

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Colleton County
Robert Bonds, Circuit Court Judge

Opinion No. 6149 (S.C. Ct. App. filed June 24, 2026)
Indictment Nos. 2023-GS-15-00408 – 00410; 2023-GS-15-00491 – 00508

THE STATE,

RESPONDENT,

V.

RYAN LENARD MANIGO,

PETITIONER

APPELLATE CASE NO. 2024-001818

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

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INDEX

INDEX.....	i
CERTIFICATE OF COUNSEL	1
QUESTIONS PRESENTED.....	2
STATEMENT OF THE CASE.....	3
ARGUMENTS	
I. Whether the Court of Appeals erred in holding the circuit court's order is not immediately appealable because it is an interlocutory order.....	6
a. The circuit court order was a final order	6
b. The order falls under § 14-3-330(2) or (3)	8
II. Whether the Court of Appeals erred in not considering the merits of the appeal and finding that recorded jail telephone calls are not subject to release pursuant to the Freedom of Information Act.	10
a. Statutory Interpretation	10
b. Constitutional Deprivations.....	13
c. Statutory Exemptions	18
d. Public Policy.....	21
CONCLUSION.....	23

CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on July 10, 2026.

QUESTIONS PRESENTED

I. Whether the Court of Appeals erred in holding the circuit court's order is not immediately appealable because it is an interlocutory order?

II. Whether the Court of Appeals erred in not addressing the merits of the appeal and finding that recorded jail telephone calls are not subject to release pursuant to the Freedom of Information Act?

STATEMENT OF THE CASE

Petitioner was arrested on July 2, 2023.¹ He has been held in pre-trial detention since his arrest. During the entirety of his pre-trial detention, his telephone calls (calls) have been monitored and recorded by private companies contracted by the detention facilities. Anticipating media outlets requesting Petitioner's calls pursuant to the Freedom of Information Act (FOIA), Petitioner filed a motion to prevent the release of such communications prior to a hearing where the requesting party, the detention facility, and Petitioner's counsel could determine whether the calls were subject to release pursuant to FOIA.

On October 19, 2023, the Honorable Judge Robert J. Bonds held a hearing where counsel for the Petitioner and State were present. The State informed the circuit court that several media companies had made FOIA applications for Petitioner's calls, but the calls had not been released.² On October 24, 2023, the circuit court reconvened with the media's counsel present. The circuit court held Petitioner's calls were public records subject to FOIA and Petitioner's State and Federal Constitutional protections did not prevent the release of the communications. The circuit court held the detention center and the Petitioner should review the calls to determine whether there were any applicable statutory exemptions that they believe applied. Where no exemption applied, the circuit court held that the calls should be released.

¹ A portion of the warrants were served July 31, 2023.

² While the Petitioner has no objection to this Court hearing from a variety of perspectives, it is likely the State did not have standing on this issue. Typically, a dispute involving jail calls should involve the person making the jail call, a representative from the pretrial detention facility, and a representative from the party requesting the information pursuant to FOIA. Here, while the State has reviewed the calls to determine exemptions, they are not representatives of the pretrial detention facility. Indeed, the State's review of the jail calls is likely a violation of the Petitioner's Fourth Amendment rights pursuant to *State v. Ellefson*, 226 S.C. 494, 224 S.E.2d 666 (1976).

The circuit court denied a motion to reconsider and a motion to stay its order on October 31, 2023. Petitioner filed a Notice of Appeal and Petition for Writ of Supersedeas with this Court.³ On November 9, 2023, this Court transferred the matter to the South Carolina Court of Appeals. On November 14, 2023, the Court of Appeals denied the Petitioner's request to quash the circuit court order, granted the Petitioner's request to stay the circuit court order, and ordered briefings from all parties. On January 24, 2024, the Court of Appeals found the Notice of Appeal to be interlocutory because the circuit court contemplated some further act which must be done prior to a determination of the rights of the parties and dismissed the matter. The Court of Appeals did not rule on the Writ of Supersedeas. The Court of Appeals denied Petitioner's Petition for Rehearing on March 18, 2024. On April 26, 2024, remittitur was sent to the circuit court.

On May 7, 2024, the circuit court held a closed hearing to make a final ruling on Petitioner's argument regarding statutory exemptions related to FOIA. The circuit court ordered certain redactions be made to the calls pursuant to various statutory exemptions and asked for a proposed order. After redactions were made, the circuit court issued a written order on October 23, 2024, that the remaining portions of the calls be released subject to FOIA on November 1, 2024. Petitioner filed a motion to reconsider on October 25, 2024, which was denied.

