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Jul 08 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2022-000577

Gregory Hopkins and Amy Hopkins,

Respondents,

v.

Jaime Hood-Hopkins,

Appellant,

PETITION FOR SUPERSEDEAS

Shanise Greenfield
Greenfield Law Firm, LLC
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Attorney for Appellant

Tamika D. Cannon
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(864) 312-6455
Attorney for Appellant

Counsel for Appellant hereby petitions the Court to reverse the Order granting Respondents' request for clarification regarding a stay of the Circuit Court's order during the pendency of this appeal. Respondents requested clarification from the court on this matter in a letter and the Court *sua sponte* ruled on it as a motion. The Court's treatment of the letter filed by Respondents as a motion to lift a stay has the effect of deciding this appeal and exposing the minor child to irreparable harm. This appeal is based upon the following:

FACTUAL BACKGROUND

Plaintiff is the ex daughter in law of Respondents. Plaintiff and Respondents' son divorced in 2018 and had one minor child. In 2019 Respondents filed in Family Court for visitation rights with the minor child, which were not granted. There is no court order granting visitation to Respondents.

Respondents began stalking and harassing Appellant and the minor child in February 2019 until November 2021. (Appellant's Affidavit). Appellant sought a restraining order against Respondent for herself and minor child on October 19, 2021, in the Laurens County Magistrates Court due to the stalking and harassment. Appellant's Complaint for the temporary restraining order included four pages documenting specific instances of stalking and harassing behavior by Defendants. The Magistrates Court granted Appellant and the minor child the restraining order on November 10, 2021 after allegations of numerous episodes of stalking and harassment were substantiated and deemed credible by the Magistrate Court..

Respondents appealed. The appeal hearing was held on April 12, 2022 in the Laurens County Circuit Court. Respondents alleged that the order was void for vagueness and lacked subject matter jurisdiction as it related to the minor child. Appellants defended against those

claims and moved to dismiss based upon failure to state the basis for the appeal and lack of notice.

On April 18, 2022, the trial court reversed and remanded the case for further disposition without impacting or including the minor child. The Court went on to find that a Summary Court may issue an order which restricts conduct between the adult parties and Respondent should seek relief in Family Court if she wished to pursue the matter to include restrictions involving the child.

Appellant filed this appeal on April 29, 2022.

Respondents pro se filed a letter with this court regarding lifting the stay of the appealed order on June 7, 2022. This court construed Respondent's letter as a motion to lift stay and issued an order lifting the automatic stay on June 23, 2022, finding that as a matter of public policy, a court order regarding a child is an exception to the general rule on stays, Rule 241(b)(6).

Appellant now comes before the court seeking to reinstate the stay of the Circuit Court's order, or alternatively, to issue an order of supersedeas.

LEGAL AUTHORITY

Appellant's petition is supported by Rule 241, SCACR as indicated:

1. Rule 241(a) provides that "as a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision". The Circuit Court's order under this rule should be stayed.

2. Respondents' sought clarification regarding a stay of the Circuit Court's order by letter dated June 7, 2022. The letter, which did not meet the standards of a motion under Rules 240 and 267, was construed *sua sponte* as a motion by this court. Appellant's counsel did not reply to Respondent's letter by filing a response because the letter was not properly identified as such. Appellant was denied an opportunity to timely respond to the letter requesting clarification by the court's ruling upon it as a properly filed motion.
3. The Order issued by this court on June 23, 2022 applied the exception that is found in Rule 241(b)(6) to the general rule, finding that a court order regarding a child is an exception to the general rule. The exception provided in Rule 241(b)(6) reads: "Family court orders regarding a child or requiring payment of support for a spouse or child as provided in S.C. Code Ann. §63-3-630. Appellant asserts that this exception is not applicable in the current case because the appealed order is not a Family Court order, but is an order issued by the Circuit Court. Respondents do not have any established visitation rights with the minor child, hence the restraining order that was granted by the Magistrate Court did not deprive them of any right. Significantly, Respondents were not granted visitation rights as part of the Family Court case that they filed seeking custody of the child. The Family Court case concluded in May 2020 and is separate from this appeal.
4. Rule 241(b)(8) provides an exception to the general rule on stays for an order granting an injunction or temporary restraining order. The Circuit Court's order, as it related to the minor child, did not grant a restraining order, hence the stay should be in effect and the temporary restraining order issued by the Magistrate Court should be in effect during the pendency of this appeal. Conversely, under Rule 241(b)(8) the temporary restraining

order that was issued by the Magistrate Court is an exception to the general rule on stays and should remain in effect during the appeal to this Court.

