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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

The Honorable Jane H. Merrill, Circuit Court Judge

Court of Common Pleas Case No. 2021-CP-37-00149
Appellate Court Case No. 2026-000480

Firewalker Hot Sauce Company, LLC,.....Respondent,

v.

American Pharma Machinery, LLC, Dorothy Wells a/k/a Dorothy Aleweny a/k/a Queen Dorothy Amolo a/k/a Dorothy Pierce, and the Estate of Doyle Elton Pierce, Defendants,

of which

Dorothy Pierce is the.....Appellant.

MOTION TO DISMISS APPEAL

Pursuant to Rule 240, Rule 260 and Rule 269, SCACR, Respondent Firewalker Hot Sauce Company, LLC (“Firewalker” or “Respondent”) hereby moves for the dismissal¹ of Appellant Dorothy Wells a/k/a Dorothy Aleweny a/k/a Queen Dorothy Amolo a/k/a Dorothy Pierce’s (“Pierce” or “Appellant”) appeal on the grounds that: (1) Appellant lacks standing as a direct appeal from a default judgment does not lie under S.C. Code Ann. § 14-3-330(1) and *Winesett v. Winesett*, 287 S.C. 332, 338 S.E.2d 340 (1985); (2) the issues raised by Appellant

¹ Respondent reserves all rights regarding the filing of its Initial Brief of Respondent, including any argument addressed to the merits of Appellant’s fourteen issues, should such a brief be required after a ruling on this motion.

were not presented to, and ruled upon by, the circuit court and therefore are not properly preserved for appellate review; and (3) the appeal is frivolous.

BACKGROUND

Firewalker brought this action against American Pharma Machinery, LLC (“APM”) and Pierce arising from the sale of food processing and packaging machinery. Neither APM nor Pierce timely answered, and the circuit court entered default against both. The following timeline is dispositive:

- March 12, 2025—Firewalker moved to strike APM’s Answer (the one Pierce had filed on its behalf) as the unauthorized practice of law.
- September 30, 2025—the circuit court struck APM’s Answer and entered APM’s default.
- October 17 and October 24, 2025—the circuit court denied continuance motions filed by Pierce and, separately, by Firewalker.
- November 24, 2025—the circuit court entered an order finding Pierce in default.
- December 8, 2025—the circuit court entered default judgment against APM and Pierce, liability to be followed by a damages determination.
- January 8, 2026—the circuit court held a damages hearing. Pierce did not appear, having previously requested and been denied a continuance, and the circuit court’s official Summary of Exhibits reflects that no exhibit offered on her behalf was marked or received.
- January 9, 2026 and February 3, 2026—the circuit court entered its findings on damages and, on February 3, 2026, its Order for Damages Default Judgment, awarding Firewalker \$87,619.47 (“the Order”).
- Pierce filed a timely notice of appeal designating only the February 3, 2026 Order—no other order in the case.
- **At no point—as to the entry of default, or the default judgment—has Pierce moved under Rule 60(b), SCRCp, for relief.**

Notwithstanding this record, Pierce’s Initial Brief, filed August 8, 2026, raises fourteen separate issues, the great majority of which attack the entry of default, the default judgment as to

liability, or matters that predate the January 8, 2026 damages hearing entirely—none of which was ever presented to, or ruled upon by, the circuit court. Pierce’s accompanying Designation of Matter to Be Included in the Record on Appeal spans eighty-eight entries reaching back to the original 2021 Complaint, the great majority of which likewise have no bearing on the sole order she appealed.² Respondent has separately moved to strike the majority of those entries as irrelevant to the Order on appeal.

This is not an isolated pattern. In a separate, contemporaneous action, *PlanetOne Packaging, LLC v. American Pharma Machinery, LLC*, App. Case No. 2025-000490, Pierce, appearing pro se from Uganda under the same aliases, was likewise found in default, and an earlier appeal in that same action, App. Case No. 2024-000334, was rejected by this Court on preservation grounds for failing to comply with procedural requirement including timely service of the notice of appeal.³

LEGAL STANDARD

A direct appeal does not lie from a default judgment and a default judgment may not be appealed to this Court. *Winesett v. Winesett*, 287 S.C. 332, 333, 338 S.E.2d 340, 341 (1985) (collecting cases). A defaulting party “has no status in court which will enable him to appeal from the judgement rendered.” *Id.* (internal citations and quotations omitted). The proper procedure for challenging a default judgment is to move the trial court to set it aside under Rule

² Respondent has separately moved, pursuant to Rule 210(c), SCACR, to strike the great majority of the Designation’s eighty-eight entries. That motion is incorporated here by reference and is not restated in full.

