

FLORIDA FIFTH DISTRICT COURT OF APPEAL

Steven McBride v. Courtney Keller and Savannah Young

McBride · No. 5D2025-1397 · Decided February 13, 2026

SUMMARY

The Florida Fifth District Court of Appeal held that the trial court lacked jurisdiction to dismiss Steven McBride’s complaint with prejudice while an interlocutory appeal was pending. The appellate court vacated the dismissal and remanded, noting that the trial court may enter a new dismissal order after appellate jurisdiction has been restored.

CASE DETAILS

COURT	Florida Fifth District Court of Appeal
WRITING FOR THE COURT	MacIver, J.; Jay, C.J.; Lambert, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	February 13, 2026
DOCKET	5D2025-1397
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from an order of the Duval County Court dismissing McBride's complaint with prejudice for failure to state a cause of action while an interlocutory appeal was pending.
STANDARD OF REVIEW	Whether the trial court had jurisdiction to enter the final dismissal order during the pendency of an interlocutory appeal; jurisdictional questions are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential status is identified as published in the supplied metadata, but no reporter citation appears in the opinion text.
PARTIES	Steven McBride v. Courtney Keller, Savannah Young

TOPICS

- interlocutory appeal
- appellate procedure
- civil procedure
- motions to dismiss
- harmless error

PRACTICE AREAS

- civil procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to enter a final order dismissing the complaint with prejudice while an interlocutory appeal was pending.
2. Whether dismissal of the interlocutory appeal automatically restored the trial court's full jurisdiction before issuance of the appellate mandate.
3. What disposition was required for a final order entered without jurisdiction.

HOLDINGS

1. Under Florida Rule of Appellate Procedure 9.130(f), absent a stay, the lower tribunal may proceed with matters during review of a non-final order but may not render a final order disposing of the cause while that review is pending.
2. A lower tribunal generally lacks jurisdiction to enter a final order disposing of the cause on the same day an appellate court dismisses an interlocutory appeal because full jurisdiction is not automatically restored until the appellate mandate issues.
3. A final order entered without jurisdiction is a nullity and cannot be treated as harmless error; the order must be vacated.

KEY QUOTATIONS

“In the absence of a stay, during the pendency of a review of a non-final order, the lower tribunal may proceed with all matters, including trial or final hearings; provided that the lower tribunal may not render a final order disposing of the cause pending such review.” (2)

“Thus, a lower tribunal generally lacks jurisdiction to enter an order dismissing a complaint with prejudice on the same day an appellate court dismisses an appeal because the lower tribunal’s jurisdiction is not automatically restored until the appellate mandate issues.” (2)

“Thus, the trial court lacked jurisdiction to enter the final order dismissing the complaint with prejudice while the interlocutory appeal was pending in this court.” (2)

“an order entered without jurisdiction is a nullity, and cannot be considered harmless error.” (2)

FACTUAL BACKGROUND

McBride filed a complaint against Keller and Young and pursued an interlocutory appeal from two non-final orders. While that appeal remained pending, the appellees sought dismissal with prejudice, and the trial court entered the dismissal order on the same day this Court dismissed McBride's interlocutory appeal.

PROCEDURAL HISTORY

McBride filed a complaint against Keller and Young and appealed two interlocutory non-final orders during the litigation. While that appeal was pending, the appellees moved to dismiss the complaint with prejudice. McBride moved to dismiss his interlocutory appeal, and this Court dismissed that appeal on May 7, 2025. On the same day, the trial court entered a final order dismissing the complaint with prejudice. The Fifth District vacated the order and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the order dismissing McBride's complaint with prejudice and remand. On remand, because the interlocutory appeal has been finally disposed of, the trial court may enter another dismissal order; the appellate court did not decide whether the trial court applied the correct substantive law in dismissing the complaint.

CASES CITED

- Hersey v. Batchelor, 433 So. 2d 558, 559 (Fla. 5th DCA 1983)
- Mandrachia v. Ravenswood Marine, Inc., 118 So. 2d 817, 821 (Fla. 2d DCA 1960)
- Llanso v. Gomez de Cordova, 263 So. 3d 137, 140 (Fla. 3d DCA 2018)
- Dragomirecky v. Town of Ponce Inlet, 891 So. 2d 633, 634-635 (Fla. 5th DCA 2005)
- Esposito v. Horning, 416 So. 2d 896, 898 (Fla. 4th DCA 1982)

OPINION

PER CURIAM.

