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May 09 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

Honorable Heath P. Taylor, 1st Circuit Judge

CASE NO. 2023-CP-18-01621
APPELLATE CASE NO. 2024-000564

Eadie's Construction Company, Incorporated, and Eadie's Industrial, Incorporated,
Appellants,

v.

Eadie's Diva D Enterprises, LLC, Dawn Eadie, Jordan Jones, Justine Lawson, Kevin
Lawson, Hunter Basco, and Mackel Maleckar,
Respondents.

v.

Keith Eadie,
Appellant.

PETITION FOR REHEARING

TO THE HONORABLE SOUTH CAROLINA COURT OF APPEALS:

Appellants, Eadie's Construction, Incorporated, Eadie's Industrial Incorporated, and Keith
Eadie, respectfully petition this Court to rehear the Order dismissing this appeal as interlocutory

under Rule 221 SCACR. Appellants submit that the Court has overlooked or misapprehended the following primary points:

I. S.C. CODE ANN. § 14-3-330(2) ALLOWS REVIEW OF THIS ORDER AS APPELLANTS RIGHT TO A JURY TRIAL IS IMPAIRED.

S.C. Ann. §14-3-330(2) provides that this Court can review an interlocutory order when “[a]n order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action . . . or (c) strikes out an answer or any part thereof or any pleading in any action;”

The substantial right to a trial by jury is impaired by the Order issuing a stay. Here, the intermediate order authorized a stay for six months because the counterclaimants’ cause of action involved parties who were going through a divorce. However, the Appellant has several claims, including a cause of action for civil conspiracy, and has requested a jury trial. The trial court issued this order because of claims filed by the Respondent Dawn Eadie against Keith Eadie for slander, outrage, invasion of privacy, and intentional infliction of emotion distress. Keith Eadie filed a motion for more definite statement to the allegations. Respondent Dawn Eadie agreed to amend her third party claim to clarify the allegations of slander. However, prior to the amended third-party complaint being filed, Judge Taylor granted Respondent’s motion to stay and halted all discovery. Judge Taylor’s Order directed the administrative Judge to review the case in six (6) months, presumably to determine if the family law matter was still pending at that time.

It is well settled that an unappealed Order will become the law of the case. *In re Morrison*, 321 S.C. 370, n. 2, 468 S.E.2d 651 (1996) (noting that an unappealed ruling becomes the law of the case and precludes further consideration of the issue on appeal). Here, this interlocutory order should be reviewed to determine whether the Appellant’s substantial right to a jury trial has been

impaired. Pursuant to our Constitution of South Carolina, it is well settled that the right to a jury trial should be preserved inviolate. Appellant understands that the trial court could not violate Appellant's right to a jury trial by lifting the stay in 6 months; however, if a claim is transferred to family court, pursuant to S.C. Code Ann. 63-3-530 (A)(2), Appellants would only be entitled to a bench trial rather than a jury trial. If the administrative judge for the First Judicial Circuit further stays this matter or transfers the claims between the parties to the family law case, the jury trial right of the Appellant will have been violated.

In this matter the right of a jury trial is being abridged as the matter may be stayed because Dawn Eadie and Keith Eadie are in divorce proceedings currently. If the administrative judge for the First Judicial Circuit further stays this matter or transfers the claims between the parties to the family law case, the jury trial right of the Appellant will have been violated. *See Medlock v. 1985 Ford F-150 Pickup*, 308 S.C. 68, 70-71, 417 S.E.2d 85, 86 (1992). It is clear that "[t]he right to a jury trial encompasses forms of action that have arisen since the adoption of the Constitution in those cases where the later actions are of like nature to actions which were triable at common law at the time of the adoption of the Constitution. *Mims Amusement v. SLED*, 366 S.C. 141, 621 S.E.2d 344 (S.C. 2005).

May 9, 2024

/s Paul B. Ferrara, III
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CERTIFICATE OF SERVICE

I, the undersigned counsel, certify that I have served a copy of the notice of appeal by emailing a copy to Mr. Steven Smith, Esq. at ssmith@scnlaw.com, and Ms. Emily Hansbarger to ehansbarger@scnlaw.com.

Respectfully submitted this 9th day of May 2024.

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2024-000564/ Petition of Rehearing

Paul Ferrara <paul@ferraralawfirm.net>

Thu 5/9/2024 9:24 AM

To: Steve Smith (Work) <:ssmith@scnlaw.com>; ehansbarger@scnlaw.com <ehansbarger@scnlaw.com>

 1 attachments (90 KB)

23-522-PETITION FOR REHEARING-.docx - (4)-2.pdf;

Dear Emily and Steven,

Please see the attached Petition for Rehearing of the Order dismiss the appeal in the above referenced case which is hereby served upon you.

Sincerely,
Paul B. Ferrara, III



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