

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

RYAN LENARD MANIGO (2),

APPELLANT

APPELLATE CASE NO. 2024-001818

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STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court judge erred in failing to find that pretrial detainee telephone calls are not subject to the Freedom of Information Act?
2. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates the pretrial detainee's state and federal constitutional rights?
3. Whether the circuit court judge erred in failing to find that the Freedom of Information Act's statutory exemptions prevent the release of pretrial detainee telephone calls?
4. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates public policy?

STATEMENT OF THE CASE

Appellant was arrested on July 2, 2023.¹ He waived all bond hearings and 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. In anticipation of media outlets requesting Appellant's calls pursuant to FOIA, Appellant filed a motion to prevent the release of such communications prior to a hearing where the requesting party, the detention facility, and Appellant's counsel could be present to determine whether the calls were subject to release pursuant to FOIA.

On October 19, 2023, a hearing was held in Colleton County in front of the Honorable Judge Robert J. Bonds. Present were counsel for the Appellant and the State. The State made the circuit court aware that there were several FOIA applications for Appellant's communications, but the calls had not been released.² The circuit court ordered that the hearing be rescheduled to October 24, 2023, so that the media could have an opportunity to have their counsel present. On October 24, 2023, the circuit court reconvened. Present were counsel for the Appellant, counsel for two media companies, and the State. R. 1. After arguments by Appellant's counsel and the media's counsel were heard, the circuit court held that the Appellant's calls were public records subject to FOIA and that Appellant's various State and Federal Constitutional protections did not prevent the release of the communications. The circuit court held that the detention center should

¹ A portion of the warrants were served July 31, 2023. R. 139-159.

² While the Appellant has no objection to this Court hearing from a variety of perspectives, it is likely the State does 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 Appellant's Fourth Amendment rights pursuant to State v. Ellefson, 226 S.C. 494, 224 S.E.2d 666 (1976).

review the calls prior to releasing them to determine if there are any applicable statutory exemptions to release that they believe applied. The circuit court further held that Appellant should then be given three days to review the calls to determine if they believe any exemptions apply and move to intervene. The circuit court ordered that any calls where no exemption applied should be released.

On October 31, 2023, the circuit court issued its written order. R. 126-131. On the same day, the circuit court denied a motion to reconsider and a motion to stay its order. Appellant subsequently filed a Notice of Appeal and Petition for Writ of Supersedeas with the Supreme Court of South Carolina.³ On November 9, 2023, the Supreme Court of South Carolina transferred the matter to this Court. On November 14, 2023, this Court denied the Appellant's request to quash the circuit court order, granted the Appellant's request to stay the circuit court order, and ordered briefings from all parties. On January 24, 2024, this Court found the Notice of Appeal to be interlocutory because the circuit court order contemplated some further act which must be done prior to a determination of the rights of the parties and dismissed the matter. This Court did not rule on the Write of Supersedeas. This Court denied Appellant's Petition for Rehearing *En Banc* on March 18, 2024. On April 26, 2024, remittitur was sent to the circuit court.

On May 7, 2024 the circuit court heard arguments by the Appellant, the State, and Gray Media Group, Inc. in a closed hearing. R. 52. The hearing was held so that a final ruling could be made on the Appellant's argument regarding statutory exemptions related to FOIA. On the same

³ In a similar general sessions case currently pending in the Ninth Judicial Circuit, State v. Jamie Komoroski, (2023GS1003982-85) the defendant's jail 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." Appellant hoped to avoid that outcome with its Notice of Appeal and Writ of Supersedeas.

day, the circuit court ordered that certain redactions be made to the calls pursuant to various FOIA 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. The circuit court issued both a public and a sealed order. R. 126-131; 132-138. Appellant filed a motion to reconsider on October 25, 2024 and it was denied on the same day.

Appellant subsequently filed a second Notice of Appeal and Petition for Writ of Supersedeas with this Court on October 28, 2024. On October 29, 2024, this Court again denied the Appellant's request to quash but granted its request to stay. It further ordered the State, Gray, and any interested party to file returns to Appellant's Writ of Supersedeas within fifteen days and for the Appellant to reply within ten days. All parties filed their briefings timely. This Court also ordered that the circuit court's sealed order, sealed transcript, and sealed exhibits be delivered to the Court on various deadlines. The Court is in receipt of all those items. All orders from this Court related to scheduling were complied with.

On December 4, 2024, Gray Media moved to dismiss the Appellant's appeal because the Appellant failed to timely file and serve his initial brief. Appellant filed its return and Gray Media filed its reply.

On May 5, 2025 this Court denied Gray Media's motion to dismiss the appeal. It further denied the Appellant's petition for writ of supersedeas finding the Appellant will not suffer irreparable harm or a miscarriage of justice due to the release of the calls. The Appellant filed a petition for rehearing for this Court's denial of his petition for writ of supersedeas.⁴

⁴ Appellant filed its petition for rehearing out of an abundance of caution. The Appellant deferred to this Court on whether to address the merits of its issues through its appeal or writ of supersedeas.

