RECEIVED
Mar 20 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Appellate Case No. 2026-000472
Original Case No. 2023-001376
Related Case No. 2022-DR-10-03072

Justin McGee ....Appellant,

v.

Lindsay F. McGee..Respondent.

Appellant's Memorandum of Immediate Appealability

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"). Appellant-Respondent Justin McGee ("Husband") opposed the motions and this Court referred the matter to the Honorable Spiros Ferderigos, Family Court Judge ("Special Referee"). The parties then engaged in three years of litigation all while their divorce and custody proceedings were stayed.

Despite repeated requests, however, that litigation never involved depositions of Wife or her purported experts, and did not involve any type of evidentiary hearing, much less a jury trial on Wife's claims. Instead, the Reviewing Authority—without any hearing, oral argument, briefing on the merits of Wife's claims, or indication that it was even considering the merits—issued its

Suppression Order on August 20, 2025, and then denied Husband's Petition for Rehearing and Rehearing *En Banc* on January 21, 2026. The Reviewing Authority held Husband "responsible for using [the Camduck Device] to intercept Wife's oral communications." (Suppression Order at 3.) It also concluded that Husband used that information "as a basis for his divorce action," but directed that any "further motions concerning these cases should be addressed to the family court." (*Id.* at 3.) Without belaboring the obvious, Husband disputes those conclusions.

Husband timely appealed to this Court from the Reviewing Authority. Because of the uncertain jurisdictional and procedural issues related to proceedings under the Homeland Security Act, Husband simultaneously filed a Petition for a Writ of Certiorari with the South Carolina Supreme Court under Rules 242 and 245, SCACR, and a Motion to Transfer or Certify from the Court of Appeals with the South Carolina Supreme Court under Rules 204 and 214, SCACR.

Husband's appeal to this Court is appropriate. The 13 orders from which Husband Appeals—six from the Reviewing Authority and seven from the Special Referee—are immediately appealable because the Reviewing Authority's Suppression Order:

- is a final order that is immediately appealable to this Court;
- affects Husband's substantial rights by depriving him of a jury trial and due process;
- in effect determines the merits of Wife's Homeland Security Act claims before this Court and the federal court, and limits Husband's appellate remedies; and
- has the effect of striking a pleading in the collateral divorce and custody action.

To the extent that this Court has any doubts about appealability, Husband respectfully requests that the Court authorize the transfer of this appeal to the South Carolina Supreme Court or defer ruling on appealability until that Court rules on Appellant's Petition for Writ of Certiorari.

Factual and Procedural Background

Husband and Wife were married on March 10, 2012. The couple had three children and lived together in Charleston County until their May 2022 separation. In October 2022, Husband filed for divorce on the ground of adultery, which Wife has admitted in an affidavit filed with the Reviewing Authority and in the Charleston County Family Court.

On September 1, 2023, Wife filed an Amended Motion to Suppress Evidence with the Reviewing Authority, a three-judge panel of this Court, under (1) the Homeland Security Act; (2) the Wire and Electronic Communications Interception and Interception of Oral Communications Act, 18 U.S.C. §§ 2510–23 ("the Federal Act"); (3) the Stored Communications Act, 18 U.S.C. §§ 2701–13; and (4) the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.[1] Husband promptly moved to dismiss, which the Reviewing Authority denied. It instead certified this matter to the Special Referee for supervising discovery and filing a report and proposed findings.