5. The stay on the Circuit Court's order is necessary, otherwise the issue on appeal in this case will become moot, as Respondents will not be restrained from contacting the minor child while the appeal is pending. Rule 241(c)(2). The minor child will be exposed to unwanted contact by Respondents and subject to emotional distress and harm.

WHEREFORE, Appellant hereby seeks an order of supersedeas staying the Circuit Court's order that was issued on April 26, 2022 and lifting the order of the Court issued on June 23, 2022.

Respectfully submitted:

s/ Shanise Greenfield
Shanise Greenfield, Bar#
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(864) 660-9656
Attorney for Appellant

s/ Tamika D. Cannon
Tamika D. Cannon, Bar \$72834
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Attorney for Appellant

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Apr 29 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Common Pleas Case No. 2021-CP-30-0964

Appellate Case No.

Jamie Hood-Hopkins,

Appellant,

v.

Gregory Hopkins and Amy Hopkins,

Respondents.

NOTICE OF APPEAL

Appellant, Jamie Hood-Hopkins, hereby files this Notice of Intent to Appeal the Circuit Court's Order dated April 26, 2022, which reversed and remanded the Magistrate Court's Restraining Order regarding the minor child. The undersigned received notice of the entry of the Circuit Court's Order on April 26, 2022.

Dated this 29th day of April, 2022

s/ Shanise Greenfield

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Telephone: (864) 660-9656

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AND

s/ Tamika Cannon

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Email: tamika@scvan.org

Attorneys for Appellant

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

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Appellate Case No.

Jamie Hood-Hopkins,

Appellant,

v.

Gregory D. Hopkins and Amy N. Hopkins,

Respondents.

PROOF OF SERVICE

I hereby certify that i have served the foregoing Notice of Appeal on the above-named Respondents via E-mail and ECF Notice to their counsel of record as follows:

Frank Partridge
Post Office Box 1054
1403 Main Street, Suite 1
Newberry, South Carolina 29108
Phone: (803) 276-6227
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s/ Shanise Greenfield
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AND

s/ Tamika Cannon
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Telephone: (864) 301-6455
Email: tamika@scvan.org

Attorneys for Appellant

Dated this 29th day of April, 2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)
Jaime Hood-Hopkins,)
)
Appellants,)
)
vs.)
)
)
Gregory D. Hopkins and)
Amy N. Hopkins.)
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Civil Action No.: 2021-CP-30-0964

NOTICE OF INTENT TO APPEAL
ORDER REVERSING and REMANDING
MAGISTRATE COURT'S ORDER

RECEIVED

Apr 29 2022

SC Court of Appeals

Appellant, Jamie Hood-Hopkins, hereby files this Notice of Intent to Appeal the Circuit Court's Order dated April 26, 2022, which reversed and remanded the Magistrate Court's Restraining Order regarding the minor child. The undersigned received notice of the entry of the Circuit Court's Order on April 26, 2022.

Respectfully Submitted,

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AND

s/ Tamika Cannon
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April 29, 2022

Attorneys for Appellant

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)
)
Jamie Hood-Hopkins,)
)
Appellant,)
)
vs.)
)
)
Gregory D. Hopkins and)
Amy N. Hopkins.)
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Civil Action No.: 2021-CP-30-0964

NOTICE OF FILING

RECEIVED
Apr 29 2022
SC Court of Appeals

TO: CLERK OF COURT AND RESPONDENTS' ATTORNEY OF RECORD:

Please take notice that the Appellant has filed the attached Notice of Appeal to the South Carolina Court of Appeals.

Respectfully Submitted,

s/ Shanise Greenfield
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AND

s/ Tamika Cannon
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April 29, 2022

Attorneys for Appellant

The South Carolina Court of Appeals

Gregory D. Hopkins and Amy N. Hopkins, Respondents,

v.

Jaime Hood-Hopkins, Appellant.

