

The South Carolina Court of Appeals

The State, Respondent,

v.

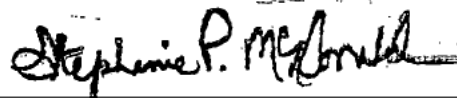
John Joseph Erb, Appellant.

Appellate Case No. 2023-001683

ORDER

After careful consideration of the parties' memoranda, we deny the petition for a writ of supersedeas and dismiss this appeal as interlocutory. *See State v. Rearick*, 417 S.C. 391, 400, 790 S.E.2d 192, 196 (2016) ("[A]ppellate court decisions that pre-date and post-date the enactment of section 14-3-330 have consistently held that a defendant may appeal only after sentence has been imposed."); *id.* (dismissing as interlocutory an appeal of the denial of defendant's motion to bar subsequent prosecution on double jeopardy grounds following a mistrial); *id.* at 405, 790 S.E.2d at 199 ("If we were to carve out an exception for the denial of a double jeopardy claim, we believe all pretrial motions implicating a constitutional right would be subject to immediate appeal."); *State v. Miller*, 289 S.C. 426, 426, 346 S.E.2d 705, 705 (1986) ("In South Carolina, a criminal defendant may not appeal until sentence has been imposed."); *id.* at 426, 346 S.E.2d at 705 ("[A]n order denying a double jeopardy claim is not immediately appealable.").

Appellant is free to assert his double jeopardy arguments—along with any other proper appellate issues—should a future appeal in this matter be necessary. The remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

FILED
Jan 30 2024

cc:

Alan McCrory Wilson, Esquire

Melody Jane Brown, Esquire

Scarlett Anne Wilson, Esquire

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