

The Supreme Court of South Carolina

RE: Operation of the Trial Courts During the Coronavirus Emergency
(As Amended effective February 4, 2022)

Appellate Case No. 2020-000447

ORDER

On April 3, 2020, this Court issued an order entitled "Operation of the Trial Courts During the Coronavirus Emergency." This order was subsequently amended on several occasions, with the last amended order being filed on June 15, 2021.

On August 27, 2021, this Court issued a completely revised order relating to the operation of the trial courts during the coronavirus emergency. That order was extended on November 23, 2021, and is scheduled to expire on February 4, 2022.¹

This order amends the November 23, 2021, order, effective February 4, 2022, to extend its provisions until May 5, 2022. While no substantive changes have been made, this introductory portion of the order has been shortened and amended, the first footnote has been amended, temporal language has been revised, and for the benefit of the bench, bar and public, the language explaining which provisions of the June 15, 2021, have been continued, deleted or modified has been retained in this amended order.

(a) Terminology. The following terminology is used in this order.

(1) Judge: a judge of the circuit court, family court, probate court, magistrate court and municipal court, including masters-in-equity and special referees.

¹ This order is available at <https://sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2655>.

(2) Remote Communication Technology: technology such as video conferencing and teleconferencing which allows audio and/or video to be shared at differing locations in real time.

(3) Trial Court: the circuit court (including master-in-equity court), family court, probate court, magistrate court and municipal court.

(4) Summary Court: a magistrate or municipal court.

(b) Authority of the Chief Justice to Impose Mitigation Measures.

Throughout the coronavirus pandemic, the Chief Justice has issued administrative orders and guidance under Article V, § 4, of the South Carolina Constitution to mitigate the risk posed by the pandemic. This Court is confident that the Chief Justice will continue to issue and modify guidance as may be appropriate to reduce the risk posed by the coronavirus. Therefore, many of the restrictions and requirements in the June 15, 2021, order, which were designed to allow hearings, trials or other matters to be safely conducted during the pandemic, have not been included in this order, and these matters are now left to the Chief Justice.

(c) Discretion of the Trial Judges to Impose Mitigation Measures. In addition to the guidance the Chief Justice may issue, this Court is confident that trial judges will take appropriate mitigation measures to address any unique risk the coronavirus may pose in any individual case.

(d) Minimizing Hearings on Motions. Section (c)(4) of the June 15, 2021, order stated the following:

While the practice has been to conduct hearings on virtually all motions, this may not be possible during this emergency. If, upon reviewing a motion, a judge determines that the motion is without merit, the motion may be denied without waiting for any return or other response from the opposing party or parties. In all other situations except those where a motion may be made on an ex parte basis, a ruling shall not be made until the opposing party or parties have had an opportunity to file a return or other response to the motion. A trial judge may elect not to hold a hearing when the judge determines the motion may readily be decided without further input from the lawyers.

This Court continues to encourage judges to follow this guidance. As discussed above, judicial resources need to be focused on the timely and just resolution of cases, and holding unnecessary hearings is inconsistent with this goal.

(e) Service Using AIS E-mail Address.² A lawyer admitted to practice law in this state may serve a document on another lawyer admitted to practice law in this state using the lawyer's primary e-mail address listed in the Attorney Information System (AIS).³ For attorneys admitted pro hac vice, service on the associated South Carolina lawyer under this method of service shall be construed as service on the pro hac vice attorney; if appropriate, it is the responsibility of the associated lawyer to provide a copy to the pro hac vice attorney. For documents that are served by e-mail, a copy of the sent e-mail shall be enclosed with the proof of service, affidavit of service, or certificate of service for that document. This method of service may not be used for the service of a summons and complaint, subpoena, or any other pleading or document required to be personally served under Rule 4 of the South Carolina Rules of Civil Procedure (SCRCP), or for any document subject to mandatory e-filing under Section 2 of the South Carolina Electronic Filing Policies and Guidelines. In addition, the following shall apply:

- (1)** Documents served by e-mail must be sent as an attachment in PDF or a similar format unless otherwise agreed by the parties.
- (2)** Service by e-mail is complete upon transmission of the e-mail. If the serving party learns the e-mail did not reach the person to be served, the party shall immediately serve the pleading or paper by another form of service in Rule 5(b)(1), SCRCP, or other similar rule, together with evidence of the prior attempt at service by e-mail.
- (3)** In those actions governed by the South Carolina Rules of Civil Procedure, Rule 6(e), SCRCP, which adds five days to the time a party has the right or is required to do some act or take some proceedings within a

² The language of this section is identical to that contained in (c)(13) of the June 15, 2021, order.

³ The e-mail addresses for a lawyer admitted in South Carolina can be accessed utilizing the Attorney Information Search at:
<https://www.sccourts.org/attorneys/dspSearchAttorneys.cfm>.

prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, shall also apply when service is made by e-mail under this provision.

(4) Lawyers are reminded of their obligation under Rule 410(g) of the South Carolina Appellate Court Rules (SCACR) to ensure that their AIS information is current and accurate at all times.

