

SUPREME COURT OF THE STATE OF DELAWARE

Perryman v. Stimwave Technologies Incorporated

No. 256, 2022 (Del. Aug. 29, 2022) · No. No. 256, 2022 · Decided August 29, 2022

SUMMARY

The Delaware Supreme Court dismissed Laura Perryman’s appeal for lack of appellate jurisdiction. The court held that Perryman failed to comply with Supreme Court Rule 42 for an interlocutory appeal and did not timely appeal the earlier rulings identified in her notice of appeal.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Collins J. Seitz, Jr., Chief Justice; Karen L. Valihura, Justice; Gary F. Traynor, Justice
JURISDICTION	Delaware
DECIDED	August 29, 2022
DOCKET	No. 256, 2022
DISPOSITION	dismissed
PROCEDURAL POSTURE	Perryman appealed from a Court of Chancery letter order denying her motion to lift a status quo order. The Supreme Court issued a notice to show cause concerning failure to comply with the requirements for an interlocutory appeal and dismissed the appeal for lack of appellate jurisdiction.
STANDARD OF REVIEW	The Supreme Court reviewed its own appellate jurisdiction and the timeliness and procedural sufficiency of the attempted interlocutory appeal.
PRECEDENTIAL VALUE	published
PARTIES	Laura Perryman v. Stimwave Technologies, Incorporated

TOPICS

appellate jurisdiction interlocutory appeal final judgment rule appellate procedure civil procedure

PRACTICE AREAS

appellate procedure civil procedure commercial litigation

QUESTIONS PRESENTED

1. Whether the Supreme Court had appellate jurisdiction to review the July 14, 2022 Court of Chancery order when Perryman failed to seek certification or otherwise comply with Supreme Court Rule 42.
2. Whether the Supreme Court had jurisdiction to review the May 4, 2022 and November 2020 rulings when Perryman did not timely file an interlocutory appeal from those rulings.

HOLDINGS

1. Absent compliance with Supreme Court Rule 42, the Supreme Court's appellate jurisdiction is limited to review of final orders; because Perryman did not seek certification or otherwise comply with Rule 42 as to the July 14 order, the Court lacked jurisdiction to review it as an interlocutory appeal.
2. A timely notice of appeal is required to invoke appellate jurisdiction, and Perryman's failure to timely appeal the May 4, 2022 and November 2020 rulings deprived the Supreme Court of jurisdiction to review them.

FACTUAL BACKGROUND

The Court of Chancery had entered a status quo order in the underlying action and later stayed the action. On July 7, 2022, the Court of Chancery lifted the stay and directed that the matter proceed to trial, but on July 14 denied Perryman's motion to lift the status quo order. Perryman appealed that order and also referenced earlier rulings without satisfying the certification and filing requirements for interlocutory appeals.

PROCEDURAL HISTORY

The Court of Chancery entered a status quo order and later denied Perryman's motions to lift or vacate it, including an order dated July 14, 2022. Perryman filed a notice of appeal on July 26, 2022, also identifying earlier rulings from May 2022 and November 2020. Although she had sought certification of an interlocutory appeal from the May 4 ruling, she did not pursue that appeal and did not seek certification or otherwise comply with Supreme Court Rule 42 as to the July 14 order.

DISPOSITION

dismissed

CASES CITED

- Hines v. Williams, 2018 WL 2435551 (Del. May 29, 2018)
- Carr v. State, 554 A.2d 778, 779 (Del. 1989)

OPINION

Perryman v. Stimwave Technologies Incorporated

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAURA PERRYMAN, §

§ No. 256, 2022 Defendant Below, § Appellant, § Court Below: Court of Chancery § of the State of Delaware v. § § C.A. No. 2019-1003

STIMWAVE TECHNOLOGIES, §
INCORPORATED, §

§ Plaintiff Below, § Appellee. § Submitted: August 9, 2022 Decided: August 29, 2022 Before SEITZ, Chief Justice; VALIHURA and TRAYNOR, Justices.

ORDER

After consideration of the notice to show cause and the appellant's response, it appears to the Court that:

(1) On July 26, 2022, the pro se appellant, Laura Perryman, filed a notice of appeal from a letter order dated July 14, 2022, in which the Court of Chancery denied Perryman's motion to lift a status quo order that had previously been entered in the case. The notice of appeal also identifies rulings made by the Court of Chancery during a telephonic hearing on May 4, 2022, when the court denied an earlier motion to lift and vacate the status quo order, and a hearing held in November 2020. The July 14, 2022 order denying the motion to lift the status quo order states that on July 7, 2022, the court lifted a stay in the action and that "the matter shall proceed to trial."

(2) The Senior Court Clerk issued a notice directing Perryman to show cause why the appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 in taking an appeal from an interlocutory order. In response, Perryman contends that she complied with Rule 42 because she filed an application for certification of an interlocutory appeal of the Court of Chancery's May 4, 2022 ruling, and the Court of Chancery denied that application on June 9, 2022. Perryman asserts that she did not pursue an interlocutory appeal of the May 4, 2022 ruling because "the case was on stay," instead moving to lift the stay and then filing a second motion to lift the status quo order.

(3) Absent compliance with Supreme Court Rule 42, the appellate jurisdiction of this Court is limited to the review of final orders.¹ Moreover, a notice of appeal must be timely filed to invoke the Court's appellate jurisdiction. ² Although Perryman filed an application for certification of an interlocutory appeal from the Court of Chancery's May 4, 2022 ruling, she decided not to file an interlocutory appeal at that time. And she did not file an application for certification of an interlocutory appeal from the July 14, 2022 order, or otherwise comply with the ¹ Hines v. Williams, 2018 WL 2435551 (Del. May 29, 2018). ² Carr v. State, 554 A.2d 778, 779 (Del. 1989). ² procedural requirements of Rule 42 as to that order. Perryman's failure to comply with Rule 42 leaves this Court without jurisdiction to hear an interlocutory appeal from the July 14, 2022 order, and her failure to file a timely notice of interlocutory appeal from the May 4, 2022 or November 2020 rulings leaves the court without jurisdiction to hear an interlocutory appeal from those rulings. NOW, THEREFORE, IT IS ORDERED that this appeal is hereby DISMISSED. BY THE COURT: /s/ Collins J. Seitz, Jr. Chief Justice ³

