

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

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

Christine Jernigan and Justin Jernigan, Appellants,

v.

Kershaw County Sheriff's Office, Respondent.

Appellate Case No. 2024-000833

Appeal From Kershaw County
Daniel McLeod Coble, Circuit Court Judge

Unpublished Opinion No. 2026-UP-417
Heard June 2, 2026 – Filed August 19, 2026

DISMISSED

Justin A. Jernigan, of Seneca, for Appellants.

David Leon Morrison, of Garfield Spreeuwes Law
Group, LLC, of Columbia, for Respondent.

PER CURIAM: Christine and Justin Jernigan appeal orders from the circuit court denying their (1) motion for sanctions/contempt, (2) motion to recuse or reconsider, and (3) motion for reconsideration. On appeal, Appellants argue the circuit court erred by (1) failing to properly enforce compliance by Kershaw County Sheriff's Office (KCSO) with the South Carolina Freedom of Information

Act (FOIA)¹ and (2) denying their motions for sanctions/contempt and to recuse. We dismiss the appeal.

FACTS/PROCEDURAL HISTORY

Appellants submitted a FOIA request to KCSO in July 2022, requesting all public records related to an incident regarding Justin's grandmother (the incident). KCSO responded and indicated it did not have any reports related to the incident and that the only records it had were phone calls made to central dispatch.

Appellants subsequently filed a complaint in the circuit court in September 2022, seeking court-ordered disclosure of body worn camera data and alleging KCSO violated FOIA by failing to provide a complete disclosure of the requested records. KCSO answered and denied the claims. Appellants submitted their first set of interrogatories to KCSO in October 2022, requesting various information regarding why KCSO did not have records pertaining to the incident.

During a December 5, 2022 status conference, the circuit court ordered that the parties engage in discovery. The parties then proceeded to a December 19, 2022 hearing, in which the circuit court ordered KCSO to provide Appellants with any "outstanding records that should have been disclosed" pursuant to Appellants' FOIA request and respond to each item requested. The circuit court specified the intent of the ruling was "to make it easy for the next judge . . . to be able to identify what's missing" and that there would be a "subsequent determination as to whether" KCSO complied with FOIA. The circuit court issued a Form 4 order directing KCSO to "fully comply with the South Carolina [FOIA] vis-à-vis [Appellants'] requests within 20 days of the hearing."

Following the circuit court's ruling, KCSO responded to Appellants' interrogatories and requests for production. KCSO stated it provided all information to Appellants in good faith and that the reason it did not provide records of certain phone calls was because they did not exist. KCSO also explained that body-worn camera data associated with the incident was no longer retained in keeping with its retention standards.

Appellants subsequently filed a motion for sanctions/contempt and a supporting memorandum arguing KCSO concealed and destroyed evidence, refused to comply with FOIA, and refused to provide discovery in compliance with the South Carolina Rules of Civil Procedure. Following an April 2023 hearing on the

¹ S.C. Code Ann. §§ 30-4-10 to -165 (2007 & Supp. 2025).

motion, the circuit court issued a Form 4 order denying Appellants' motion for sanctions/contempt. The circuit court indicated a formal order would follow.

In the interim, Appellants filed a motion to recuse, vacate, and reassign or to reconsider the interlocutory order. The circuit court subsequently issued a formal order denying Appellants' motion for sanctions/contempt, finding that KCSO complied with the previous circuit court directive to "fully comply with the South Carolina [FOIA]" to the "best of its ability and in good faith."

The circuit court held a hearing on Appellants' motions to recuse and reconsider in October 2023. After taking the motions under advisement, the circuit court denied the motions, specifically finding Appellants' motion to recuse was based on allegations not supported by the evidence.

Appellants subsequently filed a motion to reconsider, which the circuit court denied. This appeal followed.

ISSUES ON APPEAL

- I. Did the circuit court err by failing to follow the procedural requirements, deadlines, and substantive legal standards of FOIA?
- II. Did the circuit court err in denying Appellants' motion for sanctions/contempt?
- III. Did the circuit court err in denying Appellants' motion to recuse?

