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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel M. Coble, Circuit Court Judge

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Appellate Case No. 2024-000833

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Christine Jernigan and Justin Jernigan..... Appellants,

v.

Kershaw County Sheriff's Office .....Respondent.

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# FINAL REPLY BRIEF OF APPELLANTS

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## INTRODUCTION

This issues in this case are simple. Count I of the Complaint seeks declaratory/equitable relief: (*i*) finding that the written determination, and claimed "civil issue" exemptions, provided by Respondent to Appellants on July 25, 2022, (copied below) violate the statutory written determination requirements of FOIA, Section 30-4-30(c); and (*ii*) requiring disclosure of the relevant public records requested. (App. Br. 2; R. pp. 11-12).

> After reviewing your request, we do not have any reports regarding the incident you mentioned from June 29, 2022. The only records of this incident in our system are the calls made to our central dispatch, and you will have to obtain those records from them. According to the records and your request, you were informed that the issue you were dealing with was a civil issue, so that is why we do not have any records regarding this incident. If you have any further questions or concerns, you are welcome to contact us.

(App. Br. 2; R. p. 169-70).

Count II of the Complaint seeks declaratory/equitable relief requiring disclosure of the body worn camera ("BWC") recordings of Appellants on June 29, 2022, pursuant to S.C. Code Ann. § 23-1-240(g)(5). (App. Br. 3; R. pp. 11-12).

As illustrated below, Appellants' Brief is divided into parts under headings and subheadings which identify and argue the particular issues to be addressed in this appeal, i.e., I(A)-(D), II, III(A)-(D), and IV. *See* Rule 208(E), SCRAP.

**I. Whether issues on appeal are immediately appealable under S.C. Code Ann. § 14-3-330(1)-(4)** (App. Br. 14)

A. The October 20, 2023, 9:44am Order's Findings that Respondent Complied with FOIA, Section 30-4-30(c), "Involves the Merits" and "Affects Substantial Rights" of Count I (App. Br. 16)

B. The October 20, 2023, 9:44am Order's Determination That Respondent Did Not Spoliate the BWC Records/Evidence Forming the Basis of Count II "Involves the Merits" and "Affects Substantial Rights" of Count II (App. Br. 18)

C. The October 20, 2023, 9:44am Order's Findings that Respondent Complied with FOIA Overrules, Modifies, and/or Refuses to Enforce the Equitable/Injunctive Relief Granted by Judge Newman's December 28, 2022, Form 4 Order (App. Br. 19)

D. This Court Should Consider the Discovery and Recusal Matters of the October 20, 2023, Orders Because Related Appealable Issues are Before the Court (App. Br. 20)

**II. Whether the circuit court erred by failing to follow the procedural requirements, deadlines, and substantive legal standards of FOIA, Section 30-4-100(A)** (App. Br. 20)

**III. Whether the circuit court erred in denying Appellants' Motion for Sanctions/Contempt** (App. Br. 21)

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D. The Circuit Court Erred by Denying the Motion for Sanctions/Contempt When it Was Not Substantively Opposed by Responsive Briefing (App. Br. 26)

**IV. Whether the circuit court erred in denying Appellants' Motion to Recuse** (App. Br. 29)

In contrast to the above issues presented and argued on appeal by Appellants, i.e., I(A)-(D), II, III(A)-(D), and IV, Respondent's Brief identifies and argues the issues set forth below, i.e., I, II, and III (emphasis added).

**I. Whether the issues on appeal are immediately appealable or whether they are non-appealable *discovery matters*** (Resp. Br. 10)

**II. Whether the circuit correctly denied the *discovery Motion* for Sanctions/Contempt finding that the Appellee[] acted in good faith in responding so that sanctions are not warranted based upon the totality of the evidence in the record** (Resp. Br. 21)

**III. Whether [the] circuit court correctly ruled that the Appellant did not provide evidence of prejudice or bias in denying Appellant's motion to recuse the trial court judge and refer the Sanctions/Contempt motion to a new judge after the court denied the Sanctions/Contempt motion** (Resp. Br. 26)

As illustrated above, and addressed below herein, Respondent's Brief is divided into three parts, i.e., I, II, and III, that do not directly correspond to and meet the issues that have been identified and argued on appeal under the respective headings and subheadings of Appellant's Brief, i.e., I(A)-(D), II, III(A)-(D), and IV.

