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Nov 03 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,

APPELLANT'S RETURN TO RESPONDENT'S SECOND MOTION TO DISMISS

Shanise Greenfield
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655 H. Fairview Rd., PMB# 358
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Attorney for Appellant

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P.O. Box 170364
Spartanburg, SC 29301
(864) 312-6455
Attorney for Appellant

Counsel for Appellant hereby replies to Respondent's Motion to Dismiss as follows:

1. Respondents seek to dismiss this action in light of the underlying Restraining Order for which this Appeal stems from, expires in two weeks on November 10, 2022. However, the issue is likely to recur in the future and is not moot despite the expiration of the underlying Restraining Order. In fact, Respondents recently appeared at an extracurricular event for the minor child, causing Appellant and the minor child to leave the event. Future repeated, unwanted contact of Plaintiff and the minor child by Respondents is likely.
2. Respondents filed a Motion to Dismiss on July 5, 2022 relying on several of the same arguments presented in this Second Motion to Dismiss filed on October 25, 2022. The First Motion to Dismiss was denied on July 26, 2022. This issue has already been decided.
3. Respondent's motion focuses on their opposition to the Magistrate issuing the restraining order for the minor child, and the authority of the Magistrate to do so is the very issue that is on appeal and which this court is being asked to determine.
4. Respondent's motion juxtaposes Magistrate Court and Family Court's jurisdiction to rule on matters governing the visitation of minor children. Family Court and Magistrate's Court have concurrent jurisdiction over restraining orders for minors. Exclusive jurisdiction of the Family Court is enumerated in S.C. Code 63-3-510 and S.C. Code 63-3-530. Neither of these sections grants Family Court exclusive jurisdiction over restraining orders for minor children. Further, the issue upon

appeal in this case relates to a temporary restraining order for a minor child that originated in Magistrate's Court and is not a custody or visitation case, which would fall within the jurisdiction of the Family Court. Respondents erroneously rely on S.C. 63-3-530(A)(2) to claim that Family Court has exclusive jurisdiction over restraining orders for minors, because that statute "gives the family court exclusive jurisdiction to hear and determine actions concerning marital litigation". This case does not involve marital litigation.

9. Appellant's appeal was filed in good faith and with supporting legal bases.

10. Respondents have referenced that the Appellant failed at her attempts to seek relief with the Family Court. That is incorrect and is a mischaracterization of the Family Court action that took place, wherein they filed the action initially seeking relief. Even if there was a Family Court action that took place, said matter is independent and unrelated to the issue herein on appeal.

11. On September 27, 2022, the Court instructed that Respondents had thirty (30) days to serve and file their initial brief. To date, Respondents have failed to file a brief. Appellant hereby requests permission from the Court to file the Record on Appeal.

For the foregoing reasons, Appellant seeks that Respondent's Second Motion to Dismiss be denied.

Respectfully submitted:

s/ Shanise Greenfield
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PROOF OF SERVICE

I certify that I have served the Appellant's Return to Motion to Dismiss by emailing a copy of it on November 4, 2022, to the South Carolina Court of Appeals at ctappfilings@sccourts.org and to and by mailing a copy of it by U.S. Mail with sufficient first class postage on November 4, 2022, to Respondents Gregory Hopkins and Amy Hopkins at 108 Fairway Drive, Laurens, SC 29360.

s/Michelle D. Hughes
SC Victim Assistance Network
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Spartanburg, SC 29301
Victim Access Coordinator