

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

R. Ferrell Cothran, Jr., Circuit Court Judge

Civil Action No. 2020-CP-43-00734

Appellate Case No. 2024-001532

Ronald L. Jones.....Petitioner,

v.

Gary A. Jones, Sr., Becky J.
Jones, Ima Lee Jones and Shel-
ley Allsbrooks.....Respondents.

PETITION FOR WRIT OF CERTIORARI

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TABLE OF AUTHORITIES

CASES

Hagood v. Sommerville, 607 SE 2d 707 (2005).....3

STATUTES

S.C. Code Ann. Section 14-3-330, (1976, as amended).....4

INTRODUCTION

Petitioner filed his Notice of Appeal (Amended), with the Court of Appeals on September 11, 2024. This Court thereafter notified Petitioner on September 24, 2024, that counsel for the parties were required to file a memorandum on the issue of appealability. After the Petitioner submitted his Memorandum and Respondents submitted their Memorandum, the Court of Appeals issued its Order dismissing Petitioner's Appeal on October 23, 2024, received by Petitioner's counsel on October 23, 2024. Petitioner filed his Petition for Rehearing with the Court of Appeals on November 5, 2024. The Court of Appeals denied Petitioner's Petition for Rehearing on January 3, 2025, and received by Petitioner's counsel on January 3, 2025. Petitioner's timely Petition for Writ of Certiorari follows:

ARGUMENT

Petitioner respectfully submits that the Court of Appeals misapprehended or overlooked the following in its Order. The Court of Appeal's Order of October 23, 2024, dismissing Petitioner's Appeal, *inter alia*, conflicts with prior decisions of this Court. e.g., Hagood v. Sommerville, 607 SE 2d 707 (2005), (a Supreme Court case, which held that a Lower Court decision which affects a substantial right is immediately appealable when an order strikes out an answer or any part thereof or any pleading in any action). Hagood at, 195.

Petitioner's Appeal's nexus is not the Lower Court's denial of Petitioner's Motion to Amend. The Petitioner's central point in his Appeal was the Lower Court's striking part of Petitioner's Complaint, which affected a substantial right of Petitioner. The Lower Court's striking of the two important numbered paragraphs "12" and "30", removed those two important underpinnings of Petitioner's case before the Lower Court.

Respondents have admitted in their Memorandum on Appealability that the determination of whether a party may immediately appeal an order issued before or during trial is “...governed primarily by [section 14-3-330 of the South Carolina Code].”, (page “4” of Respondents’ Memorandum).

SECTION 14-3-330. Appellate jurisdiction in law cases. “(2) An order affecting a **substantial right** made in an action when such order ..., ... (c) **strikes out** an answer or **any part thereof** or **any pleading** in any action;” is immediately appealable, (emphasis supplied).

Substantial Right Lost.

The Lower Court’s Order of April 9, 2024, on pages “3” and “4”, affected a **substantial right** of Petitioner, because the Lower Court refused to allow Petitioner to include paragraphs “12” and “30” in Petitioner’s proposed Complaint (Third Amended).

Specifically, the Lower Court’s Order of April 9, 2024, stated in paragraph, “12. ...The Plaintiff’s Appeal [Appellate Case Number 2021-001150] was dismissed¹ and **the Plaintiff is precluded from repleading matters previously stricken.**”, (emphasis supplied).

Order Strikes Out Part of Pleading.

Furthermore, the Lower Court’s Order of April 9, 2024, **strikes out part of Petitioner’s pleading** (namely, paragraphs “12” and “30” of the proposed Complaint (Third Amended), attached to Petitioner’s Motion to Amend in the Lower Court)).

¹ The Lower Court’s Order of April 9, 2024, reference to Petitioner’s Appeal (Appellate Case Number 2021-001150), as being, “dismissed” on page “3”, is misleading, Petitioner’s Appeal was dismissed as being “interlocutory” and there was no finding on the merits in the Appellate decision which would preclude future use of the stricken paragraphs.

An important part of Petitioner’s Complaint (Third Amended), paragraphs “12” and “30” were specifically struck by the Lower Court’s Order of April 9, 2024, on pages “3” and “4”.

CONCLUSION

Based on the foregoing (i) applicable case law (ii) applicable statutes and (iii) the facts of this case, Petitioner’s Appeal is not interlocutory. Therefore, this Court should grant Petitioner’s Petition and remand this matter to the Court of Appeals, and for such other and further relief this Court deems just and appropriate.

Respectfully Submitted,

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