13, “Husband’s Response to Wife’s Proposed Findings of Fact” to be filed separately upon request)
- c. Respondent purchased and downloaded the CIXICM application on his iPhone XS on February 8, 2022.
 - i. Respondent’s Apple Purchase history (Exhibit 14, attached hereto)
 - ii. Respondent’s Affidavit About Apple Application Records, p. 2, ¶ e (Exhibit 15, attached hereto)
 - iii. McGee (HSA) 00002A (Exhibit 16, attached hereto)
- d. The CIXICM application controls spy cameras manufactured by CAMDUCK, including remote management using either cellular or internet service; and the capability to view recordings, save recordings, and delete recordings.
 - i. See 6th Supplemental Affidavit of John Bumgarner, ¶¶ 8 - 14 (Exhibit 33, attached hereto without exhibits)
 - ii. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶ 13 (Exhibit 35, attached hereto without exhibits)
- e. There is no evidence that Appellant downloaded the CIXICM application as there has been no such purchase in her Apple purchase history produced in discovery.
- f. A CAMDUCK charger was located and powered in Appellant’s bedroom as early as May 14, 2022.

- i. Photo taken with Appellant's iPhone 12 Pro Max on May 14, 2022 (Exhibit 11, attached hereto)
- g. On May 15, 2022, the CAMDUCK was connected to the Wi-Fi at the 664 McCutchen Street residence using the CIXICM mobile application.
 - i. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶ 20 (Exhibit 35, attached hereto without attachments) (Exhibits E, F, and G to be filed separately with the Court of Appeals upon request due to the size of the exhibits)
- h. Respondent was at the 664 McCutchen Street residence on May 15, 2022.
 - i. Text messages dated May 15, 2022 (Exhibit 17, attached hereto)
 - ii. Picture with metadata of Respondent in home with youngest child (Exhibit 18, attached hereto)
- i. The metadata associated with the photo in provision "h (i)" above evidences that Respondent used an iPhone XS Max to take the picture.
 - i. Picture of Respondent in home with youngest child on May 15, 2022 (Exhibit 19, attached hereto)
- j. When purchased, the sound function for the CAMDUCK charger was closed due to Amazon's policy.
 - i. The sound function of the app was closed due to Amazon's policy. See McGee(HSA_2127) (Exhibit 13, attached hereto)
 - ii. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶¶ 23-30 (Exhibit 35, attached hereto with exhibits R, S, T to affidavit)
- k. It is possible for a user to activate the sound function on the CAMDUCK (in addition to remotely managing the CAMDUCK) by purchasing and downloading the CIXICM application.
 - i. A user must activate the sound function. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶¶ 24-30 (Exhibit 35, attached hereto with exhibits U and V) (Exhibits E, F, and G to be filed separately with the Court of Appeals upon request due to the size of the exhibits)

- ii. The CIXICM management application is used to control spy cameras manufactured by CAMDUCK, including remote management using either cellular or internet service. See 6th Supplemental Affidavit of John Bumgarner, ¶ 8 - 14 (Exhibit 33, attached hereto without exhibits)
- 1. The CAMDUCK located in the 664 McCutchen Street residence did have the audio function enabled, and the CAMDUCK recorded over 5,000 recordings (including audio and video recordings) on the CAMDUCK'S SIM/SD card.²
 - i. The CAMDUCK located in Appellant's residence had the audio and video function enabled, and did record audio and video as evidenced by over 5,000 videos recorded on the SIM card. See Fourth Supplemental Affidavit of Steven Marc Abrams, J.D., M.S., ¶¶ 2 - 5 (Exhibit 34, attached hereto without exhibits)
 - ii. Three videos dated August 26, 2022 that Appellant asserts are recordings of Appellant, Respondent and the children (Exhibit 21, attached hereto)
- m. The CAMDUCK recorded oral conversations involving Appellant at the 664 McCutchen Street home. Those recordings were stored on the CAMDUCKS SD Card (See footnote #2).
 - i. Recording dated September 22, 2002 (Exhibit 22, attached hereto)
 - ii. See Fourth Supplemental Affidavit of Steven Marc Abrams, J.D., M.S., ¶¶ 2 - 5 (Exhibit 34, attached hereto without exhibits)
- n. The CAMDUCK recorded in the 664 McCutchen Street residence for approximately eight months in 2022 (three months prior to May 15, 2022 and five months subsequent to May 15, 2022). The CAMDUCK recorded every day in August 2022, including 672 deleted files.
 - i. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶¶ 14 - 15 (Exhibit 35, attached hereto without exhibits) (Exhibits E, F, G,

