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Oct 10 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

The Honorable Dale Van Slambrook, Master-In-Equity

Case No. 2014-CP-08-00321
Appellate Case No. 2024-000658

Edgefield Holdings, LLC,

.....Respondent,

v.

Christian E. Hamlin,

.....Appellant,

MOTION TO DISMISS

Pursuant to Rule 260 of the South Carolina Appellate Court Rules and the doctrine of mootness, Respondent Edgefield Holdings, LLC (“Edgefield”) hereby moves to dismiss this appeal.

This matter involves efforts to execute upon a judgment and orders issued by the Master-In-Equity in furtherance of such execution efforts. As set forth in Appellant’s Initial Brief, Edgefield is the assignee of a judgment against Appellant, which had been domesticated in South Carolina on February 17, 2014. In 2023 and 2024, Edgefield pursued execution efforts on the judgment. However, following the filing of this appeal, Edgefield has made the determination that it no longer desires to pursue the relief it obtained under the captioned case number. Regardless of any success it may obtain in this appeal in opposing Appellant’s positions, it will not take any

efforts to execute upon the judgment or the orders issued under the captioned case (Case No. 2014-CP-08-00321). Therefore, any ruling on appeal will be advisory in nature, as the issues on appeal are now moot.

In general, this court may only consider cases where a justiciable controversy exists. *See Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). “A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute.” *Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983). “A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.” *S.C. Ret. Syst. Inv. Comm’n v. Loftis*, 402 S.C. 382, 384, 741 S.E.2d 757, 758 (2013). “[M]oot appeals result when intervening events prevent a decision on appeal from having an immediate impact on the parties.” 15 *S.C. Jur. Appeal and Error* § 19 (Supp. 2014). “Appellate court[s] will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.” *Linda Mc Co., Inc. v. Shore*, 390 S.C. 543, 558, 703 S.E.2d 499, 506 (2010).

“A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.” *Curtis*, 345 S.C. at 567, 549 S.E.2d at 596 (*quoting Mathis v. South Carolina State Highway Dep’t*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)). “The function of appellate courts is not to give opinions on merely abstract or theoretical matters, but only to decide actual controversies injuriously affecting the rights of some party to the litigation. Accordingly, cases or issues which have become moot or academic in nature are not a proper subject of review.” *Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

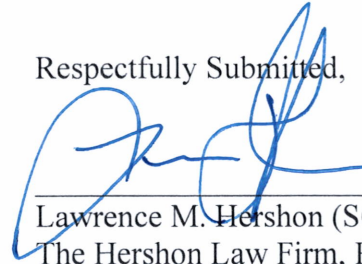
“In the civil context, there are three general exceptions to the mootness doctrine.” *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001). “First, an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review.” *Id.* “Second, an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest.” *Id.* at 568, 549 S.E.2d at 596. “Finally, if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case.” *Id.* at 568, 549 S.E.2d at 596.

In the case at bar, the intervening event is that Edgefield waives and releases any rights it may have to execute its 2014 judgment under the appealed orders. None of these exceptions apply to the case at bar. By filing this motion and informing the Court that Edgefield will not seek execution under the appealed orders, Edgefield is stooled from pursuing recovery under the 2014 judgment. The judgment is now more than ten years old. It therefore no longer has active energy and no further execution efforts can occur under the 2014 judgment. This issue would not evade review if it occurred in the future – a judgment creditor or debtor could appeal on this issue if it is pursued in another matter. There is no manifest urgency on this issue. And most importantly, there are no collateral consequences for the parties. By not pursuing execution under this 2014 judgment, Appellant is effectively getting the relief he seeks, as Edgefield can no longer execute upon the judgment in the captioned matter.

Counsel for Edgefield requested consent to the motion by counsel for Appellant, but no response was received to the request.

WHEREFORE, Edgefield moves the Court to dismiss this appeal due to mootness, and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,



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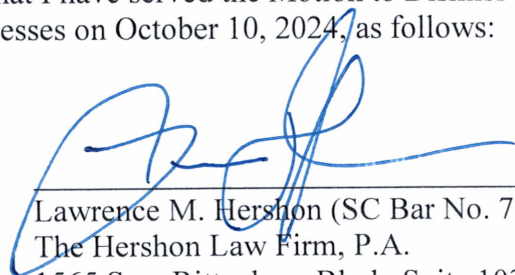
Christian E. Hamlin,

.....Appellant,

PROOF OF SERVICE

I, the undersigned, hereby certify that I have served the Motion to Dismiss on counsel of record via their AIS designated email addresses on October 10, 2024, as follows:

paul@ferraralawfirm.net



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Attorney for Respondent Edgefield Holdings, LLC



THE HERSHON LAW FIRM, P.A.

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Via Email <ctappfilings@sccourts.org> and FedEx

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: *Edgefield Holdings, LLC v. Christian Hamlin*
Appellate Case No. 2024-000658

Mrs. Kitchings:

Enclosed please find Respondent Edgefield Holdings, LLC's Motion to Dismiss as well as this firm's check for \$50.00 for the filing fee in the above-referenced matter.

Sincerely,

Lawrence M. Hershon

LMH:
Enclosure

cc: Paul Ferrara, Esq. (via email only w/o encl.)

