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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-68

Filed 7 October 2026

Mecklenburg County, No. 22CVS006571-590

KEITH WILLIAMS, Plaintiff,

v.

CUSTODIAN OF PUBLIC RECORDS NORTH CAROLINA DEPARTMENT OF JUSTICE, Defendant.

Appeal by plaintiff from order entered 21 July 2022 by Judge Kimberly Y. Best, order entered 2 December 2022 by Judge Kimberly Y. Best, order entered 18 September 2024 by Judge Louis A. Trosch, Jr., and order entered 23 January 2025 by Judge Matthew John Osman in Mecklenburg County Superior Court. Heard in the Court of Appeals 15 September 2026.

Keith Williams, plaintiff-appellant, pro se.

Attorney General Jeff Jackson, by Assistant Attorney General Steven D. Draper, for defendant-appellee.

ZACHARY, Judge.

Plaintiff Keith Williams appeals from orders 1) denying his motion to compel in part; 2) denying his motion to clarify and amend the order denying his motion to compel in part; 3) instructing Defendant Custodian of Public Records North Carolina

Department of Justice to produce certain records and submit a privilege log of withheld information; and 4) denying Plaintiff's motion to show cause. After careful review, we dismiss Plaintiff's appeal as interlocutory.

I. Background

This appeal arises out of a dispute spanning several years regarding Plaintiff's public records requests. In his complaint, Plaintiff alleged that he submitted a public records request to Defendant on 27 and 29 June 2020, to which Defendant responded on 20 October and 22 December 2020. One year later, on 7 December 2021, Plaintiff contended that the record production was incomplete, which Defendant denied. The parties participated in mediation but were unable to reach an agreement.

On 28 April 2022, Plaintiff filed a "complaint to compel disclosure of public records." Plaintiff claimed that Defendant had not produced all requested documents and sought to have the trial court, *inter alia*, compel Defendant "to redo a search of the public records" and to produce certain records listed in exhibits attached to Plaintiff's filing. On 10 May 2022, Plaintiff filed an amended complaint to compel disclosure.

Defendant filed a motion to dismiss pursuant to Rules 12(b)(1), (2), and (6) of the North Carolina Rules of Civil Procedure, on 9 June 2022. In its motion, Defendant stated that it fulfilled all of Plaintiff's records requests, rendering the complaint moot; that Plaintiff's complaint "fail[ed] to allege that Defendant ha[d] denied Plaintiff access to his requested public records"; and that Plaintiff's complaint sought

“information in this case far beyond the scope of the June 2020 public records requests.”

On 18 July 2022, the complaint and motion to dismiss came on for hearing. In an order entered on 21 July 2022, the trial court denied Defendant’s motion to dismiss and denied in part and granted in part Plaintiff’s “Motion to Compel.”¹ The court ordered Plaintiff to provide Defendant “a list of documents that have not been produced per the Public Records Request.” Upon Defendant’s receipt of this list, Defendant was to “provide any and all non-confidential and non-privileged information to Plaintiff” and to “aver an objection if there is information requested they believed is privileged.”

On 1 August 2022, Plaintiff filed a motion to clarify and amend judgment. Plaintiff requested that, *inter alia*, the trial court order Defendant to produce the requested records within 30 days; “maintain[] the burden on Defendant”; and “restrain[] any interference of others.” On 2 December 2022, the court entered its order denying Plaintiff’s motion.

Plaintiff submitted the list of requested documents on 4 December 2023. Defendant filed its response to Plaintiff’s motion to compel on 29 August 2024, alleging that Plaintiff’s list had not complied with the 21 July 2022 order. Defendant stated that “[w]hen [P]laintiff finally did file a document related to [the trial court]’s

¹ The trial court referred to Plaintiff’s complaint to compel disclosure as a motion to compel.

order, it was not a list of particular documents. . . . Instead of providing a list of particular documents, he provided what he termed a ‘non-comprehensive list’ of alleged missing records and categories of documents.” While objecting to the composition of the list, Defendant responded to Plaintiff’s specific requests. For each request, Defendant generally responded that all responsive documents in Defendant’s possession were provided, other than those protected by attorney work product privilege.