³ See *PlanetOne Packaging, LLC’s* Motions to Dismiss Appeal and Final Brief of Respondent, filed in App. Case No. 2025-000490, all of record with this Court. See also *PlanetONE Packaging, LLC v. Dorothy Pierce*, 2024-000334 (dismissed for failure to timely serve appeal); *Dorothy Pierce v. Jerry Edwards*, 2023-001516 (dismissed as orders on appeal not immediately appealable); *Dorothy Pierce v. Clements Electrical, Inc.*, 2022-000823 (dismissed for failure to provide notice of appeal filing fee);

60(b), SCRCF, and then appeal from the denial of that motion. *Id.* The Supreme Court gave three reasons for this rule: (1) a defendant who does not appear and answer has no status in court that enables an appeal; (2) a party appealing a default judgment will ordinarily be precluded from raising any issues on appeal because they were not first presented below; and (3) the appellant will often be unable to provide the appellate court with a sufficient record for review. *Id.*

An issue must be raised to and ruled upon by the trial court to be preserved for appellate review, and South Carolina recognizes no plain-error exception in civil appeals. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 23, 602 S.E.2d 772, 779-80 (2004); *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998).

Rule 269, SCACR, and S.C. Code Ann. § 15-36-10 separately authorize dismissal, sanctions, and an award of costs where an appeal is frivolous or pursued for purposes of delay.

ARGUMENT

I. This appeal is a direct appeal from a default judgment, which is barred by the *Winesett* Rule and S.C. Code Ann. § 14-3-330(1); Appellant lacks standing in this Court.

The only Order on appeal is an Order for Default Judgment. However, Pierce never filed a Rule 60(b), SCRCF, motion. The absence of a Rule 60(b) motion is not a technical defect that can be overlooked. It is a mandatory prerequisite, not one option among several. Here, Pierce has never acquired standing to challenge the judgment at all.

The Rule set forth by the Supreme Court in *Winesett v. Winesett* is an absolute bar to this appeal. All three *Winesett* rationales apply here. Pierce has been in default throughout the life of this case and therefore had no status before the trial court. The issues she now appeals were never raised below. She did not attend the damages hearing, and she never moved under Rule 60(b), SCRCF, to set aside the entry of default or the default judgment. She accordingly has no

live pleading and no status in this court to appeal. She is precluded from raising any of her fourteen issues because none was first presented to the circuit court. She cannot provide this Court with any record capable of supporting appellate review, because she created none. *Winesett*, 287 S.C. at 333, 338 S.E.2d at 341.

This rule rests on South Carolina's appellate-jurisdiction statute. A direct appeal lies only from the categories of orders and judgments enumerated in S.C. Code Ann. § 14-3-330, and a default judgment untested by a Rule 60(b) motion does not fall within any of them. A timely notice of appeal does not cure that defect. The problem here is not the absence of a notice of appeal—Pierce's was timely—but that the appeal itself is not one Section 14-3-330 authorizes. *Belue v. Belue*, 276 S.C. 120, 276 S.E.2d 295 (1981) (dismissing an appeal from a default judgment entered against an appellant who was not present at the hearing, holding that no appeal lies from a default judgment absent a statutory provision or a radical defect in the judgment, and that a defaulting party is estopped from thereafter challenging the judgment except by a motion to set it aside).

This court has applied *Winesett* to dismiss appeals outright—without reaching the merits—in materially identical circumstances where the appealing party was in default and filed no Rule 60(b) motion. *See e.g., Potts v. McCarty Enters., LLC*, 2019-UP-061, 2019 WL 460023 at *2 (S.C. Ct. App. Feb. 6, 2019); *Nationstar Mortg. LLC v. Lowery*, No. 2018-UP-227, 2018 WL 2733458 (S.C. Ct. App. June 6, 2018); *United Auto Insurance Co. v. Freeman*, 2017-UP-412, 2017 WL 4993112 at *n.1 (S.C. Ct. App. Nov. 1, 2017); *see also Edith v. State*, 369 S.C. 408, 632 S.E.2d 844 (May 24, 2006) (order) (dismissing a notice of appeal in PCR matter where petitioner defaulted by failing to timely respond to a conditional order of dismissal).

The same result follows and the Court should dismiss the appeal here. Pierce never filed a Rule 60(b) motion, nor, for that matter, a Rule 55(c) motion challenging the entry of default itself. She accordingly has no right to a direct appeal of the Court's February 3, 2026 Order for Default Judgment. Every one of the fourteen issues in her Initial Brief depends, directly or indirectly, on, on disturbing some aspect of a judgment that rests on her default, and every one of them is barred for the same threshold reason: this appeal is not one S.C. Code Ann. § 14-3-330 authorizes, and it should be dismissed.

II. None of Appellant's fourteen issues were raised to, or ruled upon by, the circuit court, and none are preserved for appellate review.