Petitioner filed a second Notice of Appeal and Petition for Writ of Supersedeas with the Court of Appeals on October 28, 2024. The Court of Appeals denied the Petitioner's request to quash but granted its request to stay. The Court ordered the State, Gray Media, and any interested

³ In a similar general sessions case in the Ninth Judicial Circuit, *State v. Jamie Komoroski*, (2023GS1003982-85) the defendant's calls were released pursuant to FOIA without giving the defendant an opportunity to object to their release. In a subsequent order in *Gray Media Group, Inc. v. Kristin Graziano*, (2023-CP-10-03027) part of the circuit court's order affirming the release of the jail calls pursuant to FOIA was based on the fact that the jail calls had already been released to the public and that the "cat [was] out of the bag." Petitioner hoped to avoid that outcome with its Notice of Appeal and Writ of Supersedeas.

party to file returns to Petitioner's Writ of Supersedeas within fifteen days and for the Petitioner to reply within ten days. All parties filed their briefings timely. The Court of Appeals also ordered that the circuit court's sealed order, sealed transcript, and sealed exhibits be delivered to the court on various deadlines. Petitioner complied with all orders from the Court of Appeals related to scheduling. On December 4, 2024, Gray Media moved to dismiss the Petitioner's appeal because the Petitioner failed to timely file and serve his initial brief.

On May 5, 2025, the Court of Appeals denied Gray Media's motion to dismiss the appeal and denied Petitioner's Petition for Writ of Supersedeas finding the Petitioner will not suffer irreparable harm or a miscarriage of justice due to the release of the calls. The calls were subsequently released. On May 12, Petitioner filed Petitions for Rehearing and a Motion to Allow Late Filing for the Petitioner's Initial Brief. On May 30, 2025, the Court of Appeals granted the Motion to Allow Late Filing. On June 5, 2025, the Court of Appeals denied the Petition for Rehearing related to the Writ of Supersedeas. On September 26, 2025, both parties submitted their final briefs to the Court of Appeals.

On June 24, 2026, the Court of Appeals dismissed Petitioner's appeal because the circuit court's order was not immediately appealable and was interlocutory. Accordingly, the court declined to rule on the merits in the appeal. On July 10, 2026 the Court of Appeals denied Petitioner's Petition for Rehearing.

ARGUMENTS

I. The Court of Appeals erred in holding the circuit court's order is not immediately appealable because it is an interlocutory order.

The Petitioner challenges a dismissal by the South Carolina Court of Appeals holding the circuit court order was an interlocutory order that does not fall under an exemption in S.C. Code Ann. § 14-3-330. The Court of Appeals erred because (1) the order is not interlocutory, as the circuit court order is a final order which permitted the release of the calls between the Petitioner and other parties to the media pursuant to FOIA; (2) even if the order is interlocutory, it falls under S.C. Code Ann. § 14-3-330(2) or (3) that allows interlocutory appeals where they affect a substantial right during special proceedings.

a. The Court of Appeals erred in finding the order is interlocutory, as the circuit court order is a final order which permitted the release of the calls between the Petitioner and other parties to the media pursuant to FOIA.

The order from the circuit court allowing the release of the calls pursuant to FOIA is not interlocutory. South Carolina allows appeals from any “final judgement” or an “appealable order or decision.” 201(a) SCACR. In addition, “any party aggrieved” may appeal in the cases prescribed in the title S.C. Code Ann. § 18-1-30. Generally, an order must fall into a statutory category to be immediately appealable. *State v. Wilson*, 387 S.C. 597, 600, 693 S.E.2d 923, 924 (2010). The determination of whether an order is immediately appealable must be on a case-by-case basis. *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019). An interlocutory order is “[a]n order that relates to some intermediate matter in the case; any order other than a final order.” Additionally, an interlocutory order is “[a]ny judgement or decree, leaving some further act to be done by the court before the rights of the parties are determined.” *Mid-State Distribs., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993). *Good v. Hartford* also

stated a final judgement “operates to divest some right in such a manner as to put it beyond the power of the Court making the order to place the parties in their original condition after the expiration of the term...” *Good v. Hartford Accident Indemn. Co.*, 201 S.C. 32, 32, 21 S.E.2d 209, 212 (1942). Typically, in criminal cases appeals must “attend the final judgement rendered on the indictment.” *State v. Hubbard*, 277 S.C. 568, 569, 290 S.E.2d 817, 817 (1982).

