

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appellate Case No. 2026-001043

HUGH PARKS PRICE,

Appellant,

v.

REBECCA BARTLEY,

Respondent.

Appeal from the Saluda County Court of Common Pleas

Underlying Civil Action No. 2025-CP-41-00150

[ORDER DATE PLACEHOLDER — April 1, 2026 Order of Dismissal,

Hon. Walton J. McLeod IV, presiding]

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SC Court of Appeals

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STATEMENT OF THE ISSUES ON APPEAL

- I. Whether the trial court erred as a matter of law in dismissing Appellant's claims on the ground that service of process on a civilian Victim's Advocate employed by the Saluda County Sheriff's Department was governed by Rule 4(d)(5), SCRCF — the provision requiring Attorney General service applicable to state officers and agencies — rather than Rule 4(d)(1), SCRCF, which governs service on individuals.
- II. Whether the trial court erred in dismissing for insufficient service when Respondent filed a substantive ten-defense Answer to the merits of every claim, constituting a general appearance that, as a matter of law, waived any objection to the method of service.
- III. Whether the trial court abused its discretion by entertaining and granting Respondent's Motion to Dismiss while Appellant's prior Motion for Entry of Default — filed eighty-four days before Respondent's counsel appeared — remained pending and unresolved, in the absence of any Rule 55(c) motion to set aside the default.
- IV. Whether the extreme remedy of dismissal was warranted where Respondent had ninety-one days of actual, undisputed notice and suffered no prejudice from the alleged service deficiency.

STATEMENT OF THE CASE

Nature of the Action

Appellant Hugh Parks Price, proceeding pro se, brought this individual-capacity tort action against Respondent Rebecca Bartley arising from a course of conduct in which Bartley, employed as a civilian Victim's Advocate by the Saluda County Sheriff's Department, made repeated false and defamatory statements to courts and law enforcement, provided perjured testimony at judicial proceedings, filed unsupported bond petitions, and misused legal process to Appellant's injury.

The Amended Complaint asserted four counts: (I) Defamation/Libel/Slander Per Se; (II) Civil Conspiracy; (III) Malicious Prosecution; and (IV) Abuse of Process.

Procedural History

On July 14, 2025, Appellant filed the original Complaint and Summons against Respondent in the Saluda County Court of Common Pleas, Civil Action No. 2025-CP-41-00150. An Amended Complaint was filed August 12, 2025.

On September 16, 2025, process server Kathrine Thomas personally served Respondent with the Summons and Amended Complaint at Respondent's place of business, 100 Law Enforcement Way, Saluda, South Carolina 29138. A notarized Affidavit of Service, confirming personal delivery directly to Respondent at her place of employment at 2:30 p.m. on September 16, 2025, was filed with the Court.

Respondent's answer was due on or before October 16, 2025, pursuant to Rule 12(a), SCRCPP. Respondent did not answer.

On October 23, 2025, Appellant filed a procedurally complete Motion for Entry of Default, Memorandum in Support, and supporting Affidavit pursuant to Rule 55(a), SCRCPP. The Saluda County Clerk of Court did not enter default.

On January 15, 2026 — ninety-one (91) days after the answer deadline — counsel for Respondent filed both a Motion to Dismiss for Insufficient Service of Process and a substantive Answer to the Amended Complaint containing ten enumerated defenses addressing the merits of every claim, including failure to state a claim, sovereign immunity, discretionary immunity, SCTCA immunity, prosecutorial immunity, truth as a defamation defense, failure to mitigate, testimonial privilege, and the insufficiency of service as an additional defense. Respondent did not move under Rule 55(c), SCRCPP, to set aside the default.

On or about April 1, 2026, the Honorable Walton J. McLeod IV entered an Order granting Respondent's Motion to Dismiss. The trial court did not address Appellant's pending Motion for Entry of Default.

This appeal followed. The Notice of Appeal was timely filed. The transcript of proceedings has been received. This Initial Brief and accompanying Designation of Matter are submitted pursuant to Rules 208 and 209, SCACR.

