

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Thomas J. Rode

Case No. 2025-CP-10-07109
Appellate Case No.: 2026-001551

RECEIVED

Oct 08 2026

SC Court of Appeals

MARIE MIDDLETON..... Appellant

v.

MARISA WRIGHT..... Respondent

INITIAL BRIEF OF RESPONDENT

Smith Law Group of the Carolinas, LLC

s/William K. Kalivas

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October 8, 2026

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STATEMENT OF ISSUES ON APPEAL

- I. The Magistrate Court did not exclude any evidence during trial and any failure to admit evidence is not an error attributable to the Magistrate Court or Circuit Court.
- II. The Magistrate Court properly assessed and weighed the evidence presented at trial and neither the Magistrate Court nor the Circuit Court relied on non-admitted materials.

STATEMENT OF THE CASE

This is an appeal by Marie Middleton (“Appellant”) of the Order Denying Appeal issued by The Honorable Thomas J. Rode on July 1, 2026. Respondent filed a Complaint and Motion for Restraining Order against Appellant on September 25, 2025. In response, Appellant filed a Complaint and Motion for Restraining Order against Respondent on November 5, 2025. A trial was held on December 2, 2025 on both complaints and motions for restraining order with the consent of all parties. Respondent was represented by the undersigned counsel and Appellant was represented by Ariel N. Larsen of The Shealey Law Firm, LLC.

At the conclusion of the trial, all matters were taken under advisement by the Honorable Laura C. Waring, John’s Island Magistrate, with final orders issued on December 11, 2025. In the final order as to Respondent’s Complaint and Motion for Restraining Order, which is the only matter at issue in this appeal, Judge Waring found that Appellant initiated “unwanted contact” against Respondent warranting the issuance of a restraining order against Appellant. Appellant filed a notice of appeal from Judge Waring’s final order to the Circuit Court on December 29, 2025, and a hearing was held on June 11, 2026. Judge Rode issued his order denying the appeal on July 1, 2026 and Appellant filed this Notice of Appeal on July 15, 2026.

STANDARD OR REVIEW

In an appeal from Magistrate’s Court, the appellate court “may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact.” S.C. Code Ann. § 18-7-170. “The appeal shall be heard by the court upon all the papers in the case,” and “[t]he court shall have the same power over its own determinations, and shall render judgment thereon in the same manner, as the circuit court in actions pending therein...” S.C. Code Ann. §§ 18-7-130, 140. “When there is any evidence, however slight, tending to prove the issues involved, [the] [c]ourt may not question a magistrate court’s findings of fact that were approved by a circuit court on appeal.” *Allendale Cnty. Sheriff’s Office v. Two Chess Challenge II*, 361 S.C. 581, 585, 606 S.E.2d 471, 473 (2004).

“The decision of whether to issue a restraining order is within the trial judge’s discretion.” *Brandt v. Gooding*, 368 S.C. 618, 629, 630 S.E.2d 259, 264 (2006) (citing *State v Hill*, 266 S.C. 49, 52, 221 S.E.2d 398, 399 (1976)). Therefore, Appellant must show an abuse of that discretion to prevail in her appeal. “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” *State v. Jones*, 416 S.C. 283, 290, 786 S.E.2d 132, 136 (2016). Deference should be given to the trial court’s superior position to weigh the evidence presented and evaluate witness credibility during the trial. *See State v. Williams*, 321 S.C. 455, 469 S.E.2d 49 (1996).

FACTS

It is undisputed that Respondent and Appellant are neighbors. Respondent initially filed for a restraining order against Appellant, who, after receipt of service of the same, filed for a restraining order against Appellant. A similar pattern occurred between Appellant and another neighbor, where the other neighbor filed for a restraining order against Appellant, who then filed for a restraining order against the neighbor after being served. Appellant's home is in a location that most of the neighborhood is either within eyesight of her home or have to drive by her home when entering or leaving the neighborhood. It is telling that all of the witnesses who appeared at the trial were neighbors of the Appellant, and all provided testimony and evidence corroborating the testimony of the Respondent.

During the trial on December 2, 2025, Respondent presented multiple witnesses and introduced several exhibits into evidence, including video footage of several of the incidents referenced in the Complaint and Motion. Appellant did not present any witnesses other than herself, nor were any exhibits entered into evidence. In all matters before the court, including the restraining orders at issue between the other neighbor and Appellant, the trial found that Appellant initiated "unwanted contact" warranting the issuance of a restraining order against Appellant in all instances. The trial judge also found that Appellant had failed to meet her burden of proof in her request for restraining orders and that Respondent did not initiate unwanted contact.