First, with respect to Respondent's identified issues I (Res. Br. 10) and II (Res. Br. 21), Respondent contends that Appellants' February 28, 2023, Motion for Sanctions/Contempt and April 24, 2023, Memorandum (collectively, "Motion for Sanctions/Contempt") merely raised discovery issues pursuant to the SCRCP. As such, Respondent asserts that the issues regarding (*i*) its failure to comply with the written determination required by FOIA, Section 30-4-30(c), and Judge Newman's December 28, 2022, Form 4 Order; and (*ii*) its spoliation of the body worn camera ("BWC") recordings forming the basis of Count II of the Complaint, were never properly raised before the circuit court via Appellants' Motion and Memorandum for Sanction/Contempt. (Res. Br. 11-13, 17, 23-24). This Court should reject these irrelevant, and incorrect, newly-raised arguments submitted by Respondent for the first time on appeal.

Second, Respondent's Brief (i.e., Issues I, II, and III) does not specifically contest the substance of Appellants' Issue II - that the circuit court erred by failing to follow the legal requirements of FOIA, Section 30-4-100(A), i.e., "mode of trial" rights. Respondent's Brief, however, argues that this matter was not properly raised by Appellants before the circuit court by the filing of a formal motion requesting that the circuit court follow the legal requirements of FOIA, Section 30-4-100(A), in this case. (Res. Br. 25-27). As discussed below herein, Appellants respectfully submit that the issue of the circuit court's failure to follow the legal requirements of FOIA, Section 30-4-100(A), is a matter that was fairly raised below, and one that this Court should address on appeal.

Third, Respondent's Brief does not include arguments contesting the issue on appeal raised by Appellants' Brief at Part III(D) – that Appellants' Motion and Memorandum for Sanctions/Contempt was never lawfully opposed on the merits by substantive responsive briefing before the circuit court. (App. Br. 26-29). As noted above, Respondent's Brief opposes the issues raised by Appellants' Brief by making new, and incorrect, arguments submitted for the first time on appeal claiming that Appellants' Motion and Memorandum for Sanctions/Contempt merely raised discovery issues pursuant to the SCRCP. This Court should reject these and other newly-raised arguments given that the Motion and Memorandum for Sanctions/Contempt was not lawfully opposed on the merits by any timely-filed responsive briefing before the circuit court. (*See* App. Br. 26-29).

Fourth, for the reasons discussed below, this Court should also reject Respondent's further efforts to inject numerous irrelevant, and incorrect, factual arguments into this appeal.

## ARGUMENT

### I. The Court Should Disregard Respondent's Irrelevant, and Incorrect, Arguments That Appellants' Motion and Memorandum for Sanctions/Contempt Merely Raised Discovery Issues Pursuant to the SCRCP

Respondent argues, for the first time on appeal, that its compliance with the statutory written determination requirements of FOIA, Section 30-4-30(c), and Judge Newman December 28, 2022, Form 4 Order, are matters that were never properly before the circuit court. (Res. Br. 11). Respondent also argues, for the first time on appeal, that its spoliation of the BWC recordings of Count II was never properly before the circuit court. (Res. Br. 11-13). Instead, Respondent contends that Appellants' Motion and Memorandum for Sanctions/Contempt merely concerned discovery matters pursuant to the SCRCP. (*See* Res. Br. 11-13, 17, 23-24).

