

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM FAIRFIELD COUNTY
In the Circuit Court

Brian M. Gibbons, Circuit Court Judge

C.A. No.: 2016-CP-20-00294
Appellate Case No.: 2019-00-01956
Supreme Court No.: 2020-000733

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S.C. SUPREME COURT

MOZELL TIMMS FORD, MARGARET GAITHER, GRANCENE HAYDEN, JOHN H. HAYES, ALFRED HOLMES, SHERYL KENNEDY, DEBORAH NELSON-MOORE, PETER RICE, DOROTHY STEWART, and HASKELL TIDWELL, Sr. individually and on behalf of all persons similarly situated, and THE NEW CAMPGROUND OF CAMP WELFARE.....Appellants,

v.

CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, ROGER HALL, RACHEL MILLS, MELISSA LAMAR and any other persons acting as Trustees of CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND.....Respondents.

RESPONDENTS' RETURN TO APPELLANTS' PETITION FOR WRIT OF CERTIORARI

Kenneth A. Davis, Esq. (SC Bar #66416)
Tierney F. Dukes, Esq. (SC Bar #102035)

BOYKIN & DAVIS, LLC

220 Stoneridge Drive, Suite 100
Columbia, South Carolina 29210
(803) 254-0707
kdavis@boykinlawsc.com
tdukes@boykinlawsc.com

Attorney for Respondents

Other Counsel of Record:

John M. Foster, Esq. (SC Bar #2086)
J. M. FOSTER LAW OFFICE
Post Office Box 106
Rock Hill, South Carolina 29731
(803) 324-8100
jmfoster@comporium.net
Attorney for Petitioners/Appellants

June 3, 2020
Columbia, South Carolina

STATEMENT OF THE CASE

This case arises out of the Circuit Court's denial of Appellants' Motion to Compel and for Contempt regarding documents in response to Appellants' discovery request and subpoena.

By way of background, Camp Welfare A.M.E. Zion Church and Camp Ground ("Camp Welfare Church") is the legal owner of property located at 5200 Camp Welfare Road in Fairfield County, South Carolina, consisting of eleven and one-half (11.5) acres of land which contains the church sanctuary, a cemetery and an open parcel (hereinafter "subject property") which Camp Welfare Church has used for many years as a meeting place (hereinafter "the campground") pursuant to an 1878 Deed. Respondents Rogers Hall, Rachel Mills and Melissa Lamar, are the duly elected Trustees of Camp Welfare Church.

Dating back to after the Civil War, Camp Welfare Church has hosted a yearly revival and camp meeting on the campground wherein members of the community, along with members of other churches, attend for religious worship. Camp Welfare Church permitted revival participants to erect structures on the property for temporary use, commonly referred to as "tents." Tentholders paid an annual registration fee for use of the property and for the performance of general maintenance at the campground for the revival. Appellants are a group of tentholders who have participated in the annual revival and camp meeting.

Appellants initiated this action on August 16, 2016, by filing a Complaint with the Court against the A.M.E. Zion Church and the Camp Welfare Church Trustees, requesting that the Court grant a temporary restraining order ("TRO") to enjoin the Respondents from suspending the camp meeting scheduled for August 2016. On February 28, 2017, Appellants served a subpoena upon Respondent Rogers Hall as Chairman of the Trustee Board of Camp Welfare Church requesting "[a]ny and all documents or communications relating to or regarding any records of the existence, incorporation, record-keeping, finances and operation of AMEZ Church and Camp and/or Camp Welfare A.M.E. Zion Church and Camp Ground, a South Carolina eleemosynary corporation

during [the period from January 1, 2010].” Appellants served an identical subpoena, dated April 25, 2017, upon the former presiding Bishop of the South Atlantic Episcopal District of the A.M.E. Zion Church in which Camp Welfare Church is a member church. The parties participated in court-mandated mediation and agreed to negotiate an agreement over the next six (6) months.

After the parties failed to reach an agreement, Appellants filed an Amended Complaint on March 1, 2018, asserting claims regarding the management and control of the campground and an accounting of campground finances. The A.M.E. Zion Church was not a named defendant. After a hearing, the Circuit Court denied Respondents’ Motion to Dismiss and Motion to Quash the subpoena and ordered Respondents to comply with the subpoena served upon Rogers Hall.¹ In compliance with the Court’s order, on October 2, 2018, Respondents responded to the subpoena served upon Rogers Hall by providing copies of financial records, to include bank statements, related to the campground in the possession of Camp Welfare Church. Appellants did not object to Respondents’ response.