LAW/ANALYSIS

I. Appealability²

[Appellate courts] shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: (1) Any intermediate judgment, order or decree in a law case involving the merits . . . (2) An order affecting a substantial right . . . (3) A final order affecting a substantial right . . . and (4) An interlocutory order or

² Because we dismiss this appeal due to the fact the circuit court's orders are not immediately appealable, we do not address the remaining issues on appeal. *See Futch v. McCallister*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (declining to address remaining issues when resolution of a different issue was dispositive).

decree in a court of common pleas granting, continuing, modifying, or refusing an injunction

S.C. Code Ann. § 14-3-330 (2017). "[D]iscovery orders, in general, are interlocutory and are not immediately appealable because they do not, within the meaning of the appealability statute, involve the merits of the action or affect a substantial right." *Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008). "A denial of a motion for disqualification of a judge is an interlocutory order not affecting the merits and, thus, is reviewable only on appeal from a final order." *Townsend v. Townsend*, 323 S.C. 309, 312, 474 S.E.2d 424, 427 (1996).

We hold the circuit court's order denying the motion for sanctions/contempt was an interlocutory discovery order and is, thus, not immediately appealable. While Appellants characterize the circuit court's directive that KCSO comply with FOIA and the circuit court's subsequent determination that KCSO complied with that directive as a ruling on the merits, the record indicates otherwise. During the December 19, 2022 hearing in which Appellants requested an order that KCSO disclose all records pursuant to the FOIA request, the circuit court made clear that it was

sort of . . . treating the FOIA request like a request for production, with written responses. [A]t some point, whether it's today or in a month, someone's going to have to parse out whether there has been compliance. If I issue an order today, the order will be quite generic, that simply requires [KCSO] to comply with the provisions of FOIA.

The circuit court further noted "[A]nother judge on another day can determine whether a document[is] missing, whether an audio recording that should have been produced has not been produced, whether it exists or doesn't exist." Contrary to Appellants' contentions, we conclude the circuit court's directive was a directive to comply with FOIA and produce what was requested for a later judge to determine whether KCSO complied with FOIA.

Likewise, we hold the circuit court's ruling on the motion for sanctions/contempt and its finding that KCSO complied with the circuit court's directive in good faith was not a ruling on the merits of the underlying complaint but was instead a discovery ruling and a mere denial of sanctions. During the April 2023 hearing on the motion, Appellants admitted that "[t]his whole case is really a discovery dispute." We find the circuit court's order does not preclude Appellants from

moving forward on their original claim that KCSO violated FOIA as the order did not affect a substantial right or involve the merits of the case but was instead an interlocutory discovery order. *See* § 14-3-330 ("[Appellate courts] shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: (1) Any intermediate judgment, order or decree in a law case involving the merits . . . (2) An order affecting a substantial right . . . (3) A final order affecting a substantial right . . . and (4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction . . .); *see also Grosshuesch*, 377 S.C. at 30, 659 S.E.2d at 122 ("[D]iscovery orders, in general, are interlocutory and are not immediately appealable because they do not, within the meaning of the appealability statute, involve the merits of the action or affect a substantial right."). As such, we hold the circuit court's order denying the motion for sanctions/contempt is not immediately appealable.

We also hold the circuit court's order denying Appellants' motion to recuse is not immediately appealable, as such orders are interlocutory. *See Townsend*, 323 S.C. at 312, 474 S.E.2d at 427 ("A denial of a motion for disqualification of a judge is an interlocutory order not affecting the merits and, thus, is reviewable only on appeal from a final order.").

Finally, we conclude Appellants' contention that the circuit court ruled on the spoliation issue "sub silentio" in its order denying the motion for sanctions/contempt to be without merit. Nowhere in the order did the circuit court mention the body worn camera data or spoliation. The order simply stated that KCSO complied with the directive to comply with FOIA. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.").

Based on the foregoing, the appeal is

DISMISSED.

WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.