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Aug 30 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

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.

REPLY TO RETURN TO MOTION TO DIMISS APPEAL

Respondent hereby submits this reply to the Appellant's return to the Respondent's motion to dismiss this appeal.

The Appellant's return incorporates a memorandum she has already submitted. The memorandum acknowledges that the discovery orders she appeals are not appealable and that she has not been held in contempt of court, which, if it were to happen, could produce an appealable order. The Respondent observes that this incorporated memorandum does not argue that the orders at issue *are* appealable, just that the Appellant strongly believes she *ought* to be able to appeal them anyway. The closest she comes to articulating an argument that there is an appealable order here is her argument that the denial of her non-party motion to dismiss is immediately appealable. No case law supports that position. 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).

An appeal cannot lie from what has been appealed here.

WHEREFORE Respondent prays for an order dismissing this appeal.

Respectfully submitted,

/s/ Andrew S. Radeker

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PROOF OF SERVICE

I certify that I have served the foregoing reply to return on the date given below by emailing it to opposing counsel in this appeal at the address(es) noted below.

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Respectfully submitted,

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