After roughly five months of limited discovery during which the underlying family court proceedings were stayed, the Special Referee issued his Report and Proposed findings dated May 3, 2024 (the "Report"). Husband filed exceptions to the Report. Wife did not, thereby waiving any adverse findings in the Report. A month after the Report was issued, the Reviewing Authority again certified issues to the Special Referee for resolution. Following the Reviewing Authority's second certification, the Special Referee held a status conference. After the Special Referee heard

[1] Wife has since abandoned her claims under the Federal Act, Stored Communications Act, and the Computer Fraud and Abuse Act because the Reviewing Authority lacked jurisdiction to entertain those claims in its purported original jurisdiction under the Homeland Security Act. *See Cronin v. Cronin*, Case No. 2023-000959, Order at 2 n.1 (Ct. App. Sept. 6, 2023) (explaining that as the Court of Appeals lacks jurisdiction to entertain claims under anything but the Homeland Security Act in response to a Motion to Suppress). And as detailed in Husband's Petition for Writ of Certiorari, Wife has also abandoned claims that all but one camera—a device the parties call the "Camduck"—is cognizable under the Homeland Security Act because those cameras do not record audio. (Pet. Writ Cert. at 4, 17.)

arguments from the parties' counsel, Wife filed a belated reconsideration motion with the Reviewing Authority seeking clarification of its prior certification ruling. As directed by the Reviewing Authority, the parties filed briefs about whether the contents of recordings Wife purportedly found were necessary for the action.

The Reviewing Authority then issued its Suppression Order without having received the contents of the recordings or briefing on the merits or holding argument. In that order, the Reviewing Authority concluded that Husband placed the Camduck Device in Wife's bedroom and was "responsible for using it to intercept Wife's oral communications." (Suppression Order at 3.) It also concluded that Husband used that information "as a basis for his divorce action," but declined to specify which communications or information needed to be suppressed. It instead ruled that "Wife may present any intercepted oral communications from the [Camduck] to the family court to demonstrate which portions of Husband's allegations were derived from the intercepted communications," and ruled that any "further motions concerning these cases should be addressed to the family court." (*Id.*) The Reviewing Authority denied Wife's requests for attorneys' fees and to seal any communications. (*Id.*)

On September 2, 2025, Husband timely petitioned for rehearing, rehearing *en banc*, reconsideration, and a stay. On January 21, 2026, the Court of Appeals issued its Order denying Husband's rehearing petition in full. Husband then filed this appeal and a Petition for Writ of Certiorari, both under the certiorari rule and in the Supreme Court's original jurisdiction.

Argument

Our Supreme Court has recognized that "by its nature, the question of whether an order is immediately appealable is determined on a *case-by-case basis*." *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019) (emphasis added); *Morrow v. Fundamental Long-Term Care*

Holdings, LLC, 412 S.C. 534, 538, 773 S.E.2d 144, 146 (2015) ("By its nature, the question of whether an order is immediately appealable is determined on a case-by-case basis."). In addition to that case-by-case analysis, any review "of trial court orders is not constrained by how the order is styled." *Morrow*, 412 S.C. at 539, 773 S.E.2d at 147 (citing *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 304, 705 S.E.2d 475, 479 (Ct. App. 2011) ("[A]n appellate court should look to the effect of an interlocutory order to determine its appealability.")); *accord Wetzel v. Woodside Dev. Ltd. P'ship*, 364 S.C. 589, 592, 615 S.E.2d 437, 438 (2005). The Court is "therefore free to evaluate the trial court's order as what it is—not merely what it appears to be—and hold that it is one which is immediately appealable." *Morrow*, 412 S.C. at 540, 773 S.E.2d at 147.

In addition to appeals from final orders, South Carolina law allows interlocutory appeals from four types of orders: (1) an order "involving the merits"; (2) an order "affecting a substantial right"; (3) an order granting or denying an injunction; and (4) an order granting or denying the appointment of a receiver. S.C. Code Ann. § 14-3-330. For example, an appellate court may find an order is "in the nature of an injunction"—and thus is immediately appealable—although the order is not formally labeled as an injunction. *See Eldridge v. City of Greenwood*, 308 S.C. 125, 127, 417 S.E.2d 532, 534 (1992) (finding an interlocutory order "was in the nature of an injunction" and, thus, immediately appealable).