(f) Signatures of Lawyers on Documents.⁴ A lawyer may sign documents using "s/[typed name of lawyer]," a signature stamp, or a scanned or other electronic version of the lawyer's signature. Regardless of form, the signature shall still act as a certificate under Rule 11, SCRPC, that the lawyer has read the document; that to the best of the lawyer's knowledge, information, and belief there is good ground to support it; and that the document is not interposed for delay.

(g) Optional Filing Methods. Section (c)(15) of the June 15, 2021, order provided as follows:

During this emergency, clerks of the trial courts may, at their option, permit documents to be filed by electronic methods such as fax and e-mail. If the clerk elects to do so, the clerk will post detailed information on the court's website regarding the procedure to be followed, including any appropriate restrictions, such as size limitations, which may apply. Documents filed by one of these optional filing methods shall be treated as being filed when received by the clerk of court and a document received on or before 11:59:59 p.m., Eastern Standard Time, shall be considered filed on that day. These optional filing methods shall not be used for any document that can be e-filed under the South Carolina Electronic Filing Policies and Guidelines. If a trial court does not have a clerk of court, the court shall determine whether to allow the optional filing methods provided by this provision.

If such an optional filing system has been created prior to August 27, 2021, the clerk of court may continue to operate this system. By October 1, 2021, any court with an optional filing system was required to provide the Office of Court Administration with information regarding this system, including a general description of the system, a copy of the procedures posted to the court's website,

⁴ The language in this section is identical to that contained in section (c)(14) of the June 15, 2021, order.

discussion of how successful and useful the system has been, how the system has been received by the users, and, if available, the approximate number of filings which have been made using this system.

(h) Use of Remote Communication Technology. During the coronavirus pandemic, WebEx and other remote communication technologies were successfully used by the trial courts. Based on this experience, Rule 612 was added to the South Carolina Appellate Court Rules to allow this Court to issue an order allowing remote communication technology to be used in proceedings before the courts of this state. Pursuant to Rule 612, SCACR, this Court issued an order regarding the use of remote communication technology in proceedings before the trial courts, including the administration of any required oath or affirmation.⁵ Therefore, the provisions in the June 15, 2021, order relating to the use of remote communication technology are not included in this order.

This Court recognizes that various trials, pleas or hearings may have already been scheduled to be conducted using remote communication technology under the guidance contained in the order of June 15, 2021. If so, the use of remote communication technology for that trial, plea or hearing may continue to be conducted under the guidance contained in the June 15, 2021 order, notwithstanding any new limitations in the order governing the use of remote communication technology referenced in the preceding paragraph.

(i) Family Court Provisions. Section (f) of the June 15, 2021, order contained provisions applicable to the family court. Many of these provisions have proven to be very beneficial during the pandemic, and can be used to conserve judicial resources which can better be used to resolve cases that have been necessarily delayed by the impact of the pandemic. This Court, however, believes that hearings on consent agreements or orders regarding divorces or other final matters can now be safely conducted either in-person or using remote communication technology, and having hearings on these matters is beneficial to the litigants and the judicial system. Therefore, this order has significantly amended the language from the prior order.

⁵ The current version of this order is dated September 21, 2021, and is available at <https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2628>

(1) Granting of Uncontested Divorces Based on Separation for One Year Without a Hearing. The family court may grant an uncontested divorce based on separation for one year without holding a hearing, including granting any requested name change, if:

(A) The relief sought is limited to a divorce and any related change of name. If other relief is sought, including but not limited to, child support, child custody or visitation, alimony, property distribution or fees for attorneys or guardians ad litem, the divorce may not be granted without a hearing.

(B) The parties submit written testimony in the form of affidavits of the parties and corroborating witnesses that address jurisdiction and venue questions, date of marriage, date of separation, and the impossibility of reconciliation.

(C) The written testimony must include copies of the parties' and witnesses' state-issued photo identifications.

(D) Any decree submitted by any attorney shall be accompanied by a statement, as an officer of the court, that all counsel approve the decree and that all waiting periods have been satisfied or waived by the parties.

(E) Should either party request a name change in connection with a request for divorce agreement approval, that party shall submit written testimony to the family court in the form of an affidavit addressing the appropriate questions for name change and the name which he or she wishes to resume. This relief shall be included in any proposed order submitted to the Court for approval at the time of the submission of the documents related to the relief requested.

(2) Approval of Agreements and Consent Orders Regarding Temporary Relief Without a Hearing. Based on the consent of the parties, temporary orders, including but not limited to those relating to child custody, child support, visitation, and alimony, may, in the discretion of the

family court judge, be issued without a hearing. Any proposed order or agreement must be signed by the parties, counsel for the parties, and the guardian ad litem, if one has been appointed, and may be submitted and issued without the necessity of filing supporting affidavits, financial declarations or written testimony.