Appellate Case No. 2022-000577

ORDER

This court construes Respondents' letter as a request to lift the automatic stay. *See* Rule 241(a), SCACR ("As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision."). As a matter of public policy, a court order regarding a child is an exception to the general rule. *See, e.g.*, Rule 241(b)(6). Therefore, Respondents' request to lift the automatic stay is granted. The circuit court's order reversing the summary court's issuance of a restraining order shall remain in effect and shall not be stayed during the pendency of the appeal.


FOR THE COURT

Columbia, South Carolina

cc:

Shanise A. B. Greenfield, Esquire

Tamika D. Cannon, Esquire

Gregory D. Hopkins

Amy N. Hopkins

FILED
Jun 23 2022

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LAURENS)	EIGHTH JUDICIAL CIRCUIT
)	
Gregory D. Hopkins, and)	
Amy N. Hopkins,)	Civil Action No.: 2021-CP-30-0964
Appellants,)	
)	
vs.)	ORDER OF APPEAL
)	REVERSING and REMANDING
)	
Jamie Hood-Hopkins,)	
Respondent.)	
)	
_____)	

BACKGROUND

This matter came before me on appeal arising out of Laurens Court Summary Court, case numbered 2021-OR-30-10100014. On November 10, 2021 the lower court issued its restraining order prohibiting Amy Hopkins and Gregory Hopkins from “Any and all places the Plaintiff and Minor Child visits frequently.” Notice of Appeal was timely filed and the Magistrate’s made his Return in a timely manner, as evidenced by this court’s file. Appellants Amy Hopkins and Gregory Hopkins were represented by W. F. Partridge, III, Esquire. Respondent Jamie Hood-Hopkins was represented by Shanise A. B. Greenfield, Esquire; and Tamika Cannon, Esquire. All Parties were present at the hearing.

Amy Hopkins and Gregory Hopkins appealed the ruling of the Magistrate and this court reverses the order of the Summary Court and remands for further disposition without impacting or including the minor child.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The appellants assert that the magistrate's court erred as a matter of law in exercising jurisdiction over a minor's visitation. Appellant's position is that Family Court has the sole and exclusive jurisdiction to determine matters affecting visitation of minor children, arguing the magistrate's court lacked subject matter jurisdiction to issue a restraining order. I agree.

Subject matter jurisdiction refers to a court's power to hear and determine cases of the general class or category to which proceedings in question belong. If a court does not have subject matter jurisdiction, it cannot obtain it. Lack of subject matter jurisdiction cannot be waived, even by consent or stipulation of the parties. Badeaux v. Davis, 522 S.E.2d 835 (Ct. App. 1999); Peterson v. Peterson, 510 S.E.2d 426 (1998); State v. Richburg, 303 S.E.2d 315, 317 (1991); Anderson v. Anderson, 382 S.E.2d 897 (1989); Cox v. Lundsford, S.E.2d 918 (1979); Austelle v. Austelle, 362 S.E.2d 181, 183 (1987).

"Lack of subject matter jurisdiction may be raised at any time, can be raised for the first time on appeal, and can be raised *sua sponte* by the court," Harden v. South Carolina State Highway Dept., 221 S.E.2d 851, 853 (1976), quoting Lake v. Reeder Const. Co., 498 S.E.2d 650, 653 (Ct. App. 1998).

When a court lacks subject matter jurisdiction, it should dismiss the action under SCRCP Rule 12(h)(3), even if the parties have not requested dismissal. If the action is not dismissed, any action by a court that lacks subject matter jurisdiction is void. Peake v. Peake, 327 S.E.2d 375 (Ct. App. 1985); State v. Funderburke, 191 S.E.2d 520 (1972).

The family court has exclusive jurisdiction to hear and determine actions involving all types of "marital litigation." S.C. Code Ann. §63-3-530(A)(2) (2009) gives the family court exclusive jurisdiction to hear and determine actions concerning marital litigation. In addition to "marital litigation," the family court also has specific legislative authority to hear and determine additional

types of disputes between spouses and former spouses, even if they are presented outside the context of marital litigation. These include disputes involving children (ie: paternity, termination of parental rights, custody, visitation, and support).