FIFTH DISTRICT COURT OF APPEAL STATE OF FLORIDA
_____ Case No. 5D2025-1397 LT Case No. 16-2025-CC-1701
_____ STEVEN MCBRIDE, Appellant, v. COURTNEY
KELLER and SAVANNAH YOUNG, Appellees. _____ On
appeal from the County Court for Duval County. Kelly E. Eckley-Moulder, Judge. Steven
McBride, Jacksonville, pro se.

Joshua C. Webb and Jacob Z. Coates, of Hill, Ward & Henderson, P.A., Tampa, for Appellees. February 13, 2026 MACIVER, J. Appellant, Steven McBride, appeals an order dismissing with prejudice his complaint against Appellees, Courtney Keller and Savannah Young, claiming the trial court lacked jurisdiction to dismiss his complaint while an interlocutory appeal was pending.

We agree. McBride filed a complaint below against Appellees, and during the litigation McBride appealed two interlocutory non-final orders. While said appeal was pending, Appellees filed a motion to dismiss McBride's complaint with prejudice for failure to state a cause of action in the trial court. Then, McBride filed a motion to dismiss his appeal with this Court, with a copy to the trial court.

This Court entered an order dismissing the then-pending appeal on May 7, 2025. The same day, the trial court entered a final order dismissing McBride's complaint with prejudice. Florida Rule of Appellate Procedure 9.130(f) governs the trial court's authority during the pendency of an interlocutory appeal.

Under the rule, “[i]n the absence of a stay, during the pendency of a review of a non-final order, the lower tribunal may proceed with all matters, including trial or final hearings; provided that the lower tribunal may not render a final order disposing of the cause pending such review.” Fla. R. App. P. Rule 9.130(f).

The restoration of full jurisdiction to the lower tribunal requires issuance of the appellate mandate. Florida Rule of Appellate Procedure 9.340(a) provides that unless otherwise ordered by the court, the clerk must issue the mandate after the expiration of fifteen days from the date of an order or decision.

Thus, a lower tribunal generally lacks jurisdiction to enter an order dismissing a complaint with prejudice on the same day an appellate court dismisses an appeal because the lower tribunal’s jurisdiction is not automatically restored until the appellate mandate issues. *Hersey v. Batchelor*, 433 So. 2d 558, 559 (Fla. 5th DCA 1983) (the filing of the appellate court’s opinion and mandate in the trial court constitutes record activity that restores the lower tribunal’s jurisdiction); see also *Mandrachia v. Ravenswood Marine, Inc.*, 118 So.

2d 817, 821 (Fla. 2d DCA 1960) (when a plaintiff took an interlocutory appeal and the lower court subsequently entered a final judgment dismissing the complaint with prejudice, the authority of the lower court terminated on taking of the appeal and the dismissal with prejudice was unauthorized).

Thus, the trial court lacked jurisdiction to enter the final order dismissing the complaint with prejudice while the interlocutory appeal was pending in this court. “[A]n order entered without 2 jurisdiction is a nullity, and cannot be considered harmless error.” *Llanso v. Gomez de Cordova*, 263 So. 3d 137, 140 (Fla. 3d DCA 2018) (quoting *Dragomirecky v. Town of Ponce Inlet*, 891 So.

2d 633 (Fla. 5th DCA 2005) (holding that “the trial court lacked jurisdiction to enter the final order dismissing the certiorari petition with prejudice while the interlocutory appeal was pending in this court.” 891 So. 2d at 634)).

Accordingly, the trial court’s order dismissing McBride’s complaint with prejudice is vacated, and the case remanded. We note that, on remand, the trial court is authorized to enter another dismissal order since McBride’s interlocutory appeal has now been disposed of with finality by this court. See *id.* at 635; *Esposito v. Horning*, 416 So. 2d 896, 898 (Fla.

4th DCA 1982) (holding that although it may sound like “legal gobbledegook” to require a trial court to re-enter a final judgment after a non-final appeal is concluded, jurisdiction is not a question a court can take or leave, and a judgment entered without jurisdiction is void).

However, we do not address the issue whether the trial court applied the correct law in dismissing the complaint, as such an analysis would be premature. See *Dragomirecky*, 891 So. 2d at 635. Order Dismissing Complaint with Prejudice VACATED and case REMANDED. JAY, C.J., and

LAMBERT, J., concur. _____ Not final until disposition of any timely and authorized motion under Fla. R. App.

P. 9.330 or 9.331. _____ 3

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