(3) Consent Orders under S.C. Code Ann. § 63-7-1700(D). Where all the parties consent and the family court determines a child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal, and the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well-being, the family court may order the child returned to the child's parent without holding a hearing.

(4) Consent Orders Regarding Procedural Matters. With the consent of the parties, a consent order relating to discovery, the appointment of counsel or a guardian ad litem (including the fees for, or the relief of, a counsel or a guardian ad litem) or any other procedural matter may, in the discretion of the family court judge, be issued without requiring a hearing.

(5) Submission of Additional Information. Nothing in this order shall be construed as preventing a family court judge from requiring additional information or documents to be submitted before making a determination that the order can be issued without a hearing or from holding a hearing where the judge finds a hearing is appropriate.

(6) Consent Orders or Agreements Submitted to the Family Court Prior to the Effective Date of this Order. Consent orders or agreements submitted to the family court on or prior to August 27, 2021, may continue to be processed under the guidance contained in the order of June 15, 2021.

(j) Rule 3(c) of the South Carolina Rules of Criminal Procedure (SCRCrimP). While this order remains in effect, the ninety (90) day period provided by Rule 3(c), is increased to one-hundred and twenty (120) days.⁶

⁶ This section is based on section (d)(1) of the June 15, 2021, order.

(k) Alternatives to Court Reporters and Digital Courtrooms. A trial or hearing in the court of common pleas (including the master-in-equity court), the court of general sessions or the family court is usually attended by a court reporter (before the master-in-equity this is usually a private court reporter) or is scheduled in one of the digital courtrooms with a court reporter or court monitor. While every effort will be made to continue these practices, this may not be possible as due to the impact of the pandemic and the expected increased demand for these resources to resolve cases which were delayed by the pandemic. In the event such resources are not reasonably available, a trial or hearing may proceed if a recording (preferably both audio and video) is made. The judge shall conduct the proceedings in a manner that will allow a court reporter to create a transcript at a later date. This would include, but is not limited to, making sure the names and spelling of all of the persons speaking or testifying are placed on the record; ensuring exhibits or other documents referred to are clearly identified and properly marked; controlling the proceeding so that multiple persons do not speak at the same time; and noting on the record the start times and the time of any recess or adjournment.

(l) Amendment to Rule 3, SCRCrimP. The June 15, 2021, order contained a provision regarding the service of an arrest warrant on a defendant already in the custody of the South Carolina Department of Corrections, or a detention center or jail in South Carolina. Since Rule 3(a), SCRCrimP, has been amended to incorporate this language, this provision is not included in this order.

(m) Bond Hearings in Criminal Cases. Section (h)(1) of the June 21, 2021, order has not been included in this order. Judges should, of course, continue to hold bond hearings in accordance with the guidance provided by the Chief Justice.

(n) Notarizations. During the height of the pandemic, the ability to obtain notarial services was significantly impacted. To address this, the prior versions of this order contained provisions allowing a certification in lieu of affidavit. Since notarial services are now readily available, these provisions have not been included in this order. It is also noted that the General Assembly recently enacted the "South Carolina Electronic Notary Public Act" (Act No. 85 of 2021), now codified as S.C. Code Ann. §§ 26-2-5 to -210 (Supp. 2021). The provisions in this Act should greatly reduce the impact any future emergency will have on the availability of notarial services.

(o) Extensions by Consent. Prior versions of this order created an exception to Rule 6(b), SCRCPP, allowing extensions by the agreement of the parties. This exception is not included in this order, and Rule 6(b), SCRCPP, shall govern any extension request made after August 27, 2021.

(p) Guilty Pleas by Affidavit or Certification in the Summary Court. Section (h)(3) of the June 15, 2021, order allowed a defendant to plead guilty by affidavit or certification before the summary courts. Since the order of the Chief Justice dated May 7, 2020 (available at <https://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2020-05-07-01>), addresses this same issue, it is unnecessary to include the prior provision in this order.⁷

This order is effective February 4, 2022. Unless extended by order of this Court, this order will expire on May 5, 2022. Pursuant to Rule 611, SCACR, a copy of this order will be provided to the Chairs of the House and Senate Judiciary Committees.

<u>s/ Donald W. Beatty</u>	C.J.
<u>s/ John W. Kittredge</u>	J.
<u>s/ Kaye G. Hearn</u>	J.
<u>s/ John Cannon Few</u>	J.
<u>s/ George C. James, Jr.</u>	J.

Columbia, South Carolina
January 28, 2022, effective February 4, 2022

⁷ This Court does view a guilty plea by affidavit or certification as being a temporary measure in response to the coronavirus pandemic.

The Supreme Court of South Carolina

RE: Amendment to the South Carolina Appellate
Court Rules—Rule 613

Appellate Case No. 2022-000029

ORDER

Pursuant to Article V, § 4 of the South Carolina Constitution, the South Carolina Appellate Court Rules are amended to add Rule 613 as indicated in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

The South Carolina Appellate Court Rules are amended to add new Rule 613, which provides:

**RULE 613
SERVICE BY ELECTRONIC MEANS IN THE TRIAL
COURTS**

In addition to the methods of service provided for in the rules governing service of pleadings and other papers in the various trial courts of this State, the Supreme Court of South Carolina may, by order, set forth the means of allowing for service by electronic means, including by e-mail. Electronic service under this rule may not be used for the service of a summons and complaint, subpoena, or any other pleading or document required to be personally served.

