IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

DONNA J. ARMSTEAD
and ANTHONY ARMSTEAD,
Defendants Below, Petitioners

v.) No. 26-ICA-14 (Cir. Ct. Monongalia Cnty. Case No. CC-31-2003-C-89)

MANNINGTON HOME CENTER, INC.,
Plaintiff Below, Respondent

FILED
November 12, 2026
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ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioners Donna J. Armstead and Anthony Armstead ("the Armsteads") appeal the December 23, 2025, order of the Circuit Court of Monongalia County denying their motion for summary judgment. After considering the parties' arguments, the record on appeal, including the supplemented record, and the applicable law, we conclude that the December 23, 2025, order is not a final, appealable order and that this Court lacks appellate jurisdiction pursuant to West Virginia Code § 51-11-4(d)(8). Accordingly, a memorandum decision dismissing this appeal is appropriate.

This matter arises from Mannington Home Center, Inc.'s ("Mannington")[1] efforts to collect a judgment entered against the Armsteads in 2008. Following a hearing, the circuit court entered judgment in Mannington's favor on December 16, 2008, in the amount of $41,669.28, together with post judgment interest and costs. Mannington recorded an abstract of judgment on December 19, 2008. The circuit court subsequently denied the Armsteads' motion to alter or amend the judgment, and the Supreme Court of Appeals of West Virginia ("SCAWV") refused their petition for appeal in September 2009.

Mannington thereafter pursued collection of its judgment. In January 2017, Mannington obtained a writ of execution. On February 22, 2017, the Monongalia County Sheriff levied upon certain personal property at the Armsteads' residence. The Armsteads filed an affidavit claiming exemptions, and additional proceedings followed concerning execution upon the identified property. The sheriff submitted a return in June 2017 indicating that the vehicle sought could not be located and that the judgment remained unsatisfied. Mannington later recorded abstracts of execution on April 1 and April 12, 2019.

[1] The Armsteads are represented by Ben Ware, Esq., and David A. Dobson, Esq. Mannington is represented by William Pennington, Esq.

During the enforcement proceedings, the Armsteads filed several bankruptcy petitions. In July 2019, they commenced bankruptcy Case No. 1:19-bk-00615 in the United States Bankruptcy Court for the Northern District of West Virginia. In a related adversary proceeding, the Armsteads challenged the validity and priority of Mannington's judgment lien under West Virginia Code § 38-3-7.

On March 6, 2020, the bankruptcy court entered an order declaring Mannington's judgment lien null and void to the extent it had not already expired by operation of law. The bankruptcy court subsequently amended that order in May 2020, deleting language addressing the continued existence of Mannington's underlying claim. The bankruptcy proceeding was dismissed in February 2021.

Meanwhile, Mannington pursued enforcement of its judgment against approximately 30.90 acres of real property located on Dug Hill Road in Monongalia County. On April 26, 2021, the circuit court entered an order granting Mannington's motion to enforce its lien against the property and appointing Steven M. Prunty as special commissioner to conduct a judicial sale.

The Armsteads appealed the April 26, 2021, order to the SCAWV. Their appeal was docketed as No. 21-0386. The SCAWV refused their motion to stay the circuit court proceedings and subsequently stayed the appeal following notice of additional bankruptcy proceedings. On October 7, 2021, the SCAWV entered an amended scheduling order restoring the appeal to its active docket. Mannington thereafter filed a response and motion to dismiss.

On November 19, 2021, the Armsteads filed another bankruptcy petition, which was converted to Chapter 7 in January 2022. The Chapter 7 trustee commenced an adversary proceeding challenging Mannington's judgment lien under 11 U.S.C. § 544(a)(3).

On July 29, 2022, the bankruptcy court granted summary judgment in favor of the trustee and declared Mannington's judgment lien null and void. The bankruptcy court subsequently issued a memorandum opinion addressing the lien's effectiveness under West Virginia Code § 38-3-7 and the trustee's rights under § 544(a)(3). Mannington appealed the bankruptcy court's order but later withdrew the appeal. On April 12, 2023, the federal district court dismissed Mannington's appeal with prejudice.

Proceedings concerning enforcement of Mannington's judgment subsequently continued in circuit court. Following a hearing in May 2024, the circuit court scheduled an evidentiary hearing concerning Mannington's 2017 execution activity.

On September 19, 2024, the Armsteads filed a motion for summary judgment, asserting that res judicata and collateral estoppel barred Mannington from proceeding with execution of its judgment. Mannington opposed the motion and filed its own motion for

summary judgment. The Armsteads argued that prior federal bankruptcy court orders barred Mannington from further enforcing its judgment lien against their real property under the doctrines of res judicata and collateral estoppel. The circuit court conducted an evidentiary hearing on September 23, 2024, and heard further argument on December 17, 2024. The court directed the parties to submit proposed findings of fact and conclusions of law.

On December 23, 2025, the circuit court entered the order now on appeal. The circuit court denied the Armsteads' motion for summary judgment, finding that the bankruptcy court orders did not preclude Mannington from proceeding with execution under West Virginia Code § 38-3-18(a). The circuit court directed the special commissioner to proceed with the judicial sale pursuant to its April 26, 2021, enforcement order.

The Armsteads appealed the December 23, 2025, order to this Court. Mannington filed a response in support of the circuit court's order. The circuit court subsequently entered an order on February 9, 2026, accepting and confirming the special commissioner's updated title report, directing further notice to lienholders, and scheduling a hearing on Mannington's motion for a decree of sale.

