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Jun 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2022-000673
Case No. 2021-CP-23-03414

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

**APPELLANT’S PETITION TO HOLD
APPELLATE PROCEEDINGS IN ABEYANCE**

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Attorney for Appellant

Appellant John C. Monarch, by and through his undersigned counsel, respectfully submits this Petition to hold these appellate proceedings in abeyance. The reason for this request is grounded in some procedural ambiguity that has arisen recently in the trial court.

As described in previous filings with this Court, the orders from which appeal is taken were entered on March 28, 2022 and April 27, 2022. These orders are discovery-related orders; but, as Appellant has contended, their breadth implicates Appellant's substantial rights and should be deemed immediately appealable. The March 28 decision constitutes an order granting Respondent's motion to compel; that order imposes an e-discovery burden on Appellant that is literally impossible for Appellant to comply with, far exceeds the scope of discovery permissible under Rule 26, SCRCP, as well as pertinent Supreme Court decisions regarding relevance and necessity, and presents a significant risk of compelling Appellant to disclose information that is confidential, privileged, and/or utterly irrelevant to any matter actually in dispute in the litigation.

Accordingly, on April 7, Appellant filed a motion with the trial court pursuant to Rule 59(e). And this is where the procedural ambiguity has arisen.

On April 27, the trial court entered an order which was substantially the same as the order that was entered on March 28. Appellant interpreted the entry of this order as a disposition of the Rule 59(e) motion—that is, a denial. Consequently, Appellant commenced these appellate proceedings under the assumption that the order granting Respondent's motion to compel and impairing Appellant's substantial rights became “final”—for appellate purposes—with the entry of the order on April 27 ostensibly denying the motion for reconsideration.

That seems, however, to have not been the case. On June 10, the Greenville County Clerk of Court issued a notice of hearing, in which the purpose of the hearing is identified as addressing Appellant's Rule 59(e) motion. (See Hr'g Not. of June 10, 2022, **Attachment A.**) According to this notice, a virtual hearing on the matter will be held on September 19, 2022.

In light of the procedural ambiguity created by the June 10 hearing notice, as well as the rights of Appellant that will be compromised under the order(s) from which appeal is taken, Appellant respectfully requests that the Court of Appeals hold these appellate proceedings in abeyance pending the disposition of the hearing on September 19. Certainly, it is possible that the trial court will reconsider its prior order granting the expansive motion to compel; it is also possible that the trial court will hold the course. Regardless, it would seem most prudent to hold these appellate proceedings in abeyance until after the disposition of the September 19 hearing. If the Court is inclined to grant this relief, Appellant will notify the Court within ten (10) days after the disposition of the matter addressed at the September 19 hearing, so that appellate proceedings may be withdrawn (if mooted) or resumed.

Respectfully submitted,

s/ Steven Edward Buckingham

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ATTACHMENT A

Steven Edward Buckingham

From: roster@greenvillecounty.org
Sent: Friday, June 10, 2022 8:36 AM
To: Steven Edward Buckingham
Cc: tcaldwell@greenvillecounty.org
Subject: Motion "MRECON-Def/John C Monarch Motion/Reconsider Rule 59e" for Case "2021CP2303414-Richard A Gorman vs. John C Monarch , defendant, et al" was added to a Motions Roster for 9/19/2022 at 11:30 AM

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PURSUANT TO JUSTICE BEATTY'S 1/14/22 MEMO, BEGINNING 2/14/22 ALL IN-PERSON CPNJ HEARINGS ARE TO PROCEED VIRTUALLY UNTIL FURTHER NOTICE.

A WebEx hearing in this case is SCHEDULED - DATE & TIME on Subject line above- Locate the VIRTUAL COURTROOM by going to sccourts.org; Calendar; Monthly; Choose Date & Circuit; Find Judge's virtual courtroom.

MOVANT IS RESPONSIBLE TO NOTIFY OPPOSING COUNSEL AND PRO SE PARTIES Check the online roster at <http://www.greenvillecounty.org/scjd/courtrosters/>
CONTINUANCE, RESOLVED, WITHDRAWN - send detailed e-mail (copy opposing counsel/party) to Non-Jury Coordinator at: tcaldwell@greenvillecounty.org
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PROOF OF SERVICE

The undersigned counsel for Appellant hereby certifies, subject to penalty of perjury, that the following document(s) was/were served upon the following counsel of record by the following means as of the date identified below.

Please be advised that Appellant’s filing fee in connection with this appeal is being sent by U.S. Mail to the Office of the Clerk of the Court of Appeals, consistent with Supreme Court Order 2020-05-29-02.

Document(s): Petition to Hold Appellate Proceedings in Abeyance
w/ Attachment A

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Means of Delivery: *Via Email Only*

Courts Served: Office of the Clerk of the Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Means of Delivery: *With respect to the Petition for Rehearing,
via ctappfilings@sccourts.org*

*With respect to the associated filing fee, via
U.S. Mail*

Date: June 14, 2022

Respectfully submitted,

s/ Steven Edward Buckingham

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