ARGUMENTS

1. The circuit court erred in failing to find that pretrial detainee telephone calls are not subject to the Freedom of Information Act.

a. FOIA Introduction

Our FOIA statute provides that public bodies within South Carolina, upon request from the public, must disclose certain public records. The fundamental purpose of FOIA is “to protect the public from secret government activity.” Glassmeyer v. City of Columbia, 414 S.C. 213, 219, 777 S.E.2d 835, 839 (Ct. App. 2015) (citing Perry v. Bullock, 409 S.C. 137, 141, 764 S.E.2d 251, 253 (2014)). The FOIA statute guarantees the public the right to “reasonable access to **certain activities of the government**.” Pope v. Wilson, 427 S.C. 377, 389, 831 S.E.2d 442, 448 (Ct. App. 2019) (emphasis added). This does not authorize unfettered access to all documents and recordings in the possession of the government. Indeed, courts have denied FOIA requests where there was “no evidence in the record demonstrat[ing] disclosure would further the FOIA’s purpose of protecting the public from secret government activity.” Glassmeyer at 223, 777 S.E.2d at 841.

b. Standard of Review

Courts, when interpreting the reach of a request pursuant to FOIA, are bound by the basic principles of statutory construction. As this Court is well aware, 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 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”).

c. 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 governmental activity. These calls should not be

deemed public records simply because a public agency has access to Appellant'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* at 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[.]" *Id.* at 219, these telephone recordings cannot be equated with public records to which the public should be granted reasonable access.

In a case similar to Appellant's, the Fourth District Court of Appeal 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 (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..." As will be discussed below, Appellant's telephone calls under the First, Fifth, Sixth, Eighth, and Fourteenth Amendments to 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 (1765) are records which by law are required to be closed to the public.

Therefore, they are not public records subject to release under FOIA.

d. Public Body

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, and will continue, to detain Appellant 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 with 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 Appellant, the private business, or those who have willingly accepted the calls.⁵

Moreover, FOIA requires public bodies to give access to public records involving government activity. While the detention centers where Appellant is incarcerated at 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.

e. The circuit court erred in failing to find that the release of pretrial detainee telephone calls violates the pretrial detainee's state and federal constitutional rights

a. Standard of Review

Article VI 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." United States Constitution Article VI. Furthermore, the South Carolina Supreme 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

⁵ Notably, those who receive calls from the pre-trial detainees or inmates are at no time in this message told these calls can be subject to FOIA or subject to being made public, raising serious privacy considerations.

(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).

b. 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, 848, S.E.2d 315 (2020). Notably, this Court has found that our State Constitution affords broader protections under other provisions. Most recently in Planned Parenthood S. Atl. v. State, 882 S.E.2d 770 (S.C. 2023), reh'g denied (Feb. 8, 2023), this Court recognized that article I, section 10 of our State Constitution granted a broader right to privacy than the federal Constitution based on the plain language of the text. As Chief Justice Beatty wrote in his separate opinion in Planned Parenthood S., “[w]e interpret our constitution to ensure South Carolinians retain the rights it guarantees.” *Id.*

In State v. Ellefson, this Court held that under the First Amendment of the United States Constitution, pre-trial detainees have the right to not have their written communications screened for purposes other than detention security. Ellefson, 226 S.C. 494, 224 S.E.2d 666 (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.* at 500, 224 S.E.2d at 669 (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. Id. 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 Appellant consented to waive his constitutional rights here, the doctrine of consent would be effectively emasculated." Id. at 502-503, 224 S.E.2d 666, 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)).

Because the release of Appellant's telephone calls subject to FOIA are not for the purposes of security, any release would violate Appellant's First, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina. Furthermore, despite the telephone calls providing an alert that they are being recorded, this Court cannot conclude there was consent.

c. Right to a 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 Section 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, 205 U.S. 454, 462 (1907), 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." Subsequently, in

Sheppard v. Maxwell, 384 U.S. 333, 357 (1966), the Supreme Court ruled that a trial court erred by "holding that it lacked power to control the publicity about the trial." 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 Appellant'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 Appellant'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, the release of Appellant's telephone calls subject to FOIA will violate his First, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina.

d. Equal Protection

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, 391 (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.

e. 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 Appellant's private jail calls will undoubtedly affect his ability to receive a fair trial. Counsel for various media companies that have made FOIA requests for Appellant's jail calls have said that any infringement on Appellant's right to a fair trial is easily cured by the trial judge through voir dire, or possibly a change of venue. 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 Appellant's right to a fair trial is to find that pre-trial detainee's private communications are not subject to FOIA requests.

D. The circuit court erred in failing to find that the Freedom of Information Act's statutory exemptions prevent the release of pretrial detainee telephone 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 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.”). This Court, 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.

a. 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 this way. The incentives are misaligned. It benefits the State to release jail calls painting Appellant in a bad light. Appellant cannot rely on the State to protect his interest.

b. Privacy Exemption under 30-4-40(a)(2)

Although the exemptions set forth in S.C. Code Section 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 at 220, 777 S.E.2d at 839 (*quoting* Burton v. York Cty. Sheriff’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.

Id. at 221 (*quoting Mich. Fed'n of Teachers & Sch. Related Pers. v. Univ. of Mich.*, 481 Mich. 657, 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 30-4-40(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).

Here, the release of Appellant'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.

c. Exempted by Statute or Law under 30-4-40(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 Appellant'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 to 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.

E. The circuit court erred in failing to find that the release of 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 the amorphous inquiry of what constitutes public policy." Taghivand v. Rite Aid Corp., 411 S.C. 240, 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 outs. Allowing the release of Appellant's telephone calls opens the public policy floodgates. The following policy considerations are merely the beginning of this Court's inquiry:

- a. Should jurors, witnesses, and victims be permitted to acquire telephone calls pursuant to FOIA?
- b. How is the South Carolina Victims' Bill of Rights implicated when the telephone calls involve a victim?

