

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No.: 2020-CP-43-00734
Appellate Case No.: 2025-000159

Ronald L. Jones, Petitioner,

v.

Gary A. Jones, Sr., Becky J. Jones, Ima Lee Jones, and Shelly Allsbrooks, Respondents.

RETURN TO PETITION FOR WRIT OF CERTIORARI

SMITH ROBINSON, LLC

Jonathan M. Robinson (SC Bar # 68285)
jon.robinson@smithrobinsonlaw.com
Austin T. Reed (SC Bar # 102808)
austin.reed@smithrobinsonlaw.com
3200 Devine Street
Columbia, SC 29205
(803) 254-5445

PLAYER & McMILLAN, L.L.C.

Marvin E. McMillan, Jr. (SC Bar # 3904)
chipmcmillan@playermcmillan.com
Thomas E. Player, Jr. (SC Bar # 4478)
Post Office Drawer 3690
Sumter, South Carolina 29151
(803) 775-2306

Counsel for Respondents

RECEIVED

Feb 13 2025

S.C. SUPREME COURT

STATEMENT OF THE QUESTION PRESENTED FOR REVIEW

- I. Did the court of appeals correctly dismiss Petitioner’s second appeal of a plainly unappealable interlocutory order?

STATEMENT OF THE CASE

This case involves a family land dispute. On May 4, 2020, Petitioner Ronald L. Jones (“Petitioner”) filed this lawsuit against Respondents Gary A. Jones, Sr., Becky J. Jones, and Ima Lee Jones, claiming Petitioner was entitled to relief pursuant to an oral gift and the doctrine of promissory estoppel. On June 10, 2020, Petitioner filed his First Amended Complaint, adding a cause of action for civil conspiracy directed at Respondents Gary A. Jones, Sr. and Becky J. Jones. The parties subsequently engaged in discovery, including the deposition of Respondent Shelley Allsbrooks on March 16, 2021. Petitioner filed his Second Amended Complaint on April 22, 2021, adding Respondent Allsbrooks as a defendant to his claim for civil conspiracy. On May 6, 2021, Respondents filed an Answer to Petitioner’s Second Amended Complaint and a Motion to Strike certain improper factual allegations that had been raised in the Second Amended Complaint. The circuit court granted Respondents’ Motion to Strike, and Petitioner appealed. The court of appeals granted Respondents’ Motion to Dismiss, holding the circuit court’s order was not immediately appealable (COA App. Case No. 2021-001150); the court of appeals denied Appellant’s request for rehearing (*Id.*); and this Court denied certiorari (Sup. Ct. App. Case No. 2022-000865). Respondents were awarded costs by the court of appeals to be paid by Petitioner.¹

Following the issuance of remittitur to the circuit court, Petitioner filed another Motion to Amend his Complaint. Petitioner sought leave to submit a fourth iteration of his Complaint to add a cause of action for unjust enrichment. Petitioner also included the “almost exact allegations”

¹ As of the date of this filing, Petitioner has not paid the costs awarded to Respondents in the first appeal.

that were previously stricken by the circuit court in its September 22, 2021 Order. On April 9, 2024, the circuit court denied Petitioner's motion to amend. The circuit court reasoned *inter alia*: (1) Petitioner's attempt to add the unjust enrichment cause of action was not timely and (2) Petitioner's attempt to again include previously stricken allegations was improper. Petitioner moved for reconsideration, and the circuit court denied same on September 10, 2024. That same day, Petitioner filed his Notice of Appeal. An amended Notice of Appeal was filed on September 11, 2024.

Before Respondents could move to dismiss the improper appeal, the court of appeals requested briefing on the appealability of the underlying order. Both parties timely submitted their briefs to the court of appeals. On October 23, 2024, the court of appeals issued an order dismissing the matter as not immediately appealable. Petitioner filed a timely Petition for Rehearing, and the court of appeals denied the same.

Petitioner now asks this Court (for the second time) to grant him certiorari to review yet another unappealable order. The Court, respectfully, should not entertain Petitioner's attempts at even further delay.

ARGUMENT

I. THE COURT OF APPEALS DID NOT ERR BY DISMISSING PETITIONER'S INTERLOCUTORY APPEAL.

A review of the circuit court's underlying order denying Petitioner's Motion to Amend, the governing appealability statute, and many years of precedent from our appellate courts makes certain that Petitioner has no foundation to support any argument that this Court should review this interlocutory appeal. To be sure, the circuit court's order denying Petitioner's Motion to Amend his Complaint is not immediately appealable, and Petitioner's attempt to appeal the same is, quite frankly, another improper attempt to frustrate the ordinary pretrial procedures below.

Therefore, this Court should refuse to expand the narrow construction of section 14-3-330 of the South Carolina Code and should dismiss Petitioner's appeal, thereby allowing the proper pre-trial procedures to proceed accordingly without any additional disruption or delay.

A party's right to appeal arises from and is governed by statute. *Ex parte Capital U-Drive- It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006). Traditionally, an appeal may be pursued only after the entry of final judgment. *Id.* "A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution." *Tillman v. Tillman*, 420 S.C. 246, 249, 801 S.E.2d 757, 759 (Ct. App. 2017). "An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory order from which no immediate appeal is allowed." *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005).

