

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9TH Judicial Circuit Court Judge

Case No. 2007-CP-10-1444
Appellate Case No. 2019-000880

C. Holmes,

Appellant/Petitioner,

v.

J. Y. Becker, Manton Grier,
and Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Respondents.

**RESPONDENTS' REPLY IN SUPPORT OF
MOTION TO DISMISS**

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SC Court of Appeals

Pursuant to Rule 240(f), Respondents hereby submit their Reply in Support of Motion to Dismiss. In her Return to Respondents' Motion to Dismiss, Holmes argues that the lower court's April 9, 2019, and May 24, 2019 orders constitute "final orders," and thus that those orders are properly appealable, as are all previous orders the lower court entered in the supplemental proceedings action. Holmes' contention is simply incorrect, as neither the April 9, 2019 nor the May 24, 2019 order constitute a "final judgment." Accordingly, the Court should dismiss Holmes' appeal.

ARGUMENT

Rule 201, SCACR provides that "[a]ppel may be taken, as provided by law, from any final judgment, appealable order or decision." Rule 201(a), SCACR. As Holmes further concedes, "[i]f a judgment leaves some further act to be done by the court before the rights of the parties are determined, the judgment is not final." *Culbertson v. Clemens*, 322 S.C. 20, 22, 471 S.E.2d 163, 164 (1996). In that case, the court noted that while the order at issue—an order granting divorce—would normally constitute a final judgment, at the time of the order a sanctions issue was still pending against one of the parties; accordingly, the court noted that the rights of the parties were not "completely determined" until the judge issued his final sanctions order approximately one year later. *Id.* Courts have found that orders "reserving an issue, or leaving open the possibility of further action by the trial court before the rights of the parties are resolved" are interlocutory. *Tillman v. Tillman*, 420 S.C. 246, 249, 801 S.E.2d 757, 759 (Ct. App. 2017). As such, final judgments "end[] the action and leave[] the court with nothing to do but enforce the judgment by execution." *Id.*

Similarly, neither the April 9, 2019 nor the May 24, 2019 orders "completely determined" the rights of the parties to this matter. As HSB noted in its Motion to Dismiss, the

April 9, 2019 order does nothing more than provide for a stay of the pending supplemental proceedings pursuant to 11 U.S.C. § 362(a)(2), the “automatic stay”. Indeed, the lower court noted in the order that it issued the order because “Holmes has filed Chapter 7 bankruptcy.” (April 9, 2019 Order.) Indeed, the lower court specifically chose to strike—*not* dismiss—the case. (*Id.*) Accordingly, the April 9, 2019 order operates to stay the supplemental proceedings action, and does not “completely determine” the rights of the parties.

Similarly, the May 24, 2019 “Order Denying Filing” simply rejects motions that Holmes filed *pro se* in the supplemental proceedings action. In no way does this order “completely determine” the rights of the parties in this matter, nor does it address, let alone dispose of, the parties’ rights in the supplemental proceedings action itself. Holmes makes much ado of the fact that the May 24, 2019 order dismissed motions filed after entry of the Supreme Court’s order in *Doe v. Duncan* in 2009. However, the lower court’s order simply notes that the motions filed after entry of the *Doe* order are impermissible pursuant to that order, and thus *denied the filing* of those motions—it did *not* dismiss them. Should Holmes wish to file any further motions, she may simply retain an attorney properly licensed with the South Carolina Bar to file motions on her behalf—as she has done in order to file this appeal.

In short, there is simply nothing in either order that “completely determines” the rights of the parties as to the supplemental proceedings action. Accordingly, neither order constitutes a “final order” such that the orders entered by the lower court are properly appealable, and Holmes’ appeal must be dismissed.

CONCLUSION

For the reasons set forth above, Respondents respectfully request that the Court dismiss Holmes’ appeal.



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March 16, 2020
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THE SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough

Case No. 2007-CP-10-1444
Appellate Case No. 2019-000880

C. Holmes,

Appellant

v.

Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,
Manton Grier, and James Y. Becker,

Respondents.

PROOF OF SERVICE

I certify that **Respondents' Reply in Support of Motion to Dismiss** was served upon the Appellant by placing a copy of the same on the 16th day of March, 2020, in the United States Mail, postage prepaid, addressed as follows:

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March 16, 2020

VIA HAND DELIVERY

South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: *Cynthia Holmes v. Haynsworth, et al.*
Case No. 2019-000880

Dear Sir/Madam:

Enclosed in connection with the referenced matter is an original and (6) copies of Respondents' Reply in Support of Motion to Dismiss and Proof of Service. We would appreciate your returning a clocked-in copy to us via our office courier.

Please let me know if you have any questions regarding the enclosures

Thank you for your assistance in this matter.

Sincerely yours,



Mary Cothonneau Eldridge

MCE/hh
Enclosures
cc(w/encl.): Chalmers C. Johnson, Esquire

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