- c. Should people receiving calls have the ability to intervene and object to calls being released pursuant to FOIA?
- d. Should telephone calls to minors be subject to forced consent and released pursuant to FOIA?
- e. Should pre-trial detainees be permitted to file lawsuits when telephone calls are misattributed to them?
- f. What are the implications of technology being able to manipulate telephone recordings and the voices that are recorded?
- g. What resources would be needed from all South Carolina pre-trial detention centers, the Judicial System, and the Bar to facilitate the review, legal objections, and legal rulings related to endless FOIA requests for any and all recorded telephone calls held by those detention centers?
- h. What are the implications of pre-trial detainees having access to other pre-trial detainees' telephone calls pursuant to FOIA?
- i. The original motion to prevent the telephone calls was filed in circuit court on August 9, 2023. More than two years has passed with multiple filings and hearings. Litigation has not begun on Petitioner's telephone calls that have been made since the first 72 calls. Did the legislature intend for FOIA to be weaponized in such a way that constant litigation regarding pretrial detainee telephone calls will be needed for this and every other pretrial detainees' cases throughout the state?

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 find that they are not subject to FOIA.

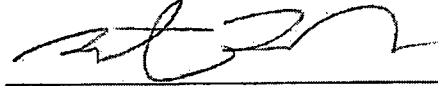
Specifically, as it relates to this case, if this Court does not grant Appellant's appeal, litigation will continue in perpetuity. Upon denial, the circuit court will be required to listen to every future call made by the Appellant. Prior to the filing of the initial petition with this Court, the State disclosed 72 jail calls and cited exemptions for only three. That left 69 jail calls for the circuit court to consider. The Appellant objected to all 69 jail calls being released. This does not account for every call made after the first 72.

The circuit court had to hold a hearing in a closed court room for hours to review the calls. The court room had to be closed, otherwise the media would have access to the content of the calls prior to a ruling on whether they were subject to FOIA. Because the circuit court ruled that even one jail call was subject to release, the Appellant was forced to refile the original Notice of Intent to Appeal and Petition for Writ of Supersedeas. If no jail calls were released, the media would have filed an action against the pretrial detention center requesting release that would eventually – again – be appealed by a party. The substantive issues, however, remain the same. This process will repeat itself throughout the entirety of this case and in any other South Carolina criminal case where calls are requested and a party to the call objects. The issue cannot be litigated at the circuit level without undue burden being placed on this circuit court and all other circuit courts in South Carolina. In sum, the issue is inherently capable of repetition and evading review. Accordingly, public policy and judicial economy provide sufficient reason for this Court to reverse the circuit court order.

CONCLUSION

Based on the above arguments this Court should reverse the circuit court order releasing the Appellant's calls pursuant to FOIA.

Respectfully Submitted,



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This 26th day of September, 2025.

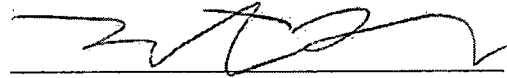
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CERTIFICATE OF COUNSEL

SC. Court of Appeals

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 26th day of September, 2025.



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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

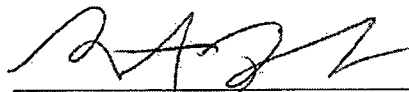
RYAN MANIGO (2),

APPELLANT

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 Final Brief of Appellant in the above-referenced case has been served upon Melody J. Brown, Esquire, and I. McDuffie Stone, Esquire AND Michael J. Anzelmo, Esquire and Mark Peper, Esquire at the primary e-mail addresses listed in the Attorney Information System (AIS); this 26th day of September, 2025.



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STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM COLLETON COUNTY
The Honorable Robert J. Bonds, Circuit Court Judge

Appellate Case No. 2024-001818

THE STATE,RESPONDENT

v.

RYAN LENARD MANIGO.....APPELLANT.

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court judge erred in failing to find that pretrial detainee telephone calls are not subject to the Freedom of Information Act?
2. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates the pretrial detainee's state and federal constitutional rights?
3. Whether the circuit court judge erred in failing to find that the Freedom of Information Act's statutory exemptions prevent the release of pretrial detainee telephone calls?
4. Whether the circuit court judge erred in failing to find that the release of pretrial detainee telephone calls violates public policy?

RESPONDENT'S COUNTERSTATEMENT OF THE ISSUE ON APPEAL

Whether this Court has jurisdiction to entertain Appellant's issues related to pre-trial rulings in his criminal case when Appellant has not been tried, convicted and sentenced and shows no exception under S.C. Code Ann. § 14-3-330 that would allow this interlocutory appeal to be heard?

STATEMENT OF THE CASE

Appellant is a pretrial detainee in Colleton County currently charged with multiple crimes including: five counts of murder; arson first degree; two counts of criminal sexual conduct first degree; two counts of criminal sexual conduct with a minor; two counts of kidnapping; six counts of possession of a deadly weapon in the commission of a violent crime, burglary first degree; attempted murder and incest. The charges remain pending at this time.

RESPONDENT'S STATEMENT OF FACTS

Appellant has not been tried and convicted on his pending charges in the court of general sessions in Colleton County. At some point, Appellant became aware that the media, pursuant to the Freedom of Information Act¹ (FOIA), had requested access to Appellant's recorded jail calls. On August 9, 2023, Appellant moved, in general sessions, to prevent the recordings from being released. The Honorable Robert J. Bonds heard Appellant's motion. Judge Bonds found that the recordings were subject to the FOIA provisions and no constitutional infringements by disclosure had been shown. The judge also provided a review process for *specific* challenges, and restricted release of any of the jail calls until a final ruling could be made. (R. 126-131, Order, at 2).² Thereafter, Judge Bonds conducted a detailed review and ruled on objections and/or arguments on *specific* calls having rejected the defense's request for complete exemption. (See R. 126-131, Order at 4-6). Notably, Judge Bonds found multiple records subject to redaction before release and seven records not subject to release. (R. 126-131, Order at 5-6). Appellant filed a notice of appeal and moved for supersedeas, or to quash the order.