The cases in which the Court of Appeals cite as interlocutory and therefore applicable can be distinguished from this case. The Court of Appeals cited *Looper*, *Hill*, *In re Lorenzo B.*, *Parsons*, *Washington*, and *Hubbard*. *State v. Looper*, 421 S.C. 384, 389, 807 S.E.2d 203, 205–06 (2017); *State v. Hill*, 314 S.C. 330, 331, 444 S.E.2d 255, 256 (1994); *In re Lorenzo B.*, 307 S.C. 439, 439, 415 S.E. 2d 795, 795 (1992); *Parsons v. State*, 289 S.C. 542, 542, 347 S.E.2d 504, 504 (1986); *State v. Washington*, 285 S.C. 457, 458, 330 S.E.2d 289, 289 (1985); *Hubbard*, 277 S.C. at 569, 290 S.E.2d at 817. All of these cases involve appeals related to the criminal proceedings like the setting or denial of bail, adjudication of a juvenile, convictions absent a sentence, and motions to suppress evidence. These all necessarily involve the criminal proceedings, although some do not address the direct merits, and are considered interlocutory.

In this case, Petitioner is challenging a circuit court order that is unrelated to the criminal matters alleged, different from the cases the Court of Appeals cited. Unlike the many intermediate rulings in a criminal action referenced in the Court of Appeals decision, the harm to the Petitioner cannot be corrected by the remedy of a new trial as it is an entirely different matter than the criminal proceedings. This case involved a FOIA request from third party media companies regarding the calls the Petitioner placed while in pre-trial detention to his family and loved ones. No matter the result of the judgement in the lower court—acquittal or conviction and sentence—this final order implicates Petitioner’s substantial rights including the rights enshrined in the First, Fourth, Fifth,

Sixth, Eighth, and Fourteenth Amendments of the federal Constitution and Article 1, §§ 3, 9, 10, 11, 12, 14, and 15 of the state Constitution. Therefore, this order is a final order, rather than an interlocutory order.

Furthermore, Petitioner is a “party aggrieved” under § 18-1-30 as he is a party to this action, and his state and federal constitutional rights are implicated by this order. Petitioner’s contentions are reviewable by this Court because the circuit court order is not interlocutory.

b. If the Court finds the order is interlocutory, the Court of Appeals erred because the order falls under § 14-3-330(2) or (3) that allows interlocutory appeals where they affect a substantial right.

As previously defined, an interlocutory order “relates to some intermediate matter in the case; any order that is not a final order.” *Brown v. Se. Servs., H.H.I., LLC*, 446 S.C. 105, 112, 917 S.E.2d 925, 928 (Ct. App. 2025), *reh’g denied* (June 27, 2025), *cert. denied* (Nov. 18, 2025) (internal citation omitted). However, there are statutory allowances for some interlocutory orders to be immediately appealable. *Wilson*, 387 S.C. at 600, 693 S.E.2d at 924. S.C. If an order is interlocutory, it is not immediately appealable unless it involves the merits of a case or affects a substantial right. An order affects a substantial right where it determines the action, prevents a judgement from which an appeal might be taken, or discontinues the action. *Brown v. Cnty of Berkeley*, 366 S.C. 354, 361, 622 S.E.2d 533, 537 (2005). Code Ann § 14-3-330(3) states appellate courts have jurisdiction to review “a final order affecting a substantial right made in any special proceeding.” The provisions of the section have been narrowly construed. *Wilson*, 387 S.C. at 601, 693 S.E.2d at 925.

This order, if interlocutory, implicates Petitioner’s substantial rights not because it involves the merits of the case, but because the order discontinues an action, prevents an appeal, grants or refuses a new trial, or strikes out an action or defense. The action, as related to this appeal, only involves the calls released pursuant to FOIA. The circuit court order implicates the rights of

Petitioner, including his constitutional rights, in such a way that the harm cannot be remedied on appeal, thereby determining the action and preventing a judgement from which an appeal might be taken effectively. Therefore, if the Court finds the order is interlocutory, it applies to exemption § 14-3-330(2) or (3) because it determines the action and prevents a judgement from which an appeal might be taken or discontinues the action.

