

The South Carolina Court of Appeals

The State, Respondent,

v.

Joseph Wright, Jr., Appellant.

Appellate Case No. 2013-002510

ORDER

Appellant has filed a petition for a writ of supersedeas from an order arising from a case in the Court of General Sessions. However, the order on appeal purports to hold the defendant in civil contempt, and thus is a civil matter subject to the stay and supersedeas provisions of Rule 241, SCACR. In part, the order holds the defendant in civil contempt, which is not subject to an automatic stay pending the outcome of an appeal. *See Matter of Decker*, 322 S.C. 212, 214, 471 S.E.2d 459, 461 (1995) (noting an order holding a person in civil contempt is not automatically stayed by the taking of an appeal). However, the order also creates a mechanism by which the court has the power to resolve a civil dispute between Appellant and the victim the Court of General Sessions would not otherwise have. *See* S.C. Code Ann. § 24-21-440 (2007) ("The period of probation or suspension of a sentence shall not exceed a period of five years and shall be determined by the judge of the court and may be continued or extended *within the above limit.*" (emphasis added)). This appeal challenges the validity of the underlying order in this respect. Thus, with regard to the mechanism by which the court has the power to resolve a civil dispute between the parties, the underlying order is automatically stayed. *See* Rule 241(a), SCACR ("As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision."). Because a determination of whether Appellant has violated the underlying order is a "matter affected by the appeal," any proceeding making such a determination is automatically stayed. *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012) (noting the lower court's power to proceed is determined by whether the issue sought to be litigated

in the lower court during the appeal is "a matter affected by the appeal"). Because the automatic stay leaves the lower court no power to proceed until the appeal is resolved, there is no need to impose a supersedeas.

 C.J.
FOR THE COURT

Columbia, South Carolina

cc:

The Honorable Brian M. Gibbons
Jeff Hammond, Clerk of Court
Hemphill P. Pride, II, Esquire
Robert Michael Dudek, Esquire
Matthew C. Buchanan, Esquire

FILED
3/12/14