On May 5, 2025, this Court denied Appellant's motions to prevent the release of jail calls to the media pursuant to Judge Bonds' order. The Court found, in relevant part, that "Appellant will not suffer irreparable harm or a miscarriage of justice due to the release of the recordings in accordance with the circuit court's well-reasoned order," and denied the petition. (May 5, 2025 Order). This Court subsequently denied Appellant's petition for rehearing on June 5, 2025.

¹ S.C. Code Ann. §§ 30-40-10 through 165.

² After this ruling, Appellant attempted an appeal and filed a motion to quash and petition for supersedeas to challenge the ruling and stop disclosures. This Court denied the motion to quash, declined to rule on the petition for supersedeas, and dismissed the notice as interlocutory. (Appellate Case No. 2023-001747).

On May 23, 2025, the State moved to dismiss the appeal as improperly interlocutory given Appellant had not yet been tried, convicted and sentenced. This Court denied the State's motion to dismiss the appeal with the following provision:

...this order merely allows the appeal to proceed at this time and does not finally determine whether the underlying order is subject to immediate review. The parties are free to address these questions of appealability in their briefing as the appeal progresses.

(June 5, 2025 Order).

STANDARD OF REVIEW

“An appellate court may determine the question of appealability of a decision from a lower court as a matter of law.” *Levi v. N. Anderson Cnty. EMS*, 409 S.C. 374, 379, 762 S.E.2d 44, 47 (Ct. App. 2014) (quoting *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct.App.2010) (citing S.C.Code Ann. § 14–3–330 (1976 & Supp.2009) (creating appellate jurisdiction in law cases)).

ARGUMENT

Appellant's notice of appeal should be dismissed as an unauthorized, improper interlocutory appeal which fails to support appellate jurisdiction.

“[A] criminal defendant has no constitutional right to appeal.” *State v. Rearick*, 417 S.C. 391, 398, 790 S.E.2d 192, 196 (2016). “Rather, a defendant’s right to appeal is authorized by statutes and appellate court rules of procedure.” *Id.*

“An appeal ordinarily may be pursued only after a party has obtained a final judgment.” *Hagood v. Sommerville*, 362 S.C. 191, 194–95, 607 S.E.2d 707, 708 (2005) (quoting *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 781 (1993)). See also Rule 201(a), SCACR (“Appeal may be taken, as provided by law, from any final judgment, appealable order or decision.”). “A final judgment disposes of the whole subject matter of the action or terminates the particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined.” *State v. Looper*, 421 S.C. 384, 388, 807 S.E.2d 203, 205 (2017) (quoting *Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep’t of Health & Envtl. Control*, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010)).

Whether an appeal may be entertained by an appellate court is a matter of such primary importance that “[e]ven if not raised by the parties, this court may address the issue of appealability *ex mero motu*.” *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct. App. 2010).

In this case, Appellant has shown no viable exception that allows him to maintain his appeal. This is so for two distinct reasons.

First, Appellant previously asserted that he was not intending to pursue an ordinary appeal. In responding to Gray Media Group’s motion to dismiss the appeal, Appellant wrote:

Gray attempts to treat this matter as a traditional appeal with ordinary briefing schedules pursuant to Rule 204 of the South Carolina Appellate Court Rules. However, the Petitioner's Notice of Appeal was nothing more than a vehicle to have this Court consider the Appellant's Writ of Supersedeas pursuant to Rule 240 of the South Carolina Court Rules.

(December 6, 2024, Reply to Gray Media Group, Inc.'s Motion to Dismiss Appeal, at 2).

Yet, supersedeas is not as readily available to a criminal defendant as it is for a civil party. A civil party may apply for supersedeas under Rule 241, SCACR.³ Stays in criminal cases are controlled by Rule 246, SCACR. And, a writ of supersedeas is only available where there is an appealable order. *State v. Hill*, 314 S.C. 330, 331–32, 444 S.E.2d 255, 256 (1994). Pre-trial orders that do not involve the merits or “affect a substantial right which discontinues the action” are not immediately appealable and supersedeas is unavailable. *Id.* At any rate, Appellant's request to this court, *i.e.*, the matter of supersedeas, has been ruled upon and no further action required.⁴

³ Appellant has also disavowed attempting to fall under Rule 241, SCACR, as that only applies in civil actions. (Nov. 27, 2024 Reply to State's Return, at 2). Nonetheless, this Court cited to Rule 241 in denying the petition for rehearing of the order denying the petition for writ of supersedeas. (June 5, 2025 Order). Even so, under the rule applicable to civil actions, it is still anticipated that appellate jurisdiction can attach.

⁴ There are also additional areas of confusion in Appellant's position. FOIA is civil in nature and there are civil remedies available. *See, e.g., Brawley v. Richland Cnty.*, 445 S.C. 80, 89, 911 S.E.2d 156, 161 (Ct. App. 2025), *reh'g denied* (Jan. 28, 2025), *cert. denied* (June 3, 2025) (“A declaratory judgment action under ... FOIA to determine whether certain information should be disclosed is an action at law.”)(quoting *Miramonti v. Richland Cnty. Sch. Dist. One*, 438 S.C. 612, 616, 885 S.E.2d 406, 408 (Ct.App. 2023)). By the method of litigation chosen, Appellant missed including an important party to the litigation—the entity that requested the release under FOIA. (See May 5, 2025 Order n. 1 (“Gray Media is not a party to this appeal. This court invited Gray Media to file a return to the petition for a writ of supersedeas because Gray Media sought release of Appellant's recorded phone calls from the detention centers. The release of these phone calls is the subject of the petition for a writ of supersedeas.”)). Appellant's motion below and subsequent appeal outside the provisions of the Act posits unnecessary challenge to the narrow exemptions for appeals from general sessions matters.