This Court should reject Respondent's attempts to muddy the waters with irrelevant arguments and positions submitted for the first time on appeal. Respondent's new arguments that the Motion and Memorandum for Sanctions/Contempt merely concerned discovery matters pursuant to the SCRCP are, in any case, contradicted by the actual record in this case.

First, the Complaint seeks (*i*) a finding that the written determination provided by Respondent to Appellants on July 25, 2022, violates the statutory written determination requirements of FOIA, Section 30-4-30(c), and (*ii*) requests that the circuit court "[s]chedule an initial hearing within 10 days of the date of service" pursuant to FOIA, Section 30-4-100(A). (R. pp. 11-12). At the initial hearing on December 19, 2022, the Honorable Jocelyn C. Newman, CAJ, stated: "I think that [KCSO] should do a written response, almost like you're responding to interrogatories or requests for production, as to each item set forth in the FOIA request." (App. Br. 5; R. p. 251, lines 17-20; R. p. 255, lines 5-16). *See*, *e.g., Sloan v. South Carolina Dep't of Revenue*, 409 S.C. 551, 762 S.E.2d 687, 688-89 (2014) (holding that the DOR's "equivocal and evasive" FOIA response was "manifestly at odds with the clarity mandated by" Section 30-4-30(c)).

Pursuant to FOIA, Section 30-4-100(A), the "court may order equitable relief as it considers appropriate, and a violation of this chapter [i.e., FOIA] must be considered to be an irreparable injury for which no adequate remedy at law exists." S.C. Code Ann. § 30-4-100(A). Judge Newman's December 28, 2022, Form 4 Order states that "[KCSO] shall fully comply with the South Carolina Freedom of Information Act vis-a-vis [Appellants'] requests within 20 days of the hearing." (R. p. 24).

Appellants' February 10, 2023, Rule 11(a), 10-Day Letter states, in part:

> At the hearing on December 19, 2022, the Court ordered KCSO to respond to Plaintiffs' July 22, 2022, South Carolina Freedom of Information Act ("FOIA")

> Request within 20 days; i.e., by January 9, 2023. *See* S.C. Code §§ 30-4-10, *et seq*.; Compl., Ex. A. KCSO has not attempted to provide the written determination, or reasons therefore, as to the public availability of all the records, data, and/or information of the 7.22.22 Request. S.C. Code § 30-4-30(c). KCSO has also never provided any date certain upon which all the records/information of the 7.22.22 Request would/will be produced. *Id*.

(R. p. 50).

Appellants' February 28, 2023, Motion for Sanctions/Contempt, and April 24, 2023, Memorandum (collectively, "Motion for Sanctions/Contempt"), clearly raised Respondent's failure to comply with the statutory written determination requirements of FOIA, Section 30-4-30(c), and Judge Newman December 28, 2022, Form 4 Order. (R. pp. 27-28, 31-32, 90, 110-12).

Second, Count II of the Complaint seeks declaratory/equitable relief requiring disclosure of the body worn camera ("BWC") recordings of Appellants on June 29, 2022, pursuant to S.C. Code Ann. § 23-1-240(g)(5). (App. Br. 3; R. pp. 11-12). At the at the status conference on December 5, 2022, before the Honorable DeAndrea G. Benjamin, Respondent's counsel revealed, for the first time, that all relevant body worn camera audio/video recordings of the June 29, 2022, police-involved incidents – for which preservation was explicitly requested – had instead been destroyed by KCSO. (App. Br. 4; R. p. 210, lines 2-3; R. p. 212, lines 18-19; R. p. 213, lines 2-3). Judge Benjamin indicated that Appellants should conduct some limited discovery with respect to Respondent's destruction of the BWC records. (*Compare* R. p. 213, lines 13-21 *with* R. pp. 61-62).