The Supreme Court of South Carolina

RE: Amendment to the South Carolina Appellate
Court Rules—Rule 614; Amendments to South
Carolina Rules of Civil Procedure—Rule 11

Appellate Case No. 2022-000029

ORDER

Pursuant to Article V, § 4 of the South Carolina Constitution, the South Carolina Appellate Court Rules are amended to add Rule 614, as shown in the attachment to this order. Further, Rule 11 of the South Carolina Rules of Civil Procedure is amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

The South Carolina Appellate Court Rules are amended to add Rule 614, which provides:

**RULE 614
ELECTRONIC SIGNATURES**

Where a rule of court requires that a pleading, motion, or other paper be signed by the party or the party's attorney, the document may be signed using "s/ [typed name of person]," a signature stamp, or a scanned or other electronic version of the person's signature, except in cases where an original signature is required by law, such as an affidavit. Regardless of form, the signature shall act as a certificate that the person has read the document; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that the document is not interposed for delay.

Rule 11(a) of the South Carolina Rules of Civil Procedure is amended to delete the provision stating "An attorney or party may only utilize an electronic signature in pleadings, motions or other papers that are E-Filed in the SCE-File electronic filing system." The following Note is added to the rule:

Note to 2022 Amendment

Based on the adoption of Rule 614 of the South Carolina Appellate Court Rules, which permits a party to sign a pleading using an electronic signature, the provision restricting the use of electronic signatures to E-Filed pleadings has been deleted from the rule.

The Supreme Court of South Carolina

Re: Amendments to the South Carolina Rules of Civil Procedure

Appellate Case No. 2021-001054

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, the South Carolina Rules of Civil Procedure are amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

Rule 4 of the South Carolina Rules of Civil Procedure is amended to delete paragraph (h)(5) and add the following Note:

Note to 2022 Amendment:

Based on the adoption of new Rule 4.1, paragraph (h)(5) of this rule, which specified the method of proof of service if made outside the United States, has been deleted.

The South Carolina Rules of Civil Procedure are amended to adopt new Rule 4.1, which provides:

**RULE 4.1
SERVICE OF PROCESS IN FOREIGN COUNTRIES**

(a) Serving an Individual in a Foreign Country. Unless otherwise provided by law, an individual—other than a minor or an incompetent person—may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the complaint to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(b) Serving a Corporation or Partnership in a Foreign Country.

Unless otherwise provided by law, a corporation, partnership or association may be served at a place not within any judicial district of the United States, in any manner prescribed by paragraph (a) for serving an individual, except personal delivery under (a)(2)(C)(i).

(c) Proof and Return.

(1) Service not within any judicial district of the United States must be proved as follows:

(A) if made under paragraph (a)(1) of this rule, as provided in the applicable treaty or convention; or

(B) if made under paragraph (a)(2) or (a)(3) of this rule, by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(2) Failure to make proof of service does not affect the validity of the service.

(d) Amendment. At any time in its discretion and upon terms as it deems just, the court may, by written order, allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(e) Acceptance of Service. No other proof of service shall be required when acceptance of service is acknowledged in writing and signed by the person served or his attorney, and delivered to the person making service. The acknowledgement shall state the place and date service is accepted.

Note:

Rule 4.1 adopts provisions of the federal rule with respect to service of process in foreign countries. This new rule is intended to provide guidance as to the proper methods of service and proof of service in foreign countries, and is not intended to amend or supplant the provisions of existing Rule 4 with respect to the issuance or form of the summons.

SUBMITTED TO GENERAL ASSEMBLY

The Supreme Court of South Carolina

Re: Amendment to Rule 43(k), South Carolina Rules of
Civil Procedure

Appellate Case No. 2021-001056

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, Rule 43(k) of the South Carolina Rules of Civil Procedure is amended as set forth in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

Rule 43(k) of the South Carolina Rules of Civil Procedure is amended to provide:

(k) Agreements of Counsel. No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel. However, where the parties reach a settlement agreement during a mediation governed by the South Carolina Court-Annexed Alternative Dispute Resolution Rules and the settlement agreement involves payment by an insurer, the signature of counsel retained by an insurer on behalf of the Defendant(s) or third party administrator shall suffice in place of the signature of the insured party. Settlement agreements shall be handled in accordance with Rule 41.1, SCRPC.

Note to 2022 Amendment

The amendment to Rule 43(k) clarifies the existing practice in cases where the parties have waived the presence of the actual named defendant at a mediation settlement conference and allows for more efficient enforcement of mediated settlements.

