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Nov 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2024-000592
Case No. 2020-CP-02-2238

Cassiopia Rhoads, Appellant-Respondent,

v.

Aiken County Sheriff's Office, Respondent-Appellant.

**RETURN IN OPPOSITION TO
MOTION FOR PARTIAL STAY**

The Appellant-Respondent Cassiopia Rhoads has filed a motion for partial stay asking the Court to hold in abeyance the parties' cross-appeals pertaining to the Order Relating Post-Trial Motions filed on March 12, 2024, as issued by Circuit Court Judge Eugene C. Griffith, Jr.¹

By way of background, in his Order Granting Defendant's Motion to Alter or Amend Order and JNOV Motion filed August 19, 2024, Judge Griffith granted the Motion to Alter or Amend Order and/or Motion to Reconsider filed by the Respondent-Appellant Aiken County Sheriff's Office (ACSO), and with that decision granted the ACSO's JNOV Motion on the basis

¹ Neither party has filed an original appeal or a conditional appeal with respect to the Order Reducing Verdict to Statutory Cap filed March 12, 2024.

of its defense pursuant to S.C. Code Ann. § 15-78-70(d). Judge Griffith further vacated his previous post-trial orders, including the Order Relating to Post-Trial Motions filed March 12, 2024, and Order Reducing Verdict to Statutory Cap filed March 12, 2024.

On September 17, 2024, Rhoads filed a Notice of Appeal appealing the Order Granting Defendant's Motion to Alter or Amend Order and JNOV Motion filed August 19, 2024. Thereafter, on October 21, 2024, ACSO timely filed a Conditional Cross-Appeal which states as follows:

In the event that Rhoads seeks as relief in her appeal that this Court reverse the Order Granting Defendant's Motion to Alter or Amend Order and JNOV Motion and reinstate the previous post-trial orders which were vacated as well as the judgment previously entered on March 12, 2024, the Respondent-Appellant Aiken County Sheriff's Office hereby conditionally appeals the judgment entered on March 12, 2024, and the Order Relating to Post-Trial Motions filed on March 12, 2024, if reinstated.

See, Notice of Conditional Cross-Appeal filed October 21, 2024.²

ACSO agrees with Rhoads that the August 19, 2024 Order vacates the previous post-trial orders as well as the judgment previously entered on March 12, 2024. That judgment and the post-trial orders are subject to appeal only if Rhoads seeks reinstatement of those orders and judgment as part of the relief sought in the current appeal. That is presently unknown since Rhoads has not as yet filed her opening initial brief, but it is anticipated that Rhoads will ask this Court to reverse the August 19, 2024 Order and reinstate the previous post-trial orders as well as the previous judgment. If that occurs, ACSO is not waiving its appeal rights with respect to the

² The procedural timeline contained in the Motion for Partial Stay is largely correct, except for certain commentary on the merits of the various motions and orders. However, that timeline did not include the Order issued by Judge Griffith on September 19, 2024, which denied Rhoads' Motion to Reconsider. It was that final order issued on September 19, 2024, which triggers the 30 days for an appeal, including cross-appeal, per Rule 203(b)(1) and 203(c), SCACR. Rhoads did not, however, appeal the Order issued September 19, 2024, and her time for doing so has now expired.

Order Relating to Post-Trial Motions filed March 12, 2024, and the judgment entered that same date. That is the purpose of the conditional cross-appeal.

ACSO also agrees with Rhoads that if the August 19, 2024 Order is affirmed, then the issues addressed in the March 12, 2024 Order need not be decided by this Court because that earlier order will remain vacated. Thus, ACSO agrees with Rhoads that there is some benefit from a judicial economy standpoint to stay the conditional cross-appeal until such time as the Court adjudicates Rhoads' appeal of the August 19, 2024 Order. However, ACSO also recognizes that there is some benefit to the Court and to the parties for Rhoads' appeal and ACSO's conditional cross-appeal to be simultaneously litigated together. The benefits include not unnecessarily prolonging the appeals process. In effect, under Rhoads' proposal, if the Court were to reverse the August 19, 2024 Order, the parties would then have to brief the issues related to the then-reinstated March 12, 2024 Order and judgment, thereby resulting in another round of briefing, oral argument, and a decision. Moreover, if the Supreme Court denies the pending Motion for Certification and this appeal remains in the Court of Appeals, there would be a thorny procedural issue that would arise as to whether the initial decision by the Court as to the August 19, 2024 Order needs to be immediately appealed to the Supreme Court by way of a petition for writ of certiorari or whether that appeal awaits the second round of briefing, oral argument, and a decision before the Court of Appeals.

Additionally, there is also some benefit for Rhoads' appeal and ACSO's conditional cross-appeal to be simultaneously litigated together because using its authority pursuant to Rule 220(c), SCACR, the Court may wish to affirm the entry of judgment for ACSO not based on the Section 15-78-70(d) defense but rather on one of the other JNOV arguments, including the absence of a legal duty. Frankly, even if the appeal of the March 12, 2024 Order were stayed,

ACSO will likely raise such grounds as additional sustaining grounds, meaning that those issues will likely be briefed anyway as part of Rhoads' appeal.

In short, the idea of a stay of the conditional cross-appeal may have some appeal, but from a practical perspective, such a stay potentially prolongs the appeal unnecessarily and certain of the other JNOV issues, at a minimum, will likely be briefed and argued as additional sustaining grounds, and frankly, the Court may very well want options as to how it may be able to decide this case. For these reasons, ACSO opposes Rhoads' request for a stay of the issues related to the March 12, 2024 Order.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

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Cassiopia Rhoads, Appellant- Respondent,

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CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for Respondent-Appellant Aiken County Sheriff's Office, does hereby certify that service of **Return in Opposition to Motion for Partial Stay** in the above-captioned matter was made upon all counsel of record by email only this the 18th day of November 2024, as follows:

Francis M. Hinson, IV, Esquire
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Email: brink@hhplawgroup.com

Patrick J. McLaughlin, Esquire
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**Also Admitted in North Carolina*

November 18, 2024

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Cassiopia Rhoads v. Aiken County Sheriff's Office
Appellate Case Number: 2024-000592
Civil Action Number: 2020-CP-02-2238
Claim Number: 2020G00077
Our File Number: 333.20304

Dear Ms. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), please find enclosed for filing **Return in Opposition to Motion for Partial Stay** with regard to the above referenced appeal. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

If you have any questions, please advise. Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

A handwritten signature in blue ink, appearing to read 'A. Lindemann', is written over a light blue horizontal line.

Andrew F. Lindemann

AFL/jmb
Enclosure

cc: Francis M. Hinson, IV, Esquire (*w/ Enclosure, Via Email Only*)
Patrick J. McLaughlin, Esquire (*w/ Enclosure, Via Email Only*)