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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Perry H. Gravely, Circuit Court Judge

C.A. No. 2024-CP-23-04179
Appellate Case No. 2025-002531

The State .... Respondent,

v.

Khalil Ibn Thorpe .... Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

Respondent distills this appeal down to the single dispositive issue in light of Appellant's failure to identify issues on appeal in the format required by this Court pursuant to South Carolina Appellate Court Rule 208(b)(1)(B).

I. Whether the Magistrate Court erred in its sentence of Appellant?

STATEMENT OF THE CASE

As in the underlying appellate review, Appellant Khalil Ibn-Thorpe (hereinafter "Appellant" or "Ibn-Thorpe") asks this Court to dismiss with prejudice the charges against him for four counts of cruelty to animals. Respondent County of Greenville, South Carolina, as a body politic under the laws of the State of South Carolina (hereinafter "Respondent" or "County") asserts that this Court should affirm the Magistrate Court's sentence and the Greenville County Court of Common Pleas' affirmation of that sentence.

On June 27, 2024, Appellant pled guilty to four counts of animal cruelty in violation of Greenville County Ordinance § 4-19 pursuant to a plea negotiation with the animal control officer. Appellant appeared before the Magistrate to enter the plea and negotiated sentence. (Magistrate Return, p. 1). Appellant did not raise any concerns or objections at the time he entered his guilty plea and affirmed his desire to proceed *pro se*. *Id*. Appellant was sentenced to the minimum fine of $225.00, on each count for a total of $900.00. Appellant paid $225.00, on June 27, 2024, and entered in to a scheduled time payment agreement for the remaining payment of $675.00 for the remaining three tickets.

Appellant appealed to the Greenville County Court of Common Pleas on July 5, 2024, alleging various conclusory grounds. Following a review of the Magistrate's Return,[1] consideration of oral arguments, and the Magistrate's Supplemental return, the Circuit Court affirmed the Magistrate Court's sentence on November 21, 2025.[2] Respondent requests this Court affirm the Magistrate Court's sentence and the Circuit Court's affirmation of the sentence as no errors of law exist in this case, Appellant failed to preserve issues for appellate review, and Appellant's conclusory grounds are not supported by the record.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Thus, an appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *Id*. In criminal appeals from the magistrate court, the circuit court is bound by the magistrate court's findings of fact if any evidence in the record reasonably supports them. *See City of Greer v. Humble*, 402 S.C. 609, 613, 742 S.E.2d 15, 17 (Ct.App.2013).

Additionally, it is firmly established law that, ordinarily, an issue must be presented to the trial court or it is not preserved for appellate review. *See State v.*

[1] As noted in the Circuit Court's November 21, 2025, Order the Magistrate Return is docketed in C/A No. 2024CP2303579. That improper docketing is the result of a clerical error at the Magistrate level. The content of the Magistrate Return is responsive to both the appeal in C/A No. 2024CP2303579 and this appeal.

[2] The fact that this appeal remained unresolved was brought to the Circuit Court's attention in November 2025 by Ibn-Thorpe's separate appeal of the seizure of 18 dogs in July of 2025 in connection with 25 charges for ill treatment of animals in general, torture, and Animals / Animal Fighting or Baiting Act in the Greenville County Court of General Sessions. Those charges were resolved on or about April 30, 2026, by Ibn-Thorpe's entry of a guilty plea on charges of ill treatment of animals, misdemeanor.

Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal."); *State v. Watts*, 321 S.C. 158, 167, 467 S.E.2d 272, 278 (Ct. App. 1996) ("To be preserved for appellate review, an issue must be both presented to and passed upon by the trial court."). As this Court recognized, this established rule applies in appeals from magistrates court to circuit court. *See State v. Henderson*, 347 S.C. 455, 457, 556 S.E.2d 691, 692 (Ct. App. 2001) ("In criminal appeals from magistrate ... court, the circuit court ... reviews for preserved error raised to it by appropriate [objec]tion." (citing *City of Columbia v. Felder*, 274 S.C. 12, 13, 260 S.E.2d 453, 454 (1979))). An issue not raised to and ruled upon by the court is not preserved for appeal. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998).

Finally, an appellate court may decline to address issues remaining when disposition of a prior issue is dispositive. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999).

ARGUMENT

I. The Magistrate Court did not commit reversable error in accepting Appellant's guilty plea and implementing the negotiated sentence.

