IN THE STATE OF SOUTH CAROLINA COURT

OF APPEALS

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

MASTER – IN – EQUITY

THE HONORABLE MIKELL R. SCARBOROUGH

CASE NO: 2025-002345

Robert Matthews, Jr.

Respondent

-vs-

Tiffany R. Matthews

Appellant

BRIEF OF APPELLANT

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QUESTION PRESENTED

DID THE MASTER-IN-EQUITY ERR IN DECLINING TO EXERCISE JURISDICTION TO INTERPRET AND ENFORCE THE SETTLEMENT AGREEMENT ENTERED ON THE RECORD ON FEBRUARY 3, 2022?

STATEMENT OF THE CASE[1]

The parties divorced on April 29, 2011. The divorce decree incorporated an agreement on custody of the two children and child support. The agreement did not provide for alimony or divide the marital property. In 2016, about five years after the divorce, the parties purchased a home in Mt. Pleasant next door to the marital home, where Respondent had continued to reside. Appellant moved in to the newly purchased non-marital home. The parties shared title and obligation on the mortgage. On December 26, 2018, the parties entered a contract formalizing their agreement regarding the non-marital property. Plaintiff's Exhibit #20 (R.p. 435). On May 16, 2019, Respondent filed suit in the Court of Common Pleas to void the 2018 contract, alleging there was no mutual consideration. On May 17, 2019, Respondent filed a "modification case" in the family court. The common pleas case was referred to the Charleston County Master-in-Equity. The parties settled the case at the trial before the Master on February 3, 2022. Counsel orally recounted their agreement on the record. The parties agreed the family court case would be dismissed with prejudice. The Master retained jurisdiction to resolve any disputes about the settlement agreement. The Master issued a Form 4 order dismissing the case. The 2019 family court case was dismissed on February 22, 2022.

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[1] In this brief, citations to the record listed as "(R.p.____)" are to the record in case number 2025-000643 previously filed. Additional material resulting from this appeal from the Master-in-Equity will refer to the Master's Record as "(MR. p. ___)". Appellant will move that these appeals be consolidated.

The following month, on March 22, 2022, Respondent filed a petition for a Rule to Show Cause in the family court alleging a willful violation of the parties' 2011 divorce decree and seeking reimbursement for college expenses for the parties' son, a finding of contempt and attorney's fees and costs. Appellant filed an amended return to the rule to show cause on January 18, 2023, alleging that the issue of college expenses had been settled as part of the agreement put on the record with the Master-in-Equity and further alleging equitable estoppel. After a hearing on January 18, 2023, the Honorable Holly Wall dismissed the Rule to Show Cause with leave to refile. Respondent refiled the Rule to Show Cause on January 18, 2023. The case was scheduled and continued several times in 2023 and 2024. The case was scheduled to be heard on July 23, 2024. Appellant's counsel moved before the beginning of the hearing to be relieved as counsel. That motion was granted, and the case was continued.

The Honorable Spiros Ferderigos presided over the contempt hearing on January 6, 2025. Appellant appeared *pro se*. The judge issued a ruling from the bench. On January 21, 2025, the judge filed an order finding Appellant in willful contempt. The order directed her to pay $34,863.10 for her pro-rata share of college expenses and $66,335.59 for attorney's fees and costs totaling $101,198.69. The order directs Appellant to pay $1500 per month on the first of each month directly to Respondent's counsel. The order imposed a sentence of 120 days in jail, but it allowed Appellant to be released upon the payment of $20,000 to Respondent's counsel. After four nights in detention, she was released.

Appellant filed Rule 59 and Rule 60 motions on February 6, 2025. Counsel asked that the judge defer a ruling on the motions until after delivery and review of the transcript so that her counsel, who had been engaged only after the hearing, could properly address the issues. The judge filed an order denying the Rule 59 and 60 motions on March 5, 2025, before the delivery of the transcript on March 28, 2025. Appellant filed Notice of Intent to Appeal on April 2, 2025.

On May 1, 2025, Appellant filed a motion to enforce the settlement agreement reached before the Master-in-Equity on February 3, 2022. The Master conducted a hearing on September 3, 2025. He issued an order declining to enforce the agreement on October 13, 2025. On November 12, 2025, Appellant served Notice of Intent to Appeal.

STANDARD OF REVIEW

The legal issue of jurisdiction or authority of the Master-in-Equity is to be reviewed without deference to the Master's determination. To the extent the Master relied on factual determinations, such findings should be affirmed if there is any evidence to support them. *Estate of Tenney v. South Carolina DHEC*, 393 S.C. 100, 712 S.E.2d 395 (2011).

