

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ALABAMA

Thomas Pilcher, in his Capacity as Administrator of the Estate of
Christopher Robert Myers, Deceased v. City of Foley, Alabama, et al.

Pilcher v. City of Foley · No. 25-00072-KD-M · Decided March 31, 2026

SUMMARY

The United States District Court for the Southern District of Alabama grants in part and denies in part the Foley Defendants’ unopposed motion to stay and extend time. The action is stayed as to the Foley Defendants and as to Bay Nursing, Inc., except that Bay Nursing’s pending motion to dismiss remains subject to resolution; the court explains that an interlocutory appeal divested it of jurisdiction to amend its prior ruling on the Foley Defendants’ immunity-based motion to dismiss.

CASE DETAILS

COURT	United States District Court for the Southern District of Alabama
WRITING FOR THE COURT	Kristi K. DuBose
JURISDICTION	United States District Court for the Southern District of Alabama
DECIDED	March 31, 2026
DOCKET	25-00072-KD-M
DISPOSITION	other
PROCEDURAL POSTURE	The district court considered the Foley Defendants' unopposed consent joint motion to stay proceedings and extend time while an interlocutory appeal was pending, as well as Bay Nursing, Inc.'s pending motion to dismiss.
PRECEDENTIAL VALUE	unpublished

TOPICS

- interlocutory appeal
- appellate jurisdiction
- motions to dismiss
- service of process
- statute of limitations

PRACTICE AREAS

- civil procedure
- civil rights
- municipal law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court had jurisdiction to correct or amend its previously appealed order.
2. Whether the district court could address Bay Nursing, Inc.'s pending motion to dismiss while the interlocutory appeal was pending.
3. Whether the proceedings should be stayed as to the Foley Defendants and as to Bay Nursing, subject to adjudication of Bay Nursing's pending motion to dismiss.

HOLDINGS

1. Once an order has been appealed, the district court lacks jurisdiction to correct or amend that order or conduct further litigation on issues involved in the appeal, except as to collateral matters or matters in aid of the appeal.
2. The district court retained jurisdiction to decide Bay Nursing, Inc.'s pending motion to dismiss because resolving that motion was collateral to the interlocutory appeal and did not implicate discovery or prejudice to the Foley Defendants.
3. The proceedings were stayed as to the Foley Defendants and as to Bay Nursing, Inc., except that the court would proceed with Bay Nursing's pending motion to dismiss.

KEY QUOTATIONS

“an appeal ‘divests the district court of its control over those aspects of the case involved in the appeal.’”

“The action is stayed as to the Foley Defendants and stayed as to Bay Nursing with the exception of Bay Nursing’s pending motion to dismiss (doc. 35).”

FACTUAL BACKGROUND

Thomas Pilcher, as administrator of the estate of Christopher Robert Myers, brought claims against the City of Foley and various Foley officials and corrections personnel, as well as Bay Nursing, Inc. The Foley Defendants' motion to dismiss asserted municipal and state-agent immunity, and Bay Nursing argued that it had not been properly served and that the limitations period had expired. The Foley Defendants sought to stay the proceedings during their interlocutory appeal.

PROCEDURAL HISTORY

The court had previously denied the Foley Defendants' motion to dismiss based on municipal and state-agent immunity, intending instead to defer ruling until it determined whether the constitutional claims against Bay Nursing, Inc. were viable. The Foley Defendants appealed that order. While the appeal was pending, they moved to stay and extend time. The court concluded that the appeal deprived it of jurisdiction to correct or amend the appealed order, but retained jurisdiction over collateral matters and therefore proceeded to resolve Bay Nursing's pending motion to dismiss while staying the action otherwise.

DISPOSITION

other

CASES CITED

- Boyd v. Sec'y, Dep't of Corr., 114 F.4th 1232, 1238 (11th Cir. 2024), cert. denied sub nom. Boyd v. Dixon, 145 S. Ct. 2821, 222 L. Ed. 2d 1102 (2025)

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