Second, no further relief can be due as Appellant's appeal is interlocutory and does not fall under any exception listed in S.C. Code Ann. § 14-3-330. "The General Assembly has expressly limited those decisions that are immediately appealable." *Rearick*, 417 S.C. at 399, 790 S.E.2d at 196. But those exceptions are narrowly construed. *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019) ("[t]he provisions of section 14-3-330 are narrowly construed and serve the underlying policy favoring judicial economy by avoiding 'piecemeal appeals.'" (quoting *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005))). Though Appellant suggests a substantial right is involved, that stand alone assertion fails to satisfy the statute. The exceptions regarding "a substantial right" read as follows:

2) An order affecting a substantial right made in an action *when* such order (a) in effect determines the action and *prevents a judgment* from which an appeal might be taken or discontinues the action, (b) grants or refuses a *new trial* or (c) *strikes out an answer* or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any *special proceeding or* upon a summary application in any action *after judgment*; ...

S.C. Code Ann. § 14-3-330 (emphasis added).

Appellant is facing trial on criminal charges. Nothing has been determined that "prevents judgment," or goes to a "new trial," or "strikes out" any part of any pleading. Further, the matter at issue was not heard in "special proceeding" or "after judgment." Appellant cannot qualify for an interlocutory appeal. Further, it is a well-settled principle that a criminal defendant may not appeal prior to being sentenced. *See, e.g., Rearick*, 417 S.C. at 400, 790 S.E.2d at 196 ("defendant may appeal only after sentence has been imposed"); *see also State v. Isaac*, 405 S.C. 177, 183, 747 S.E.2d 677, 680 (2013) (our Supreme Court acknowledges that "generally, a criminal defendant may not appeal until sentence is imposed" and collecting cases). Appellant does not show appealability and the appeal should be dismissed.

Moreover, simply alleging one is “aggrieved” is not enough. *See* Rule 201 (b), SCACR (“Only a party aggrieved by an order, judgment, sentence or decision may appeal.”). That would qualify for almost any ruling to be appealable which is clearly not contemplated by the statute or case law. *See, e.g., State v. Looper*, 421 S.C. 384, 389, 807 S.E.2d 203, 205 (2017) (determining that “the twin pillars of appealability, aggrieved and a final judgment” are necessary). The appeal should be dismissed.

Even so, if the Appellant could overcome the interlocutory nature of this appeal by some exception (which Respondent maintains he cannot), there is a complete impossibility of evaluating prejudice in context of the general sessions matter. There is no evidence that can be referenced to determine prejudice, only speculation, and a premature ruling as to impact on potential jurors would be contrary to the precedent that sets out how such prejudice or lack thereof is shown:

After careful consideration, we deny the petition for a writ of supersedeas. We find Appellant will not suffer irreparable harm or a miscarriage of justice due to the release of the recordings in accordance with the circuit court’s well-reasoned order. *See State v. Evins*, 373 S.C. 404, 412-13, 645 S.E.2d 904, 908 (2007) (noting adequate voir dire examination of jurors on their abilities to set aside any impressions or opinions resulting from exposure to pretrial publicity or a change of venue effectively protect a criminal defendant’s right to a fair trial in cases involving significant pretrial publicity).

(May 5, 2025 Order).

Of course, a necessary component to voir dire is that the case must be called and the jurors presented. In essence, this Court has already determined that Appellant must stand trial before an appeal would be allowable. At the least, this Court’s finding that Appellant will not be subjected either to “irreparable harm or a miscarriage of justice” from the release of calls after the lower court’s careful consideration of those calls shows no harm can attach should proceedings continue in the ordinary course. Thus, there is no valid cause to continue the premature appeal at all.

In sum, from any view, the instant appeal is premature and subject to dismissal.

CONCLUSION

For the foregoing reasons, this Court should dismiss the appeal.

Respectfully submitted,

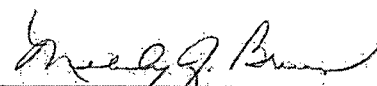
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October 1, 2025
Columbia, South Carolina

STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM COLLETON COUNTY
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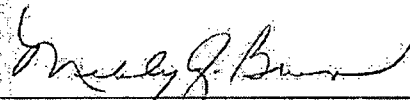
PROOF OF SERVICE

The undersigned certifies that pursuant to Rule 262(c)(3), SCACR and the Supreme Court order of April 24, 2024, the Final Brief of Respondent, along with Certificate of Service has been forwarded to Appellant's counsel, Robert L. Banks, Jr., Esquire and S. Boyd Young, Esquire, via email today, October 1, 2025 to rbank@sccid.sc.gov and byoung@sccid.sc.gov.

A courtesy copy of the brief is also being provided to Gray Media Counsel, Michael J. Anzelmo, Esq., at manzelmo@mcguirewoods.com; and Mark A. Peper, Esq., at Mark@peperlawfirm.com.

I further certified that all parties required by Rule to be served have been served.

This 1st day of October, 2025.



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Sep 26 2025

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

Appeal from Colleton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RYAN MANIGO (2),

APPELLANT

APPELLATE CASE NO. 2024-001818

FINAL REPLY BRIEF OF APPELLANT

S. BOYD YOUNG
Chief AttorneyROBERT LOUIS BANK, JR.
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ATTORNEYS FOR APPELLANT

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ARGUMENT IN REPLY

Respondent again avoids addressing the merits of Appellant's argument. Other than a passing comment on the issue related to Appellant's right to a fair trial, Respondent has left this Court and Appellant with no understanding of its position on the vast majority of the issues raised by Appellant. Abandoning those issues, Respondent has relied solely on its position that the appeal should be dismissed because it is interlocutory.¹

First, Respondent argues this appeal should be dismissed because it was originally filed in conjunction with a Writ of Supersedeas and that Appellant asserted he was not pursuing an ordinary appeal. However, as Appellant noted in its Motion to File Initial Brief of Appellant and Designation of Matter Out of Time, Initial Brief of Appellant, and Petition for Rehearing,² Appellant deferred to this Court on how to proceed. It is clear this Court has the authority to rule on the merits of the case in a variety of ways under Article 5 §§ 5 and 20 of the South Carolina Constitution and S.C. Code Ann. 14-18-200.

