

The South Carolina Court of Appeals

In the Matter of the Care and Treatment of Michael E.
Hamm, Appellant.

Appellate Case No. 2014-001913

ORDER

Appellant is attempting to appeal the circuit court's order granting Appellant's request to relieve counsel and proceed pro se and denying his request for second seat counsel. Because the underlying order is not immediately appealable, this appeal is dismissed.

Section 14-3-330 of the South Carolina Code (1976 & Supp. 2013) governs the determination of whether a party may immediately appeal an interlocutory order. Section 14-3-330 provides that the following types of orders are immediately appealable:

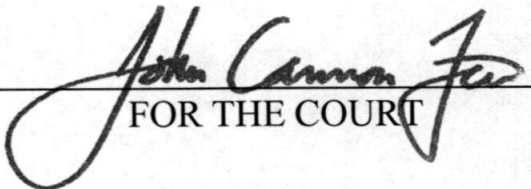
- (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; *provided*, that 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

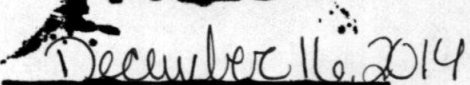
(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

In this appeal, subsection (1) does not apply because the order does not affect the merits of the action. Subsections (3) and (4) are inapplicable because the order was not made in a special proceeding and does not relate to an injunction or appointment of a receiver. Thus, this court must determine whether the underlying order affects a substantial right and is therefore immediately appealable under subsection (2).

In *Hagood v. Sommerville*, 362 S.C. 191, 199, 607 S.E.2d 707, 711 (2005), our supreme court held an order granting a motion to disqualify a party's attorney in a civil case may be immediately appealed pursuant to section 14-3-330(2) because the right to be represented by an attorney of one's choosing is a substantial right. Here, however, the circuit court did not deny Appellant the attorney of his choosing because the circuit court *granted* Appellant's motion to relieve counsel and proceed pro se. Furthermore, the circuit court's denial of Appellant's request for second seat counsel does not implicate a substantial right because no constitutional or statutory right to hybrid representation exists. *See State v. Stuckey*, 333 S.C. 56, 57-58, 508 S.E.2d 564, 65 (1998) (providing there is neither a Sixth Amendment right to hybrid representation nor a right under the South Carolina Constitution); S.C. Code Ann. § 44-48-90 (Supp. 2013) (stating that at all stages of the proceedings under the Sexually Violent Predators Act, a person subject to the Act is entitled to the assistance of counsel). Accordingly, underlying order is not immediately appealable pursuant to section 14-3-330 (2), and this appeal is dismissed.

 C.J.
FOR THE COURT

Columbia, South Carolina

FILED


cc:

Michael E. Hamm

Alan McCrory Wilson, Esquire

Deborah R.J. Shupe, Esquire