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Nov 13 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Palmetto Youth Academy Charter School,  
and Palmetto Youth Services, Inc.,

Appellants,

v.

Florence County School District One,

Respondent.

Docket No. 23-ALJ-30-0239-AP

**ORDER DENYING APPELLANTS'  
MOTION FOR REHEARING<sup>1</sup>**

This case is before the Administrative Law Court (ALC or court) pursuant to a notice of appeal filed on June 16, 2023, by Yvonne Brown-Burgess on behalf of Palmetto Youth Academy Charter School and Palmetto Youth Services, Inc. (Appellants, PYA, or PYS). The Appellants challenge the decision of the Florence County School District One (Respondent or District) to deny PYA's charter renewal application and not renew its current charter, which terminated on June 30, 2023.

On August 8, 2023, the District filed a Verified Petition for Preliminary Relief, requesting injunctive relief, appointment of a receiver, and a writ of mandamus, along with a Motion for Expedited Hearing. The basis for the petition, generally, is to recover assets that were and are purportedly being inappropriately and improperly used by PYA in violation of state law.

An expedited hearing on the District's petition was held on September 11, 2023, at the ALC in Columbia, South Carolina, and, on September 22, 2023, the court issued an Order Granting Respondent's Request for Preliminary Relief. As part of the order, the court issued an injunction preventing further activity related to the Appellants accounts and operations, issued a writ of mandamus to compel the Appellants to participate in the District's closure protocol, and appointed a receiver to manage the affairs and assets of the Appellants during the pendency of this action.

Thereafter, on October 2, 2023, the Appellants filed a "Motion to Reconsider Order Granting Respondent's Motion for Injunctive Relief, Writ of Mandamus and Appointment of a

<sup>1</sup> Though framed as a motion to reconsider under SCALC Rule 29(D), because of the appellate posture of this case, the Appellants' motion is more appropriately characterized as a motion for rehearing under SCALC Rule 40. Accordingly, the court will treat it as such.



Conserator [sic]" (Motion for Rehearing).<sup>2</sup> In the sparse two (2) page motion, the Appellants argue generally that the District had not demonstrated a need for the relief the court granted in its order.<sup>3</sup> After careful consideration of the parties' arguments and the applicable law, the court finds the Appellants' motion to be without merit.

A motion for rehearing requires a party to state "with particularity the points supposed to have been overlooked or misapprehended by the court." SCALC Rule 40, *see also* Rule 221(a), SCACR ("Petitions for rehearing . . . shall state with particularity the points supposed to have been overlooked or misapprehended by the court").

Here, the Appellants argue in very broad terms that the injunction should not have been granted because it is "absurd to think this tiny school could cause [i]rreparable harm to the [s]tate of South Carolina through its continued operation" when no misuse of the funds has been shown and PYA has demonstrated "it takes extraordinary care of the funds in its control." However, this argument misapprehends the showing the District was required to make; it was not the District's burden to show that the irreparable harm would result to the state of South Carolina, or even the South Carolina Department of Education, who are not parties to this case. The District was only required to show that it would likely suffer irreparable harm without an injunction, and the Appellants cite no facts or law that the court overlooked or misapprehended in finding that it would.

Next, the Appellants argue that, apart from speculation, there has been no showing that the Appellants' assets are in danger, so there is no need for a receiver to be appointed. At the hearing,

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<sup>2</sup> The Motion for Rehearing was signed and filed by Mr. Watson, the Appellants' current counsel of record. Though there has been some discussion regarding the possibility of the Appellants substituting counsel in this matter, the court has received no Notice of Appearance by counsel. Furthermore, the court made it clear to the Appellants in a telephonic conference on October 3, 2023, that the present counsel would not be relieved until a new counsel has been identified and confirmed that he/she has been retained and is ready to represent the Appellants. Until such time, Mr. Watson is still the Appellant's counsel of record.

<sup>3</sup> On October 12, 2023, the court received an electronic message (email) from Ms. Brown-Burgess purporting to contain an affidavit and exhibits in support of the Appellants' Motion for Rehearing. The documents were not signed or submitted by her current counsel of record, Mr. Watson. As previously noted several times throughout these proceedings, because Ms. Brown-Burgess is not an attorney, she is not permitted to act as an attorney and file legal documents on behalf of PYA. *See* SCALC Rule 8(A) ("No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law. Any party which is not a natural person must be represented by an attorney."). Moreover, even if the documentation had been submitted by Mr. Watson, the emailed documents are not considered properly filed in accordance with the court's rules and were still submitted outside of the ten (10) day window to file a motion for rehearing. *See* SCALC Rule 4(A) 2023 Revised Notes ("Unless otherwise approved by administrative order of the Court, parties may not file documents with the Court by e-mail."); SCALC Rule 40 (stating that a motion for rehearing must be filed "within ten days of receipt of the order"). Thus, the court will not consider the documentation submitted via email by Ms. Brown-Burgess and the court admonishes her to cease any further legal representation of PYA.

the District outlined numerous suspicious transactions and discrepancies in the Appellants balance account and general finances. Moreover, the interim reports filed by the receiver indicate that there have been several questionable recent transfers and transactions, and that the Appellants are still being uncooperative in providing financial documentation and other records that would provide a more complete financial picture. Accordingly, the Appellants have not identified any point that was supposedly overlooked or misapprehended in determining that the Appellants assets were in danger of being materially impaired, or otherwise shown that the appointment of a receiver was unwarranted.

Finally, the Appellants similarly argue that, apart from speculation, there is no showing that the Appellants' assets are in danger, so there is no need for a writ of mandamus. However, the primary purpose of the writ of mandamus was not to protect the Appellants' assets—which were intended to be protected by the injunction and appointment of the receiver—but, rather, compel the Appellants to participate in the District's closure protocol, which it had thus far refused to engage in. The Appellants do not dispute that they have still failed to participate in the closure process. Thus, the Appellants have not shown any point that was supposedly overlooked or misapprehended in this regard.

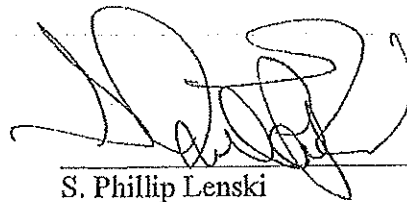
In sum, the Appellants failed to show any point that was overlooked or misapprehended by the court. Consequently, based on the foregoing, the Appellants' motion must be denied.

**ORDER**

**THEREFORE**, for the foregoing reasons, the Appellants' Motion for Rehearing is hereby **DENIED**.

**AND IT IS SO ORDERED.**

October 13, 2023  
Columbia, South Carolina



S. Phillip Lenski  
S.C. Administrative Law Judge