The Reviewing Authority's Suppression Order is appealable. Not only is it a final order, but it also falls under the other exceptions permitting interlocutory appeal. To the extent that this Court may have doubts about appealability, however, Husband respectfully requests that this Court address appealability along with the merits of this direct appeal, authorize the transfer of this appeal to the Supreme Court, or defer ruling on appealability until the Supreme Court passes on Husband's Motion to Transfer and his Petition for Writ of Certiorari.

I. The Reviewing Authority's Suppression Order is a final order that involves the merits of Wife's claims and is reviewable under Section 14-3-330(1).

An interlocutory order "involves the merits" and is appealable if it "finally determine[s] some substantial matter forming the whole or a part of some cause of action or defense." *Edwards v. SunCom*, 369 S.C. 91, 94, 631 S.E.2d 529, 530 (2006) (quoting *Mid–State Distribs. v. Century Importers, Inc*., 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993)). An order "involves the merits" for purposes of S.C. Code Ann. § 14-3-330(1) when it "finally determines some substantial matter forming the whole or part of some cause of action or defense." *Watson v. Underwood*, 407 S.C. 443, 458, 756 S.E.2d 155, 163 (Ct. App. 2014) (citing *Ex parte Cap. U-Drive-It, Inc.*, 369 S.C. 1, 7, 630 S.E.2d 464, 467 (2006)); *Duncan v. Gov't Employees Ins. Co.*, 331 S.C. 484, 485, 449 S.E.2d 580, 580 (1994).

No South Carolina appellate court has addressed the appealability of a Suppression Order in a civil case like the one at issue here. Our Supreme Court has, however, addressed orders issued under the Homeland Security Act, S.C. Code Ann. § 17-30-110, twice before, albeit in the criminal context. *See State v. Whitner*, 399 S.C. 547, 551, 732 S.E.2d 861, 863 (2012); *State v. Bixby*, 388 S.C. 528, 548–49, 698 S.E.2d 572, 583 (2010).[2] In the criminal context, the State may appeal interlocutory pretrial orders suppressing "evidence which significantly impairs the prosecution of a criminal case." *State v. Looper*, 421 S.C. 384, 387, 807 S.E.2d 203, 204 (2017) (quoting *State v. McKnight*, 287 S.C. 167, 168, 337 S.E.2d 208, 209 (1985)). *Looper* and *McKnight* cite no separate authority for this right of immediate appeal. Instead, both rely on the very same statute Husband relies on here: Section 14-3-330(2)(a). While the context may be different, the reasoning

[2] The distinction between civil and criminal proceedings forms a large basis for Husband's appeal, though the Reviewing Authority declined to hold such a distinction mattered. So that distinction should not prevent this Court from addressing the merits here, regardless of the confusing, and potentially compartmentalized, structure of the Homeland Security Act.

permitting the appeal is the same when the tribunal below issues an order suppressing evidence that would significantly impair the litigation of the case. *Looper*, 421 S.C. at 387, 807 S.E.2d at 204.

The Suppression Order satisfies that standard because it is not a tentative procedural ruling; it is the Reviewing Authority's merits adjudication of the suppression claim brought under the Homeland Security Act. That the Suppression Order resolves Wife's Amended Motion to Suppress in that the Homeland Security Act formed the basis for Wife involving the Reviewing Authority's jurisdiction in the first place. The Suppression Order makes merits findings unsupported in the record—that Husband placed the Camduck Device, intercepted Wife's oral communications, and used derivative information to file for divorce—and grants some of the relief Wife sought after she amended her filings several times—suppression of identified intercepted oral communications. Although it left to the Family Court to decide the extent of the material to be suppressed, it still ordered the relief Wife sought: suppression.