Second, Respondent argues this appeal should be dismissed because it is interlocutory and does not fall under any exception listed in S.C. Code Ann. § 14-3-330. However, Respondent conflates the merits and conclusion of his criminal trial with the wholly separate issues raised in this appeal. According to Rule 201, SCACR, an appeal may be taken "from any judgment, appealable order or decision." Additionally, "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 one of

¹ The majority of Respondent's arguments have already been made in its Motion to Dismiss Appeal. This Court denied that motion noting the parties were free to address the questions of appealability in their briefing as the appeal progressed. However, Appellant is unable to address Respondent's position on the merits of the appeal because Respondent has never addressed the merits of this appeal.

² The Petition for Rehearing was in relation to its Petition for Writ of Supersedeas.

the categories set out by statute to be immediately appealable. *State v. Wilson*, 387 S.C. 597, 600 (2010). Section 14-3-330 confers appellate jurisdiction to the Supreme Court for:

- (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;
- (2) **An order affecting a substantial right made in an action when such order**
 - (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) **strikes out an answer or any part thereof or any pleading in any action;**
- (3) **A final order affecting a substantial right made in any special proceeding** or upon a summary application in any action after judgment; and
- (4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

S.C. Code Ann. § 14-3-330 (emphasis added). Furthermore, South Carolina Code 14-8-200(a)

provides that:

- (a) Except as limited by subsection (b) and Section 14-8-260, the [South Carolina Court of Appeals] has jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit court, family court, a final decision of an agency, a final decision of an administrative law judge, or the final decision of the Workers' Compensation Commission. This jurisdiction is appellate only, and the court shall apply the same scope of review that the Supreme Court would apply in a similar case. The court has the same authority to issue writs of supersedeas, grant stays, and grant petitions for bail as the Supreme Court would have in a similar case. The court, to the extent the Supreme Court may by rule provide for it to do so, has jurisdiction to entertain petitions for writs of certiorari in post-conviction relief matters pursuant to Section 17-27-100.

The question of whether an order is immediately appealable must be determined on a case-by-case basis. *Stone v. Thompson*, 426 S.C. 291, 295 (2019).

Here, Appellant challenges a **final order** by the circuit court permitting the release of recorded telephone calls between Appellant and his family and loved ones to the media pursuant to a Freedom of Information Act (FOIA) request. Additionally, the order is *not* inherent to the final judgment of Appellant's criminal charges. No matter the result of the judgment in the lower court—acquittal or conviction and sentence—this final order implicates Appellant's substantial rights including the rights enshrined in the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the federal Constitution and Article I, §§ 3, 9, 10, 11, 12, 14, and 15 of the state Constitution. Unlike many of the intermediate rulings in a criminal action, the harm to Appellant cannot be corrected by the remedy of a new trial as it is separate from the merits of the criminal case and implicates rights separate from those associated with the criminal case. Appellant's contentions are reviewable by this Court, pursuant to § 14-3-330(2) or (3) and Rule 201, as it is a final order that affects Appellant's substantial rights and does not concern the merits of the underlying criminal case. Furthermore, Appellant 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.

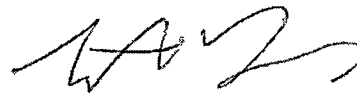
Finally, in Footnote 4 of the Brief of Respondent, Respondent suggests this should be litigated in the Court of Common Pleas pursuant to the mechanisms provided for in FOIA. However, FOIA provides no mechanisms for pretrial detainees to have notice of the possible release of their recorded telephone calls. If the pretrial detainee were fortunate enough to be made aware of possible release, as was the case here, there is still no mechanism to file an action to challenge 1) whether the calls are a public record subject to FOIA, or 2) whether the release would create irreversible constitutional deprivations for the pretrial detainee, or anyone else recorded during the recorded telephone call. S.C. Code Ann. 30-4-110(B) does provide a third party an ability to ask for a hearing, but only to challenge limited statutory exemptions. The

limited statutory exemptions do not include matters in S.C. Code Ann. 30-4-40(a)(3) which contain the majority of the exemptions any pretrial detainee would likely challenge including his right to a fair trial and one of the privacy provisions afforded by FOIA.

Appellant has filed this litigation because FOIA does not, and never has, contemplated this issue arising. This litigation itself is evidence that the legislature never intended for FOIA to be used in this fashion. It will always risk repetition and evade review. The Appellant asks this Court to consider its appeal of the circuit court's final ruling on this issue.

CONCLUSION

Based on the foregoing argument, as well as the arguments in the Brief of the Appellant and all other previous filings, Appellant respectfully requests that this Court reverse the findings of the circuit court and enter relief.



S. BOYD YOUNG
Chief Attorney

ROBERT LOUIS BANK
Capital Defender

ATTORNEYS FOR APPELLANT

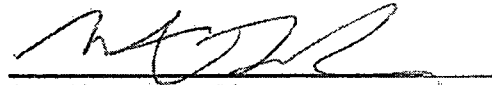
This 26th day of September, 2025.

RECEIVED
Sep 26 2025**CERTIFICATE OF COUNSEL**

SC Court of Appeals

The undersigned certifies that to the best of my ability this Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 26th day of September, 2025.



