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Jan 28 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas
B. Alex Hyman, Circuit Court Judge

Case No. 2021-CP-22-00897

Appellate Case No. 2025-001759

Timothy Wenzel, Dawud Aswad, Jonathan Wheeler, Drew Winans, Brooke Morris, Jerome Maybank, Christian Decremer, Lee Wilson, Kimberly Davis, William Toomer, Marty Smith, Muryel Sumpter, Taneshia Timmons, Veronica Gibbs, Keona Brunson, Wade Wilder, Carla Harris, Dan Szucha, Edward Joseph Kozma, and Gene Footman, on behalf of themselves and all others similarly situated,

Appellants,

v.

Georgetown County and Georgetown County Sherriff's Office,

Respondents.

RESPONDENTS' MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondents Georgetown County and Georgetown County Sheriff's Office (collectively, "Respondents"), by and through the undersigned counsel, respectfully request this Court dismiss the Notice of Appeal filed by Appellants on August 29, 2025.

In their Notice of Appeal, Appellants attach a May 14, 2025, Form 4 Order of the Honorable B. Alex Hyman granting Respondents' Motion to Sever. Appellants also attach the Judge Hyman's August 1, 2025, Form 4 Order denying Appellants' Motion for Reconsideration. The May 14, 2025, Order ("May 14 Order") states as follows: "Defendant's Motion to Sever is

Granted and Plaintiff's Motion for Summary Judgment is denied. A formal Order will follow." The May 14 Order also specifically indicated that its issuance did not end the case.

Prior to the circuit court issuing a formal order, Appellants filed their motion to reconsider, which was later denied on August 1, 2025. The Form Order of August 1, 2025 ("August 1 Order") did not make any specific factual or legal findings. However, given that no formal had yet been issued, there were not, at that time, final findings and determinations to be reconsidered. Appellants' Motion for Reconsideration essentially asked the court to reconsider its findings in an order it had not yet issued. The August 1 Order on Appellants' Motion for Reconsideration, therefore, did not render any final judgment or findings from which an appeal may be taken. Appellants' appeal here is essentially based upon their challenge of the May 14 Order.

Appeal may be taken from a final order or judgment. Rule 201, SCACR. The May 14 Order, which is the order from which reconsideration was requested and the basis upon which this appeal is made, is not a final order. In many instances, a Form 4 order serves as a final order. *Cheap-O's Truck Stop, Inc. v. Cloyd*, 350 S.C. 596, 605, 567 S.E.2d 514, 518 (Ct. App. 2002). However, a Form 4 is not effective as a final order where a circuit court indicates either "(1) a more formal order will be filed; or (2) the final order will be prepared by Attorney [x]; or (3) through the use of words and phrases what action will follow." *Id.*; see also *Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996) ("Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory and not final."). In support of this principle, Rule 203, SCACR, makes clear that a party has no reason to initiate an appeal where a form or other short order indicates that a more full and complete order will follow. Here, the May 14 Order stated, "[a] formal Order will follow." This affirmatively

indicates and confirms that the May 14 Order is not a final order and is, therefore, not immediately appealable.

Accordingly, Respondents respectfully request that this Court dismiss this appeal because the May 14 Order upon which this appeal is based is not a final order. The August 1 Order is a reconsideration of a non-final order and is likewise not a final order or judgment in the underlying case. This matter should be returned to the circuit court for further proceedings, including the entry of a formal order on Defendants' Motion to Sever.

RESPECTFULLY SUBMITTED,

**SMITH ROBINSON HOLLER DUBOSE
AND MORGAN, LLC**

s/H. Thomas Morgan, Jr.

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v.

Georgetown County and Georgetown County Sheriff's Office, Respondents.

PROOF OF SERVICE

I, the undersigned paralegal of the law offices of Smith Robinson Holler DuBose and Morgan, LLC, do hereby certify that on January 28, 2026, I have served all counsel in this action with a copy of the pleading(s) hereinbelow by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to Rule 262 of the South Carolina Appellate Court Rules and all related Orders of the South Carolina Supreme Court.

Document(s) Served: (1) Respondents' Motion to Dismiss

Counsel Served:

Via E-Mail Only
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January 28, 2026