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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1164

Filed 21 October 2026

Carteret County, No. 24CVS001000-150

IN RE FINAL DECISION DENYING THIRD PARTY HEARING REQUEST CMT
24-14

Appeal by respondent from order entered 28 July 2025 by Judge Jason C.
Disbrow in Carteret County Superior Court. Heard in the Court of Appeals 11 August
2026.

*Attorney General Jeff Jackson, by Special Deputy Attorney General Phillip T.
Reynolds, for the respondent-appellant.*

*Calhoun Bhella & Sechrest, LLP, by James L. Conner II and Shannon M.
Arata, for the petitioner-appellee.*

TYSON, Judge.

Appeal by the North Carolina Department of Environmental Quality, Division
of Coastal Management (“Respondent”) from order entered in favor of William Judson
Ready, IV, Ph.D (“Petitioner”). We dismiss as interlocutory.

I. Background

Petitioner is the co-owner of real property located at 219 Sea Trace Lane in the
Town of Newport along the Bogue Sound. In 2019, under the Coastal Area

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Management Act (“CAMA”), Permit #78413 authorized a neighboring property owner to construct a sixty-five-foot bulkhead. The neighboring property owner constructed a seventy-five-foot bulkhead, causing a forty-five-foot shoreline loss at Petitioner’s property.

Respondent authorized neighboring property owners to construct an additional sixteen-foot wingwall extension in CAMA Permit # 92857. Petitioner challenged both permits by filing a Third-Party Hearing Request. N.C. Gen. Stat. § 113A-121.1(b) (2025) provides:

A person other than a permit applicant or the Secretary who is dissatisfied with a decision to deny or grant a minor or major development permit may file a petition for a contested case hearing only if the Commission determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Commission within 20 days after the disputed permit decision is made. A determination of the appropriateness of a contested case shall be made within 30 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

- (1) Has alleged that the decision is contrary to a statute or rule;
- (2) Is directly affected by the decision; and
- (3) Has alleged facts or legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Commission determines a contested case is appropriate, the petition for a contested case shall be filed within 20 days after the Commission makes its

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determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Commission erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

Once the request is filed the Coastal Resources Commission's ("CRC") chair reviews the request and applies N.C. Gen. Stat. § 113A-121.1(b) (2025) to see if the party is entitled to file a contested case petition in the Office of Administrative Hearings ("OAH").

CRC staff found the first two prongs were satisfied, but it recommended the chair to deny Petitioner's request because they asserted the issues were frivolous. The chair's final decision mirrored the staff's recommendation to dismiss Petitioner's Third-Party Hearing Request for CAMA Permit #92857 and CAMA Permit #78413 as time barred. Petitioner appealed the chair's final decision to Carteret County superior court. The court reversed the final decision and authorized Petitioner to file a contested case petition on both CAMA permits with the OAH. Respondent appealed to the Court of Appeals.

II. Jurisdiction

A. Interlocutory Appeal

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“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.” *Veazey v. City of Durham*, 231 N.C. 357, 362, 57 S.E.2d 377, 381 (1950) (citation omitted). “Generally, there is no right of immediate appeal from interlocutory orders and judgments.” *Goldston v. American Motors Corp.*, 326 N.C. 723, 725, 392 S.E.2d 735, 736 (1990). “This general prohibition against immediate appeal exists because there is no more effective way to procrastinate the administration of justice than that of bringing cases to an appellate court piecemeal through the medium of successive appeals from intermediate orders.” *Harris v. Matthews*, 361 N.C. 265, 269, 643 S.E.2d 566, 568 (2007) (citation, alterations, and internal quotation marks omitted).

B. Exceptions

Our Supreme Court has held two circumstances exist where a party is permitted to appeal an interlocutory order:

First, a party is permitted to appeal from an interlocutory order when the trial court enters a final judgment as to one or more but fewer than all of the claims or parties and the trial court certifies in the judgment that there is no just reason to delay the appeal. Second, a party is permitted to appeal from an interlocutory order when the order deprives the appellant of a substantial right which would be jeopardized absent a review prior to a final determination on the merits.

Jeffreys v. Raleigh Oaks Joint Venture, 115 N.C. App. 377, 379, 444 S.E.2d 252, 253 (1994) (internal citations and quotation marks omitted).

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The superior court did not certify “there is no just reason to delay the appeal” and the order is not immediately appealable under Rule 54(b). *Id.*; N.C. Gen. Stat. § 1A-1, Rule 54(b) (2025).

Respondents have not asserted the order is interlocutory and they would be deprived of a substantial right. Respondents assert the order is a final judgment, and they hold an appeal of right to this Court, citing N.C. Gen. Stat. §§ 7A-27(b)(1) and 150B-52 (2025). We disagree.

C. Dismissal

This Court has previously dismissed purported appeals as interlocutory when claims remain pending before the OAH and when a party appeals from an order of a superior court sending an action to the OAH. *See Culpepper v. Off. of Admin. Hearings*, 296 N.C. App. 442, 443, 907 S.E.2d d477, 478 (2024) (“conclud[ing] [petitioner’s] appeal is interlocutory and remains interlocutory as long as either his first or second claim is pending at the OAH or in the superior court”); *Fearrington v. University of North Carolina*, 126 N.C. App. 774, 776-77, 487 S.E.2d 169, 171 (1997) (noting this Court’s dismissal of petitioner’s prior interlocutory appeal from superior court’s order, which remanded to OAH for further proceedings (citing *Fearrington v. University of North Carolina at Chapel Hill*, 116 N.C. App. 358, 448 S.E.2d 148 (1994) (unpublished))).

III. Conclusion

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Respondent's appeal is interlocutory. Respondent has not asserted a substantial right, which will be lost without immediate appeal. In the exercise of our discretion, we dismiss Respondent's appeal as interlocutory. *It is so ordered.*

DISMISSED.

Judges HAMPSON and STADING concur.

Report per Rule 30(e).