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

Appeal from Colleton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

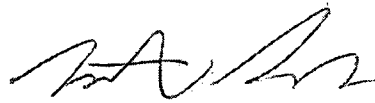
RYAN MANIGO (2),

APPELLANT

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 Final Reply Brief of Appellant in the above-referenced case have been served upon Melody J. Brown, Esquire, and I. McDuffie Stone, III, Esquire AND Michael Anzelmo, Esquire and Mark Peper, Esquire at the primary e-mail addresses listed in the Attorney Information System (AIS), this 26th day of September, 2025.



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ATTORNEYS FOR APPELLANT

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Ryan Lenard Manigo, Appellant.

Appellate Case No. 2024-001818

Appeal From Colleton County
Robert J. Bonds, Circuit Court Judge

Opinion No. 6149
Submitted May 1, 2026 – Filed June 24, 2026

DISMISSED

Chief Attorney S. Boyd Young and Capital Defender
Robert Louis Bank, Jr., both of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, and Senior
Assistant Deputy Attorney General Melody Jane Brown,
of Columbia, and Solicitor Isaac McDuffie Stone, of
Bluffton, all for Respondent.

THOMAS, J.: Ryan Lenard Manigo is a pretrial detainee currently being held in the Colleton County Detention Center. Manigo was arrested on July 2, 2023, and charged with five counts of murder, arson first degree, two counts of criminal sexual conduct first degree, two counts of criminal sexual conduct with a minor, two counts of kidnapping, six counts of possession of a deadly weapon in the commission of a violent crime, burglary first degree, attempted murder, and incest.

The charges remain pending. Following the media's release of Manigo's jail telephone calls, he appealed, arguing the circuit court erred in failing to find that: (1) pretrial detainee telephone calls are not subject to the Freedom of Information Act (FOIA); (2) the release of pretrial detainee telephone calls violates the pretrial detainee's Federal and State Constitutional rights; (3) FOIA's statutory exemptions prevent the release of pretrial detainee telephone calls; and (4) the release of pretrial detainee telephone calls violates public policy. We dismiss Manigo's appeal because the circuit court's order is not immediately appealable.¹

We hold the circuit court's order allowing the release of the pretrial telephone calls is an interlocutory order that is not immediately appealable. "[An a]ppeal may be taken, as provided by law, from any final judgment, appealable order or decision." Rule 201(a), SCACR. "An appeal in a criminal case must attend the final judgment rendered on the indictment." *State v. Hubbard*, 277 S.C. 568, 569, 290 S.E.2d 817, 817 (1982); *see also State v. Miller*, 289 S.C. 426, 426, 346 S.E.2d 705, 705 (1986) ("In South Carolina, a criminal defendant may not appeal until sentence has been imposed."). An interlocutory order is "[a]n order that relates to some intermediate matter in the case; any order other than 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). An interlocutory order is not immediately appealable unless it involves the merits of the case or affects a substantial right. S.C. Code Ann. § 14-3-330 (2017). Although finality is a general requirement of appealability, there are certain interlocutory orders that are immediately appealable. *See Ex parte Wilson*, 367 S.C. 7, 13, 625 S.E.2d 205, 208 (2005) ("Absent some specialized statute, the immediate appealability of an interlocutory or intermediate order depends on whether the order falls within [section] 14-3-330."). Our appellate courts have jurisdiction to review:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final

¹ By virtue of this dismissal, we decline to rule on the merits of the outstanding motions in this appeal. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (declining to address the remaining issues where a prior issue was dispositive).

judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and

(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

§ 14-3-330. "The provisions of section 14-3-330 . . . have been narrowly construed, and the immediate appeal of orders issued before or during trial generally has not been permitted." *State v. Wilson*, 387 S.C. 597, 601, 693 S.E.2d 923, 925 (2010). South Carolina law has long held that a criminal defendant may not appeal until a conviction and sentence have been rendered. *See State v. Looper*, 421 S.C. 384, 389, 807 S.E.2d 203, 205–06 (2017) (dismissing a criminal defendant's appeal prior to conviction and sentencing as premature because the circuit court's order did not purport to determine guilt or impose any sentence on the defendant; therefore, it was not a final judgment); *State v. Hill*, 314 S.C. 330, 331, 444 S.E.2d 255, 256 (1994) (finding orders setting bail for each defendant in a capital murder case were not appealable by the State because they "do not involve the merits, nor do the orders affect a substantial right which determines or discontinues the action"); *In re Lorenzo B.*, 307 S.C. 439, 439, 415 S.E.2d 795, 795 (1992) (holding an order adjudicating a juvenile delinquent is not appealable until imposition of final judgment at the dispositional hearing); *Parsons v. State*, 289 S.C. 542, 542, 347 S.E.2d 504, 504 (1986) (holding denial of bail pending trial is not immediately appealable); *State v. Washington*, 285 S.C. 457, 458, 330 S.E.2d 289, 289 (1985) (noting a conviction at a trial in absentia prior to imposition of sentence is not immediately appealable); *Hubbard*, 277 S.C. at 569, 290 S.E.2d at

817 (holding the denial of a motion to suppress evidence is not immediately appealable).