Appellants' December 16, 2022, Pre-Hearing Brief to Judge Newman, and February 10, 2023, Rule 11(a), 10-Day Letter raised matters concerning Respondent's destruction of the BWC records. (R. pp. 278-79, 282-84; R. pp. 41-42, 47-48). At the December 19, 2022, initial hearing, Judge Newman stated that KCSO must provide its discovery responses to Appellants' initial discovery requests within 20-days. (R. p. 250, line 22-p. 251, line 1). Respondent

produced its "BWC Records Retention Schedules" document to Appellants on January 9, 2023. (R. pp. 217-18).

Appellants' February 23, 2023, Motion for Sanctions/Contempt noted that KCSO's BWC Retention Schedules were produced on January 9, 2023, and that these appeared to be important policies with respect to KCSO's BWC Recordings Systems. (R. p. 28). The BWC Retention Schedules, in fact, established that the "Traffic Stop" label and its corresponding 180-day retention period should have been applied to all the relevant body worn camera audio/video recordings of KCSO's traffic stop on the morning of June 29, 2022. (R. p. 218). Appellants' timely-filed April 24, 2023, Memorandum clearly raised and requested relief due to Respondent's spoliation of the BWC recordings of Count II, which was a well-known issue in this case. (R. pp. 90, 101-10).

At the beginning of the hearing on April 27, 2023, the circuit court denied Respondent's oral Motion, pursuant to Rule 7(b)(1), SCRCP, that would have prevented Appellants' Motion for Sanctions/Contempt from being heard at that time. (App. Br. 27; R. p. 489, lines 1-19). At the conclusion of the April 27, 2023, hearing on Appellants' Motion for Sanctions/Contempt, the Honorable Daniel Coble took the matter under advisement stating:

> THE COURT: …I'm going to try to address those three main issues about destroying evidence. The FOIA response and then the discovery response.
>
> MR. JERNIGAN: Thank you, Your Honor.

(App. Br. 6; R. p. 521, lines 15-17).

Appellants respectfully request that this Court disregard the irrelevant, and incorrect, newly-raised arguments of Respondent's Brief contending that the Motion and Memorandum for Sanctions/Contempt merely concerned discovery matters pursuant to the SCRCP. As demonstrated above, Respondent's (*i*) failure to comply with the written determination

requirements of FOIA, Section 30-4-30(c), and Judge Newman December 28, 2022, Form 4 Order; and (*ii*) its spoliation of the BWC recordings of Count II, were well-known issues that were squarely before circuit court in connection with Appellants' Motion and Memorandum for Sanctions/Contempt.

## II. The Court Should Reject Respondent's Arguments That Issue II – the Circuit Court's Failure to Follow the Legal Requirements of FOIA, Section 30-4-100(A) – is Not Properly Before This Court

Respondent asserts that the circuit court's failure to follow the procedural and substantive legal requirements of FOIA, Section 30-4-100(A), is a matter that is not properly before this Court because a formal motion on the matter was not presented to, and ruled upon, by the circuit court. (Res. Br. 25-26). Appellants respectfully submit that the issue of the circuit court's failure to follow the legal requirements of FOIA, Section 30-4-100(A), in this case is properly before this Court, even though no formal motion on the matter was presented to and ruled upon by the circuit court.

Appellants' Complaint requested that the circuit court "[s]chedule an initial hearing within 10 days of the date of service" pursuant to FOIA, Section 30-4-100(A). (App. Br. 3, R. p. 12). This Court has previously held that the circuit court is responsible for meeting the legal requirements of FOIA, Section 30-4-100(A), in a recent case where the FOIA plaintiff made a similar request in their complaint, but also did not undertake the facially unnecessary step of filing a formal motion. *See Osmundson v. School District 5*, 443 S.C. 610, 905 S.E.2d 418 (Ct. App. 2024). Indeed, Appellants respectfully submit that the expedited resolution requirements and substantive legal standards of Section 30-4-100(A) are "mode of trial" rights imposed using "must" and "shall" language, which should automatically apply to the benefit of all FOIA plaintiffs without requiring resort to formal motion practice.