The Supreme Court of South Carolina

Re: Amendments to Rule 14(e), South Carolina Rules of Family Court

Appellate Case No. 2021-001035

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, Rule 14(e) of the South Carolina Rules of Family Court is amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

Rule 14(e) of the South Carolina Rules of Family Court is amended to provide:

(e) Service; Proof of Service.

(1) Personal Service. The rule to show cause shall be served with the supporting affidavit or verified petition by personal delivery of a duly filed copy thereof to the responding party by the Sheriff, his deputy or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action. If served by the sheriff or his deputy, he shall make proof of service by his certificate. If served by any other person, he shall make affidavit thereof.

(2) Acceptance of Service. No other proof of service shall be required when acceptance of service is acknowledged in writing and signed by the person served or his attorney, and delivered to the person making service. The acknowledgement shall state the place and date service is accepted.

Note to 2022 Amendment:

This amendment specifies the manner of proof of personal service, which is consistent with the requirements of Rule 4(g), SCRCP. The amendment also permits a person to accept service of a rule to show cause in a manner consistent with Rule 4(j), SCRCP, in which case no other proof of service is required.

The Supreme Court of South Carolina

Re: Amendments to the South Carolina Rules of Family Court

Appellate Case No. 2022-000029

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, the South Carolina Rules of Family Court are amended to add Rule 28, as set forth in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, §4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

The South Carolina Rules of Family Court are amended to add Rule 28, which provides:

**RULE 28
GRANTING CERTAIN RELIEF WITHOUT A HEARING**

(a) Granting of Uncontested Divorces Based on Separation for One Year Without a Hearing. The family court may grant an uncontested divorce based on separation for one year without holding a hearing, including granting any requested name change, if:

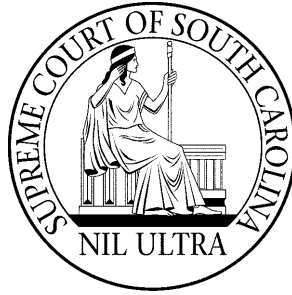
- (1) The relief sought is limited to a divorce and any related change of name. If other relief is sought, including but not limited to, child support, child custody or visitation, alimony, property distribution, or fees for attorneys or guardians ad litem, the divorce may not be granted without a hearing.
- (2) The parties submit written testimony in the form of affidavits of the parties and corroborating witnesses that address jurisdiction and venue questions, date of marriage, date of separation, and the impossibility of reconciliation.
- (3) The written testimony must include copies of the parties' and witnesses' state-issued photo identifications.
- (4) Any decree submitted by an attorney shall be accompanied by a statement, as an officer of the court, that all counsel approve the decree and that all waiting periods have been satisfied or waived by the parties.
- (5) Should either party request a name change in connection with a request for divorce agreement approval, that party shall submit written testimony to the family court in the form of an affidavit addressing the appropriate questions for the name change and the name which he or she wishes to resume. This

relief shall be included in any proposed order submitted to the Court for approval at the time of the submission of the documents related to the relief requested.

(b) Approval of Agreements and Consent Orders Regarding Temporary Relief Without a Hearing. Based on the consent of the parties, temporary orders, including but not limited to those relating to child custody, child support, visitation, and alimony, may, in the discretion of the family court judge, be issued without a hearing. Any proposed order or agreement must be signed by the parties, counsel for the parties, and the guardian ad litem, if one has been appointed, and may be submitted and issued without the necessity of filing supporting affidavits, financial declarations, or written testimony.

(c) Consent Orders Regarding Procedural Matters. With the consent of the parties, a consent order relating to discovery, the appointment of counsel or a guardian ad litem (including the fees for, or the relief of, counsel or a guardian ad litem) or any other procedural matter may, in the discretion of the family court judge, be issued without requiring a hearing.

(d) Submission of Additional Information. Nothing in this order shall be construed as preventing a family court judge from requiring additional information or documents to be submitted before making a determination that the order can be issued without a hearing or from holding a hearing where the judge finds a hearing is appropriate.



OPINIONS
OF
THE SUPREME COURT
AND
COURT OF APPEALS
OF
SOUTH CAROLINA

ADVANCE SHEET NO. 5
February 2, 2022
Patricia A. Howard, Clerk
Columbia, South Carolina
www.sccourts.org

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THE SOUTH CAROLINA COURT OF APPEALS

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5882 – Donald Stanley v. Southern State Police	Pending
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5885 – State v. Montrelle Lamont Campbell	Pending
5886 – Palmetto Wildlife Extractors, LLC v. Justin Ludy	Pending
5887 – In the Matter of the Estate of Thomas G. Moore	Pending
5888 – Covil Corp. v. Pennsylvania Nat. Mut. Insurance Co.	Pending
2021-UP-351 – State v. Stacardo Grissett	Pending
2021-UP-373 – Glenda Couram v. Nationwide Mutual	Pending
2021-UP-396 – State v. Matthew J. Bryant	Pending
2021-UP-415 – State v. Larry E. Adger, III	Pending
2021-UP-422 – Howe v. Air & Liquid Systems (Cleaver-Brooks)	Pending
2021-UP-429 – State v. Jeffery J. Williams	Pending
2021-UP-436 – Winston Shell v. Nathaniel Shell	Pending
2021-UP-437 – State v. Malik J. Singleton	Denied 01/26/2022
2021-UP-443 – TD Bank v. Wilbert Roller (2)	Denied 01/26/2022
2021-UP-449 – Charleston County School Dt. v. Charleston Cty.	Pending
2022-UP-002 – Timothy Causey v. Horry County	Pending
2022-UP-003 – Kevin Granatino v. Calvin Williams	Pending
2022-UP-008 – Bernard Bagley #175851 v. SCDPPPS	Pending
2022-UP-022 – H. Hughes Andrews v. Quentin S. Broom, Jr.	Pending