² The Family Court preserved all of the aforementioned recordings, and gave Respondent an opportunity to analyze the CAMDUCK and review the recordings if he so desired to allow Respondent the opportunity to refute Appellant's evidence, including that the recordings were recorded by the CAMDUCK in question. Respondent has declined to analyze and view the recordings for the reasons he has placed on the record. Furthermore, the Family Court has not reviewed the alleged recordings Appellant asserts violate the S.C. Homeland Security Act. Given the mandatory reporting of any intercepted communication in violation of the Act to the Administrative Office of the United States Courts under certain circumstances, the Family Court is providing the same to the Court of Appeals for possible review as the Court of Appeals has retained its jurisdiction to rule on the matter.

and K to be filed separately with the Court of Appeals upon request due to the size of the exhibits)

- o. An unidentified individual used the CIXIM application to remotely manage the CAMDUCK on August 24, 2022 by remotely reconfiguring the device to place the camera in a loop recording mode. Furthermore, on August 27, 2022, an unidentified individual deleted recordings for the dates of July 16, 2022 (at 20:59) and July 17, 2022 (at 22:17). On August 27, 2022 (at 20:59), Appellant's expert attests that a video of Appellant getting dressed was recorded.
 - i. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶ 16 (Exhibit 35, attached hereto without exhibits) (Exhibits E, F, and G to be filed separately with the Court of Appeals upon request due to the size of the exhibits)
 - ii. See Fifth Supplemental Affidavit of Bumgarner dated February 23, 2024, ¶ 18 (Exhibit 35, attached hereto without exhibits)
 - iii. Video dated August 27, 2022 (Exhibit 20, attached hereto) (See footnote #2)

IV. OTHER PURCHASED SPY CAMERA DEVICES THAT RECORD AUDIO THAT ARE NO LONGER IN EITHER PARTIES POSSESSION TO ANALYZE IF THEY WERE USED IN VIOLATION OF THE ACT

- a. On January 31, 2022, Respondent purchased one SCS WF-113 Spy Camera with audio, and Wi-Fi enabled remote management capability using the IOT Living application directly from SCS Enterprises. Respondent no longer has this device in his possession for an analysis to occur of whether it was one of devices identified on the Router log at the 664 McCutchen Street residence.
 - i. McGee(HSA)_02045 and MSCM 0008 (Exhibit 23, attached hereto)
 - ii. McGee(HSA)_00002A (Exhibit 16 attached hereto)
- b. On April 25, 2022, Respondent purchased two more (2) SCS WF-113 Spy Cameras with audio, Wi-Fi and remote management capability directly from SCS Enterprises. Respondent no longer has this device in his possession for an analysis to occur of whether it was one of devices identified on the Router log at the 664 McCutchen Street residence, or ever used in the residence.
 - i. McGee(HSA)_02087 and MSCM 0006 and 9 (Exhibit 24, attached hereto)

- ii. McGee(HSA)_00002A (Exhibit 16, attached hereto)
- c. On July 26, 2022, Respondent purchased another two (2) SCS WF-113 Spy Cameras with audio, Wi-Fi and remote management capability directly from SCS Enterprises. Respondent no longer has either of these devices in his possession for an analysis to occur to determine if they were one of the devices identified on the Router log at the 664 McCutchen Street residence, or ever used in the residence.
 - i. McGee(HSA)_02087 and MSCM 0006 and 8 (Exhibit 25, attached hereto)
 - ii. McGee(HSA)_00003A (Exhibit 16, attached hereto)
- d. Respondent admitted that a SCS WF-113 Spy Camera with audio was used in the 664 McCutchen Street residence approximately February 2022.
 - i. McGee(HSA)_00002A (Exhibit 16, attached hereto) (“To the best of [Respondent’s] recollection, these three SCS Outlet devices were opened at McCutchen House. Although one was used in McCutchen House beginning in approximately February 2022 ...”)
 - ii. Father’s Answer to Request to Admit (re: Motion to Suppress) No. 1 (Exhibit 26, attached hereto) (“[Respondent] admits that he placed two devices with audio capability inside of 664 McCutchen Street with [Appellant’s] knowledge and/or consent.”)
- e. On August 28, 2022, a SCS WF-113 Spy Camera was being used in the kitchen at the 664 McCutchen Street residence.
 - i. Photo dated August 28, 2022 (iPad plugged into the device) (Exhibit 27, attached hereto)
- f. Respondent has had the ability to remotely manage the SCS Camera devices since June 5, 2021 when he installed the IOT Living application on his iPhone XS Max.
 - i. Respondent’s Affidavit About Apple Application records dated February 12, 2024 (Exhibit 15, attached hereto)
 - ii. McGee(HSA)_00001A-3A (Exhibit 16, attached hereto)
 - iii. Sixth Supplemental Affidavit of John Bumgarner, ¶¶ 23 - 28 (Exhibit 33, attached hereto)

- g. On May 28, 2021, Respondent purchased a RXAMYDE Wi-Fi Mini Spy Hidden Camera with audio. Respondent lacks information about the use and location of this device. Accordingly, this device is not available for an analysis to occur of whether it was one of devices identified on the Router log at the 664 McCutchen Street residence, or ever used in the residence.

