

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Lerner v. Satter

No. 18-914-cv, United States Court of Appeals for the Second Circuit (June 28, 2019)

SUMMARY

Appeal dismissed for lack of appellate jurisdiction; attorneys who prevailed below lacked standing to appeal because they were not "aggrieved" by the district court's orders vacating earlier magistrate judge orders that had been in their favor. The Second Circuit held that the prevailing party exception to the standing requirement did not apply absent any collateral estoppel effect or prospective injury, and any First Amendment claim was moot because the challenged orders had been vacated.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	JOSÉ A. CABRANES; REENA RAGGI; CHRISTOPHER F. DRONEY
JURISDICTION	Federal
DECIDED	June 28, 2019
DOCKET	18-914-cv
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from district court orders vacating magistrate judge orders
PRECEDENTIAL VALUE	unpublished
PARTIES	Richard E. Lerner, Frederick M. Oberlander v. Felix Satter, Bayrock Camelback, LLC, Bayrock Merrimac, LLC, Bayrock Ocean Club LLC, Bayrock Spring Street, LLC, Bayrock Whitestone, LLC, Bayrock Group LLC, Salomon & Company, P.C.

TOPICS

appellate jurisdiction

standing

appellate procedure

civil procedure

PRACTICE AREAS

Civil Procedure

Appellate Practice

QUESTIONS PRESENTED

1. Whether appellants have standing to appeal from orders that vacated prior orders in their favor.

HOLDINGS

1. Appellants lack standing because they are not aggrieved by the vacatur orders.

KEY QUOTATIONS

"It is well-settled that '[o]ne of the prerequisites to appellate jurisdiction . . . is that the appellant has standing to pursue the appeal.' Concerned Citizens of Cohocton Valley, 127 F.3d at 204."

"Because Oberlander and Lerner have failed to demonstrate that they are aggrieved by the District Court's orders, we lack jurisdiction to consider this appeal."

FACTUAL BACKGROUND

The case involves underlying litigation between the parties. Oberlander and Lerner, attorneys, were directed by a magistrate judge to reveal sources and turn over documents, and were prohibited from disseminating information. The district court vacated those orders, concluding that the prohibitions were valid interim measures. Oberlander and Lerner appeal from the vacatur orders.

PROCEDURAL HISTORY

The District Court vacated two orders by Magistrate Judge Maas that had directed Oberlander and Lerner to reveal sources, turn over documents, and refrain from dissemination. Oberlander and Lerner appeal from those vacatur orders.

DISPOSITION

dismissed

CASES CITED

- Concerned Citizens of Cohocton Valley, Inc. v. N.Y. State Dep't of Env'tl. Conservation, 127 F.3d 201 (2d Cir. 1997)
- In re O'Brien, 184 F.3d 140 (2d Cir. 1999)
- In re DES Litig., 7 F.3d 20 (2d Cir. 1993)
- Fort Knox Music Inc. v. Baptiste, 257 F.3d 108 (2d Cir. 2001)

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