2022-UP-023 – Desa Ballard v. Diane Combis	Pending
2022-UP-025 – Nathenia Rossington v. Julio Rossington	Pending

PETITIONS – SUPREME COURT OF SOUTH CAROLINA

5588 – Brad Walbeck v. The I'On Company	Pending
5691 – Eugene Walpole v. Charleston Cty.	Pending
5731 – Jericho State v. Chicago Title Insurance	Pending
5738 – The Kitchen Planners v. Samuel E. Friedman	Pending
5749 – State v. Steven L. Barnes	Pending
5759 – Andrew Young v. Mark Keel	Pending
5769 – Fairfield Waverly v. Dorchester County Assessor	Pending
5773 – State v. Mack Seal Washington	Pending
5776 – State v. James Heyward	Pending
5782 – State v. Randy Wright	Pending
5788 – State v. Russell Levon Johnson	Pending
5792 – Robert Berry v. Scott Spang	Pending
5794 – Sea Island Food v. Yaschik Development (2)	Pending
5798 – Christopher Lampley v. Major Hulon	Pending
5800 – State v. Tappia Deangelo Green	Pending
5805 – State v. Charles Tillman	Pending

5806 – State v. Ontavious D. Plumer	Pending
5807 – Road, LLC and Pinckney Point, LLC v. Beaufort County	Pending
5816 – State v. John E. Perry, Jr.	Pending
5818 – Opternative v. SC Board of Medical Examiners	Pending
5821 – The Estate of Jane Doe 202 v. City of North Charleston	Pending
5822 – Vickie Rummage v. BGF Industries	Pending
5824 – State v. Robert Lee Miller, III	Pending
5826 – Charleston Development v. Younesse Alami	Pending
5827 – Francisco Ramirez v. May River Roofing, Inc.	Pending
5829 – Thomas Torrence #094651 v. SCDC	Pending
5830 – State v. Jon Smart	Pending
5834 – Vanessa Williams v. Bradford Jeffcoat	Pending
5835 – State v. James Caleb Williams	Pending
5838 – Elizabeth Hope Rainey v. SCDSS	Pending
5839 – In the Matter of Thomas Griffin	Pending
5840 – Daniel Lee Davis v. ISCO Industries, Inc.	Pending
5844 – Deutsche Bank v. Patricia Owens	Pending
5845 – Daniel O'Shields v. Columbia Automotive	Pending
5846 – State v. Demontay M. Payne	Pending

5849 – SC Property and Casualty Guaranty Fund v. Second Injury Fund	Pending
5850 – State v. Charles Dent	Pending
5853 – State v. Shelby Harper Taylor	Pending
5854 – Jeffrey Cruce v. Berkeley Cty. School District	Pending
5855 – SC Department of Consumer Affairs v. Cash Central	Pending
5856 – Town of Sullivan's Island v. Michael Murray	Pending
5859 – Mary P. Smith v. Angus M. Lawton	Pending
5860 – Kelaher, Connell & Conner, PC v. SCWCC	Pending
5861 – State v. Randy Collins	Pending
5863 – State v. Travis L. Lawrence	Pending
5864 – Treva Flowers v. Bang N. Giep, M.D.	Pending
5865 – S.C. Public Interest Foundation v. Richland County	Pending
5867 – Victor M. Weldon v. State	Pending
5868 – State v. Tommy Lee Benton	Pending
2020-UP-244 – State v. Javon Dion Gibbs	Pending
2021-UP-009 – Paul Branco v. Hull Storey Retail	Pending
2021-UP-060 –John Doe v. The Bishop of Charleston (2)	Pending
2021-UP-088 – Dr. Marvin Anderson v. Mary Thomas	Pending
2021-UP-105 – Orveletta Alston v. Conway Manor, LLC	Pending
2021-UP-129 – State v. Warren Tremaine Duvant	Pending