On May 13, 2019, Appellants served Respondents with discovery requests, to which Respondents answered on July 19, 2019, objecting to certain requests. Specifically, Appellants’ First Set of Requests for Production sought, in part, the following documents:

- (1) Any and all documents or communications regarding the subject transaction and/or regarding any subsequent actions or events regarding the subject matter of the transaction.
- (6) Any and all documents or communications relating to or regarding any records of any accounts, financial dealings, record-keeping, communications or documents relating to or regarding CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND or CAMP WELFARE A.M.E. ZION CHURCH, during the relevant period, whether held by CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, by CAMP WELFARE A.M.E. ZION CHURCH, by THE AFRICAN METHODIST EPISCOPAL CHURCH, or by any third party.

¹The Circuit Court’s Order did not address the subpoena served upon the former Presiding Bishop or the A.M.E. Zion Church, Inc.

- (7) Any and all documents or communications relating to or regarding CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, during the relevant period, whether held by CAMP WELFARE A.M.E. ZION CHURCH AND CAMP GROUND, by CAMP WELFARE A.M.E. ZION CHURCH, by THE AFRICAN METHODIST EPISCOPAL, or by any third party.

In the instructions accompanying the request, Appellants defined the relevant period as January 1, 1863, to present. Respondents objected to these requests on the basis that the information sought was overbroad and overly burdensome as Appellants requested information from Camp Welfare Church and the A.M.E. Zion Church, a national hierarchical denomination, to include its episcopal districts, bishops, officers, and other representatives from January 1, 1863. Subsequently, Appellants filed a Motion to Compel and for Contempt, and in the Alternative for Joinder of the A.M.E. Zion Church as a party. After a hearing, on October 23, 2019, the Circuit Court issued a Form 4 Order Denying Appellants' Motion. Appellants filed a Motion for Reconsideration which was also denied by the Circuit Court.

Thereafter, Appellants filed a Notice of Appeal on November 22, 2019. On December 11, 2019, the Court of Appeals dismissed the appeal as the matter was not directly appealable under Lowndes Prod., Inc., v. Brower, 262 S.C. 431, 205 S.E.2d 184 (1974). Appellants filed a Petition for Rearing on December 17, 2019. By Order dated April 3, 2020, the Court of Appeals denied Appellants' Petition. Appellants filed the Petition for Writ of Certiorari on May 4, 2020.

ARGUMENT

I. **The Circuit Court's Order denying Appellants' Motion to Compel discovery does not determine any substantial matter forming the dispute between the parties.**

The denial of Appellants' Motion to Compel discovery is not a decision involving the merits of the case; and, thus, is not directly appealable.

In South Carolina, interlocutory or intermediate orders are not directly appealable. Specifically, "an order denying or compelling discovery is not directly appealable." See Lowndes, at 433. However, an order denying discovery is immediately appealable under certain limited

circumstances. Whether an interlocutory order is immediately appealable depends on whether the order falls within one of the categories listed in S.C. Code Ann. § 14-3-330. Baldwin Constr. Co. v. Graham, 357 S.C. 227, 230, 593 S.E.2d 146, 147 (2004). S.C. Code Ann. § 14-3-330 provides, in part: The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal

- (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;

The provisions of this section have been narrowly construed. Hagood v. Sommerville, 363 S.C. 191, 196, 607 S.E.2d 717, 709 (2005). "The phrase involving the merits means the order must finally determine some substantial matter forming the whole or a part of some cause of action or defense." Tucker v. Honda of S.C. Mfg., 354 S.C. 574, 576, 583 S.E.2d 405, 406 (2003) (quoting Mid-State Distributors, Inc. v. Century Importers, Inc., 310 S.C. 330, 426 S.E.2d 777 (1993)) (internal quotes omitted). The decision to review a final decision of the Court of Appeals is in the sole discretion of the Supreme Court. Rule 242(b), SCACR.

Appellants contend the Circuit Court's denial of their Motion to Compel certain documents involved the merits of the case, effectively determined the scope of issues to be tried and effectively decided the substantial question regarding the management and control of the campground. This argument is without merit.