In addition to requesting that the circuit court "[s]chedule an initial hearing within 10 days of the date of service" pursuant to FOIA, Section 30-4-100(A), in the Complaint, Appellants contacted the then-CAJ's law clerk, and the clerk of court, on multiple occasions in an effort of obtain the initial hearing required by FOIA, Section 30-4-100(A). (R. pp. 12, 207, lines 1-23). The December 5, 2022, hearing before Judge Benjamin proceeded as a status conference because she determined that FOIA, Section 30-4-100(A), required that the then-current CAJ, Judge Newman, needed to conduct the initial hearing. (R. p. 199, lines 14-23; R. pp. 206, line 14-p. 208, line 21). Undersigned counsel again reached out to court staff to obtain the December 19, 2022, initial hearing required by FOIA, Section 30-4-100(A), before the then-current CAJ, Judge Newman. (R. p. 238, line 17-p. 239, line 10). FOIA plaintiffs should not be required to brow beat court staff to obtain the procedural and substantive legal requirements of FOIA, Section 30-4-100(A). *See Osmundson*, 443 S.C. at 613.

Appellants respectfully submit that the circuit court's failure to follow the procedural and substantive legal requirements of FOIA, Section 30-4-100(A), was reasonably raised below, including in Appellants' Rule 59(e) Motion to Reconsider the respective October 20, 2023, Written Orders. (R. pp. 574-75). Appellants submit that case this is a "paper case" where the substantive declaratory/equitable relief requested in the Complaint with respect to Count I – (*i*) finding that the written determination, and claimed "civil issue" exemptions, provided by Respondent to Appellants on July 25, 2022, violate the statutory written determination requirements of FOIA, Section 30-4-30(c); and (*ii*) requiring disclosure of the relevant public records requested – should have been settled at an initial hearing held within ten (10) days of service. (App. Br. 1-3). A final resolution of this case should have occurred within six months

of initial filing pursuant to the procedural and substantive legal requirements of FOIA, Section 30-4-100(A).

Appellants respectfully submit that the expedited resolution requirements and substantive legal standards of Section 30-4-100(A) are "mode of trial" rights imposed using "must" and "shall" language, that automatically apply to the benefit of all FOIA plaintiffs without requiring resort to formal motion practice. Appellants respectfully submit that Issue II was reasonably raised to the circuit court and that this Court can resolve the relief requested in the Complaint with respect to Court I as a matter of law pursuant to the legal requirements of FOIA, Section 30-4-100(A).

**III. Respondent Does Not Argue Issue III(D) – That the Motion for Sanctions/Contempt Was Not Substantively Opposed on the Merits by Timely Responsive Briefing**

Respondent's Brief does not include arguments contesting the issues raised by Appellants' Brief at Section III(D) – that the Motion for Sanctions/Contempt was not lawfully opposed on the merits by timely responsive briefing before the circuit court. (App. Br. 26-29).

In this respect, the record establishes that Respondent did not file any response to Appellants' February 10, 2023, Rule 11(a), 10-Day Letter; February 23, 2023, Motion for Sanctions/Contempt; or April 24, 2023, Memorandum (collectively, Motion for Sanctions/Contempt) prior to the hearing on April 27, 2023. (R. pp. 27-51, 87-119). At the hearing on April 27, 2023, the circuit court denied Respondent's oral Motion pursuant to Rule 7(b)(1), SCRCP, that would have prevented the Motion from being heard at that time. (App. Br. 27; R. p. 489, lines 1-19).

Near the end of the hearing on April 27, 2023, the circuit court granted both parties leave to submit limited supplemental briefing, via email, within the next thirty (30) days as to any alleged new matters raised by Appellants' timely-filed April 24, 2023, Memorandum. (App. Br.