"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]." *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 6, 630 S.E.2d at 467. "Absent a specialized statute, an order must fall into one of several categories set forth in [s]ection 14-3-330 in order to be immediately appealable." *Id.* Section 14-3-330 is "construed narrowly" with the goal of avoiding "circuitous litigation and needless appeals." *Tillman*, 420 S.C. at 250, 801 S.E.2d at 760. To be sure, "[p]iecemeal appeals" are disfavored in South Carolina. *Hagood*, 362 S.C. at 196, 607 S.E.2d at 709.

No specialized statute permits Petitioner's present appeal; therefore, to be immediately appealable, the circuit court's order must fit neatly into one of the categories set forth in section 14-3-330. *See id.* at 195, 607 S.E.2d at 708. Section 14-3-330 provides for appellate jurisdiction over:

- (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;
- (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;
- (3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and
- (4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

S.C. Code Ann. § 14-3-330; *see also Cobb v. Maccaro*, 310 S.C. 303, 305, 423 S.E.2d 156, 157 (Ct. App. 1992) (“Only interlocutory orders which (1) involve the merits; (2) affect a substantial right; or (3) involve certain orders regarding injunctions and appointments of receivers, can be appealed.”).

Here—under the well-established approach to analyzing the appealability of interlocutory orders—the circuit court’s order is not immediately appealable. The effect of the circuit court’s order is clear. The circuit court denied Petitioner’s Motion to Amend his Complaint. That is all. The circuit court’s order did not dismiss Petitioner’s case; the circuit court’s order did not dispense of any of Petitioner’s existing causes of action; the circuit court’s order did not constitute a final judgment; the circuit court’s order does not prevent an appeal of Petitioner’s complained issue following a final judgment in this matter.

Our appellate courts have consistently held that an interlocutory appeal of an order addressing a motion to amend pleadings is improper. *See, e.g., Tatnall v. Gardner*, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App. 2002) (holding a circuit court’s order denying defendant’s motion to amend her answer to assert third-party claims was not immediately appealable because the order “neither determine[d] a substantial matter ‘forming the whole or part of some cause of action,’ nor prevents ‘a judgment from being rendered in the action’ from which [defendant] could then seek review”); *Collins v. Sigmon*, 299 S.C. 464, 466, 385 S.E.2d 835, 836 (1989) (“An order permitting amendment of pleadings is interlocutory and generally is not appealable until final judgment.”); *S. Sales & Mktg. Grp., Inc. v. AMCO Const. Co.*, No. 2006-UP-278, 2006 WL 7286061, at *2–4 (S.C. Ct. App. June 13, 2006); *Brown v. Tonney*, No. 2021-000185, 2022 WL 853436, at *1 (S.C. Ct. App. Mar. 23, 2022) (dismissing an appeal of a special referee’s order denying a motion to amend complaint).

Baldwin Construction Company v. Graham, 357 S.C. 227, 593 S.E.2d 146 (2004) is particularly instructive as to the issue of appealability in this case. In *Baldwin*, the defendant filed a motion to amend to permit the filing of an amended answer, set-offs, and counterclaims. *Id.* at 228, 593 S.E.2d at 146. The circuit court denied the motion to amend, finding the relief requested would be “unduly prejudicial.” This Court held the appeal of the denial of the motion to amend was not immediately appealable because the defendant would still be able to appeal the decision after the conclusion of trial. *Id.* at 230, 593 S.E.2d at 147-48. This Court explained, “the judge did not strike a pleading but refused to allow its filing. [The defendants] have not ‘arrived at the end of the road’ and will be able to appeal the decision after the trial is finished.” *Id.*

The same can be said in the instant case. Petitioner is appealing the denial of his Motion to Amend his Complaint. The matter is not immediately appealable, and there is nothing that would prohibit Petitioner from appealing this decision after the conclusion of trial. Like the

circuit court in *Baldwin*, the circuit court did not strike a cause of action or a pleading, it simply refused to allow its filing.

Petitioner contends, albeit incorrectly, that this appeal isn't really an appeal of the circuit court's order denying his Motion to Amend. Rather, Petitioner submits that this appeal is about "the Lower Court's striking part of Petitioner's Complaint." (Pet. at 3). If this is true, then the merit of this appeal takes an even deeper nosedive, and Petitioner's actions in continuing to pursue this appeal become even more specious. Again, if this is true, then Petitioner is appealing again the same exact issue that (1) the court of appeals dismissed on March 14, 2022; (2) the court of appeals denied rehearing on May 18, 2022; (3) this Court denied certiorari on April 18, 2023; and (4) the court of appeals awarded costs to Respondents on July 19, 2023.

CONCLUSION

Accordingly, this Court should respectfully deny the petition for certiorari. Respondents have spent far too long participating in these frivolous appeals that exist solely for the purpose of delay.

(signature page to follow)

Respectfully submitted,

SMITH ROBINSON, LLC

s/Austin T. Reed

Jonathan M. Robinson (SC Bar # 68285)

jon.robinson@smithrobinsonlaw.com

Austin T. Reed (SC Bar # 102808)

austin.reed@smithrobinsonlaw.com

3200 Devine Street

Columbia, SC 29205

(803) 254-5445

-AND-

PLAYER & McMILLAN, L.L.C.

s/Marvin E. McMillan, Jr.

Marvin E. McMillan, Jr. (SC Bar # 3904)

chipmcmillan@playermcmillan.com

Thomas E. Player, Jr. (SC Bar # 4478)

Post Office Drawer 3690

Sumter, South Carolina 29151

(803) 775-2306

COUNSEL FOR RESPONDENTS

Columbia, South Carolina

February 13, 2025