II. The Court of Appeals failed to address the merits of Petitioner's claim.

a. **The circuit court erred in finding the calls were subject to release under FOIA.**

i. *Standard of Review*

Courts, when interpreting the reach of a request pursuant to FOIA, are bound by the basic principles of statutory construction. The primary rule of statutory construction is to ascertain and give effect to the intent of the legislature. *Bryant v. State*, 384 S.C. 525, 529, 683 S.E.2d 280, 282 (2009). All rules of statutory construction are subservient to the one in which the legislature intended. Legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute. *State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575 (2010). Additionally, when applying the rules of statutory construction a “[c]ourt must presume the legislature did not intend a futile act, but rather intended its statutes to accomplish something.” *Denene, Inc. v. City of Charleston*, 352 S.C. 208, 574 S.E.2d 196 (2002); *See also State v. Long*, 363 S.C. 360, 364, 610 S.E.2d 809, 811 (2005) (“The legislature is presumed to intend that its statutes accomplish something.”).

ii. *Public Record*

A public record is defined in S.C. Code Ann. 30-4-20(c) as:

[A]ll books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the

provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

For a record to be subject to a FOIA request, three elements must be satisfied. Specifically, the record must be: 1) from a public body, 2) a public record, and 3) *related to a government activity*. The recordings of inmate calls are not expressly stated as public records by the General Assembly. There is no public interest or pressing need that would be served through disclosure of the intimate recordings between an incarcerated individual and their loved ones. Further, the release of such calls would not shed light on any government activity. These calls should not be deemed public records simply because a public agency has access to Petitioner's calls. No employee from any detention center participated in the communication or recording of the calls. No public official is party to the calls. These recordings reveal nothing about a governmental agency's conduct. *See Glassmeyer v. City of Columbia*, 414 S.C. 213, 219–20, 777 S.E.2d 835, 839. Given the fact that the purpose of FOIA is to "protect the public from secret government activity[.]" these telephone recordings cannot be equated with public records to which the public should be granted reasonable access. *Glassmeyer*, 414 S.C. at 219, 777 S.E.2d at 839.

In a case like Petitioner's, the Fourth District Court of Appeals of Florida ruled telephone records from a detention center were not subject to disclosure under their state's FOIA statute. *Bent v. State*, 46 So.3d 1047, 1050 (Ct. App. 2010). The Court quashed a trial court's ruling

ordering the release of telephone records. *Id.* The Court explained, “[a]lthough monitoring of inmate calls for security purposes is related to official business of the jail, maintaining recordings of purely personal calls is not. The recordings at issue are personal phone calls as opposed to records generated by BSO, such as mail logs or logs of phone numbers called.” *Id.* at 1049. As such, the Court found telephone calls themselves are clearly not public records. The Court went on to say that “[a]n inmate’s personal phone calls **do not in any way reflect the actions of government** and releasing the calls would not further the purpose of the Public Records Act.” *Id.* at 1050 (emphasis added).

Moreover, S.C. Code Ann. 30-4-20(c) provides that “records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act...” The constitutional protections of the right to a fair trial, due process, privacy, and equal protection allow these calls to be considered records required to be closed to the public. Therefore, they are not public records subject to release under FOIA.

iii. Public Body

The private companies possessing the calls are not public bodies. A public body is defined in S.C. Code Ann. 30-4-20(a) as:

[A]ny department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer

review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.

The detention centers that have detained Petitioner are public bodies under the statute. However, those **detention centers have contracted with private, for profit, companies to record and maintain detainees' telephone calls**. It is common practice for private companies to contract detention facilities and monitor detainee telephone calls. The private companies charge detainees and the people they communicate with—typically their families, loved ones, and attorneys—fees to place the telephone calls. The detention center retains access to the recordings for security purposes, but the private companies maintain and possess the recordings. Simply put, the media is attempting to refashion a private business transaction into a public record because of the general nature of jail. Such a leap far exceeds the expectations of Petitioner, the private business, or those who have willingly accepted the calls.

Moreover, FOIA requires public bodies to give access to public records involving government activity. While the detention centers where Petitioner is incarcerated have access to his telephone calls and can facilitate releasing them pursuant to a FOIA request, they are not the body that is in possession of them. Because the private companies possessing the telephone calls do not fall within the definition of a “public body” as defined by S.C. Code Ann. 30-4-20(a), the telephone calls are not subject to release pursuant to FOIA.

b. The circuit court erred in finding the release of the calls pursuant to FOIA did not violate the South Carolina and Federal Constitutions

i. Standard of Review

Article IV of the United States Constitution provides that it “shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the...laws of any State to the contrary notwithstanding.” U.S. Const. art. VI. Furthermore, this Court has stated, “[...]”

where there is a conflict between [a] statute and the State Constitution, the Constitution overrides the statute.” *State v. Whitener*, 225 S.C. 244, 81 S.E.2d 784 (1954).

