

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Aug 14 2024

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

SC Court of Appeals

Michael G. Nettles, Circuit Judge

Appellate Case No. 2024-001234

In Re: Lorraine Schueler,Appellant.

Noah Veon, on behalf of himself and all others similarly situated,Respondent,

v.

Richard James Schueler a/k/a Richard Heart,Defendant.

MOTION TO DIMISS APPEAL

Respondent hereby moves for the dismissal of this appeal. The grounds for this motion are set forth as follows:

1. This is an appeal of discovery orders. These orders render no sanctions, hold no one in contempt, do not dismiss any claims, do not strike out any pleadings, do not affect the mode of trial, do not affect any substantial right, do not address the merits of the case, and do not render any judgment. The underlying case is still going on, and no judgment on any claim or defense has been issued in it.
2. Orders granting or denying motions for protection from discovery, as with discovery orders generally, “are interlocutory and are not immediately appealable because they do not, within the meaning of

the appealability statute, involve the merits of the action or affect a substantial right.” Grosshuesch v Cramer, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008); accord Hamm v. S.C. Pub. Serv. Comm’n, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994).

3. The Appellant asked below for dismissal of the case, contending that the trial court lacked personal jurisdiction and that the Defendant – not the Appellant – was not served with process. The trial court denied that motion to dismiss. The denial of a motion to dismiss, including a motion to dismiss for purported lack of personal jurisdiction, is not immediately appealable. McLendon v. S.C. Dept. of Hwys. & Pub. Transp., 313 S.C. 525, 526, 443 S.E.2d 539, 540 (1994); Mid-State Distributors, Inc. v. Century Importers, Inc., 310 S.C. 330, 336, 426 S.E.2d 777, 781 (1993).
4. The appealed orders are not immediately appealable. This appeal thus cannot lie and must be dismissed. Levi v. Northern Anderson Cnty. EMS, 409 S.C. 374, 379-80, 762 S.E.2d 44, 47 (Ct. App. 2014). Appellate jurisdiction is absent. Id.
5. The undersigned has served this document on opposing counsel by email to registered AIS email address on the date given below.

WHEREFORE Respondent prays for an order dismissing this appeal.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

Radeker Law, P.A.

Post Office Box 6903

Columbia, South Carolina 29260

(803) 500-0891

drew@radekerlaw.com

and

Graham L. Newman

S.C. Bar No. 72845

William S. Detwiler

S.C. Bar No. 106673

Chappell, Chappell & Newman

Post Office Box 61170

Columbia, South Carolina 29260

(803) 233-7050

graham@chappell.law

will@chappell.law

Attorneys for Respondent

August 14, 2024