On 30 August 2024, Plaintiff filed a motion titled “Motion to Amend Motion to Compel to a Motion for Failure to Follow Court’s Order and Reply to Deffendants [sic] Response.”² Plaintiff asserted that he had “inadvertently filed a [m]otion to [c]ompel,” then alleged that Defendant had “attempted to re-litigate issues that were already decided” and had provided “responsive” material when it had been ordered to provide “non-confidential” material; that one of the attorneys involved in the case had a conflict of interest and refused to recuse herself; and that Defendant’s responses to Plaintiff’s list of requested records were inadequate.

The trial court heard the motion to amend on 4 September 2024. On 18 September 2024, the trial court ordered Defendant to provide “a privilege log for all confidential and non-confidential information that was and is being withheld on the basis of work product or attorney client privilege” and to produce all other non-

² Plaintiff’s original motion to compel was not included in the record on appeal.

privileged, non-confidential records that had been requested.

On 9 January 2025, the trial court heard Plaintiff's motion to show cause, in which Plaintiff contended that Defendant had failed to comply with the 18 September 2024 order.³ The court denied this motion as well as Plaintiff's oral motion "requesting that [D]efendant redo the entire initial records request."

Plaintiff appealed the trial court's orders.

II. Appellate Jurisdiction

"Although the parties do not raise the issue, we must first consider *sua sponte* whether the parties' appeals are properly before this Court." *First Atl. Mgmt. Corp. v. Dunlea Realty Co.*, 131 N.C. App. 242, 246, 507 S.E.2d 56, 59 (1998) (citation omitted). We conclude that the order from which Plaintiff appeals is interlocutory and that Plaintiff has failed to demonstrate that a substantial right would be adversely affected absent immediate appellate review.

"An order is either 'interlocutory or the final determination of the rights of the parties.'" *Hamilton v. Mortg. Info. Servs., Inc.*, 212 N.C. App. 73, 76, 711 S.E.2d 185, 188 (2011) (quoting N.C. Gen. Stat. § 1A-1, Rule 54(a)). "An interlocutory order is one made during the pendency of an action, which does not dispose of the case, but leaves it for further action by the trial court in order to settle and determine the entire controversy." *Id.*

³ Plaintiff did not include the motion to show cause in the record on appeal.

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An order denying a motion to show cause is an interlocutory order. *See Bare v. Atwood*, 204 N.C. App. 310, 312–13, 693 S.E.2d 746, 749 (2010).⁴ “As a general proposition, only final judgments, as opposed to interlocutory orders, may be appealed to the appellate courts.” *Hamilton*, 212 N.C. App. at 77, 711 S.E.2d at 188.

Nonetheless, an immediate right of appeal of an interlocutory order exists in two circumstances:

if (1) the order is final as to some claims or parties, and the trial court certifies pursuant to N.C. Gen. Stat. § 1A-1, Rule 54(b) that there is no just reason to delay the appeal, or (2) the order deprives the appellant of a substantial right that would be lost unless immediately reviewed.

Id. (extraneity omitted). “The appealing party bears the burden of demonstrating that the order from which he . . . seeks to appeal is appealable despite its interlocutory nature.” *Id.* at 77, 711 S.E.2d at 189. “If a party attempts to appeal from an interlocutory order without showing that the order in question is immediately appealable, we are required to dismiss that party’s appeal on jurisdictional grounds.” *Id.*

Here, the trial court did not certify the order pursuant to Rule 54(b), nor has Plaintiff argued that he will be deprived of a substantial right absent immediate appellate review of the order. While we recognize that “[n]either party [has] raised

⁴ Plaintiff’s notice of appeal states that he appealed the order denying his motion to show cause “and all prior orders and rulings affecting said judgment.” The other orders are also interlocutory.

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the issue of whether the appeal is interlocutory or properly before the Court, and the appellant has asserted that the order appealed from is a final judgment”—which it is not—this does not alter the fact that Plaintiff “has failed to carry the burden of showing why the appeal affects a substantial right.” *Johnson v. Lucas*, 168 N.C. App. 515, 518, 608 S.E.2d 336, 338, *aff’d per curiam*, 360 N.C. 53, 619 S.E.2d 502 (2005). Accordingly, Plaintiff’s appeal must be dismissed. *See Hamilton*, 212 N.C. App. at 77, 711 S.E.2d at 189.

III. Conclusion

For the foregoing reasons, we dismiss Plaintiff’s appeal as interlocutory.

DISMISSED.

Judges FLOOD and FREEMAN concur.

Report per Rule 30(e).