“It is well settled that the interpretation of the state’s constitution is a matter for the courts.” *Baddourah v. McMaster*, 433 S.C. 89, 103, 856 S.E.2d 561, 568 (2021). “State courts may afford more expansive rights under state constitutional provisions than the rights which are conferred by the Federal Constitution.” *State v. Easler*, 327 S.C. 121, 131 n. 13, 489 S.E.2d 617, 622 n. 13 (1997) (overruled on other grounds by *State v. Greene*, 423 S.C. 263, 814 S.E.2d 496 (2018)). “This relationship is often described as a recognition that the federal Constitution sets the floor for individual rights while the state constitution establishes the ceiling.” *State v. Forrester*, 343 S.C. 637, 643, 541 S.E.2d 837, 840 (2001).

ii. *Fair Trial*

Under both the United States Constitution and the South Carolina Constitution, a defendant in a criminal prosecution is constitutionally guaranteed a fair trial by an impartial jury. U.S. Const. amend. VI; S.C. Const. art. I, § 14. This “most fundamental of all freedoms” must be maintained at all costs. *Estes v. Texas*, 381 U.S. 534, 540 (1965).

In *Patterson v. State of Colorado ex rel. Attorney General*, the United States Supreme Court interpreted the requirement of an impartial jury to mean that “the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print.” *Patterson v. State of Colorado ex rel. Attorney General*, 205 U.S. 454, 462 (1907). Subsequently, in *Shepard v. Maxwell*, the Supreme Court ruled that a trial court erred by “holding that it lacked power to control the publicity about the trial.” *Sheppard v. Maxwell*, 384 U.S. 333, 357 (1966). The Court specifically found that “the trial court might well have proscribed extrajudicial statements by any lawyer, party, witness, or court official

which divulged prejudicial matters,” noting that with the pervasiveness of modern communications and the difficulty of erasing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused. *Sheppard*, 384 U.S. at 361, 362.

If Petitioner’s private communications with his family, loved ones, and attorneys are released to the media, he will be deprived of his right to a fair trial. Having the public listen to Petitioner’s most private conversations that are either not related to his case or that are related to his defense, will not enable a fair and impartial jury to be impaneled. Not only will the public be given access to information prior to trial, they will be given access to information that may not even be admissible at trial—thereby eviscerating his constitutional rights. For these reasons, Petitioner would not be able to have his right to a fair trial protected.

iii. Due Process

“Due Process is not a technical concept with fixed parameters unrelated to time, place, and circumstances; rather it is a flexible concept that calls for such procedural protections as the situation demands.” *State v. Legg*, 416 S.C. 9, 13, 785 S.E.2d 369, 371 (2016). The pre-trial release of Petitioner’s private jail calls will undoubtedly affect his ability to receive a fair trial. Asking potential jurors to set aside whatever opinions or impressions they may have formed about a pre-trial defendant, after listening to or reading about the defendant’s private pre-trial communications with others is “to shut the stable door after the horse has bolted.” The only way to protect Petitioner’s right to a fair trial and due process protections is to find that pre-trial detainees’ private communications are not subject to FOIA requests.

iv. Privacy

The release of the calls pursuant to FOIA violates Petitioner's right to privacy. The South Carolina Constitution contains an express right to privacy provision that favors an interpretation offering a higher level of privacy protection than the Fourth Amendment. *See State v. Key*, 431 S.C. 336, 349 n. 4, 848 S.E.2d 315, 321 n. 4 (2020). Notably, the Court of Appeals has found that the state Constitution affords broader protections under other provisions. In *Forrester*, this Court stated, "South Carolina and the other states with a right to privacy provision imbedded in the search and seizure provision of their constitutions have held such a provision creates a distinct privacy right that applies both within and outside the search and seizure context." *State v. Forrester*, 343 S.C. 637, 644 541 S.E.2d 837, 841 (2001).