The family court's authority to hear and determine cases involving child custody issues is provided in S.C. Ann. §63-3-510(A)(1)(e) (2009). Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action: (1) Concerning any child living or found within the geographical limits of its jurisdiction.

In 2012, the legislature further expanded the authority of the family court in deciding child custody issues: ... (D) Notwithstanding the custody determination, the court may allocate parenting time in the best interest of the child.

In the present case the Summary Court modified the visitation of the grandparents by denying them visitation in issuing its restraining order ruling that the Appellants cannot be at any place the minor child frequently visits.

In 2014 there was another amendment to S.C. Code Ann. §63-3-530(A)(33) (Supp.) which made it easier for grandparents to obtain visitation. The section now reads:


(A) The family court has exclusive jurisdiction:
... (33) to order visitation for the grandparent of a minor child.

The Summary Court in issuing its restraining order, improperly modified the visitation of Amy Hopkins and Gregory Hopkins, the grandparents and their grandchild; which is the subject matter jurisdiction of the Family Court and not of the Summary Court.

THEREFORE, IT IS ORDERED that the Summary Court is **REVERSED** and the case is **REMANDED** for further disposition without impacting or including the minor child. The Summary

Court may issue an order which restricts conduct between the adult parties. If Respondent wishes to pursue the matter to include restrictions involving the child, she should seek relief in the Family Court. This court is aware and acknowledges that the visitation involving a minor child are intertwined with extended family members, and suggests that the family court is equipped with jurisdiction and authority to hear the interdependent issues and can perhaps simplify the issues.

IT IS SO ORDERED.



Eugene C. Griffith, Jr.
Judge of the Circuit Court
Eighth Judicial Circuit

Laurens, South Carolina
April 26th, 2022

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2022-000577

Gregory Hopkins and Amy Hopkins,

Respondents,

v.

Jaime Hood-Hopkins,

Appellant,

AFFIDAVIT OF APPELLANT IN SUPPORT OF
THE GRANTING OF A WRIT OF SUPERSEDEAS

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Attorney for Appellant

PERSONALLY appeared before me, **Jaime Hood-Hopkins**, who first being duly sworn, deposes and says the following:

I am the mother of R.H., who is the subject of this appeal. She is 11 years old and resides with my parents and I in Spartanburg County. I was recently made aware that the Court lifted the automatic stay on behalf of the Respondents. I am writing this Affidavit in hopes that it would provide the Court with additional context upon its review when rendering a decision on the writ of supersedeas that is being filed.

1. On April 24, 2019, I placed a Trespass Notice on my home to keep Greg and Amy Hopkins (hereinafter, "the Hopkins") from harassing me, my daughter, and my parents. At that time, the police notified the Hopkins to cease contact with me and members of my family. However, the violated it multiple times by continuing to come to my home where I resided with my parents and daughter.
2. Between May 3, 2019 and May 27, 2019, the Hopkins called my daughter about forty-five (45) times, which rose to the level of harassment and/or stalking. The conversations were usually about me trying to keep my daughter away from them and was intended to make her feel guilty.
 - a. On May 3, 2019, Amy Hopkins sent eleven (11) unwanted text messages to my daughter.
 - b. On May 5, 2019, Amy Hopkins sent five (5) unwanted text messages to my daughter.
 - c. On May 20, 2019, Amy Hopkins sent ten (10) unwanted text messages to my daughter.
 - d. On May 25, 2019, Amy Hopkins sent eight (8) unwanted text messages to my daughter.
 - e. On May 27, 2019, Amy Hopkins sent ten (10) unwanted text messages to my daughter.
3. On November 11, 2019, Amy Hopkins was convicted for violating the Trespass Order.
4. Between August 2020 and May 2021, the Hopkins would correspond with my daughter and say things to her regarding either the litigation disputes between her father and me or my parenting decisions. For example, they would tell her that I was trying to take her away from her father and that it is all my fault that they could not see her. I decided to place my daughter into therapy to help her process the multiple litigation suites between me, her father, and the Hopkins. Her therapist made me aware that my daughter was


suffering from anxiety as a result of the constant court battles and her being placed in the middle of it.