Following oral argument before this Court on September 30, 2026, the Armsteads filed a motion to supplement the appellate record with documents concerning their earlier appeal of the April 26, 2021, enforcement order. Mannington did not oppose the motion and acknowledged that its counsel had incorrectly represented during oral argument that the Armsteads had not appealed that order. Mannington further advised that Supreme Court Appeal No. 21-0386 remained pending in abeyance. This Court granted the motion to supplement.

On October 19, 2026, the Armsteads notified this Court that they had moved the Supreme Court to terminate the abeyance in Appeal No. 21-0386, restore that appeal to the active docket, assume jurisdiction over the present appeal, and consolidate the matters.

It is well established that the Intermediate Court of Appeals of West Virginia ("ICA") is a court of limited appellate jurisdiction. *See G&G Builders, Inc. v. Cent. Mut. Ins. Co.*, 252 W. Va. 635, 644, 924 S.E.2d 743, 752 (Ct. App. 2025). As the SCAWV held in Syllabus Point 1 of *James M.B. v. Carolyn M.*, 193 W. Va. 289, 456 S.E.2d 16 (1995), "[a] court of limited appellate jurisdiction is obliged to examine its own power to hear a particular case." Thus, we must address whether this Court has jurisdiction over this appeal.

West Virginia Code § 51-11-4(b)(1) grants this Court appellate jurisdiction over final judgments or orders entered by circuit courts in civil cases after June 30, 2022. The SCAWV has recognized that the West Virginia "Legislature set out the ICA's limited jurisdiction in West Virginia Code § 51-11-4, which includes a paragraph that deprives the

ICA of jurisdiction over eleven matters ... includ[ing] interlocutory appeals." *Webb v. N. Hills Grp., Inc.*, 251 W. Va. 402, 409, 914 S.E.2d 275, 282 (2025). Specifically, West Virginia Code § 51-11-4(d)(8) expressly excludes interlocutory appeals from this Court's jurisdiction. In *Aaron W. v. Evelyn W.*, 251 W. Va. 1, 909 S.E.2d 36 (2024), the SCAWV affirmed this Court's dismissal of an appeal from an interlocutory order disqualifying counsel. The SCAWV held that the ICA "generally does not have appellate jurisdiction over interlocutory appeals" pursuant to West Virginia Code § 51-11-4(d)(8). *Id*. at Syl. Pt. 6. Accordingly, we must determine whether the order on appeal is a final, appealable order.

The SCAWV has long recognized that an order denying summary judgment ordinarily is interlocutory and not immediately appealable. "An order denying a motion for summary judgment is merely interlocutory, leaves the case pending for trial, and is not appealable except in special instances in which an interlocutory order is appealable." Syl. Pt. 8, *Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York*, 148 W. Va. 160, 133 S.E.2d 770 (1963). In *Aetna*, the Court distinguished a denial of summary judgment from a final disposition because the denial leaves matters for further consideration by the circuit court.

The Supreme Court applied that principle in *Kanawha County Board of Education v. S.D.*, 249 W. Va. 401, 895 S.E.2d 485 (2023), where the petitioners sought appellate review of an order denying summary judgment. The Court considered whether the order qualified for immediate review under the collateral order doctrine. *Id*. at 406, 895 S.E.2d at 490. Because the denial was not predicated upon immunity from suit, the Court concluded that it was an ordinary interlocutory order and dismissed the appeal. *Id*.

Finality is a mandatory jurisdictional requirement. In *CIT Bank, N.A. v. Coffman*, 250 W. Va. 464, 474, 904 S.E.2d 466, 476 (Ct. App. 2024), this Court recognized that finality is a prerequisite to appellate jurisdiction. This Court further recognized "[t]he rule of finality is designed to prohibit piecemeal appellate review of trial court decisions which do not terminate litigation[.]" *Id.* at 474, 904 S.E.2d at 476 (quoting *National Union Fire Insurance Company of Pittsburgh, PA v. Westlake Chemical Corp.*, 249 W. Va. 575, 580, 900 S.E.2d 1, 6 (2024) (citations omitted)).

In the present case, the December 23, 2025, order denied the Armsteads' motion for summary judgment and directed the special commissioner to proceed under the circuit court's previously entered April 26, 2021, enforcement order. The denial did not finally dispose of the proceedings before the circuit court. The circuit court subsequently entered an order accepting the special commissioner's updated title report and scheduling further proceedings concerning Mannington's motion for a decree of sale.

The supplemented record also establishes that the Armsteads previously appealed the April 26, 2021, enforcement order to the SCAWV. That appeal concerns a separate

order. Its pendency does not alter the interlocutory nature of the December 23, 2025, order now before this Court.

The December 23, 2025, order does not fall within a recognized exception permitting immediate appellate review. Because the order is interlocutory, this Court lacks appellate jurisdiction under West Virginia Code § 51-11-4(d)(8).[2] We therefore do not address the Armsteads' assignments of error.

For the foregoing reasons, we conclude that the December 23, 2025, order is not a final, appealable order and therefore, this appeal is dismissed for lack of appellate jurisdiction pursuant to West Virginia Code § 51-11-4(d)(8).

Dismissed.

ISSUED: November 12, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White

[2] Additionally, the order on appeal relitigates an issue that was decided in the April 26, 2021, order which is currently on appeal with the SCAWV. Therefore, even were we to disregard the Armsteads' labeling of their motion for summary judgment and construe it as a motion seeking relief from the April 26, 2021, order, we would still not reach the merits of the Armsteads' arguments. *See Antero Res. Corp. v. Irby*, No. 21-0119, 2022 WL 1682290, at *2 (W. Va. May 26, 2022) (memorandum decision) (affirming circuit court's conclusion that, absent leave, it lacked authority to consider Rule 60(b) motion seeking relief from order currently on appeal before the SCAWV).