ARGUMENT

I. The Magistrate Court did not exclude any evidence during trial and any failure to admit evidence is not an error attributable to the Magistrate Court or Circuit Court.

Appellant's claim that the Magistrate abused its discretion by excluding evidence is patently false and contradicted by the record. There was never any evidence excluded in the trial of this case and no "Ring doorbell footage, FaceTime/call logs, and other time-stamped records" was ever introduced by Appellant or her attorney during the trial. The only evidence introduced on behalf of the Appellant was her own testimony, and no objections were made to that evidence. Moreover, no objections were made and no issues preserved regarding the alleged exclusion of evidence, testimonial or otherwise.

Likewise, Appellant never proffered any evidence at the trial of the case and appears to rely solely on reference to her own appeal to the Circuit Court as support for the argument that a proffer was made. Appellant had every opportunity to introduce evidence during the trial and was represented by competent and capable legal counsel during the proceedings. Appellant cannot point to any reference in the record where any evidence was excluded or proffered, and instead appears to merely be trying to present additional evidence despite having a reasonable and fair opportunity to do so at the trial of the case.

As noted by The Honorable Thomas J. Rode in his Order Denying Appeal, "the record does not show that Appellant sought to introduce any evidence that was excluded by the Magistrate Court. On the contrary, Appellant acknowledged that her attorneys did not offer the evidence she claims should have been admitted." Therefore, there is no factual basis to support the argument that any evidence was excluded by the Magistrate Court and any failure to admit evidence rests solely on the Appellant. There was no exclusion of evidence at trial and no proffer of evidence

made by the Appellant, so there can be no error on behalf of the Magistrate Court or Circuit Court on the evidentiary matters alleged by the Appellant.

II. The Magistrate Court properly assessed and weighed the evidence presented at trial and neither the Magistrate Court nor the Circuit Court relied on non-admitted materials.

Appellant's argument that the Magistrate's findings are conclusory and unsupported by a preponderance of the evidence is not supported by the record. The Magistrate's Return goes into detail about the testimony presented by the Respondent and the witnesses she presented at trial. While the Return references that "[p]olice were called and statements were written", that is a summary of Respondent's testimony and not an indication of consideration of any statements that were admitted into evidence. In fact, upon information and belief, no written statements were introduced and therefore could not have been considered by the Magistrate.

It is clear from both the Magistrate Return and the orders contained therein, that the trial judge carefully weighed the evidence, including witness credibility, and found against the Appellant. Moreover, the Magistrate took an additional nine (9) days after the trial to consider the evidence, including all introduced exhibits, before rendering a decision. The burden was on the Appellant to introduce evidence of "protected conduct and legitimate purpose" at the trial of the case. Appellant attempted to argue that her recording Respondent's children and property from her own property is protected conduct, which was contradicted by the other evidence presented, and this appeal appears to be the result of simply being unhappy that the Magistrate weighed the evidence against Appellant. The Magistrate's Return very clearly lays out the evidence that supports the conclusion that Appellant engaged in a pattern of conduct over a period of more than a year directed at Respondent, including unwanted contact involving Respondent's children. The Magistrate's findings are clear, specific and supported by a preponderance of the evidence.

CONCLUSION

For all the above-stated reasons, this Court should affirm the Circuit Court's ruling, dismiss Appellant's appeal and award costs to the Respondent as allowed by South Carolina Appellate Court Rule 222. This Court should also affirm the Circuit Court's ruling for any other grounds appearing in the Record on Appeal as provided by Rule 220(c), SCACR.

Respectfully submitted,

s/William K. Kalivas

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PROOF OF SERVICE

I certify that a copy of Initial Brief of Respondent and Designation of Matter was served on the below-listed Appellant via electronic mail or first class mail on October 8, 2026. A copy of the service email is attached hereto as Exhibit "A".

Marie Middleton
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Respectfully submitted,

s/William K. Kalivas
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**EXHIBIT A**

Will Kalivas <will@smithlawcarolinas.com>

2026-001551; Marie Middleton v. Marisa Wright

1 message

Will Kalivas <will@smithlawcarolinas.com>

Thu, Oct 8, 2026 at 1:23 PM

To: Marie Middleton <mariemiddleton31@gmail.com>

Good Afternoon,

Attached for service, please find a copy of the Initial Brief of Respondent and Designation of Matter, along with correspondence to the Clerk of Court. If you have any questions, please don't hesitate to contact me.

Thanks,

Will

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3 attachments**Cover Letter.pdf**

179K

**Initial Brief of Respondent.pdf**

249K

**Respondent's Designation of Matter.pdf**

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