

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable Charles J. McCutchen

Appellate Case No. 2025-000705

RECEIVED

MAR 26 2026

SC Court of Appeals

James S. Patton,

Appellant,

v.

Kera R. Selzer and Dustin S. Selzer,

Respondents.

**REPLY TO APPELLANT'S AMENDED RETURN TO RESPONDENTS' MOTION TO
DISMISS**

Respondents, Kera R. Selzer and Dustin S. Selzer, maintain that the Court should grant the Respondents' Motion to Dismiss filed March 2, 2026, because this case is moot. "A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event rendered any grant of effectual relief impossible for the reviewing court. If there is no actual controversy, this Court will not decide moot or academic questions." *Seabrook v. Knox*, 369 S.C. 191, 197, 631 S.E.2d 908, 910 (2006), see also, *Collins Music Co. v. IGT*, 365 S.C. 544, 549, 619 S.E.3d 1, 3 (Ct. App. 2006) (A matter becomes moot when some event occurs making it impossible to grant effectual relief); *Curtis v. State of South Carolina*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001)("Moot appeals differ from unripe appeals in that moot appeals result when intervening events render a case nonjusticiable."). As to

injunctions such as found in the restraining order applicable in this appeal, "the rule that an appellate court limits its review to the issues necessary to a proper disposition of the appeal and will not consider immaterial or moot questions, applies when reviewing decrees and orders relating to injunctions." *Id.*, 549 S.E.2d at 597.

Applying these principals to this case, Respondents argue that the expiration of the restraining order on November 5, 2025, rendered the Appellant's objections to the merits of the restraining order moot. This Court cannot vacate, modify or uphold a restraining order, which by its own terms, expired in November 2025 and no longer has any effect. Since there is no justiciable controversy presently between the parties over said restraining order, Respondents respectfully submit that this appeal is moot and should be dismissed.

Respondents recognize that South Carolina law acknowledges three exceptions to the mootness doctrine. First, if the issue raised is capable of repetition but evading review, an appellate court may take jurisdiction over an issue otherwise moot. *Curtis v. State*, 345 S.C. at 596. Second, "an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest." *Id.* Third, if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the court cannot give effective relief in the present case." *Id.*

Applying these exceptions to the issues in this appeal, the matters existing between Appellant and Respondents were particular, material, and relevant only to those specific individual persons. Such issues and matters are not capable of repetition such that this Court properly ought to establish a rule of law applicable to either Appellant or Respondents in particular, or to other persons in general. This is particularly true in consideration that the grounds for a restraining order between two individuals always depend upon the particular facts and circumstances existing

between such persons. When such persons come before a magistrate, it is important that the magistrate has discretion to weigh the testimony and circumstances of the situation before the magistrate. A magistrate's discretion should be given sufficient latitude so that appropriate relief can be fashioned to avoid further harassment, but also more serious consequences which might occur in the absence of a restraining order.

In this case, the magistrate's decision to issue a restraining order against the Appellant was reviewed and affirmed by the circuit court. Therefore, the review requirement of the legal system has been satisfied. Cf. *Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 630 S.E.2d 474 (2006), and *Midland Guardian Co. v. Thacker*, 280 S.C. 563, 314 S.E.2d 26 (Ct. App. 1984). Because the restraining order was based on a very specific set of facts – see the factual recitation in the parties' briefs – any ruling by this Court would be a prohibited advisory opinion on a unique, past set of events that is unlikely to repeat in the exact same way. See *In the Matter of Angela Suzanne*, 286 S.C. 186, 332 S.E.2d 542 (Ct. App. 1985), in which the Court held: "We are however, unable to glean from the record any demonstrated probability that Angela will ever again be sent to the custody of the Department of Youth Services and placed in a secure facility for violation of the terms of probation without her knowing that she could be so sentenced. We thus hold that there is no reasonable expectation that Angela will be subjected to the same action again." During the appeal to the circuit court in this case, the matters were fully briefed by the parties, and a hearing was held by the circuit court. The facts that supported the issuance of the restraining order were extensive and unlikely to be replicated again. There is no reasonable expectation that the same set of facts will occur again, and the exception does not apply.

Second, there is no "important public interest" presented in review of the restraining order issued against Appellant. The disputes between the Appellant and Respondent were particular and

important to them only. Disputes between persons, to the extent that one seeks a restraining order, should be decided on their individual, particular merits. Lastly, there is no evidence in the record that the prior restraining order against Appellant has any prospective or current effect. Therefore, there are no “future events” or “collateral issues” to Appellant from the expired restraining order that justify further review.

Accordingly, Respondents respectfully submit that none of the three exceptions to the mootness doctrine applies to the issues in this appeal. Therefore, this Court should grant Respondents’ motion to dismiss.

Respectfully Submitted,

s/ J. Creighton Hayes
Hayes and Hayes, LLC
200 Oakland Ave., Suite B
Rock Hill, SC 29730
803-324-2800 phone
chayes@hayesandhayesllc.com
ATTORNEY FOR RESPONDENTS

March 23, 2026

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the within and foregoing Respondents' Reply to Appellant's Amended Return to Respondents' Motion to Dismiss by emailing and depositing a true and correct copy of the same via first-class mail, postage prepaid, upon all parties as follows:

Dayne C. Phillips, Price Benowitz, LLP, 1614 Taylor Street, Suite D, Columbia, SC 29201



Leila Matthews
Paralegal
Hayes and Hayes, LLC
200 Oakland Ave., Suite B
Rock Hill, SC 29730
803-324-2800 phone
803-324-5030 fax
lmatthews@hayesandhayesllc.com

March 23, 2026

Hayes and Hayes L.L.C.

ATTORNEYS AT LAW

Robert W. Hayes, Jr.
whayes@hayesandhayesllc.com

J. Creighton Hayes
chayes@hayesandhayesllc.com

200 OAKLAND AVENUE, SUITE B
ROCK HILL, SOUTH CAROLINA 29730
www.hayesandhayesllc.com

Mailing Address:
P.O. Box 904
Rock Hill, SC 29731-6904
(803) 324-2800
Fax: (803) 324-5030

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SC Court of Appeals

The Honorable Jenny Kitchings
Clerk of Court, SC Court of Appeal
1220 Senate Street
Columbia, SC 29201

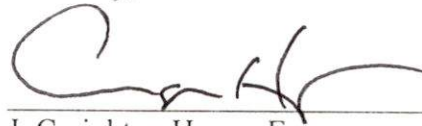
Re: **James S. Patton v. Kera R. Selzer and Dustin S. Selzer**
REPLY TO APPELLANT'S AMENDED RETURN TO RESPONDENTS'
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Appellate Case No. **2025-000705**

Dear Ms. Kitchings:

I have enclosed the original Reply to Appellant's Amended Return to Respondents' Motion to Dismiss, along with a Certificate of Service that I also emailed for filing today in the case referenced above.

Thank you for your assistance with filing these documents. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



J. Creighton Hayes, Esq.
Hayes and Hayes, LLC
200 Oakland Ave., Suite B
Rock Hill, SC 29730
803-324-2800 phone
803-324-5030 fax
chayes@hayesandhayesllc.com

cc: Dayne C. Phillips, Esq.

HAYES & HAYES L.L.C.

ATTORNEYS AT LAW

200 OAKLAND AVENUE, SUITE B
P.O. BOX 904
ROCK HILL, SOUTH CAROLINA 29731-6904



The Honorable Jenny Kitchings
Clerk of Court, SC Court of Appeal
1220 Senate Street
Columbia, SC 29201