In *State v. Ellefson*, this Court held that under the First Amendment of the United States Constitution, pre-trial detainees have the right not to have their written communications screened for purposes other than detention security. *State v. Ellefson*, 266 S.C. 494, 500, 224 S.E.2d 666, 669 (1976). "When a pre-trial detainee remains in custody, he is not disrobed of his constitutional rights and laid bare for the zealous investigation of his case. He is cloaked with the presumption of innocence. His rights are curtailed only to the extent 'justified by the considerations underlying our penal system.'" *Id.* (citing *Price v. Johnston*, 334 U.S. 266, 285–86 (1948), overruled on other grounds by *McCleskey v. Zant*, 499 U.S. 467 (1991)).

This Court ruled that a warrantless search of the detainees' communications for the purposes of an investigation was unconstitutional. *Id.* Furthermore, this Court reached this determination even though a detainee signed a card at intake authorizing jail officials to read his mail. *Ellefson*, 266 S.C. at 502, 224 S.E.2d at 670. "The court...cannot assume there was consent. For noncustodial searches, the current test is whether or not the consent was voluntary under the

totality of the circumstances. The skeletal details of the so called 'consent' belie it. If we were to hold the Petitioner consented to waive his constitutional rights here, the doctrine of consent would be effectively emasculated." *Ellefson*, 266 S.C. at 502–503, 224 S.E.2d at 670 (citing *People v. Henry*, 65 Cal.2d 842, 56 Cal. Rptr. 485, 423 P.2d 557 (1967) and *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973)). Despite the telephone calls providing an alert that they are being recorded, this Court cannot conclude there was consent. Because the release of Petitioner's telephone calls subject to FOIA are not for the purposes of security, any release would violate his right to privacy.

v. Equal Protection

The release of the calls also violates the equal protection clauses of the state and federal constitutions. The South Carolina Constitution provides that no "person shall be denied the **equal protection** of the laws." S.C. Const. art. I, § 3 (emphasis added). "The *sine qua non* of an equal protection claim is a showing that similarly situated persons received disparate treatment." *Grant v. S.C. Coastal Council*, 319 S.C. 348, 354, 461 S.E.2d 388, 291 (1995) (emphasis added). Only the calls of pre-trial detainees who cannot afford or are denied bond are subject to recording by the detention center. Requiring that the private communications of indigent pre-trial detainees be made public for anyone that submits a FOIA request, creates an unconstitutional classification that more affluent people accused of a criminal offense do not suffer. An interpretation that FOIA applies to pre-trial detainee's jail calls implicates a suspect class, i.e. indigency, and must survive strict scrutiny in order to survive. People accused of crimes and released from detention centers, on bond, or otherwise, do not have their communications recorded by a public agency absent a warrant. Even with a warrant these communications are not subject to FOIA disclosure.

c. The circuit court erred in failing to find FOIA's statutory exemptions prevent the release of pretrial detainee calls.

S.C. Code Section 30-4-40, entitled "Matters exempt from disclosure" specifically provides, in pertinent part:

(a) A public body may but is not required to exempt from disclosure the following information:

(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy...

(3) Records, video or audio recordings, or other information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(A) would interfere with a prospective law enforcement proceeding;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) would constitute an unreasonable invasion of personal privacy;...[or]

(F) would endanger the life or physical safety of any individual

(4) Matters specifically exempted from disclosure by statute or law.

Under South Carolina law, "[w]hether a record is exempt from disclosure depends on the particular facts of the case." *Glassmeyer*, 414 S.C. at 219, 777 S.E.2d at 839 (citing *City of Columbia v. ACLU*, 323 S.C. 384, 387 (1996)); See also *Evening Post Publ'g Co. v. Berkeley Cnty. Sch. Dist.*, 392 S.C. 76, 82 (2011) (the "determination of whether documents or portions thereof are exempt from FOIA must be made on a case-by-case basis."). The Court of Appeals, therefore, must engage in a fact-specific analysis in assessing the applicability of the exemptions. As discussed below, the facts in this matter weigh heavily against public disclosure of the telephone call recordings.

