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Jan 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Jessica Ann Salvini, Circuit Court Judge

Case No. 2024-CP-23-03258

Fred W. "Trey" Suggs, III,

Respondent,

vs.

Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, & Desa Ballard

Appellants,

And

Case No.: 2024-CP-23-03730

Jennifer L. Browning and Browning Geriatric Consulting, LLC,

Respondent,

vs.

Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, Luis Michalski, Margaret Miniard, Stacey Grist, and John & Jane Does #1-14,
Defendants,

Of which Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, Luis Michalski, Margaret Miniard, Stacey Grist are the
Appellants.

Appellants,

And

Case No.: 2024-CP-23-03271

Clayton L. Jennings,

Respondent,

vs.

Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist, Margaret Miniard, and John & Jane Does #1-14, Defendants,

Of which Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist, and Margaret Miniard, are the Appellants.

Appellants,

And

Case No.: 2024-CP-23-03329

Joseph M. Plaxco,

Respondent,

vs.

Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist, Mayra Michalski, Margaret Ann Miniard, and John & Jane Does #1-14, Defendants,

Of which Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Margaret Ann Miniard are the Appellants.

Appellants,

And

Case No.: 2024-CP-23-03236

Roland O’Neil Rabon, Jr.,

Respondent,

vs.

Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist, Mayra Michalski, Margaret Ann Miniard, and John & Jane Does #1-14,
Defendants,

Of which Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Margaret Ann Miniard are the Appellants.

Appellants,

RETURN TO APPELLANTS’ MOTION TO REINSTATE APPEAL

This Court previously dismissed Appellant’s appeal of the orders denying their motions to dismiss finding such orders not immediately appealable. Now, Appellants request that their appeal be reinstated on the ground that the respective orders denying their motions to dismiss, along with the orders denying their ensuing motions pursuant to Rule 59(e), SCRCP, somehow affected a substantial right. This Court properly dismissed this appeal, and it should deny the Appellants’ motion to reinstate.

BACKGROUND

In or around June of 2024, Respondents filed five separate suits against Appellants. Thereafter, Appellants filed substantially similar motions to dismiss in each suit and a consolidated hearing on such motions was held on September 23, 2024 before Judge Salvini in the Greenville County Court of Common Pleas. On or about October 3, 2024, Judge Salvini issued an order

correctly denying Appellants' motions to dismiss. On or about October 14, 2024, Appellants filed motions seeking to alter and amend Judge Salvini's interlocutory orders denying their motions to dismiss pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. On November 4, 2024, Appellants filed a Petition to the Chief Justice of the South Carolina Supreme Court accusing Judge Salvini of being biased. On November 27, 2024, Judge Salvini denied Appellants' motions pursuant to Rule 59(e), SCRPC, which their original notice of appeal acknowledged was received by them on that date.

On December 27, 2024, Appellants filed a Notice of Appeal of Judge Salvini's November 27, 2024 order denying their motions pursuant to Rule 59(e), SCRPC. Appellants did not appeal Judge Salvini's October 3, 2024 order in their first Notice of Appeal. On December 30, 2024, Appellants then filed an Amended Notice of Appeal of both of Judge Salvini's orders (*i.e.*, both the order from October 3, 2024 and the order from November 27, 2024). On January 6, 2025, this Court ruled that such orders are not appealable. Despite this ruling, Appellants now request that their appeal be reinstated based upon a substantial right.

ARGUMENT

This appeal arose from the South Carolina Court of Common Pleas' denial of Appellants' Rule 12(b)(6) motions to dismiss for failure to state a claim. This Court properly dismissed Appellants' appeal because Judge Salvini's Orders made no final determination of any party's rights. This fact has not changed, and therefore, this Court should deny Appellants' motion to reinstate for the same reasons.

In their motion to reinstate the appeal, Appellants argue Judge Salvini should not have ruled on their motions to reconsider while a Petition seeking the appointment of a "neutral judge" was pending in the Supreme Court of South Carolina. Similarly, Appellants assert that this Court

also should not have ruled on their appeal while this Petition was pending because it addresses the appropriateness of her ruling on the motions for which they appeal. Appellants make these arguments without having made a motion to stay these cases pending the resolution of such Petition.

Nonetheless, Appellants' argument fails because Judge Salvini's orders do not conclusively adjudicate any issue in the above-captioned cases and are, thus, interlocutory thereby foreclosing the instant appeal. *See Weaver v. Brookdale Senior Living, Inc.*, 431 S.C. 223, 234, 847 S.E.2d 268, 274 (Ct. App. 2020) ("Denials of Rule 12(b)(6) motions are not immediately appealable..."); *see also Blackwell v. Mary Black Health Sys., LLC*, No. 2020-001613, 2024 WL 4234719, at *6 (Ct. App. Sept. 18, 2024) ("We decline to review the denial of Providers' Rule 12(b)(6) motions because the denials were interlocutory and are not immediately appealable."). As the orders do not conclusively resolve any issue, they do not affect a substantial right of any party, and cannot be appealed. This is the law in South Carolina regardless of how the Supreme Court decides to handle Appellants' Petition.¹

Appellants' motion to reinstate should, therefore, be denied. *See Huntley v. Young*, 319 S.C. 559, 560, 462 S.E.2d 860, 861 (1995) ("The denial of a Rule 12(b)(6) motion does not establish the law of the case nor does it preclude a party from raising the issue at a later point or points in the case. Since the order denying the Rule 12(b)(6) motion does not finally decide any issue, it is not directly appealable").

¹ Respondents also note that Appellants failed to appeal Judge Salvini's October 3, 2024 order within the jurisdictionally required time period allowed for appeal. Thus, any appeal of the November 27, 2024 order would have no operative effect in any event—even if such orders were appealable—which they are not.

CONCLUSION

For the above reasons, Respondents request that the Court deny Appellants' motion to reinstate. If the Court requires a more substantive response, Respondents will provide such brief within the time allotted in the Court's instruction.

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January 27, 2025



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SC Court of Appeals

Via E-Filing

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

RE: Browning v. Hulsey, Jennings v. Hulsey, Plaxco v. Hulsey, Rabon v. Hulsey,
Suggs, III v. Hulsey
Appellate Case Nos. 2024-002187, 2024-002199, 2024-002201, 2024-002202,
2024-002206

Dear Ms. Kitchings:

Enclosed for filing is the Return to Appellants' Motion to Reinstate Appeal. By copy of this letter, we are serving counsel of record with this filing.

Very truly yours,

Megan A. Rushton

Cc: Jessie T. Carroll
Harvey Watson
Haley Hubbard
Beattie B. Ashmore
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