Under the test referenced in *Duncan*, this is precisely the kind of order that "finally determine[s]" a substantial matter forming a dispositive part of Wife's suppression claim. *Duncan*, 331 S.C. at 485, 449 S.E.2d at 580 ("An order involving the merits "must finally determine some substantial matter forming the whole or a part of some cause of action or defense in the case in which the order is entitled." (quotation omitted)). And under *Stone*, this Court's review is appropriate because the Reviewing Authority's merits determination resolves a foundational issue that shapes (and likely effectively controls) other litigation between the parties, potentially even the separate federal litigation between those same parties. *Stone*, 426 S.C. at 295, 826 S.E.2d at 870. Put another way, the Suppression Order could be interpreted as the functional equivalent of a resolution of Wife's claims on the merits.

II. The Reviewing Authority's Suppression Order also affects Husband's substantial rights and is reviewable under Section 14-3-330(2).

South Carolina's appellate jurisdiction statute provides that an "order affecting a substantial right" is immediately appealable if it "in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action," or "strikes out an answer or any part thereof or any pleading in any action[.]" S.C. Code Ann. § 14-3-330(2)(a), (c). The provisions within Section 14-3-330 are not exclusive, and a ruling may fall into more than one subsection. *See Link v. School Dist. of Pickens Cnty.*, 302 S.C. 1, 6, 393 S.E.2d 176, 178 (1990).

Because the Reviewing Authority's Suppression Order fits both subsection (a) and (c), the order is immediately reviewable by this Court.

A. The Suppression Order affects Husband's substantial rights.

An interlocutory order also "affects a substantial right" if it "in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action." S.C. Code Ann. § 14-3-330(2); *Duncan*, 331 S.C. at 485, 449 S.E.2d at 580. To be immediately appealable, an order affects a substantial right if it "removes a material issue from the case, thereby preventing the issue from being litigated on the merits, and preventing the party from seeking to correct any errors in the order during or after trial." *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479.

"In a well-established exception to the general rule," the Supreme Court "repeatedly ha[s] held that the denial of a party's right to a particular mode of trial is immediately appealable as a substantial right." *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005). For example, the denial of the right to a trial by jury is immediately appealable. *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 93, 529 S.E.2d 11, 13 (2000). Originally, our Supreme Court limited this "mode of trial" concept to orders depriving a party of its right to a jury trial. *See, e.g.*, *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 72, 533 S.E.2d 331, 333 (2000) (explaining

the "mode of trial" analysis "proceeds by determining whether or not a party is erroneously denied a trial by jury in a law case, or is erroneously required to proceed before a jury in an equity case"). But more recently, our Supreme Court has loosened the concept and applied it to other situations. *See Salmonsen v. CGD, Inc.*, 377 S.C. 442, 452, 661 S.E.2d 81, 87 (2008) (finding certain "opt-in" procedures in a class action affect a substantial right and must be immediately appealed); *Hagood*, 362 S.C. at 197–98, 607 S.E.2d at 710 (finding an order disqualifying a party's chosen attorney in a civil case affects a substantial right and must be immediately appealed).

The "affecting substantial rights" exception does not just apply to the mode of trial. This Court also confirmed that an order implicating a party's constitutional rights is immediately appealable too. *E.g.*, *Bateman v. Rouse*, 358 S.C. 667, 675, 596 S.E.2d 386, 390 (Ct. App. 2004). In determining appealability under this exception, courts "focus on the effect of the order, not the label given to the motion or to the order granting it" to determine whether it is immediately appealable. *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 303, 705 S.E.2d 475, 478 (Ct. App. 2011); *see also Wetzel v. Woodside Dev. Ltd. P'ship*, 364 S.C. 589, 592, 615 S.E.2d 437, 438 (2005) (focusing on effect of otherwise unappealable order to granting motion to set aside default).