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The issue before the Court is whether Appellants, as nonmembers, have any interest in the campground entitling them to manage and control the campground and an accounting of the finances of Camp Welfare Church. Appellants discovery requests detailed above seek tens of thousands of documents accumulated over 150 years, governing over 50 churches in a geographic location covering over 1/3 of South Carolina. In particular, Appellants seek records of the A.M.E. Zion Church denomination, to include conference reports of Camp Welfare Church to the general conference of the South Atlantic Episcopal District of the A.M.E. Zion Church, none of which show the operations or finances related to the campground. Appellants request that the Court allow them, as non-members of the Church, to search through records of the denomination unrelated to the operation of the campground based upon speculation that such inquiry may lead to information in support of Appellants' claims. However, as established by Respondents' 30(b)(6) witnesses, the A.M.E. Zion Church does not receive records of the operations or finances of the campground. See Appellants' Writ of Certiorari, p. 7, lines 10-16, deposition excerpt of Respondent Rachel Mills.

The denial of Appellants' discovery requests does not finally determine whether Appellants have an interest in the management and control of the campground and a right to an accounting of the church's finances, but rather limits the scope of discovery to only reflect any actual interest Appellants may have in the records of Camp Welfare Church. Further, the limitation on the scope of production allows for discovery of only those matters which are relevant to the operations and finances of the campground and necessary to resolve the issues in dispute while protecting the privacy and First Amendment rights of the Church. Appellants may still pursue the claims pled in the Amended Complaint and may introduce any evidence that they have that Camp Welfare Church allowed allow tentholders to manage and govern the revival, and the evidence of conversion of campground funds to individuals.

Accordingly, Appellants' Petition should be denied as the Order denying Appellants' discovery requests does not involve the merits; and, thus, is not immediately appealable.

II. The denial of Appellants' Motion to Compel does not affect a substantial right of Appellants.

Under Section 14-3-330(2), this Court may "review upon appeal (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." S.C. Code Ann. § 14-3-330(2). This section has been narrowly construed. See Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 302-03, 705 S.E.2d 475, 478 (Ct. App. 2001). "An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory order from which no immediate appeal is allowed." Tatnall v. Gardner, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App. 2002).

Appellants contend that the Circuit Court's Order denying their Motion to Compel Respondents' to produce tens of thousands of records of the A.M.E. Zion Church, Inc. and its episcopal districts, bishops, officers, and other representatives dating back over 150 years and/or allow Appellants to utilize an independent research to comb through such records has the effect of preventing Appellants from litigating the issue. This argument is without merit.

The Circuit Court's Order did not prevent Appellants from obtaining discovery on relevant matters; rather, limited it the scope of production to enjoin Appellants' from engaging in a fishing expedition. Other than general conference reports of Camp Welfare Church to the bishop, Appellants have not identified any particular document of the national church which is relevant to the issues in dispute. Moreover, the evidence in the record presented by Respondents' 30(b)(6) witness establishes that Camp Welfare Church does not send records regarding campground

operations or finances to the national church. Accordingly, the production of records by the national church is not necessary to resolve the issues in dispute.

Based on the evidence in the record, the Circuit Court, in denying Appellants' Motion to Compel in its discretion, determined that Appellants' discovery requests were overbroad and unduly burdensome. The limitation on discovery does not have the effect of removing any material issues from the case to be presented during the trial neither does it effectively determine the issues in dispute. Appellants may still offer any evidence that Respondents' allowed tentholders to manage and govern the campground and revival, and the conversion of funds. Further, Appellants will be able to appeal the decision after a final decision is reached.

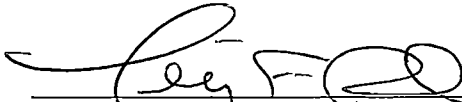
Because the Order denying Appellants' Motion to Compel neither involves the merits nor affects a substantial right, it is not immediately appealable.

CONCLUSION

For these reasons, Respondents respectfully request that Appellants' Petition for Writ for Certiorari be denied.

RESPECTFULLY SUBMITTED

BOYKIN & DAVIS, L.L.C.



Kenneth A. Davis, Esq. (SC Bar #66416)
Tierney F. Dukes, Esq. (SC Bar #102035)

BOYKIN & DAVIS, LLC

220 Stoneridge Drive, Suite 100
Columbia, South Carolina 29210
(803) 254-0707
kdavis@boykinlawsc.com
tdukes@boykinlawsc.com

Attorneys for Respondents

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Columbia, South Carolina