28; R. p. 520, line 25-p. 521, line 18). Appellants submitted a May 23, 2023, Supplemental Brief, via email, addressing three matters discussed at the April 27, 2023, hearing. (R. pp. 272-75). Rather than submitting limited supplemental briefing, via email, as instructed by the circuit court at the April 27, 2023, hearing, Respondent instead filed an out-of-time, post-hearing "Response in Opposition" to the Motion for Sanctions/Contempt on May 30, 2023. (R. pp. 293-314; *see also* R. pp. 409-10).

Respondent's post-hearing Supplemental Brief argued, belatedly, that its July 25, 2022, FOIA Response and written determination complies with the legal requirements of FOIA, Section 30-4-30(c), and Judge Newman's December 28, 2022, Order; and that its unsworn interrogatory answers met the requirements of Rule 33(a), SCRCP. (R. pp. 295-313; *see also* R. pp. 414-31). Respondent's Supplemental Brief, however, did not attempt to address the spoliation of the BWC records of Count II. (*Compare* R. pp. 90, 101-10 *with* R. pp. 295-313).

Appellants respectfully submit that the circuit court's October 20, 2023, 9:44am Order erred by denying the Motion for Sanctions/Contempt when it was not lawfully opposed by Respondent via any timely-submitted responsive briefing. Appellants respectfully submit that this Court should reject newly-raised arguments by Respondent on appeal given that the Motion for Sanctions/Contempt was not lawfully opposed on the merits by any timely-filed responsive briefing before the circuit court. (App. Br. 26-29).

## IV. This Court Should Disregard Respondent's Further Efforts to Inject Irrelevant, and Incorrect, Factual Arguments into this Appeal

Respondent makes numerous additional factual arguments, raised for the first time on appeal, that are not relevant to the issues raised by Appellants, and should be disregarded for the purposes of this appeal. Appellants address certain of Respondent's contentions below to correct the record.

### A. Respondent's Assertions That There Were "*No*" Written Records of the June 29, 2022, Police Activities (Res. Br. 2) Are False

Respondent asserts that "[t]here were no written records of this event and no incident report." (Res. Br. 2). This is untrue because Respondent belatedly produced CFS2022-39009 and CFS2002-39001 on December 2, 2022, well after the thirty (30) day disclosure deadline required by FOIA, Section 30-4-30(c). (R. pp. 423-24). These public records are CAD or CFS "Reports" that document KCSO's June 29, 2022, police activities pursuant to the requirements of KCSO's Policy Manual, Chapter 209 – Records. (*Id.*, and R. pp. 130-31). KCSO's own Policy Manual, Chapter 209 – Records, explicitly states that "documentation of law enforcement activity may be in the form of one or more of the following … Computer-aided Dispatch log," i.e., CAD or CFS "Reports." (R. p. 131). Respondent can stop pretending that "no written records" documenting its June 29, 2022, police activities existed on July 25, 2022, simply because no *criminal* incident reports were prepared with respect to KCSO's June 29, 2022, police actions. (*Compare id*. *with* R. pp. 139-40, 142-43).

### B. Respondent's Assertions That it Produced Training Records "on August 24, 2022," (Res. Br. 23) Are False

Respondent falsely asserts that certain officer training records requested by the July 22, 2022, FOIA Request (R. p. 17) "were produced (with lawful redactions) by pre-suit counsel on August 24, 2022." (Res. Br. 23). In reality, on August 23, 2022, undersigned counsel offered to extend Respondent's August 24, 2022, FOIA, Section 30-4-30(c) disclosure deadline if KCSO, or the Kershaw County E911 Department ("KCSC"),[1] would simply disclose the still yet-to-be-produced third-party E-911 records and recordings of June 29, 2022, as soon as possible. (R. pp. 428-29 and R. pp. 185-86). Respondent's pre-suit counsel rejected undersigned counsel's

[1] *See* App. No. 2024-002127, briefly discussed below.

proposal that same evening at 9:00pm. (*Id*., and R. pp. 184-85); *but see* S.C. Code Ann. § 30-4-30(c) ("The various … production deadlines provided … are subject to extension by written mutual agreement … and this agreement shall not be unreasonably withheld").