Here, the constitutional guarantees to a jury trial and to due process are implicated. The South Carolina Constitution and court rules requires that the right to a jury trial be fully protected. *See* S.C. Const. art. I, § 14 ("The right of trial by jury shall be preserved inviolate."); Rule 38, SCRCP. So too does the constitution impose its own due process protections similar to that of the federal Constitution. S.C. Const. art. I, § 3. Both constitutional protections are implicated here. The summary procedure used by the Reviewing Authority and the Special Referee prohibited Husband from a trial by jury on Wife's claims. That same procedure also deprived Husband of due process in that the Special Referee prevented him from conducting reasonable requested

written discovery, deposing Wife or her purported experts, and from any type of evidentiary hearing on the merits of Wife's claims. And before the Reviewing Authority, Husband was not even given notice that the court was planning to consider the merits of Wife's arguments. Following the procedurally improper quasi-motion to reconsider Wife filed, the Reviewing Authority indicated Wife had merely established it was *possible* Husband was responsible for placing the Camduck device but asked for briefing about whether dismissal of Wife's claims was proper given she never presented the recordings to the Court for review. The parties filed briefs on that single issue but never briefed the merits of Wife's claims or the flaws in the Special Referee's Report. The Reviewing Authority failed to hold oral argument or otherwise entertain briefing on the merits of Wife's claims before deciding them in a summary fashion. In so doing, the Reviewing Authority affected Husband's substantial constitutional rights, making the Suppression Order reviewable by this Court under S.C. Code Ann. § 14-3-330(2).[3]

B. The Suppression Order in effect determines the action and limits Husband's appellate remedies.

For many of the same reasons why the Suppression Order is final, it also has the effect of determining the action no matter how the Court may classify that action. Here, Wife's Amended Motion to Suppress sought, in part, factual findings that "the intercepted communications violate the law," that "any action by the trial court below be stayed," for a determination that Husband "used unlawfully, obtained information to advance his case," and attorneys' fees. (Am. Mot. Suppress ¶¶ 30–39.) The Reviewing Authority gave Wife what she requested by issuing its findings. Indeed, it granted Wife's motion and ordered suppression: "We grant Wife's motion to

[3] For similar reasons, the Suppression Order is reviewable under S.C. Code Ann. § 14-3-330(3) to the extent that motions to suppress under the Reviewing Authority's purported civil jurisdiction is a "special proceeding" or one "upon summary application[.]"

suppress the oral communications intercepted through the Device in which Husband was not a party." (Suppression Order at 3.)

This appeal is not much different from the appeal in *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019). There, the lower court bifurcated the proceedings and resolved an issue of common law marriage, leaving other claims related to that marriage to be decided later. *Id.* at 293–94, 826 S.E.2d at 869. Although this Court originally dismissed, our Supreme Court reversed, holding that the trial court's finding of a common law marriage was "substantial, not only as a part of the causes of action, but also in terms of the larger effects of marriage across other areas of law." *Id.* at 295, 826 S.E.2d at 870. The same rationale applies here. Wife may argue there is more to do in the Family Court about the actual suppression of evidence. Not necessarily so. The Reviewing Authority's decision that Husband violated the Homeland Security Act—and he did no such thing, for the reasons set forth in his Petition for Writ of Certiorari—resolves a substantial portion of the case as it relates to Wife's cause of action as well as the larger effects that ruling will have across other litigation between the parties. So too will that ruling potentially impact other areas of law affecting other non-parties, as this Court continues to be flooded with claims under the Homeland Security Act within the divorce and custody context.

Not only does the Court's Suppression Order affect Husband's substantial rights and effectively determine the action, but that order on a summary record may very well impact the other civil litigation between the parties. While the discovery was pending before the Special Referee, Wife filed a civil action against Husband before the Circuit Court. Husband removed the action to federal court, where it remains pending. *See McGee v. McGee*, No. 2:24-cv-01659-RMG (filed Feb. 28, 2024, and timely removed April 2, 2024). There, Wife seeks compensatory and statutory damages, attorneys' fees, costs, and punitive damages from Husband. The federal action

remains stayed, though Wife has already filed the Suppression Order with the federal court. Husband's substantial rights in that action may be directly impacted by the Suppression Order.