FOIA's mechanism for a party other than the releasor to exert an exemption is found in S.C. Code 30-4-110(B):

(B) If a request for disclosure may result in the release of records or information exempt from disclosure under Section 30-4-40(a)(1), (2), (4), (5), (9), (14), (15), or (19), a person or entity with a specific interest in the underlying records or information shall have the right to request a hearing with the court or to intervene in an action previously filed.

i. Exemptions that detainees are prohibited from asserting under 30-4-40(a)(3)

Notably, Section 30-4-110(B) prohibits the non-disclosing party from challenging the release under Section 30-4-40(a)(3). The lack of a mechanism for a private citizen to be able to object to the release of their own recorded private phone calls highlights the fact that the legislature never intended for FOIA to be used in this way. The incentives are misaligned. It benefits the State to release jail calls painting Petitioner in a bad light. Petitioner cannot rely on the State to protect his interest.

ii. Privacy exemption under 30-4-40(a)(2)

Although the exemptions set forth in S.C. Code Ann. § 30-4-40 are to be “narrowly construed” to avoid a “blanket prohibition of disclosure,” the “privacy exemption” expressly exempts from disclosure “[i]nformation of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy.” *Pope v. Wilson*, 427 S.C. 377, 389, 831 S.E.2d 442, 448 (Ct. App. 2019); S.C. Code Ann. § 30-4-40(a)(2).

In assessing whether certain information should be classified as private and exempt from disclosure, the courts must “resort to general privacy principles, which examination involves a balancing of conflicting interests—the interest of the individual in privacy on the one hand against the interest of the public’s need to know on the other.” *Glassmeyer*, 414 S.C. at 220, 777 S.E.2d at 839 (quoting *Burton v. York Cnty. Sherriff’s Dep’t*, 358 S.C. 339, 352 (Ct. App. 2004)).

The Court of Appeals in *Glassmeyer*, quoting at length a decision from the Supreme Court of Michigan interpreting the FOIA privacy exemption adopted its sound reasoning:

Simply put, disclosure of employees' home addresses and telephone numbers to plaintiff **would reveal little or nothing about a governmental agency's conduct, nor would it further the stated public policy undergirding the Michigan FOIA.** Disclosure of employees' home addresses and telephone numbers would not shed light on whether the University of Michigan and its officials are satisfactorily fulfilling their statutory and constitutional obligations and their duties to the public. When this tenuous interest in disclosure is weighed against the invasion of privacy that would result from the disclosure of employees' home addresses and telephone numbers, the invasion of privacy would be clearly unwarranted.

Glassmeyer, 414 S.C. at 221, 777 S.E.2d at 839 (quoting *Mich. Fed'n of Teachers & Sch. Related Pers. v. Univ. of Mich.*, 481 Mich. 647, 753 N.W.2d 28, 43 (2008)) (emphasis added). Disclosure of such private and personal information "would not appreciably further 'the citizens' right to be informed about what their government is up to' and 'would reveal little or nothing about the employing agencies or their activities'" *Id.* (quoting *U.S. Dep't of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487, 497 (1994)). Balancing the privacy interests against the public interest, the Court of Appeals concluded that the information such as home addresses, telephone numbers, and personal e-mail addresses constitutes "information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy" and are exempt from disclosure under section 30-3-40(a)(2). *Id.* at 223. See also *City of Columbia v. Am. Civ. Liberties Union of S.C., Inc.*, 323 S.C. 384, 387 (1996) (reasoning that the contents of an investigatory report of a public body may be exempt from FOIA under the privacy exemption following a fact-specific analysis). More recently, in *Glassmeyer v. S.C. Lottery Commission*, the South Carolina Court of Appeals found a public official's privacy interest in their signature on a check outweighed the public's interest in the identities of those public officials. *Glassmeyer v. South Carolina Lottery Commission*, Op. No. 6155 (S.C. Ct. App. Filed July 29, 2026) (Howard Adv. Sh. No. 28 at 13).

Here, the release of Petitioner's personal telephone calls would violate the privacy exemption contained in FOIA. The telephone calls do not contain information related to any government action or operation. The telephone calls do not provide citizens insight into how the government is being run. Accordingly, the telephone calls are not subject to release pursuant to FOIA.

iii. General law exemption under 30-4-40(a)(4)

FOIA contains an exemption to release of records where the release is exempted by some other statute or law. As previously argued in its Petition, the release of Petitioner's private telephone calls would violate Title 30, Chapter 4 of the South Carolina Code of Laws (FOIA), the First, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, and *State v. Ellefson*, 266 S.C. 494, 224 S.E.2d 666 (1976). Accordingly, the telephone calls are not subject to release pursuant to FOIA.

d. The circuit court erred in failing to find that the release of the pretrial detainee telephone calls violates public policy.

