

THE STATE OF SOUTH CAROLINA
In The Supreme Court

ON APPEAL FROM THE REVIEWING AUTHORITY
The Honorable Chief Judge H. Bruce Williams

Case No. 2023-001376
Related Case No. 2022-DR-10-03072

Justin McGeeAppellant,

v.

Lindsay F. McGee.....Respondent.

Motion to Transfer or Certify from the Court of Appeals

This case arises under the South Carolina Homeland Security Act, S.C. Code Ann. §§ 17-30-10 *through* -145 (“the Homeland Security Act”). Under Section 17-30-110 of the Homeland Security Act, the “Reviewing Authority”—defined in S.C. Code Ann. § 17-30-10(9) as a three-judge panel of the Court of Appeals—entertained a Motion and Amended Motion to Suppress Evidence filed by Respondent-Petitioner Lindsay F. McGee (“Wife”).

Because of the novel nature of proceedings under the Homeland Security Act, the procedural mechanism to enable appellate review is unclear. Out of an abundance of caution, Appellant-Respondent Justin McGee (“Husband”) contemporaneously files his Notice of Appeal with the South Carolina Court of Appeals from the decision of the Reviewing Authority under Rule 203(d)(1), SCACR; a Petition for a Writ of Certiorari with this Court under Rules 242 and 245, SCACR; and this Motion to Transfer or Certify from the Court of Appeals with this Court under Rules 204 and 214, SCACR.

This Court has discretion to certify any case pending before the Court of Appeals and transfer the case for review by this Court before it has been determined by the Court of Appeals. *See* Rule 204(b), SCACR. As discussed below and in Husband's Petition for a Writ of Certiorari filed contemporaneously with this Motion, the Court should certify this case review by this Court for the following reasons:

1. At issue is whether the Court of Appeals has original jurisdiction to consider matters under the Homeland Security Act, the proper procedure for those actions, and the proper intent and related standards for such actions.

2. Because those issues have been incorrectly resolved in an unpublished Order from the Reviewing Authority, potentially a separate quasi-judicial body from the Court of Appeals, Husband cautiously files his Petition for a Writ of Certiorari with this Court, but also a traditional appeal to the Court of Appeals, which he seeks to transfer to this Court and consolidate with the certiorari proceedings.

3. The Court of Appeals' exercise of original jurisdiction of a motion to suppress under the Homeland Security Act in the civil context presents a novel issue of law that is a matter of significant public interest impacting more than just the parties before the Court.

4. The Court of Appeals' orders negatively impact the parties and their three minor children. The Court of Appeals stayed the parties' underlying divorce and custody action back in 2023 and the matter remained stayed until the Court of Appeals surprisingly ruled on the merits in August 2025, notwithstanding Husband's unopposed Motion to Lift the Stay filed in June 2024. As a result of the stay, the children's issues have not been addressed in any way, there is no primary legal custodian for the children, and the children have been left in legal limbo with no ability for redress for over three years. For the parties' youngest child, now age six, nearly 40% of her life

has been tied up by these “expedited” proceedings in the purported original jurisdiction of the Court of Appeals.

5. Certification is warranted because this case involves issues of significant public interest and legal principles of major importance, including issues of first impression in South Carolina. Rule 204(b), SCACR.

Conclusion

For the reasons stated above, Husband respectfully requests that the Court grant this motion, certify the case for review by this Court, and order that jurisdiction over this case be transferred from the Court of Appeals so that it may be consolidated with Husband’s pending Petition for a Writ of Certiorari.

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Columbia, South Carolina
February 20, 2026

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SC Court of Appeals

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Proof of Service

I, the undersigned partner of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondent Justin McGee, certify that I have served all counsel in this action with a copy of the document(s) set forth below by email under *In re Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules*, Appellate Case No. 2020-000447 (April 24, 2024):

Document(s): **Petition for a Writ of Certiorari
Motion to Transfer or Certify**

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