

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY FEB 25 2015

Court of Common Pleas

SC Court of Appeals

R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-42-01622

Spartanburg Buddhist Center of South Carolina, Inc., Respondent,

v.

Ron Ork and Luke Dong, Appellants.

MOTION TO EXPEDITE APPEAL

Pursuant to Rule 240 and Rule 263(b) of the South Carolina Appellate Court Rules, Ron Ork and Luke Dong (the "Appellants") move to expedite this Appeal and commence an expedited briefing schedule that would give the Appellants seven (7) days to serve and file their Initial Brief and Designation of Matter, seven (7) days for the Respondent to file its Initial Brief, three (3) days for the Appellants to file a Reply Brief, and seven (7) days for all parties to file and serve their final briefs. The grounds for this Motion are as follows:

1. The Appellants filed a Notice of Appeal on February 25, 2014, appealing (1) the Contempt Order dated January 7, 2015 holding Appellant Ron Ork in civil contempt; (2) the Order dated February 20, 2015 denying the Appellants' SCRCR Rules 59 and 60 Motion, and SCRCR Rule 62 Motion for Stay of Execution of the Contempt Order pending appeal; (3) the Order Granting Temporary Injunction dated May 16, 2014;

(4) the Order dated July 25, 2014 denying the Appellants' SCRCR Rules 59 and 60 Motion; and (5) the Order Granting Temporary Injunction dated April 21, 2014.

2. The Respondent is a nonprofit corporation organized in South Carolina. The most important issue in the underlying lawsuit is whether an election held on April 2014 to elect the Respondent's new Board of Directors and President was valid.

3. The Respondent's bylaws conflict with its articles of organization because the articles state that "[t]his corporation will not have members," but the bylaws often refer to "members" and vest the right to vote for a President and Board of Directors in those "members."

4. Although there has been no trial on the merits of the underlying case, the lower court issued an ex parte Order Granting Temporary Injunction on April 21, 2014, declaring that "the [Respondent] is governed by its valid and enforceable Bylaws."

5. Article 9, Section 3 of the Respondent's bylaws state, "The President of the Corporation will be elected by all Lay Buddhist members of the Temple during Annual meeting in the month of April. The term of President in three (3) years."

6. Article 8, Section 6 of the bylaws state, "Each Director shall hold office for a period of three (3) years or until his or her successor is elected or qualified. A member may be elected to be the Director by the Board of Directors or by the majority vote during the annual members' meeting in the month of April [sic]."

7. In other words, the bylaws state that a meeting to elect the Respondent's board of directors and president should be held in the month of April following the expiration of the board's and president's three year terms.

8. Over one hundred of the Respondent's members met on April 20, 2014 and unanimously voted for a new board of directors and president because they wanted new leadership and believed the president's and board's terms ended in 2014.

9. Upon information and belief, the man claiming to be the president prior to the April 20, 2014 election, initiated the underlying lawsuit on April 21, 2014 because he wanted the April 20, 2014 election declared invalid and, because there had been no election in April of 2012 when his prior term ended, he believed he was entitled to another three year term that would last until April of 2015.

10. In its ex parte Order Granting Temporary Injunction dated April 21, 2014, the lower court also held that, "All officers and Board of Directors members will be the same as before the April 20, 2014 election."

11. Ostensibly, the former president would agree that an election in April of 2015 to elect a new president would be valid.

12. However, the lower court issued a second Order Granting Temporary Injunction on May 16, 2014 that states, "no corporate action may be taken on behalf of [Respondent] during the pendency of this litigation, except that to which the parties agree."

13. The former president, who was voted out of office by the April 2014 election, and who is now hiding behind the mask of the Respondent in this lawsuit, has no reason to consent to an election in April 2015 because the lower court's Orders have placed him back into his presidential office and could possibly give him another three year term as president if an election does not take place.

14. The Appellants and Respondent's members need this appeal decided before April 2015 so that they can elect whomsoever they desire to serve as the Respondent's president and board of directors.

15. Additionally, the lower court issued a Contempt Order dated January 7, 2015 that sentenced the Appellant Ron Ork (the "Head Monk") to five months in the South Carolina Department of Corrections unless he pays \$59,765.30 into the Respondent's bank account within ninety (90) days of the date of the Order.


16. The lower court claimed that three checks the Head Monk issued from the Respondent's bank account to pay for the construction of a new temple/education building violated the lower court's prior orders.

17. The Head Monk has no income, survives on the donations of others, owns no property, and lives on property owned by the Respondent. The Head Monk has afforded litigation to this point because the supporters have paid on his behalf. The checks he issued paid bills for which the Respondent was responsible. The Head Monk did not retain any funds. The Head Monk does not have the ability to purge himself of contempt and is in danger of spending a five month sentence in prison starting in early April 2015.

18. "The courts have unambiguously held that 'coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order.'" *Phillips v. Phillips*, 341 S.E.2d 132, 288 S.C. 185 (S.C., 1986).

19. Lastly, the appealed orders are severely harming the Respondent. Those who attend the Respondent's services are unwilling to donate funds to the Respondent because the former president can exercise control over the Respondent's funds.

Respectfully Submitted,



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T. Camden Shealy, SC Bar No: 101447

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Attorneys for Appellants

February 25, 2015

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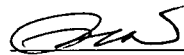
Appellants.

VERIFICATION OF MOTION TO EXPEDITE APPEAL

1. We, the undersigned Appellants, are over 18 years of age, have personal knowledge of the facts set forth in the Motion to Expedite the Appeal, are duly authorized to make the Motion and this verification of the Motion to Expedite the Appeal, and are competent to testify to the matters therein contained.

2. We, the undersigned Appellants, have read or have had read and translated to us the contents of the Motion to Expedite the Appeal, know the same to be true and correct of our own knowledge, except those matters alleged on information and belief, and as to them, we believe them to be true.

Affiants sayeth nothing further.



Ron Ork, Appellant



Luke Dong, Appellant

SWORN TO AND SUBSCRIBED

Before me this 25th day of February 2015,

 Thomas Gordon Shady (SEAL)

Notary Public for South Carolina

My Commission expires 11-18-2023

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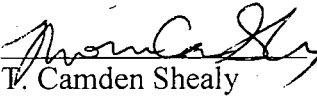
PROOF OF SERVICE

I, the undersigned attorney for the Appellants do hereby certify that I have served the Clerk of Court for the South Carolina Court of Appeals and all counsel in this action with a copy of the Notice of Appeal, Petition for Writ of Supersedeas and Expedited Ruling, Motion to Expedite Appeal, and a Proof of Service by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

- a. Jenny Abbott Kitchings, Clerk of Court
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- b. Scott F. Talley
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February 25, 2015