Appellant failed to raise the issue of coercion upon direct questioning by the Magistrate Court. As the issue was not raised at the magistrate court level it is not preserved for appellate review.

When acting in an appellate capacity, a South Carolina court must refrain from considering issues that were not raised to and ruled upon by the court below:

> [A] great number of reported cases in South Carolina for at least four generations, and more recently the appellate court rules and rules of civil procedure, have emphasized the importance and absolute necessity of ensuring that all issues and arguments are presented to the lower court for its consideration. Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.

Elam v. SCDOT, 361 S.C. 9, 23, 602 S.E.2d 772, 779-80 (2004). The requirement to preserve issues for appellate review applies equally to criminal cases appealed from a state magistrate court. *See, e.g., State v. Taylor*, 411 S.C. 294, 299, 768 S.E.2d 71, 74 (Ct. App. 2014) ("In criminal appeals from magistrate ... court, the circuit court does not conduct a de novo review, *but instead reviews for preserved error raised to it by appropriate exception*.") (emphasis added). To preserve an issue, the Appellant must both raise the issue to the lower court and obtain a ruling. *E.g.*, *Smith v. NCCI, Inc.*, 369 S.C. 236, 247–48, 631 S.E.2d 268, 274 (Ct. App. 2006) ("When a trial court does not explicitly rule on an argument raised, and the appellant makes no Rule 59(e), SCRCP, motion to obtain a ruling, the appellate court may not address the issue.").

The Magistrate's Return states that on June 27, 2024, Appellant appeared before the Magistrate Judge at which time the court questioned him and he responded, "if the defendant wanted to plead guilty (Yes); was he in fact guilty (Yes); had he been promised anything in exchange to plead guilty that had not been disclosed to the court (No); was he under threat or coercion (No)" and "[T]he defendant raised no objection of any kind that could be subject for later appeal." (Magistrate Return, p.1). The record reflects that Appellant expressly denied that his guilty plea

was the result of threat or coercion, thus the issue was not raised so as to be subject to appellate review.

Even if the issue had been properly preserved for appellate review, Appellant relies on conclusory allegations without citing to any evidence in the record to support his allegation that his guilty plea was the result of coercion and, therefore, involuntary. Under Greenville County Ordinance § 4-19(c), an individual convicted of cruelty to animals forfeits their ownership or custody of the animals. However, in Appellant's case, pursuant to the plea negotiated with the animal control officer, Appellant's animals were returned to him following the entry of his guilty plea. Appellant alleges the promise to return his dogs in exchange for entry of the guilty plea amounted to coercion. Courts have widely recognized the rights of parties to negotiate and exchange promises as part of the plea deal process and those agreements are reviewed under contract principles. "While plea agreements are a matter of criminal jurisprudence, most courts have held they are subject to contract principles." *State v. Miller*, 375 S.C. 370, 389, 652 S.E.2d 444, 454 (Ct. App. 2007). "State prosecutors are obligated to fulfill the promises they make to defendants when those promises serve as inducements to defendants to plead guilty." *Id* (citing *Santobello v. New York*, 404 U.S. 257, 92 S. Ct. 495, 30 L. Ed. 2d 427 (1971)); *see also Sprouse v. State,* 355 S.C. 335, 338, 585 S.E.2d 278, 280 (2003). The animal control officer fulfilled the promise to return the animals upon entry of a guilty plea and Appellant offers no evidence in support of his allegation that the fulfilled promise should constitute coercion rather than prosecutorial inducement.

Appellant raises a claim for "judicial coercion" for the first time in his initial brief. (Appellant's Initial Brief, p.5). At the Circuit Court hearing Appellant alleged coercion by the animal control officers not the Magistrate Judge. (Transcript, p.6, ln. 23 - p. 7, ln. 2; p. 7, ln. 19-20; and p. 7, ln. 25 - p. 8, ln.1). Nothing in the record supports Appellant's assertion that the magistrate court ordered his animals be returned to him prior to the entry of his guilty plea. Additionally, the record contradicts Appellant's allegations that a hearing was conducted without proper notice to Appellant. Appellant appears to reference, although without citing any material in the record, the hearing on Respondent's Petition for Continued Custody. The Magistrate Court return includes the Summons personally served on Appellant on May 23, 2024, notifying him of the hearing scheduled for June 3, 2024. (Magistrate Summons). Appellant's own failure to attend the hearing does not support a claim of "judicial coercion", or any other claim asserting violations of his constitutional rights.