STATEMENT OF FACTS

The settlement before the Master on February 3, 2022, was not reduced to a formal written agreement and confirmed with a formal written order, though Appellant's counsel offered to submit a formal proposed order. Plaintiff's Exhibit 1 (R.p.387) The Master declined that offer, assuring the parties that the statements on the record *and* his retention of jurisdiction would resolve any "snafus." (R.p. 378)

Now that Appellant has moved for enforcement of the agreement, the Master has made clear that he believed that the settlement entered before him was an end to all litigation between the parties. He found it "understandable" that Appellant believed the same thing. (Order p. 6, MR p. 6). He further opined that Appellant's lawyer also believed that no "reimbursement for anything" included any potential claim for college expenses. (Order p.6, MR p.6). He pointedly noted that neither Respondent nor his lawyer spoke up at the settlement hearing to clarify that the issue of reimbursement for college expenses was being reserved for future litigation. (Order p.4, MR p.4).

ARGUMENT

The family judge, unaware of the Master's understanding of the parties' intent, found that Appellant's obligation to contribute to college expenses survived the settlement effectuated before the Judge Scarborough, on February 3, 2022. However, the family court did not have subject matter jurisdiction to make that determination. The litigation settled in Judge Scarborough's court involved a contract entered into seven years after the divorce. That contract involved a piece of real estate they did not own during their marriage: it was non-marital property. Yet that agreement also provided alimony and child support.

The settlement of the dispute expressly involved dismissal of claims arising in family court. Before the family court could decide which claims, if any, survived and which did not, the Masterin-Equity must have determined of the parties' intent. He specifically reserved jurisdiction to do so in the event of a dispute about the agreement.

The following colloquy occurred at the hearing before Judge Scarborough:

> Mr. Futeral: But, let's put it this way: If – not part of the agreement – if there should be a problem, somebody can give me a call. I think we're going to be dealing with very reputable realtors, and we're not concerned about it. **And, obviously, we just want the 125.**
> The Court: Sure
> Mr. Futeral: If there's a problem, just give me a call.
> The Court: Okay.
> Ms. Johnston: The other problem – and Mr. Futeral and I talked about this is, if we have a snafu, we would like to be able to come back to your Honor and say, we have a snafu.
> The Court: I would take jurisdiction for that. Mr.
> Futeral: Please.
>
> Plaintiff's Exhibit #1 p.22. (R.p. 378).

The family court is a court of limited jurisdiction. *See Sims v. Sims,* 290 S.C. 190, 348 S.E.2d 835 (1986). *Sims* involved a contract claim made by a former husband against his former wife. The Supreme Court found that the family court did not have subject matter jurisdiction to

determine the former husband's rights under that alleged contract. In the instant case, Respondent's counsel understood that the family court did not have jurisdiction to preside over the litigation attempting to void the 2018 contract Respondent made with Appellant long after the divorce, even though that contract provided for alimony and child support. He also understood that part of the consideration for the settlement of that dispute before the Master-in-Equity was to give up certain claims over which the family court originally *did* have jurisdiction: he agreed to dismiss "the family court case" with prejudice. Respondent contends he didn't give up all claims he could assert in the family court. Appellant contends otherwise - that the settlement was "global." Only the Master-in-Equity has jurisdiction to determine the terms of and to enforce the settlement agreement placed before him on the record in that post-divorce contract dispute.

In *Brown v. Brown, 295* S.C. 354, 368 S.E.2d 475, (Ct. App. 1988), the Court of Appeals explained:

> A family court lacks subject matter jurisdiction to settle a dispute between spouses involving their respective interests in property, *unless the determination is incident to an action requesting an alteration of their marital status [emphasis added].*

295 S.C. at 358. Here we have ex-spouses settling a claim about non-marital property. That settlement had nothing to do with an alteration of their marital status. At the time of the settlement, they had been divorced for over ten years. Only the Master-in-Equity has jurisdiction to determine and enforce the terms of that settlement.

In *Bailey v. Bailey*, 330 S.C. 326, 498 S.E.2d 891 (Ct.App.1998) involved a contract entered before the parties married. When the parties divorced, there was no division of marital property in the decree. After the divorce was granted by the family court, Ms. Bailey filed an action in circuit court seeking enforcement of the agreement. The Court of Appeals held that the circuit court had subject matter jurisdiction over the premarital contract, which pertained to the marital home.

There are many South Carolina cases holding that the family court does not have jurisdiction over contract disputes. *Lighty v. S.C. DSS*, 285 S.C. 508, 330 S.E.2d 529 (1985), is one such case. Justice Ness dissented, citing *D.S.S. v. Fingerlin*, 328 S.E.(2^d) 71 (1985). In his dissent Justice Ness contended that the circuit and the family court had *concurrent* jurisdiction of an issue of child support. However, Justice Gregory concurred with the majority, noting: "The instant action is not a pure domestic case; therefore, *Fingerlin* has no application to these facts." Thus, the circuit court in *Lighty* had jurisdiction of the issue of child support. Similarly, here we are not dealing with a pure domestic relations case. The family court does not have subject matter jurisdiction to determine the terms of the 2022 settlement between the parties before the Master-in-Equity. It dealt with non-marital property and did not involve a change in marital status. As in *Lighty,* the circuit court had jurisdiction over a contract dispute, which was resolved in a settlement agreement and which involved Respondent giving up claims that arose or could have arisen in family court. The parties cannot by agreement confer subject matter jurisdiction on a court that does not have it. Only after the Master-in-Equity has determined the settlement terms may the family court exercise jurisdiction over lingering issues, *if any*, pertaining to the enforcement of the 2011 divorce decree rendered by the family court.

