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March 22, 2023

Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RECEIVED

MAR 24 2023

SC Court of Appeals

Re: James Holmes v. Cynthia Collie
Appellate Case No. 2022-001146

Dear Ms. Kitchings:


I received a copy of an Order from the Court dated December 29, 2022, copy of which is enclosed, advising that the Appeal filed by Cynthia Holmes to refer the within case to the Master-in-Equity was dismissed due to the fact that a referral of a case to the Master-in-Equity is not immediately appealable. The Master-in-Equity for Charleston County recused himself from this case and I filed a motion with the circuit court requesting that a motion hearing be set to appoint a special referee.

I am also enclosing for the Court a copy of a letter addressed to me from Cynthia Holmes dated March 19, 2023 which I have not yet received; however, the same was filed with the Charleston County Clerk of Court on March 20, 2023. As you can see from the letter of appellant Holmes, she has advised me, as well as the Clerk of Court for Charleston County, that this matter is still under appeal on a motion to reconstruct the record for the prior hearing where, without explanation and despite recordings for all other hearings that day, no recording can be located. The Court of Appeals has exclusive jurisdiction pending appeal. I have not received any further communication from the Court since December 9, 2022.

Can you please advise me whether there is any matter involving this case that is pending before the Court of Appeals?

Thank you very much.

Yours truly,


Barry I. Baker

BIB/com

Enclosures: as stated

cc: Cynthia Holmes

J. Kevin Holmes (kholmes@steinberglawfirm.com)

Joy Johnson (jsjohnson@charlestoncounty.org)

The South Carolina Court of Appeals

James Kevin Holmes, Respondent,

v.

Cynthia Elaine Collie, Appellant.

Appellate Case No. 2022-001146

ORDER

This appeal arises out of a notice of entry of judgment entered July 14, 2022. A review of the public index reveals this case was referred to the master-in-equity on that date. Referral of a case to the master-in-equity is not immediately appealable unless the appellant is deprived of a mode of trial. *See N. Carolina Fed. Sav. & Loan Ass'n v. Twin States Dev. Corp.*, 289 S.C. 480, 347 S.E.2d 97 (1986); *Williford v. Downs*, 265 S.C. 319, 218 S.E.2d 242 (1975); *Collier v. Green*, 244 S.C. 367, 137 S.E.2d 277 (1964). To the extent the appellant is appealing from the order of Judge R. Markley Dennis, Jr. dated June 9, 2022, the public index shows a pending Rule 59(e), SCRPC motion. *See Hudson v. Hudson*, 290 S.C. 215, 216, 349 S.E.2d 341, 341-42 (1986) (directing dismissal of an appeal in which a timely post-trial motion is pending and permitting a second appeal without an additional case initiation fee). Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.



, C.J.

FOR THE COURT

Columbia, South Carolina

cc: Cynthia Holmes
Barry I. Baker, Esquire
Kyle T Varner, Esquire
The Honorable R. Markley Dennis, Jr.

FILED
Dec 09 2022

C. Holmes, MD
P.O. Box 187
Sullivans Island, SC 29482
843.883.3010

19 March 2023

FILED
2023 MAR 20 PM 3:29
JULIE J. ARMSTRONG
CLERK OF COURT

Barry I. Baker, Esq.
PO Box 31265
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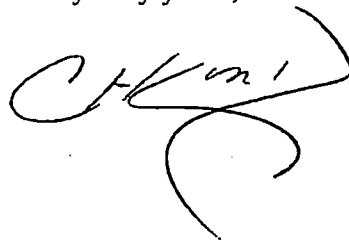
Re: Court of Appeals App. Case No. 2022-001146, Holmes v. Holmes (21-CP-10-05478)

Dear Counsel:

Thank you for your most recent correspondence which we just received. Please be advised this matter is currently pending appeal and currently pending the Court of Appeals motion to reconstruct the record for the prior hearing where, without explanation and despite recordings for all other hearings that day, no recording can be located. The Court of Appeals has exclusive jurisdiction pending appeal. *Christy v Christy*, 317 S.C. 145, 452 S.E.2d 1 (Ct. App. 1994); *Toal et al.*, *Appellate Practice in South Carolina*, Third Edition (2016), p. 393. Moreover, the appeal asserts jurisdiction in the pending Family Court matter of Cynthia Holmes v. James Holmes pursuant to S.C. Code § § 63-3-510 to 530 and the *Moseley* case, wherein the South Carolina Supreme Court held jurisdiction for all domestic matters, whether by decree or by agreement, vested in the Family Court. *Moseley v. Mosier*, 279 S.C. 348, 306 S.E.2d 624, 627 (1983).

Again, thank you and with best regards, I am

Very truly yours,



Thank you!

cc

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CHARLESTON SC 294

22 MAR 2023PM 1:1



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