

Exhibit “2”

**July 18, 2022 Order Denying Plaintiff's Motion to
Reconsider**

Plaintiff/Appellant Michael D. Royal’s Notice of Appeal

Michael D. Royal

v.

*Free Kindergarten Association of Charleston,
The Attorney General of the State of South Carolina,
and the Charleston County School District*

Charleston County Court of Common Pleas Case No. 2018-CP-10-05739
Appellate Case No. 2022-_____

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Michael D. Royal,)
)
 Plaintiff,)
)
 v.)
)
 Free Kindergarten Association of)
 Charleston,)
)
 Defendant,)
)
 The Attorney General of the State of)
 South Carolina and The Charleston)
 County School District)
)
 Intervenor)
)
 _____)

IN THE COURT OF COMMON PLEAS
 C.A. No.: 2018-CP-10-5739

**ORDER DENYING PLAINTIFF’S
 MOTION TO RECONSIDER**

RECEIVED
Aug 17 2022
SC Court of Appeals

This matter comes before the Court on Plaintiff’s Motion to Reconsider and Amended Motion to Reconsider the Court’s March 31, 2022 Order granting a nonsuit of this case. This case came before me as Master in Equity for trial on December 15, 2021, and concerns real property located at 34 Pitt Street in Charleston, South Carolina (the “Property”). Thereafter, on the afternoon of March 30, 2022, the Court signed a formal order granting nonsuit, dismissing the case pursuant to Rule 41(b), SCRPC (the “Order of Non-Suit”). The Court filed the Order of Non-Suit on March 31, 2022.

On the afternoon of March 30, 2022, Plaintiff’s counsel filed a letter with the Court raising, *inter alia*, various items that Plaintiff requested the Court consider related to several substantive issues addressed in proposed orders of nonsuit that had been submitted by Intervenor, the Attorney General of the State of South Carolina and Charleston County School District, as well as correspondence from counsel for Charleston County School District related thereto.

On April 8, 2022, Plaintiff filed his Motion to Reconsider. On April 10, 2022, Plaintiff filed his Amended Motion to Reconsider. Plaintiff filed both motions pursuant to Rule 59(e), SCRPC (collectively, “Plaintiff’s Motions to Reconsider”).

On May 20, 2022, Charleston County School District filed its Memorandum in Opposition to Plaintiff’s Amended Motion to Reconsider.

A hearing was held on May 20, 2022 to consider, *inter alia*, Plaintiff’s Motions to Reconsider, along with all filings related to these two motions as well as oral argument during the hearing. Present at the hearing were Jeffrey S. Tibbals, Esq. for Plaintiff Michael D. Royal (“Royal”); Patrick F. Stringer, Esq., for Defendant Free Kindergarten Association of Charleston (“FKAC”); Mary Frances Jowers, Assistant Deputy Attorney General, for Intervenor South Carolina Attorney General’s Office (“Attorney General” or “SCAG”) and A. Bright Ariail, Esq. for Intervenor Charleston County School District. Also attending were Joseph K. Qualey, Esq., Receiver, and William Zachary Smith, Esq., an attorney in the Receiver’s law firm.

The Supreme Court of South Carolina has recognized “two basic situations in which a party should consider filing a Rule 59(e)[SCRPC] motion.” Elam v. S.C. Dep’t of Transp., 361 S.C. 9, 24, 602 S.E.2d 722, 780 (2004). Under the rule, “[a] party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” Id. But “[a] party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” Id. In his Rule 59(e) motions, Plaintiff asks the Court to reconsider and alter or amend its Order dated March 31, 2022, based upon the grounds set forth in his motions, including alleged errors of omitted rulings on certain motions made prior to and/or during trial and alleged errors in the Court’s findings of facts and conclusions of law.

In consideration of Plaintiff's requests for consideration, the Court conducted a comprehensive review of Plaintiff's Motions to Reconsider under the standards of Rule 59(e), SCRPC. The Court's review of Plaintiff's Motions to Reconsider included a detailed review of each alleged error as enumerated and fully briefed by Plaintiff in both motions. Also, the Court reviewed Charleston County School District's Memorandum in Opposition to Plaintiff's Amended Motion to Reconsider. Further, the Court reviewed the full certified transcript of the trial held on December 15, 2021. Finally, the Court considered oral arguments at the hearing related to certain items contained in Plaintiff's Motions to Reconsider. In conducting its full review, the Court reviewed all matters properly encompassed in its decision, including its Pre-Trial Rulings, Findings of Fact, and Application of Fact and Conclusions of Law thus allowing the Court the opportunity to alter or amend its judgment after consideration of all relevant facts, law and arguments if errors were found. *See Id.*; *Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992) (purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the judge to reconsider matters properly encompassed in a decision on the merits).

After full review and consideration of Plaintiff's Motions to Reconsider as set forth above, the Court finds the following:

1. I find that Plaintiff's Motions to Reconsider are timely made.
2. Plaintiff's Motions to Reconsider assert that the Order omitted rulings on the following motions made prior to and/or during trial; specifically, a) CCSD's discovery Motion to Reconsider and to Alter or Amend filed December 10, 2021; and b) CCSD's trial Motion in Limine with Respect to Plaintiff's Pre-Trial Brief Claims of a Lack of Standing and the Non-Existence of a Justiciable Controversy

Involving Charleston County School District filed December 13, 2021. I find that this Court's rendering of a nonsuit of the Plaintiff's case at trial consistent with the findings and conclusions set forth in its Order of Non-Suit renders these motions moot.

3. Plaintiff's Motions to Reconsider assert that the Order contains erroneous findings of fact and conclusions of law. I find that the Court's full review of the enumerated grounds for reconsideration asserted by Plaintiff in Plaintiff's Motions to Reconsider did not disclose any errors in the findings of fact or conclusions of law contained in the Court's Order of Non-Suit.
4. In sum, Plaintiff has not articulated any basis or grounds for reconsideration, alteration or amendment of the Court's Order of Non-Suit. Exercising its sound discretion, the Court reaffirms its prior Order of Non-Suit and the Pre-Trial Rulings, Findings of Fact and Application of Fact, and Conclusions of Laws set forth therein. Plaintiff's Motion to Reconsider and Amended Motion to Reconsider are therefore DENIED.

AND IT IS SO ORDERED this _____ day of _____, 2022.

Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina



Charleston Common Pleas

Case Caption: Michael D Royal VS Free Kindergarten Association Of Charleston ,
defendant, et al
Case Number: 2018CP1005739
Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062