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SC Court of Appeals

ELECTRONICALLY FILED - 2023 Jun 14 3:11 PM - HORRY - COMMON PLEAS - CASE#2022CP2607708

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| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF HORRY |) | |
| |) | |
| Epic-NRG, LLC, |) | Case No. 2022-CP-26-07708 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER DENYING DEFENDANTS' |
| |) | MOTION FOR RECONSIDERATION |
| Nicholas James Ragle, Chaps Development, |) | |
| LLC, and Ragle Sustainable Technology Sales |) | |
| Agency, LLC, |) | |
| |) | |
| Defendants. |) | |

This matter comes before the Court on Defendants’ Motion for Reconsideration of the Court’s Order entered April 10, 2023, which denied Defendants’ Motion for Relief from enrollment of Foreign Judgment (“Motion for Relief”).

Rule 59(e) of the South Rules of Civil Procedure permits a court to “alter or amend [a] judgment.” Rule 59(e), SCRCPP. “A motion under Rule 59(e) long has been viewed as ‘motion for reconsideration’ despite the absence of those words from the rule.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004).

After careful consideration of Defendants’ Motion for Relief and after further deliberation, reviewing Plaintiff’s Memorandum in Opposition, Rule 59(e) of the South Carolina Rules of Civil Procedure, and the Full Faith and Credit Clause, I respectfully **DENY** Defendants’ Motion for Reconsideration, as set forth further below.

I. Basis for Defendants’ Motion for Reconsideration

Defendants seek an amended Order pursuant to Rule 59(e), SCRCPP, on the basis that after this Court’s Order was entered, they filed a *pro se* Motion for Relief from Judgment in North Carolina on April 19, 2023 (“new *pro se* filing”). Defendants contend that, because of their new

pro se filing in North Carolina, the issues of personal jurisdiction and validity of the North Carolina judgment are now again pending in North Carolina, and therefore this Court should amend its Order and not give Full Faith and Credit to the judgment in South Carolina.

II. The Motion for Reconsideration is denied on the merits.

The Court's Order comports with applicable law and properly denies Defendants' Motion for Relief for the reasons set forth therein. Additionally, Defendants' instant arguments are based upon the new *pro se* filing nine days after the Court's Order. Because evidence of the new *pro se* filing was not raised before, it is not properly before this Court pursuant to Rule 59(e) motion. *See Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990) (finding a party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not); *see also, Kiawah Property Owners Group v. Public Service Com'n. of S.C.*, 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004) (finding that a party may not raise an issue in a motion to reconsider, alter, or amend a judgment that could have been presented prior to the judgment).

Regardless, Defendants' new *pro se* filing does not entitle Defendants to Relief from Entry of Foreign Judgment. Instead, the new *pro se* filing is only an attempt by Defendants to unwind a final judgment in North Carolina. There is no evidence the North Carolina Court has acted on the new *pro se* filing and no evidence the North Carolina judgment is on appeal. The only evidence before this Court reflects the judgment being valid and enforceable in North Carolina and therefore entitled to Full Faith and Credit in South Carolina.

III. Defendants failed to comply with the requirements of Rule 59(g).

Rule 59(g), SCRCF, provides "[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion." The rule was addressed by the South Carolina Court of Appeals in a 2017 decision:

The trial court properly denied Smith's motion for reconsideration because he failed to provide the motion to the trial judge within ten days of filing. Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule. Further, our language in *Gallagher v. Evert*, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002) implies a trial court may deny the motion solely on the basis of the rule. *See* 353 S.C. at 63, 577 S.E.2d at 219 (“Because the [trial] court found it appropriate to hear the matter, we find no error in the [trial] court's decision to decide the motion *despite* [the appellant's] failure to comply with Rule 59(g), SCRPC.” (emphasis added)). Accordingly, the trial court properly denied Smith's motion for reconsideration because he did not timely provide a copy of the motion to the judge.

Smith v. Fedor, 422 S.C. 118, 126, 809 S.E.2d 612, 616 (Ct. App. 2017)

Here, Defendants’ Motion for Reconsideration was filed on April 19, 2023, but Defendants did not provide a copy of the motion to the Presiding Judge until May 18, 2023. Therefore, this Court further denies the Motion for Reconsideration on the basis that Defendants failed to comply with the procedural requirements of Rule 59(g), SCRPC.

IV. Conclusion

Defendants’ Motion for Reconsideration is denied on the merits. The North Carolina Judgment is valid and enforceable, not on appeal, and is entitled to Full Faith and Credit in South Carolina. Pursuant to applicable South Carolina law, Defendants’ “new *pro se* filing” in North Carolina submitted after this Court’s Order cannot form a proper basis for a Rule 59(e) amended judgment in South Carolina. Additionally, Defendants’ Motion for Reconsideration is denied because Defendants failed to comply with the procedural requirements of Rule 59(g), SCRPC.

Therefore, the Order entered on April 10, 2023 stands, and Defendants’ Motion for Reconsideration is hereby DENIED.

AND IT IS SO ORDERED.

The Honorable William H. Seals, Jr.



Horry Common Pleas

Case Caption: Epic NRG LLC VS Nicholas James Ragle , defendant, et al
Case Number: 2022CP2607708
Type: Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157