2021-UP-141 – Evelyn Hemphill v. Kenneth Hemphill	Pending
2021-UP-146 – State v. Santonio T. Williams	Pending
2021-UP-151 – Elvia Stoppiello v. William Turner	Pending
2021-UP-156 – Henry Pressley v. Eric Sanders	Pending
2021-UP-158 – Nathan Albertson v. Amanda Byfield	Pending
2021-UP-161 – Wells Fargo Bank, N.A. v. Albert Sanders (2)	Pending
2021-UP-162 – First-Citizens Bank v. Linda Faulkner	Pending
2021-UP-167 – Captain's Harbour v. Jerald Jones (2)	Pending
2021-UP-171 – Anderson Brothers Bank v. Dazarhea Monique Parson(3)	Pending
2021-UP-180 – State v. Roy Gene Sutherland	Pending
2021-UP-182 – State v. William Lee Carpenter	Pending
2021-UP-184 – State v. Jody L. Ward (2)	Pending
2021-UP-196 – State v. General T. Little	Pending
2021-UP-204 – State v. Allen C. Williams, Jr.	Pending
2021-UP-229 – Peter Rice v. John Doe	Pending
2021-UP-230 – John Tomsic v. Angel Tomsic	Pending
2021-UP-245 – State v. Joshua C. Reher	Pending
2021-UP-247 – Michael A. Rogers v. State	Pending
2021-UP-252 – Betty Jean Perkins v. SCDOT	Pending

2021-UP-254 – State v. William C. Sellers	Pending
2021-UP-259 – State v. James Kester	Pending
2021-UP-272 – Angela Bain v. Denise Lawson	Pending
2021-UP-273 – SCDHEC v. Davenport	Pending
2021-UP-274 – Jessica Dull v. Robert Dull	Pending
2021-UP-278 – State v. Jason Franklin Carver	Pending
2021-UP-279 – State v. Therron R. Richardson	Pending
2021-UP-280 – Carpenter Braselton, LLC v. Ashley Roberts	Pending
2021-UP-281 – In the Matter of the Estate of Harriet Kathleen Henry Tims	Pending
2021-UP-283 – State v. Jane Katherine Hughes	Pending
2021-UP-289 – Hicks Unlimited v. UniFirst Corporation	Pending
2021-UP-293 – Elizabeth Holland v. Richard Holland	Pending
2021-UP-298 – State v. Jahru Harold Smith	Pending
2021-UP-302 – State v. Brandon J. Lee	Pending
2021-UP-306 – Kenneth L. Barr v. Darlington Cty. School Dt.	Pending
2021-UP-311 – Charles E. Strickland, III v. Marjorie E. Temple	Pending
2021-UP-312 – Dorchester Cty. Taxpayers Assoc. v. Dorchester Cty.	Pending
2021-UP-330 – State v. Carmie J. Nelson	Pending
2021-UP-336 – Bobby Foster v. Julian Neil Armstrong (2)	Pending

2021-UP-341 – Phillip Francis Luke Hughes v. Bank of America	Pending
2021-UP-354 – Phillip Francis Luke Hughes v. Bank of America (2)	Pending
2021-UP-360 – Dewberry v. City of Charleston	Pending
2021-UP-367 – Glenda Couram v. Sherwood Tidwell	Pending
2021-UP-370 – State v. Jody R. Thompson	Pending
2021-UP-395 – State v. Byron L. Rivers	Pending
2021-UP-399 – Henry Still, V v. Barbara Vaughn	Pending
2021-UP-405 – Christopher E. Russell v. State	Pending
2021-UP-408 – State v. Allen A. Fields	Pending

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Respondent,

v.

Steven Louis Barnes, Petitioner.

Appellate Case No. 2020-001230

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Edgefield County
Diane Schafer Goodstein, Circuit Court Judge

Opinion No. 28081
Submitted December 10, 2021 – Filed February 2, 2022

AFFIRMED AS MODIFIED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia; and Solicitor Samuel R. Hubbard III, of
Lexington, all for Respondent.

PER CURIAM: Steven Barnes killed Samuel Sturrup on September 3, 2001. In 2010, a jury convicted Barnes of murder and sentenced him to death. In 2014, this Court reversed his convictions. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014). On remand, the State continued to seek the death penalty. *See State v. Barnes*, 413 S.C. 1, 3, 774 S.E.2d 454, 455 (2015) (*Barnes II*) (considering an interlocutory petition as to Barnes' right to counsel). Eventually, however, the State dismissed the death notice and set his case for trial. Barnes filed a pre-trial motion to dismiss, alleging his right to a speedy trial was violated. The trial court denied the motion. A jury convicted Barnes of murder again in 2017, and the trial court sentenced him to life in prison.

In a thorough opinion, the court of appeals affirmed the trial court's denial of Barnes' speedy trial motion. *State v. Barnes*, 431 S.C. 66, 91, 846 S.E.2d 389, 402 (Ct. App. 2020) (*Barnes III*). The court of appeals conducted a lengthy analysis of the factors the Supreme Court of the United States identified for consideration of a speedy trial claim in *Barker v. Wingo*, 407 U.S. 514, 530-32, 92 S. Ct. 2182, 2192-93, 33 L. Ed. 2d 101, 117-18 (1972), and which this Court repeatedly uses to analyze claims of a speedy trial violation, *see, e.g., State v. Hunsberger*, 418 S.C. 335, 343, 794 S.E.2d 368, 372 (2016) (discussing the four *Barker* factors); *State v. Foster*, 260 S.C. 511, 513-14, 197 S.E.2d 280, 281 (1973) (same). *Barnes III*, 431 S.C. at 80-91, 846 S.E.2d at 396-402. While we agree with the court of appeals' analysis and ultimate decision to affirm, we grant certiorari to address one narrow point in the court of appeals' discussion of the second factor—the reason for the delay. We dispense with briefing and affirm as modified.