- i. McGee(HSA)_00001A (Exhibit 16, attached hereto)
- ii. Email purchase receipt at 2073-2078 (Exhibit 30, attached hereto)
- iii. Respondent's Affidavit About Apple Application records dated February 12, 2024 (Exhibit 15, attached hereto)

V. DEVICES WITH HIDDEN CAMERAS THAT DO NOT HAVE AUDIO (AND THEREFORE THE HOMELAND SECURITY ACT DOES NOT APPLY)

- a. On May 28, 2021, Respondent purchased a SCS Enterprises Fan from Amazon Wi-Fi and remote management capability using the IOT Living application. This device is in Respondent's possession, but has not been requested by Appellant for analysis.

- i. McGee(HSA)_00001A (Exhibit 16, attached hereto)

- b. In July 2021, Respondent purchased four (4) SCS WF-113 Spy Cameras with Wi-Fi remote management capability using the IOT Living application, but no audio from Amazon. Two of the devices are in Respondent's possession, but they have not been requested by Appellant for analysis. The remaining two device locations are unknown by Respondent.

- i. McGee(HSA)_02087-02092 (Exhibit 28, attached hereto)

- ii. McGee(HAS) 0001A-00002A (Exhibit 16, attached hereto)

- iii. Sixth Supplemental Affidavit of John Bumgarner, ¶¶ 23 - 28 (Exhibit 33, attached hereto)

- c. On July 23, 2023, Appellant discovered a SCS WF-113 Spy Camera without audio in her garage at the 664 McCutchen Street residence.

- i. Mother's Affidavit dated August 29, 2023 (Exhibit 29, attached hereto)

- ii. McGee(HSA)_00001A (Exhibit 16, attached hereto)

VI. Conclusion

Should the Court of Appeals determine that additional proposed findings and/or discovery is necessary, the Undersigned remains available and ready to perform any additional directives in this matter from the Court of Appeals.

By: 

SPIROS S. FERDERIGOS
JUDGE, FAMILY COURT

May 3, 2024

cc (by E-mail only):

Pete Currence
pete@mscmlaw.com

Matt Abee
matt.abee@nelsonmullins.com

Elizabeth Stringer
liz@stringerlaw.us

Jerry Theos
jerry@theoslaw.com

Brittany Point
brittany@theoslaw.com

Marie-Louise Ramsdale
ml@ramsdalelaw.com

STATE OF SOUTH CAROLINA) IN THE FAMILY COURT OF THE
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
) CASE NO: 2022-DR-10-3072
Justin McGee,)
))
Plaintiff,) INTERIM ORDER
vs.)
))
Lindsay F. McGee,)
))
Defendant.)

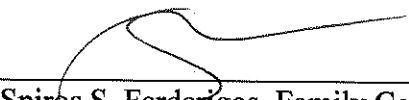
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JULIE J. ARMSTRONG
CLERK OF COURT

By South Carolina Court of Appeals (Court of Appeals) order filed June 10, 2024, the Court of Appeals certified the family court “to supervise further discovery regarding these recordings [the preserved over 5,000 recordings from a CAMDUCK device] and to issue a report with its proposed findings as to (1) the content of the recordings, and (2) whether any of the recordings were intercepted in violation of the Act.” The Court of Appeals further ordered that the “family court shall consult with the parties in any manner it deems appropriate to determine which party bears the costs of analyzing the recordings, and shall oversee completion of this analysis within sixty (60) days of the date of this order.” The Court of Appeals also allowed a time frame for the family court to conduct an evidentiary hearing and allow the parties to examine any witnesses deemed relevant to the motion to suppress.

The Court is hereby scheduling a status conference to be heard in-person at the Charleston County Judicial Complex, 2nd Floor, 100 Broad Street, Charleston, SC 29401 (or by virtual Web Ex if requested by the parties and subsequently allowed by the Undersigned) on **Friday, June 21, 2024 at 12:30 pm**. The Court is further ordering Defendant’s counsel to file a stipulation with the Clerk of Court by **Wednesday, June 19, 2024 at 4:00 pm** that indicates the number of hours of video contained in the 5,000 plus CAMDUCK recordings preserved by Defendant’s expert(s) to the best of counsel’s knowledge. The Court anticipates appointing a special referee to review the 5,000 plus CAMDUCK recordings and apportioning the cost for such review at the status conference pursuant to the Court of Appeals certification filed June 10, 2024. This order does not prohibit the parties from consulting with one another to attempt to agree upon an individual for the Court’s consideration to act as a proposed special referee.

IT IS SO ORDERED.

This 11 day of June, 2024
Charleston, South Carolina


Spiros S. Ferderigos, Family Court Judge
Ninth Judicial Circuit