As of undersigned counsel's August 23, 2023, proposal offering to extend KCSO's August 24, 2022, FOIA disclosure deadline – which was promptly rejected – KCSO had not disclosed any of the personnel and training files for any of the officers personally involved on June 29, 2022. Undersigned counsel noted that if Appellants were required to filed suit, and Respondent subsequently disclosed or was ordered to disclose the requested personnel/training records, Appellants would be entitled to recover attorney fees. (R. p. 429 and R. p. 185 (citing *Burton v. York County Sheriff's Dept*., 358 S.C. 339, 594 S.E.2d 888 (Ct. App. 2004) (reversing and remanding "to the trial court for a full and proper consideration of the attorney's fees request").

Exhibit FF, submitted below, is a mailer and cover letter by pre-suit counsel for Respondent dated October 14, 2022, which was sent with a CD optical disc including redacted personnel files for three of the KCSO Officers personally involved in the events of June 29, 2022 (i.e., KCSO Officers Dustin Tate, Grant Arledge, and Miles Taylor). (R. p. 429-30, 437-39). As shown in Exhibit FF, at page 4, KCSO deceptively wrote the date "August 24, 2022" on the CD optical disc in a transparent effort designed to "trick" the Court into believing these personnel/training records were disclosed by KCSO almost two months earlier; i.e., prior to expiration of the FOIA disclosure deadline of Section 30-4-30(c), and before Appellants filed this case on September 12, 2022. (R. pp. 437-39).

### C. Respondent's Factual Arguments Concerning the Audio Files of App. No. 2024-002127 Are Not Relevant to the Issues in This Appeal

Respondent incorrectly asserts that undersigned counsel has created confusion in this appeal by (*i*) serving as "the primary witness" (Res. Br. 4), and (*ii*) claiming that the "audio files" have been tampered with and redacted (Res. Br. 6-7, 9).

As an initial matter, this case – like all FOIA cases seeking disclosure of public records – is a "paper case." The April 24, 2023, Affidavit of undersigned counsel was submitted solely for the purpose of verifying that the Exhibits submitted in support of the Motion and Memorandum for Sanctions/Contempt were true and correct copies, which are not matters reasonably subject to dispute. (*See* R. p. 268).

Respondent's assertions with respect to "audio files" (Res. Br. 6-7, 9) concern a different case, *Jernigan v. Kershaw County South Carolina* ("KCSC"), App. No. 2024-002127 (the "127 Appeal"). Notably, Appellants were forced to file the FOIA case underlying the 127 Appeal because KCSC refused to voluntarily disclose the (still yet-to-be-produced) almost one-hour long third-party E-911 recordings of June 29, 2022, documented by CFS2022-39009. (R. pp. 139-40).

Appellants respectfully submit that the Court can disregard Respondent's irrelevant, and incorrect, arguments with respect to the audio files of the 127 Appeal in this case.

## CONCLUSION

For the reasons set forth in this Reply, and for the reasons set forth in Appellants' Brief, the October 20, 2023, Orders should be reversed and appropriate relief entered.

[*Signature block on following page*]

Respectfully submitted,

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May 6, 2025

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In the Court of Appeals

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APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel M. Coble, Circuit Court Judge

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Appellate Case No. 2024-000833

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Christine Jernigan and Justin Jernigan..... Appellants,

v.

Kershaw County Sheriff's Office .....Respondent.

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PROOF OF SERVICE

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I hereby certify that the foregoing Final Reply Brief of Appellants is being served by email to counsel for Respondent, David Morrison, Esq., at david@dmorrison-law.com. I hereby certify that one bound paper copy of the Final Reply Brief of Appellants is being mailed to the Court as requested by the Clerk's March 18, 2025, Letter.

Respectfully submitted,

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