We do not see how Manigo can prove that any error by the circuit court resulted in prejudice to him as he has not yet been tried, convicted, or sentenced. *See State v. Black*, 400 S.C. 10, 16–17, 732 S.E.2d 880, 884 (2012) ("To warrant reversal, an error must result in prejudice to the appealing party."). Manigo argues his rights to privacy, a fair trial, equal protection, and due process have been violated by the media's release of his calls. However, pretrial publicity does not automatically prejudice a criminal defendant, and he is afforded other avenues to protect his right to an impartial jury such as a motion to change venue or specific voir dire questions. This court recognized this in its May 5, 2025, order when it found Manigo would not "suffer irreparable harm or a miscarriage of justice due to the release of the recordings." While pretrial publicity may prejudice a criminal defendant in South Carolina, our courts require evidence of actual juror bias rather than presuming prejudice from media exposure alone, with adequate voir dire examination serving as the primary safeguard against potential prejudice. *State v. Kelsey*, 331 S.C. 50, 67–68, 502 S.E.2d 63, 72 (1998) (finding it is the defendant's burden to demonstrate actual juror prejudice because of news accounts of the case); *State v. Owens*, 293 S.C. 161, 167, 359 S.E.2d 275, 278 (1987) ("[A defendant's] mere assertion that the jurors could have been subconsciously affected by . . . media exposure is insufficient to show prejudice."). Further, even before the calls were released, there was significant media publicity based solely on the sensational allegations of the crime. As an additional consideration, the release of the telephone calls may be rendered moot by the time trial comes. There is no guarantee at this juncture that the calls will be used as evidence at trial. The calls may be introduced at trial, and at that time, a review of their admissibility would be proper. *State v. Mueller*, 319 S.C. 266, 268, 460 S.E.2d 409, 410 (Ct. App. 1995) (holding that pretrial motions are generally not final orders because "the evidence developed during trial may warrant a change in the ruling").²

DISMISSED.³

² There is a scenario in which a pretrial order in a criminal case may be appealed prior to final judgment; however, that is not applicable here. The State may appeal some orders before final judgment. "A pre-trial order granting the suppression of evidence which significantly impairs the prosecution of a criminal case is directly appealable under . . . § 14-3-330(2)(a)." *State v. McKnight*, 287 S.C. 167, 168, 337 S.E.2d 208, 209 (1985).

³ We decide this case without oral argument pursuant to Rule 215, SCACR.

MCDONALD and TURNER, JJ., concur.

RECEIVED
Jul 08 2026STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

SC Court of Appeals

Appeal from Colleton County

Robert J. Bonds, Circuit Court Judge

Opinion No. 6149 (submitted May 1, 2026 – filed June 24, 2026)

THE STATE,

RESPONDENT,

V.

RYAN LENARD MANIGO (2),

APPELLANT

APPELLATE CASE NO. 2024-001818

PETITION FOR REHEARING

On June 24, 2026, this Court dismissed Appellant's appeal. Pursuant to 221, SCACR, Appellant respectfully requests rehearing because this Court's finding that the appeal is interlocutory only related to his claims that the release of the calls would violate his United States and South Carolina Constitutional rights to a fair trial. This Court reasoned that it does "not see how Manigo can prove that any error by the circuit court resulted in prejudice to him as he has not yet been tried, convicted, or sentenced." (*State v. Manigo*, Op. No. 6149 (S.C. Ct. App. Filed June 24, 2026) (*citing State v. Black*, 400 S.C. 10, 16-17, 732 W.E.2d 880, 884 (2012))). The Court continued that "[w]hile pretrial publicity may prejudice a criminal defendant in South Carolina,

our courts require evidence of actual juror bias rather than presuming prejudice from media exposure alone, with adequate voir dire examination serving as the primary safeguard against potential prejudice.” *Id.* (citing State v. Kelsey, 331 S.C. 50, 67-68, 502 S.E.2d 63, 72 (1988); State v. Owens, 293 S.C. 161, 167, 359 S.E.2d 275, 278 (1987)). However, this Court overlooked Appellant’s other claims related to the circuit court’s final order. Specifically: 1) whether the calls are public records that are subject to the Freedom of Information Act (FOIA); 2) other United States and South Carolina Constitutional deprivations, including his right to privacy, equal protection, and due process; 3) whether FOIA’s statutory exemptions prevent the release of the calls; and 4) whether the order violates public policy.

This Court conflates the Appellant’s rights related to a fair trial, the admissibility of evidence, and potential mootness with his collateral appellate claims that are independent of the outcome of any possible trial. The Appellant challenges a **final order** by the circuit court permitting the release of recorded telephone calls pursuant to FOIA. The order is not inherent to the final judgment of Appellant’s criminal charges. No matter the result of the judgment in the lower court – acquittal or conviction and sentence – the circuit court’s final order implicates Appellant’s rights in the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the federal Constitution and Article I, §§ 3, 9, 10, 11, 12, 14, and 15 of the state Constitution. The circuit court’s final order also violates the statutory exemptions provided for in FOIA and the public policy of South Carolina. The outcome of his criminal trial does not relate to the claims Appellant raises. The prejudice is not potential – it has already occurred.

WHEREFORE, based on the foregoing argument, as well as the arguments in the Brief of the Appellant and all other previous filings, Appellant respectfully requests that this Court reverse the findings of the circuit court and enter relief.



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This 8th day of July, 2026.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
Jul 08 2026

SC Court of Appeals

Appeal from Colleton County

Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

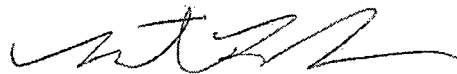
RYAN LENARD MANIGO (2),

APPELLANT

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 Rehearing in the above-referenced case has been served upon 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), this 8th day of July, 2026.



Robert Louis Bank, Jr.
Capital Defender
SC Bar # 101112

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The South Carolina Court of Appeals

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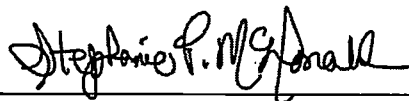
Appellate Case No. 2024-001818

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

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Alan McCrory Wilson, Esquire

Melody Jane Brown, Esquire

Sean Paul Thornton, Esquire

Mark Andrew Peper, Sr., Esquire

Michael J. Anzelmo, Esquire

S. Boyd Young, Esquire
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Isaac McDuffie Stone, III, Esquire
The Honorable Robert J. Bonds

FILED
Jul 10 2026