Accordingly, an appeal only after the final judgment is not adequate to protect Husband's interests. *See Hagood*, 362 S.C. at 197, 607 S.E.2d at 710 ("[A]n appeal after final judgment would not adequately protect a party's interests because it would be difficult or impossible for a litigant or an appellate court to ascertain whether prejudice resulted from the lack of a preferred attorney."). Not allowing the appeal affects Husband because it would limit his appellate remedies were he to later litigate and try to appeal the impact of this decision on that collateral litigation. *Morrow*, 412 S.C. at 539, 773 S.E.2d at 146. State law cannot leave a litigant without a right of appellate review merely because of the summary procedure a court chooses to impose.

C. The Suppression Order has the effect of striking a pleading.

Before the Special Referee, Wife sought suppression of the "entire complaint" and "all evidence of her parenting," among other things. That said, the Reviewing Authority did leave for the Family Court to address any "further motions," but the balance of its Suppression Order allows Wife to try 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." While Husband maintains such a holding and directive is improper and violates the Homeland Security Act, this provision has the effect of striking Husband's pleading in the divorce action in that the Reviewing Authority mistakenly concluded "Husband used information derived from these communications as a basis for his divorce action." (Suppression Order at 3.)

The question of appealability focuses on the effect of the order, not what labels may be placed on it. *Morrow*, 412 S.C. at 539, 773 S.E.2d at 146. The effect of the suppression ordered

here is like a sanctions order, which our appellate courts have reviewed on appeal before. *Ex parte Bon Secours-St. Francis Xavier Hosp., Inc.*, 393 S.C. 590, 594, 713 S.E.2d 624, 626 (2011) (addressing appeal from sanctions order); *Balloon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 154, 399 S.E.2d 439, 440 (Ct. App. 1990) (reviewing an interlocutory appeal from a sanctions order striking a pleading); *Hagood*, 362 S.C. at 195, 607 S.E.2d at 709.

For these reasons as well, the Suppression Order is properly appealed.

III. Because the Suppression Order is immediately appealable, the Court may review the remaining interlocutory orders issued by the Reviewing Authority and the Special Referee.

If an interlocutory order is immediately appealable, an appellate court may consider other interlocutory orders alongside the immediately appealable order even if the other orders are not appealable. *See QZO, Inc. v. Moyer*, 358 S.C. 246, 594 S.E.2d 541 (Ct. App. 2004) (explaining the denial of a motion to dismiss for lack of personal jurisdiction can be considered if another appealable issue is before the appellate court); *see also* S.C. Code Ann. § 14-3-430 ("Upon an appeal under item (3) of Section 14-3-330 the court may review any intermediate order involving the merits and necessarily affecting the order appealed from."). "An order that is not directly appealable will nonetheless be considered if there is an appealable issue before the court and a ruling on appeal will avoid unnecessary litigation." *Watson*, 407 S.C. at 459, 756 S.E.2d at 163 (quotation and alteration omitted).

As long as one aspect of an order is appealable, the entire order should be considered upon appeal. *See Ferguson v. Charleston Lincoln Mercury, Inc.*, 349 S.C. 558, 565, 564 S.E.2d 94, 98 (2002) ("This Court reviews interlocutory orders when they contain other appealable issues.") (citation omitted), *overruled on other grounds by Hughes on behalf of Est. of Hughes v. Bank of Am. Nat'l Ass'n*, 442 S.C. 113, 139, 898 S.E.2d 102, 116 (2024); *Rice Hope Plantation v. S.C.*

Pub. Serv. Auth., 216 S.C. 500, 511, 59 S.E.2d 132, 136 (1950) ("We have here a single order from a part of which an appeal admittedly will lie, but it is manifest that the entire order should be considered upon this appeal; and the cases cited are sufficient to support this conclusion."), *overruled on other grounds*, *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985).