Analyzing the second factor, courts evaluate the reason for each specific period of delay and determine whether the reason weighs against the State, should be considered as "neutral" or "valid," or weighs against the defendant. *See Hunsberger*, 418 S.C. at 346, 794 S.E.2d at 374 (explaining "justifications for delay in trying a defendant are weighted differently: (1) a deliberate attempt to delay trial as a means to hamper the defense weighs heavily against the State; (2) negligence or overcrowded dockets weigh less heavily against the State, but are ultimately its responsibility; (3) a valid reason, such as a missing witness, justifies an appropriate delay; and (4) delays occasioned by the accused weigh against him" (citation omitted)); *see also Barker*, 407 U.S. at 531, 92 S. Ct. at 2192, 33 L. Ed. 2d at 117 (explaining "different weights should be assigned to different reasons. A deliberate attempt to delay . . . should be weighted heavily against the government. A more neutral reason . . . should be weighted less heavily but nevertheless should be

considered Finally, a valid reason . . . should serve to justify appropriate delay" (footnote omitted)).

In this case, we focus solely on one specific period of delay the court of appeals weighed against Barnes. One of Barnes' two attorneys—William McGuire—was given an order of protection by this Court from December 2015 until December 2016 due to his ongoing participation in another high-profile criminal trial.¹ Evaluating the reason for this specific period of delay, the court of appeals stated,

Therefore, despite being prepared for trial, the State could not proceed with Barnes's trial because Barnes chose to continue retention of counsel who he knew was subject to an order of protection. While we acknowledge that Barnes was entitled to retain counsel of his choice, this decision and the resulting delay cannot be properly attributed to the State. Consequently, the delay cannot be characterized as neutral and must be attributed to Barnes.

Barnes III, 431 S.C. at 86, 846 S.E.2d at 399.

While we agree with the court of appeals that this period of delay should not be attributed to the State, we do not agree it "must be attributed to Barnes." McGuire did not fail to act on Barnes' behalf;² rather, he was under an order of protection that

¹ The "high-profile" case was *United States v. Dylann Storm Roof*, 2:15-CR-472-RMG (D.S.C. July 22, 2015), in which the United States tried the defendant under the Federal Death Penalty Act in December 2016 for the June 2015 murders of nine members of the historic Emanuel African Methodist Episcopal Church in Charleston, commonly referred to as "Mother Emanuel." See *United States v. Roof*, 10 F.4th 314 (4th Cir. 2021). The dates of the order of protection extended from the remand date in *Barnes II* to the day after the *Roof* trial ended in United States District Court.

² The Supreme Court has weighed delays caused by a defendant's counsel against the defendant based on the reasoning "the attorney is the [defendant's] agent when acting, or failing to act, in furtherance of the litigation." *Vermont v. Brillon*, 556 U.S. 81, 91-92, 129 S. Ct. 1283, 1290-91, 173 L. Ed. 2d 231, 1240 (2009) (alteration

authorized him to focus on his representation of another client, presumably so the other client's case could be brought to trial in a timely manner. Additionally, during this period the State was still seeking the death penalty against Barnes. The State did not withdraw its notice of intent to seek the death penalty until July 2017. Barnes was entitled to keep his lawyer, even though doing so delayed his trial. This specific period of delay should be weighed as neutral or valid.

This does not change the outcome of the speedy trial analysis. We affirm the court of appeals' decision as modified.

AFFIRMED AS MODIFIED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.

in original) (quoting *Coleman v. Thompson*, 501 U.S. 722, 753, 111 S. Ct. 2546, 2566-67, 115 L. Ed. 2d 640, 671 (1991)).

The Supreme Court of South Carolina

In the Matter of Shawn M. Campbell, Petitioner.

Appellate Case No. 2022-000070

ORDER

By opinion dated September 22, 2021, Petitioner was suspended from the practice of law for a period of four months. *In re Campbell*, 434 S.C. 265, 863 S.E.2d 679 (2021). He has now filed an affidavit requesting reinstatement pursuant to Rule 32 of the Rules for Lawyer Disciplinary Enforcement, contained in Rule 413 of the South Carolina Appellate Court Rules. In his affidavit, Respondent certifies he will enroll in and complete the next Legal Ethics and Practice Program Ethics School.

The request is granted, and Petitioner is hereby reinstated as a regular member of the South Carolina Bar.

s\ Donald W. Beatty _____ C.J.
FOR THE COURT

Columbia, South Carolina
January 31, 2022