STANDARD OF REVIEW

The application of Rule 4(d)(5), SCRCF — whether a civilian Victim's Advocate is a "state officer" within the meaning of the rule — is a question of law this Court reviews de novo with no deference to the trial court. The decision to dismiss for insufficient service is reviewed for an abuse of discretion, but where the ruling rests on a legal determination, de novo review applies.

ARGUMENT

I. THE TRIAL COURT ERRED IN APPLYING RULE 4(d)(5) TO A CIVILIAN VICTIM'S ADVOCATE WHO IS NOT A STATE OFFICER.

A. Rule 4(d)(5) Applies Only to State Officers and Agencies — Not to All Government Employees.

Rule 4(d)(5), SCRCF, provides that service upon "an officer or agency of the State" requires both personal delivery and certified mail to the Attorney General. Rule 4(d)(1), SCRCF, provides for service "upon an individual . . . by delivering a copy of the summons and complaint to him personally." These provisions serve different functions. Rule 4(d)(5) is designed to ensure the State has notice of legal actions against its high officers and sovereign agencies. Rule 4(d)(1) governs all other individuals. Respondent is an individual, not an officer of the State.

B. A Civilian Victim's Advocate Is Not a "State Officer" Under Controlling Authority.

In *Cone v. Nettles*, 308 S.C. 109, 112, 417 S.E.2d 523, 524 (1992), the South Carolina Supreme Court held that sheriffs and their sworn deputies are state officers for Rule 4(d)(5) purposes because: (1) the SC Constitution establishes the office of sheriff; (2) the General Assembly defines their duties and compensation; (3) their arrest powers flow from state law; and (4) the Governor may remove them. These attributes — constitutional office, legislative establishment, arrest authority, and gubernatorial oversight — are the markers of state officership.

Respondent Bartley holds none of these characteristics. She is a civilian Victim's Advocate — a non-sworn, non-commissioned support employee providing administrative and counseling services to crime victims. She holds no constitutionally established office. The General Assembly has not defined her position as a state office. She exercises no arrest authority and no sovereign governmental power. The Governor does not appoint, commission, or have authority to remove her. She is an employee, not an officer.

The distinction matters. *Cone* recognized constitutional and statutory attributes of an officer; those attributes do not transfer to support staff who happen to work within a sheriff's department. Under *Crowder v. Franklin*, No. 2005-UP-588, 2005 WL 7084852 (S.C. Ct. App. 2005), an individual sued in her individual capacity for personal tortious conduct stands as any private defendant, regardless of employer. *Hafer v. Melo*, 502 U.S. 21, 25 (1991); *Kentucky v. Graham*, 473 U.S. 159, 165–66 (1985).

The trial court's application of Rule 4(d)(5) to Respondent expanded that provision's reach far beyond its text and the rationale of *Cone*. The error was one of law, and it is reversible de novo.

II. RESPONDENT'S FILING OF A SUBSTANTIVE MERITS ANSWER CONSTITUTED A GENERAL APPEARANCE THAT INDEPENDENTLY WAIVED ANY SERVICE OBJECTION.

Even if a technical deficiency in service existed — which Appellant disputes — Respondent's conduct independently eliminated any basis for dismissal.

On January 15, 2026, the same day Respondent filed her Motion to Dismiss, she also filed a substantive six-page Answer to every claim in the Amended Complaint, raising ten enumerated defenses on the merits: failure to state a claim; sovereign immunity; discretionary immunity; immunity under the South Carolina Tort Claims Act; prosecutorial immunity; truth; failure to mitigate; testimonial privilege; contributory negligence; and insufficient service. This Answer addressed the substance of every cause of action alleged against Respondent.

Under South Carolina law, the filing of a substantive merits answer constitutes a general appearance and waives any defect in service of process. *Lawson v. Family Dollar Stores, Inc.*, 387 S.C. 368, 375, 692 S.E.2d 656, 659 (Ct. App. 2010). The principle is straightforward: a defendant cannot simultaneously claim the court lacks personal jurisdiction over her due to defective service while also defending the full merits of the claims against her on nine other grounds. Filing a merits answer is the paradigmatic act of submission to the court's jurisdiction.