The case of *Baskin v. Walkup*, 445 S.C. 353, 913 S.E.2d 282 (Ct.App. 2025), illustrates this principle. In that case the parties had reached a temporary settlement in the probate court. Contrary to that settlement, Walkup later filed a claim in the circuit court. The probate court found him in contempt for attempting to circumvent the jurisdiction of the court in which a settlement agreement was reached. The Court of Appeals affirmed the finding of contempt.

The instant case was in an unusual procedural posture when Appellant's motion was presented to the Master. Thus, one can sympathize with the Master's position. He concluded he could not act because of the holding of *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 340

S.E.2d 546 (1986): "one Circuit Court does not have the authority to set aside the order of another." That holding is a sensible one and has been repeatedly applied in South Carolina. However, that holding does not apply here to restrict the Master-in-Equity from enforcing the parties' settlement agreement that was entered into in his courtroom on February 3, 2022. That agreement was honored by Appellant when she remitted to Respondent $125,000, a sum which Respondent had agreed he would receive "period" and no "reimbursement for anything." The Master approved the agreement, expressly retained jurisdiction to enforce it, and entered a Form 4 order dismissing the litigation. That record was before the family court judge as Plaintiff's Exhibit 1. Appellant, through her pleadings and her testimony, asserted that the issue had been settled before the Master. She further testified that she was shocked when Respondent sued her for "reimbursement" a month later. Despite having the record of the settlement before the Master as Exhibit 1, the family court ignored the Master's order retaining jurisdiction to interpret and enforce the settlement agreement, which had been entered in the Master's courtroom. The family court found not only did the issue of reimbursement for college expenses survive the "contract for freedom," but that also Appellant was in willful contempt of court. Thus, it was the family court that violated the rule of *Fletcher,* by issuing an order usurping the Master-in-Equity's jurisdiction and effective overruling him.

In this appeal of the Master's order, Appellant contends that the Master should have exercised the jurisdiction he had expressly retained on the record. As he observed in his order denying the motion, neither Respondent or his counsel mentioned they were reserving the right to move in the family court to seek "reimbursement" and a finding of contempt. The order continues:

> This Court was surprised there was another (4th) action filed by the Plaintiff [Respondent] against Defendant [Appellant] **the month following** their announcement and entry of a settlement before this Court. Though the issue of "college support" was never explicitly discussed in this Court, this Court confirmed the parties were done with litigation. The Court congratulated them on entering into a "contract for freedom" and for getting on with

> their lives. It is understandable that Defendant believed the same thing. When Ms. Johnston said: "As to the closing itself, Mr. Matthews will get $125,000 period. There's not going to be a reimbursement for anything," this Court believes Defendant's [Appellant's] counsel thought that as well.
>
> Though the issue Defendant [Appellant] presents is jurisdictional, the heart of the matter is justice. That's why this Court – a court of equity – exists. This Court is bothered by what has transpired here. However, given the procedural posture of this case, the authority of this Court to act is questionable.

(Order p. 6., MR. p. 6).

After this eloquent summary by Judge Scarborough, he denied Appellant's motion to enforce the settlement agreement. Appellant agrees that the authority of the Master to act may be legitimately questioned because the issue is on appeal, but, since, as the Master observed, "the heart of the matter is justice," Appellant asserts [with utmost respect and thanks to the Master for recognizing that the courts *exist* to procure justice] that he erred by not *acting* to end the manifest injustice Appellant has endured for the past six and a half years. Justice trumps all other considerations. As John Rawls put it in A Theory of Justice (1971): "Justice is the first virtue of social institutions, as truth is of systems of thought."

The fact that Judge Scarborough found it "understandable" that Appellant believed, just like he did, that the parties were "done with litigation" demonstrates why, particularly in the absence of a formal written consent order, jurisdiction of the interpretation of that oral agreement made on the record must remain with the judge who presided over it. It demonstrates why we have a rule that one lower court judge cannot overrule another, as the family court judge did here. It demonstrates why it was necessary not only to pronounce that the parties were done with litigation, it was necessary also to exercise the jurisdiction that resided with him to enforce that agreement. Failure to do so was error.

CONCLUSION

Appellant asks that the factual findings in the Master's order that the settlement was to be an end to litigation between the parties be affirmed and that the decision to decline exercising jurisdiction over the enforcement of that agreement be reversed.

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