Release of a pre-trial detainee's private communications would also violate the public policy as expressed by the South Carolina General Assembly. It is well-established that our courts "exercise restraint when undertaking an amorphous inquiry of what constitutes public policy." *Taghivand v. Rite Aid Corp.*, 411 S.C. 240, 244, 768 S.E.2d 385, 387 (2015). Given that public policy is amorphous, this Court should consider what the implications are for releasing private communications from pre-trial detainees pursuant to FOIA requests. It should not be lost on this Court that FOIA provides any citizen the right to access government materials—this is not simply utilized by credentialed and reputable media outlets. Allowing the release of Petitioner's telephone calls opens the public policy floodgates. Release of pre-trial detainee telephone calls would affect

not just the detainee but many other unrelated individuals and entities. Because a finding that pre-trial detainee telephone calls are subject to FOIA would violate the public policy of South Carolina, this Court should reverse the circuit court's finding that the calls are subject to FOIA.

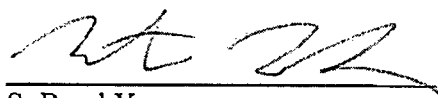
The Court of Appeals also noted the release of the calls may be rendered moot by the time trial comes. In this case, the issue risks repetition evading review. To find that an issue risks repetition evading review, Petitioner must show the issue is capable of repetition not necessarily with a reasonable expectation the issue risks repetition. *South Carolina Public Interest Foundation v. SCDOT*, 421 S.C. 110, 121, 804 S.E.2d 854, 860. Regarding evading review, the issue must truly evade review, meaning that the action will generally be incapable of review by the time the court reviews the issue. In *Evening Post Pub. Co. v. City of North Charleston*, this Court found that despite a denied FOIA request and a subsequent published transcript of a 911 call after a trial, the issue was not moot because the facts were capable of repetition yet evading review. *Evening Post Pub. Co. v. City of North Charleston*, 363 S.C 452, 456 n. 4, 611 S.E.2d 496, 498 n. 4. The facts in this case are comparable, the only difference being in the denial of the FOIA request in the preceding case.

If the issue continues to be postured as moot and not appealable, the Petitioner's on-going communications, as well as all other South Carolina pretrial detainee's communications, will continue to be released without review of the circuit court. Therefore, the court should find that the issue is not moot because it is capable of repetition yet evading review.

CONCLUSION

Based on the foregoing argument, Petitioner respectfully requests that this Court reverse the Court of Appeals opinion holding the order releasing the jail calls as interlocutory, address the merits of Petitioner's appeal and hold that telephone calls by defendants in pretrial detainment are not subject to FOIA.

Respectfully Submitted,



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ATTORNEYS FOR PETITIONER

This 5th day of August, 2026.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Colleton County
Robert Bonds, Circuit Court Judge

RECEIVED
AUG 05 2026
S.C. SUPREME COURT

Opinion No. 6149 (S.C. Ct. App. filed June 24, 2026)
Indictment Nos. 2023-GS-15-00408 – 00410; 2023-GS-15-00491 – 00508

THE STATE,

RESPONDENT,

V.

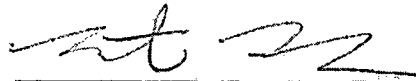
RYAN LEANRD MANIGO,

PETITIONER

APPELLATE CASE NO. 2024-001818

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the petition for writ of certiorari to the Court of Appeals and appendix in the above-referenced case has been served Melody J. Brown and I. McDuffie Stone, Esquires AND Michael J. Anzelmo and Mark Peper, Esquires, at the primary e-mail addresses listed in the Attorney Information System (AIS); and the South Carolina Court of Appeals, this 5th day of August, 2026.



Robert L. Bank, Jr.
Deputy Chief Attorney
SC Bar No. 101112

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Warren, Kaylynn

From: Warren, Kaylynn
Sent: Wednesday, August 5, 2026 10:08 AM
To: Melody Brown
Cc: Bank, Robert; Young, Boyd; 'abennett@scag.gov'; Isaac McDuffie Stone, III; manzelmo@mcguirewoods.com; mark@peperlawfirm.com; Taft, Renee
Subject: 2024-001818 The State v. Ryan Lenard Manigo
Attachments: 2024-001818 The State v. Ryan Lenard Manigo Petition for Writ of Certiorari to the Court of Appeals.pdf; 2024-001818 The State v. Ryan Lenard Manigo Appendix.pdf; 2024-001818 The State v. Ryan Lenard Manigo PWC Filing Cover Letters.pdf

Good Morning,

Attached for service in the above-referenced case are the Petition for Writ of Certiorari to the Court of Appeals and the Appendix which will be filed today, August 5, 2026, with the Supreme Court and the Court of Appeals via hand-delivery.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

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