5. After my ex-husband (the Hopkins' son) lost visitation rights for a period of time, the Hopkins were upset because it affected their ability to see my daughter. As a result, in May 2021, they began sending her a barrage of text messages so much so that my daughter's therapist got involved to help my daughter plan what to say back to them when they tell her things about the litigation or things about me that were alienating in nature. At this point, Amy Hopkins was calling her at least three times a day, leaving multiple voice messages, and sending her numerous text messages. She did not know how to ask Amy to stop contacting her so often, and to specifically stop talking to her about me because it makes her feel bad. Her therapist helped her process her anxiety and feeling resulting from the harassment. Eventually, the harassment got so bad that my daughter blocked Amy.
6. In June 2021, the Hopkins began riding by our house every weekend – either on a Saturday or Sunday. They would drive one way down to the church at the end of my road, and then turn around to drive back in the other direction – usually very slowly. One time, they even rolled down their window and yelled, “Why, why!” My daughter got so upset that she ran into the house.
7. Between June 19, 2021 to July 14, 2021, Amy Hopkins sent repeated text messages to my daughter for illegitimate reasons.
8. In July 2021, the Hopkins had a third-party contact my daughter to send her a text message saying, “Mi Mi (a name my daughter calls Amy) loves you and wants to send you a package.”
9. On October 13, 2021, another police report was filed against the Hopkins because the Hopkins began calling my daughter from blocked numbers and sending random text messages to her.
10. On November 3, 2021, a warrant was signed for Greg Hopkins' arrest for violating the Trespass Order by coming to my house and dropping off a box of unwanted things for my daughter. He handled the matter with the Magistrate Judge after the Restraining Order hearing on October 19, 2021.

11. Immediately after the Restraining Order was issued, the Hopkins yelled out that I was a lying bitch and she wished I would step out in front of a Mack truck. She then asked the Magistrate Judge how they could "retaliate" against me.


The Hopkins are more concerned with winning this case and any other potential cases against me than they are with the wellbeing of my daughter, who has been having a hard time with being placed in the middle of this litigation. She has expressed to me that she is not comfortable going to see the Hopkins or having any further contact with them at this time. But their persistence to continue to fight me and her father in order to contact her has done nothing more than increase her anxiety and guilt. After the Circuit Court's ruling came down, they immediately went to their son and demanded that he begin bringing my daughter over to see them. My daughter has expressed to both myself and her father that she does not want to visit with them. I pray the Court takes this additional information into consideration when rendering a decision on the writ of supersedeas.

Sworn to and Subscribed before me
6th day of July 2022


Notary Public for South Carolina

My Commission Expires: 4-19-31

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Jaime Hood-Hopkins



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In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2022-000577

Gregory D. Hopkins and Amy N. Hopkins, Respondents,

v.

Jaime Hood-Hopkins, Appellant.

PROOF OF SERVICE

I certify that I have served the Appellant's Petition for Supersedeas, supporting affidavit and trial court order, to the Clerk of Court at ctappfilings@sccourts.org on July 8, 2022, to the Honorable Stephanie McDonald at ecclark@sccourts.org, and to Respondents Gregory Hopkins at gdhop1@yahoo.com and Amy Hopkins at amynhop@netscape.net.



Caspian Green
Victim Access Coordinator
South Carolina Victim Assistance Network
P.O. Box 212863
Columbia, SC 29221
(843) 929-4000

July 7, 2022

The Honorable Stephanie P. McDonald
Court of Appeals
1220 Senate Street
Columbia, SC 29201
(803) 734-1890
ecclark@sccourts.org

RECEIVED
Jul 08 2022
SC Court of Appeals

RE: *Gregory Hopkins and Amy Hopkins v. Jaime Hood Hopkins, Case No. 2022-000577*

Your Honor:

Please find enclosed, *Petition for Supersedeas*, in 2022-000577, *Gregory Hopkins and Amy Hopkins v. Jaime Hood-Hopkins*. The *Petition* is being directly submitted to Your Honor pursuant to Rule 241, SCACR. Additionally attached are the filed *Circuit Court Order*, the order signed by Your Honor on June 23, *Affidavit of Appellant, Notice of Appeal, and Proof of Service*.

Additionally, there is one error in the Client's *Affidavit*. The child mentioned, is now twelve years old and not eleven years old.

Feel free to contact me at (803) 750-1200 ext *6455 or by email at Tamika@scvan.org, if you have any questions or concerns.

Respectfully,



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