The evidence in the record supports the Circuit Court Judge's finding that Appellant failed to establish his claim that his plea was involuntary as the result of coercion.

Appellant's allegations that he did not enter his plea before the Magistrate Judge were not properly preserved for consideration as they were not included in Appellant's Notice of Appeal. Appellant first raised his claim that he did not enter his guilty plea before the Magistrate Judge verbally at the Circuit Court hearing held on October 16, 2024. The Circuit Court did not rule on the issue in its November 21, 2025, Order. That Order states, "At the hearing on this appeal on October 16, 2024,

Appellant failed to establish any of the claims set forth in his Notice of Criminal Appeal (July 5, 2024).” (Circuit Court Order, p. 2). As neither the Magistrate Court nor Circuit Court ruled upon the issue, and Appellant did not file a Rule 59 motion to obtain a ruling on the issue, it was not properly preserved for appellate review.

Further, the record before this Court gives every indication that Appellant did appear before the Magistrate Judge to enter his plea. The Magistrate Judge stated in the Return that Appellant appeared and pled guilty. (Magistrate Return, p.1). The Magistrate's Supplemental Return states, “the tickets in this case were signed off by the clerk that was in the courtroom” and “if this matter had been handled without a hearing, a signed guilty plea form would be in [t]his [c]ourts file. There is no such document. This gives [t]his [c]ourt further confidence that this was handled in the courtroom.” (Magistrate Supplemental Return, p.1). Copies of all four animal cruelty tickets are included in the Magistrate Return, those tickets reflect that Appellant did appear, pled guilty to the charges, and are signed off by the Judge's clerk. (Animal Control Tickets). Should this Court entertain Appellant's improperly preserved argument the he did not enter his plea before the Magistrate, the evidence in the record clearly refutes this claim.

II. The Magistrate Court correctly entered and administered Appellant's guilty plea.

The foregoing paragraphs of Respondent's Initial Brief fully address the single dispositive issue in this appeal, the validity of Appellant's guilty plea. As recognized by South Carolina and federal law “[a] guilty plea constitutes a waiver of

nonjurisidictioal defects and claims of violations of constitutional rights." *State v. Rice,* 401 S.C. 330, 332, 737 S.E.2d 485, 485 (2013). The United States Supreme Court offers the following rational,

> [A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.

Tollett v. 8son, 411 U.S. 258, 267, 93 S.Ct. 1602, 36 L.Ed.2d 235 (1973).

As established in the preceding portion of Respondent's brief, Appellant voluntarily entered a guilty plea on June 27, 2024. Since the validity of Appellant's guilty plea operates as a waiver of Appellant's remaining claims, this Court may exercise the discretion to dispose of the remainder of Appellant's appeal. *See Futch*, 335 S.C. at 613, 518 S.E.2d at 598 (an appellate court may decline to address issues remaining when disposition of a prior issue is dispositive).

Out of an abundance of caution in recognition of the Court's liberal reading of *pro se* filings, Respondent briefly dispenses with the remaining arguments raised by Appellant.

A. The Magistrate Court property instructed Appellant on his right to counsel and Appellant elected to proceed *pro se*.

Appellant failed to preserve the issue of counsel for appeal, removing this Court's authority to consider the argument. Alternatively, Appellant received instruction regarding counsel and chose to proceed *pro se*.

The record in this matter is devoid of any evidence that Appellant raised the issue of lack of counsel to the Magistrate Court or obtained a ruling. Rather, the Magistrate's Return, filed in compliance with S.C. Code Ann. § 18-7-60, expressly states, "[T]his count inquired if the defendant…that his attorney had been removed as counsel and did he wish to proceed Pro Se (Yes)." (Magistrate's Return, p.1). Because Appellant failed to establish that he preserved this issue for appellate review, this Court should not consider it and should affirm Appellant's sentence.