Respondent's Motion to Dismiss was therefore independently moot by operation of her own Answer. The trial court's failure to recognize and apply the general appearance doctrine was reversible error.

III. THE TRIAL COURT ABUSED ITS DISCRETION BY ENTERTAINING RESPONDENT'S MOTIONS WHILE APPELLANT'S PRIOR DEFAULT MOTION REMAINED PENDING AND UNRESOLVED.

Rule 55(a), SCRPC, provides that when a party against whom affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the

clerk shall enter the party's default. Entry of default is a ministerial act — not discretionary. R.F.P. v. S.C. Dep't of Soc. Servs., 417 S.C. 419, 428, 790 S.E.2d 11, 16 (Ct. App. 2016).

On October 23, 2025, Appellant filed a complete and procedurally sufficient Motion for Entry of Default, Memorandum, and supporting Affidavit. The Clerk did not enter default. That motion remained pending on the trial court's docket on January 15, 2026, when Respondent's counsel made the first appearance — ninety-one days after the answer deadline.

Rule 55(c), SCRCP, requires a defendant who is in default to move for relief from that default before filing substantive motions or pleadings on the merits. Respondent made no such motion. The late-filed Answer and Motion to Dismiss were therefore procedurally premature until the default posture was resolved. The trial court's acceptance of Respondent's motion practice without first compelling entry of default — and without requiring a Rule 55(c) motion — was an abuse of the court's discretion and deprived Appellant of the procedural protections to which he was entitled.

Rule 55(e), SCRCP, provides that a default judgment shall not be entered against a governmental entity without affirmative proof. That provision speaks to default judgment, not to the separate ministerial threshold act of entering default. The Clerk's failure to enter default was itself error, and the trial court's failure to rectify it compounded the error.

IV. THE EXTREME REMEDY OF DISMISSAL WAS UNWARRANTED WHERE RESPONDENT HAD NINETY-ONE DAYS OF ACTUAL NOTICE AND SUFFERED NO PREJUDICE.

Even where a technical service deficiency is found to exist, South Carolina courts do not lightly impose dismissal — the most drastic of remedies. The equitable considerations here overwhelmingly militate against dismissal.

First, actual notice: Respondent received the Summons and Amended Complaint on September 16, 2025. By the date her counsel appeared, she had possessed actual notice of this lawsuit for ninety-one days. The purpose of service of process — to give the defendant notice of the suit — was undeniably accomplished.

Second, absence of prejudice: Respondent has suffered no prejudice. She does not contend she was unaware of the suit, that she was unable to retain counsel, or that any evidence was lost due to the alleged service deficiency. Her counsel mounted a comprehensive defense on day one, raising ten defenses on the merits.

Third, the nature of the alleged defect: If any deficiency existed, it was a technical legal question about which provision of Rule 4 applied — not a factual failure of notice. The process server personally placed the Summons and Amended Complaint in Respondent's hands at her place of business. This is the core act of service in any system of civil process.

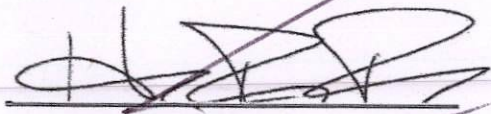
Dismissal on these facts imposes the most severe consequence on a plaintiff for a technical classification question that caused no harm whatsoever to the defendant. That outcome is inequitable and constitutes an abuse of discretion.

CONCLUSION

For the foregoing reasons, Appellant Hugh Parks Price respectfully requests that this Court:

- (1) Reverse the April 1, 2026 Order of Dismissal;
- (2) Remand with instructions to deny Respondent's Motion to Dismiss, compel entry of default pursuant to Rule 55(a), SCRCR, require Respondent to file a proper Rule 55(c) motion before her Answer is treated as properly before the Court, and allow this action to proceed on the merits; and
- (3) Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,



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Dated: JULY 31, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on JULY 31 2026, I caused a true and correct copy of the foregoing Initial Brief of Appellant to be served upon the following by first-class United States mail, postage prepaid:

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7/31/26