Here, there is an appealable order and appealable issues—the Suppression Order's finding on the central issue of the Homeland Security Act violation and that suppression must occur—and this Court's simultaneous consideration of the underlying erroneous orders will spare the lower court and the parties from expending needless resources litigating what could otherwise be resolved by this Court. Thus, this Court should determine the matter before it is reviewable and that the other interlocutory issues may also be considered on appeal.

IV. The Court should authorize the transfer of this action to the South Carolina Supreme Court or defer ruling on appealability until that Court rules on Husband's Petition for Writ of Certiorari.

Because of the novel nature of proceedings under the Homeland Security Act, the procedural mechanism to enable appellate review is unclear. To be cautious, Husband filed on February 20, 2026, a Notice of Appeal with this Court from the decisions of the Reviewing Authority and the Special Referee under Rule 203(d)(1), SCACR; a Petition for a Writ of Certiorari with the South Carolina Supreme Court under both Rules 242 and 245, SCACR; and a Motion to Transfer or Certify from the Court of Appeals with the South Carolina Supreme Court under Rules 204 and 214, SCACR. Wife did not oppose the Motion to Transfer or Certify. Her response to the Petition for Writ of Certiorari is due this coming Monday.

These proceedings have already been pending for nearly 31 months. A delay of another one or two months while the Supreme Court considers Husband's Petition would not unduly prejudice the parties at this point. And such a minimal delay would avoid the possibility of any

further jurisdictional or procedural morass that may result from dismissing this appeal while Husband's Petition is pending. Thus, Husband requests that this Court either authorize the transfer of this appeal to the Supreme Court or defer ruling on appealability until either the merits briefing or when the Supreme Court acts on Husband's Petition for Writ of Certiorari.

Conclusion

Appealability must be determined on a case-by-case basis. *Stone*, 426 S.C. at 295, 826 S.E.2d at 870. This appeal presents a unique case, factually and procedurally. Taken as a whole, the Reviewing Authority's Suppression Order and remaining orders are properly appealable and should be heard by this Court.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: */s/ Matthew A. Abee*
Matthew A. Abee, SC Bar No. 101100
E-Mail: matt.abee@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorney for Petitioner Justin McGee

Columbia, South Carolina
March 20, 2026

RECEIVED
Mar 20 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Appellate Case No. 2026-000472
Original Case No. 2023-001376
Related Case No. 2022-DR-10-03072

Justin McGee ....Appellant,

v.

Lindsay F. McGee...Respondent.

Proof of Service

I, the undersigned partner of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant 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): **Appellant's Memorandum of Immediate Appealability**

Counsel Served:

Peter G. Currence
3806 Kilbourne Rd
Columbia, SC 29205
pete@pgcmediation.com
pete@mscmlaw.com

Richard G. Whiting
Law Offices of Richard Whiting
1515 Lady Street
Columbia, SC 29201
dick.whiting@whitinglawsc.com
bonnie.kyzer@whitinglawsc.com

Brandon R. Gottschall
Hubbard & Gotschall Law
1320 Main Street, Suite 300
Columbia, South Carolina 29201
brg@hglawsc.com
aek@hglawsc.com
vlp@hglawsc.com

Counsel for Petitioner

Elizabeth J. Stringer
Elizabeth J. Stringer LLC
PO Box 12370
Charleston, SC 29422-2370
liz@stringerlaw.us

Guardian ad litem

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: */s/ Matthew A. Abee*
Matthew A. Abee, SC Bar No. 101100
E-Mail: matt.abee@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

THEOS LAW FIRM, LLC
Jerry N. Theos, SC Bar No. 5518
E-Mail: jerry@theoslaw.com
Brittany M. Point, SC Bar No. 103976
E-Mail: brittany@theoslaw.com
11 State Street
Charleston, SC 29401
(843) 577-7046

Attorney for Petitioner Justin McGee

Columbia, South Carolina
March 20, 2026