Independent of *Winesett*, Pierce's appeal fails for the separate reason that she raised none of her fourteen issues below. She made no filing at any point between the October 24, 2025 denial of her continuance motion and the filing of her notice of appeal—not to the order finding her in default, not to the order granting default judgment, and not to the Order she now appeals. An issue must be raised to and ruled upon by the trial court to be preserved for appellate review. *Wilder Corp. v. Wilke*, 330 S.C. at 76, 497 S.E.2d at 733. This principle applies with full force in the default-judgment context. This Court has held that issues not raised below are not reviewable on appeal even from the denial of a motion to set aside a default judgment. *Cf. Caldwell v. Wiquist*, 402 S.C. 565, 741 S.E.2d 583 (Ct. App. 2013). Pierce, who moved to set aside nothing, stands in a weaker position still. A brief built entirely on unpreserved issues has, as a practical matter, presented nothing for this Court to review, and independently supports dismissal without reaching the merits.

III. This appeal is frivolous and pursued for purposes of delay, warranting dismissal, sanctions, and expedited review.

Fourteen wholly unpreserved issues, an eighty-eight-item Designation reaching years beyond the sole order on appeal and including matter concerning a resolved probate claim and a non-appealing party's default history, together reflect an appeal of a nature such that it is frivolous or taken solely for purposes of delay within the meaning of S.C. Code Ann. § 15-36-10 and its appellate counterpart, Rule 269, SCACR, which authorizes sanctions where "an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay..." That pattern is confirmed, not merely suggested, by Pierce's parallel conduct in the *PlanetOne* appeal described above. The Supreme Court has confirmed sanctions of a comparable pattern of repeated, frivolous filings and delay under the analogous Rule 11, SCRCP standard—which this Court has recognized as essentially the same as the frivolous-filing standard here. *See e.g., Bauknight as Tr. of James Brown 2000 Irrevocable Tr. v. Pope*, 445 S.C. 408, 914 S.E.2d 848 (2025). Dismissal, an award of Respondent's costs under Rule 222, SCACR, and such further sanctions as this Court deems appropriate under Rule 269, SCACR are warranted.

CONCLUSION

An appellant who fails to follow procedural requirements strips the court of appellate jurisdiction. *State v. Brown*, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004); *Great Games, Inc. v. S.C. Dep't of Revenue*, 339 S.C. 79, 83 n.5, 529 S.E.2d 6, 8 n.5 (2000); *see also* Rule 260(a), SCACR. Pierce's appeal is a direct appeal from a default judgment barred by *Winesett*. It raises fourteen issues, none of which are preserved and a designation that violates Rule 209 and Rule 210, SCACR. And it is frivolous. Any one of these three grounds independently warrants dismissal. Accordingly, Respondent respectfully requests that this Court (1) dismiss this appeal pursuant to Rule 260(a) and Rule 240, SCACR; (2) award Respondent its costs under Rule 222,

SCACR; (3) impose such further sanctions as this Court deems appropriate under Rule 269, SCACR.

Respectfully submitted,

/s/Bryan P. Kelley

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Greenville, South Carolina

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of which

Dorothy Pierce is the.....Appellant.

PROOF OF SERVICE
OF MOTION TO DISMISS APPEAL AND MOTION TO STRIKE PORTIONS OF
APPELLANT'S DESIGNATION OF MATTER ON RESPONDENT

I certify that I have filed and served these Motions, Motion to Dismiss Appeal and Motion to Strike Portions of Appellant's Designation of Matter, on Appellant, Dorothy Pierce, by depositing a copy of same in the United States Mail, postage prepaid, on September 3, 2026, to the last known address to me and electronic mail:

Dorothy Pierce a/k/a Dorothy Wells a/k/a Dorothy Alweny
a/k/a Queen Dorothy Amolok, individually
750 Mourning Dove Lane
Seneca, South Carolina 29678

Dorothypierce84@gmail.com

Respectfully submitted,

/s/Bryan P. Kelley

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Greenville, South Carolina

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Via US Post and Electronic Mail

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

Re: *Firewalker Hot Sauce Company, LLC, v. Dorothy Pierce*
Appellate Case No: 2026-000480

Dear Ms. Kitchings:

In connection with the above-referenced case, please find enclosed our firm check for \$100.00 for the filing fee for Respondent's Motion to Dismiss Appeal and Motion to Strike Portions of Appellant's Designation of Matter filed with the Court on September 3, 2026.

Thank you for your attention.

Very truly yours,

ELMORE GOLDSMITH KELLEY & DEHOLL, P.A.



Katharine O. Spooner, CP
Certified Paralegal to Bryan P. Kelley and
H. Drennan Quattlebaum

/kos
Enclosures

cc *Dorothy Pierce (via email dorothypierce84@gmail.com and US Post)*