

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Roger M. Young, Circuit Court Judge
Appellate Case Tracking No. 2019-000967

RECEIVED

OCT 09 2019

SC Court of Appeals

The State,

Respondent,

vs.

Shemuel N.B. Yisrael,

Appellant.

MOTION TO DISMISS

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

On June 11, 2019, Appellant filed his Notice of Appeal with the South Carolina Supreme Court, and it was later transferred to the South Carolina Court of Appeals. The language of the Notice of Appeal indicates it is an appeal of the denial of his objection to a change of venue.¹ Specifically, it states: “Shemuel Yisrael, appeals the verbal order denying his motion, namely ‘Defendant’s Objection to Change of Venue to Jasper County’”

II.

Orders regarding change of venue are interlocutory and not immediately appealable. See Breland v. Love Chevrolet Olds, Inc., 339 S.C. 89, 94, 529 S.E.2d 11, 14 (2000)(“Requiring a

¹ Based on information received from the Fourteenth Circuit Solicitor’s Office, the case is still in Beaufort County and venue has not been changed. The objection came during a status conference being held for convenience of a visiting judge in Jasper County.

defendant to wait until after trial to appeal the issue of proper venue is the most appropriate course to take where any error in that decision will not prejudice the defendant anymore than other interlocutory orders which, if in error, would require a new trial.”); S.C. Code Ann. § 14-3-330 (Supp. 2018) (Allowing an interlocutory appeal only of “[a]n 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”).

III.

The appeal in this case is clearly interlocutory and should be dismissed with the matter remanded to the circuit court to allow the case to proceed to trial.

WHEREFORE, Respondent prays that the Court hold this matter in abeyance until ruling on this motion, dismiss the appeal, and remand for trial; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General

BY: 

William M. Blicht, Jr.
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

October 9, 2019

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PROOF OF SERVICE

I, Caroline Collins, certify that I have served the Motion to Dismiss on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Shemuel Yisrael
18 Wall Street
Yemassee, South Carolina 29945

I further certify that all parties required by Rule to be served have been served.

This 9th day of October, 2019.



CAROLINE COLLINS
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

October 9, 2019

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SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. Shemuel N.B. Yisrael
Appellate Case No. 2019-000967

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a Motion to Dismiss along with proof of service for filing in the above-referenced appeal.

Sincerely,

William M. Blich, Jr.
Senior Assistant Deputy Attorney General

Enclosures

cc: Shemuel Yisrael
Victim Advocacy Division