Additionally, Appellant expressly chose to relieve his counsel prior to proceeding with his criminal pleas. the Motion to Relieve Counsel filed by the Greenville County Public Defender's Office on February 20, 2024, states, "[D]efendant has adamantly expressed his displeasure with counsel and has unequivocally voiced a desire to represent himself in both of these pending matters."[3] (Motion to Relieve Counsel, p. 1, ¶ 3.). The Order Relieving Counsel, states, "the Public Defender Office is hereby relieved as counsel in each of the above referenced matters and client is free to proceed pro se or hire private counsel." (Order Relieving Counsel). Appellant fails to offer evidence in support of his assertion that he was denied counsel.

B. The Magistrate Court satisfied and maintained constitutional standards regarding judicial decorum through the use of available court resources and facilities.

[3] The Greenville County Public Defender's Office typically does not accept animal control cases, however, an exception was made in this case because the public defender was already representing Thorpe on shoplifting charges when he was charged with animal cruelty.

Appellant incorporates his remaining claims into a one-sentence conclusory list which fails to properly preserve and present issues to this Court for appellate review. (Appellate Initial Brief. p.5). An appellate brief must be divided into as many parts as there are issues to be argued, and an issue is not preserved for appeal if appellant's brief does not conform to these requirements. *See* Rule 208(b)(1)(D), SCACR; *Watson v. Chapman*, 343 S.C. 471, 540 S.E.2d 484 (Ct.App.2000). Further, it is error for the appellate court to consider issues not properly raised to it. *First Sav. Bank v. McLean*, 314 S.C. 361, 444 S.E.2d 513 (1994) (stating appellant must provide authority and supporting arguments for his issue to be considered raised on appeal); *Tirado v. Tirado*, 339 S.C. 649, 530 S.E.2d 128 (Ct.App.2000) (holding that an issue which is not supported by authority or sufficiently argued is not preserved for appellate review).

This Court should likewise refrain from scouring the record and inferring arguments on behalf of Appellant. *See Timpson v. Anderson Cnty. Disabilities & Special Needs Bd.,* 31 F.4th 238, 250 (4th Cir. 2022) (citing *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) (*per curiam*) (explaining that "[j]udges are not like pigs, hunting for truffles buried in [the record]")).

As Appellant failed to separately argue each of his claims they are not preserved for appellate review. Even if the Court graciously waived the formatting requirements of Rule 208(b)(1)(D), SCACR, Appellant fails to articulate any discernable argument as to his claims. As Appellant failed to provide any authority or argument as to these claims the Court should elect not to consider them.

Appellant incorrectly concludes that the lack of a magistrate court transcript renders the record silent as to his guilty plea. (Appellant's Initial Brief, p. 6). The record referenced in case law refers to the entirety of the record on appeal not to a single transcript. Magistrate Court is not a court of record. *See* S.C. Code Ann. § 22-3-730. Pursuant to S.C. Code Ann. § 18-7-60, the record on appeal from a magistrate court judgement requires a magistrate's return. "If the return is deemed defective, 'the appellate court may direct a further or amended return as often as may be necessary and may compel a compliance with its order.'" *A & I, Inc. v. Gore*, 366 S.C. 233, 241, 621 S.E.2d 383, 387 (Ct. App. 2005),(citing S.C. Code Ann. § 18–7–80 (1985)); *see also Chapman v. Computers, Parts, & Repairs, Inc.*, 334 S.C. 387, 390, 513 S.E.2d 120, 122 (Ct.App.1999) (holding that where the magistrate's return is inadequate, the appropriate remedy is for the circuit court to direct the magistrate to file an amended return instead of remanding for a new trial). The appellate courts must review the entirety of the record on appeal to determine whether the lower courts committed an error of law.

Having reviewed the entirety of the record on appeal, including the Magistrate's Supplemental Return, the Circuit Court found that Appellant, "failed to establish any of the claims set forth in his Notice of Criminal Appeal". (Circuit Court Order, Nov. 21, 2025). In the event this Court feels additional information is necessary to determine the validity of Appellant's guilty plea the appropriate remedy is an amended return pursuant to S.C. Code Ann. § 18-7-80, not dismissal of Appellant's charges. Appellants conclusory allegations, submitted without citation to

the record or to legal authority fail. Therefore, this Court should affirm the decisions of the Circuit Court and Magistrate Court.

CONCLUSION

Based on the foregoing discussion and analysis, Respondent respectfully requests that this Court affirm the Order of Circuit Court Judge Perry H. Gravely, which affirmed the June 27, 2024, sentence of Appellant on four counts of cruelty to animals.

Respectfully submitted,

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