SUPREME COURT OF NORTH DAKOTA

Gum v. Muddy Boyz Drywall LLC

2026 ND 5 · No. No. 20250324 · Decided January 15, 2026

SUMMARY

The North Dakota Supreme Court dismissed Christopher Gum's appeal because the district court had not entered a final judgment resolving all claims. Although Gum's claims were dismissed on the merits, Muddy Boyz Drywall's counterclaims were dismissed without prejudice, and no certification under N.D.R.Civ.P. 54(b) was entered. The court concluded that the judgments were not final and appealable for purposes of appellate jurisdiction.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Douglas A. Bahr, Justice; Lisa Fair McEvers, Chief Justice; Daniel J. Crothers, Justice; Jerod E. Tufte, Justice; Jon J. Jensen, Justice
JURISDICTION	Supreme Court of North Dakota
DECIDED	January 15, 2026
DOCKET	No. 20250324
DISPOSITION	dismissed
PROCEDURAL POSTURE	Gum appealed from a district court judgment granting Muddy Boyz Drywall LLC's motion for summary judgment and dismissing Gum's claims. The North Dakota Supreme Court dismissed the appeal for lack of appellate jurisdiction because the district court had not entered a final judgment resolving all claims and had not made a proper N.D.R.Civ.P. 54(b) certification.
STANDARD OF REVIEW	Whether the Supreme Court has appellate jurisdiction is determined under the statutory requirements for an appealable final judgment or order. The existence of appellate jurisdiction is a question of law.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Christopher James Gum v. Muddy Boyz Drywall LLC

TOPICS

appellate jurisdiction · final judgment rule · appellate procedure · civil procedure · summary judgment

PRACTICE AREAS

civil procedure | appellate jurisdiction

QUESTIONS PRESENTED

1. Whether the Supreme Court had appellate jurisdiction over an appeal from a judgment dismissing Gum's claims when Muddy Boyz's counterclaims had been dismissed without prejudice but remained capable of being refiled.
2. Whether the district court's judgments constituted a final judgment under N.D.R.Civ.P. 54(b) absent an express determination that there was no just reason for delay and an express direction for entry of judgment.

HOLDINGS

1. A party does not have a right to appeal from a judgment resolving fewer than all claims in a multi-claim action unless the judgment is otherwise appealable by statute or the district court properly certifies it under N.D.R.Civ.P. 54(b).
2. A dismissal without prejudice generally is not appealable and, under the circumstances presented, did not make the judgment dismissing Gum's claims final or appealable.

KEY QUOTATIONS

> *"Rule 54(b) preserves our longstanding policy to discourage piecemeal appeals in multi-claim or multi-party cases."* (¶ 5)

> *"The judgments are not final for purposes of our appellate jurisdiction. We dismiss the appeal."* (¶ 9)

FACTUAL BACKGROUND

In May 2024, Christopher Gum filed claims against Muddy Boyz Drywall LLC. Muddy Boyz answered and asserted counterclaims for conversion, breach of contract, fraud, and trespass. The district court granted summary judgment on Gum's claims but did not resolve the counterclaims; it later dismissed those counterclaims without prejudice. Neither party obtained N.D.R.Civ.P. 54(b) certification.

PROCEDURAL HISTORY

Gum sued Muddy Boyz, which asserted counterclaims for conversion, breach of contract, fraud, and trespass. The district court granted summary judgment dismissing Gum's claims on the merits but did not resolve Muddy Boyz's counterclaims. The Supreme Court previously dismissed an appeal for lack of a final judgment in Gum v. Muddy Boyz Drywall LLC, 2025 ND 111, 22 N.W.3d 720. After the district court dismissed the counterclaims without prejudice, Gum again appealed; the Supreme Court held that the dismissal did not terminate the litigation and that, absent Rule 54(b) certification, the judgment on Gum's claims remained nonappealable.

DISPOSITION

dismissed

CASES CITED

- Gum v. Muddy Boyz Drywall LLC, 2025 ND 111, 22 N.W.3d 720
- James Vault & Precast Co. v. B&B Hot Oil Serv., Inc., 2018 ND 63, ¶ 8, 908 N.W.2d 108
- Morales v. Weatherford U.S., L.P., 2024 ND 81, ¶ 21, 6 N.W.3d 657
- In re Estate of Hollingsworth, 2012 ND 16, ¶ 9, 809 N.W.2d 328
- Investors Title Insurance Co. v. Herzig, 2010 ND 138, ¶ 24, 785 N.W.2d 863
- Capps v. Weflen, 2013 ND 16, ¶ 7, 826 N.W.2d 605
- Dixon v. Dixon, 2021 ND 94, ¶ 11, 960 N.W.2d 764
- Conrad v. Wilkinson, 2017 ND 212, ¶ 5, 901 N.W.2d 348
- Bell v. Pro Tune Plus, 2013 ND 147, ¶ 4, 835 N.W.2d 858
- Triple Quest, Inc. v. Cleveland Gear Co., Inc., 2001 ND 101, ¶ 7, 627 N.W.2d 379
- Rodenburg v. Fargo-Moorhead Young Men's Christian Ass'n, 2001 ND 139, ¶ 12, 632 N.W.2d 407

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