

16-4315

Moody v. Nat'l Football League

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second
2 Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in
3 the City of New York, on the 15th day of February, two thousand eighteen.

4

5 PRESENT:

6 ROBERT D. SACK,
7 BARRINGTON D. PARKER,
8 SUSAN L. CARNEY,
9 *Circuit Judges.*

10

11

12 AURA MOODY, ON BEHALF OF HER MINOR
13 CHILD, JM,

14

15 *Plaintiff-Appellant,*

16

17 JULIAN MOODY,

18

19 *Plaintiff,*

20

21 v. 16-4315

22

23

24 NATIONAL FOOTBALL LEAGUE,

25

26

27 *Defendant-Appellee.*

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2 **FOR PLAINTIFF-APPELLANT:** AURA MOODY, *pro se*, Saint Albans, NY.

3
4 FOR DEFENDANT-APPELLEE: WILLIAM A. BREWER III (Michael L.
5 Smith, *on the brief*), Brewer Attorneys &
6 Counselors, New York, NY.

10 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
11 AND DECREED that the instant appeal is DISMISSED for lack of jurisdiction.

12 In 2015, Aura Moody, through counsel, brought a discrimination action against the
13 National Football League (“NFL”) on behalf of her minor son, Julian Moody, in the
14 Supreme Court of New York, Queens County. Mrs. Moody alleged that the NFL prohibited
15 Julian from competing with his team at a national tournament because of his diabetes in
16 violation of the Rehabilitation Act, 29 U.S.C. § 794. The NFL subsequently removed the
17 case to the Eastern District of New York. During the proceedings, it came to light that
18 Julian was an adult, and the complaint was amended to substitute Julian as the sole plaintiff.
19 Julian, through counsel, then reached an agreement with the NFL and, on August 12, 2016,
20 voluntarily dismissed the action under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

21 During a September 15, 2016 hearing before the District Court, Mrs. Moody argued
22 that Julian had been intimidated into settling. On December 12, 2016, the District Court
23 entered a text order advising that it would take no further action in the case. Mrs. Moody,
24 proceeding *pro se*, now appeals from that order, arguing primarily that, in its treatment of her

1 son, the NFL infringed upon her rights and caused her damages. We assume the parties'
2 familiarity with the underlying facts, the procedural history of the case, and the issues on
3 appeal, to which we refer only as necessary to explain our decision to dismiss.

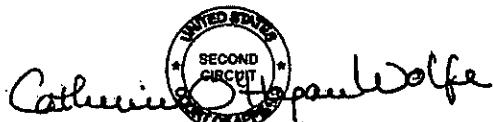
4 It is a “prerequisite” of our appellate jurisdiction that the appellant “ha[ve] standing
5 to pursue the appeal.” *Concerned Citizens of Cobcocton Valley, Inc. v. New York State Dep’t of*
6 *Environ. Conservation*, 127 F.3d 201, 204 (2d Cir. 1997); *Official Comm. of Unsecured Creditors of*
7 *WorldCom, Inc. v. S.E.C.*, 467 F.3d 73, 77 (2d Cir. 2006) (Sotomayor, J.) (“Standing to appeal
8 is an essential component of our appellate jurisdiction.”). “As a general rule, only a party of
9 record in a lawsuit has standing to appeal from a judgment of the district court.” *Hispanic*
10 *Soc'y of N.Y.C. Police Dep't v. N.Y.C. Police Dep't*, 806 F.2d 1147, 1152 (2d Cir. 1986) (“*Hispanic*
11 *Society*”). Our case law notes two exceptions to this general rule: “where the non-party is
12 bound by the judgment and where the non-party has an interest plausibly affected by the
13 judgment.” *NML Capital, Ltd. v. Republic of Argentina*, 727 F.3d 230, 239 (2d Cir. 2013).
14 Neither exception applies here.

15 First, Mrs. Moody is not bound by the District Court’s text order, which pertained
16 only to Julian’s claim—the only matter properly before that court. Second, Mrs. Moody has
17 not identified any legal interest of her own that may plausibly be said to be affected by the
18 text order. The suit was based on allegations that the NFL unlawfully discriminated against
19 Julian, not her. Although she has views about the matter, those are not legally cognizable
20 within a setting where her adult son is a party to the proceedings. In *Hispanic Society*, for
21 example, we held that nominal appellants did not have standing to appeal the district court’s

1 approval of a settlement agreement in a class action employment discrimination suit. 806
2 F.2d at 1152-53. The appellants did not allege that they had been discriminated against and
3 had not intervened in the underlying case. We concluded that the validity of the settlement
4 agreement did not affect their rights. *Id.* Similarly, Mrs. Moody's legal rights would not have
5 been affected if the District Court had permitted additional activity related to Julian's claims
6 instead of entering its December 12, 2016 text order. Nor were Mrs. Moody's legal rights
7 affected by the stipulation with the NFL to which Julian agreed. *See Cent. States Se. & Sw. v.*
8 *Areas Health & Welfare Fund v. Merck-Medco Managed Care, LLC*, 504 F.3d 229, 244 (2d Cir.
9 2007) (holding that non-party appellant lacked standing because it "would possess the same
10 legal rights . . . whether or not the Settlement Agreement were approved"). Finally, we note
11 that permitting Mrs. Moody's appeal would interfere with the affairs of the parties because,
12 as the District Court confirmed with him and as reflected by his Rule 41 dismissal, Julian
13 wished not to continue the case.

14 In sum, Mrs. Moody lacks standing to appeal the District Court's December 12, 2016
15 text order. Accordingly, we dismiss this appeal for want of appellate jurisdiction.

16
17 FOR THE COURT:
18 Catherine O'Hagan Wolfe, Clerk of Court


Catherine O'Hagan Wolfe

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

ROBERT A. KATZMANN
CHIEF JUDGE

Date: February 15, 2018
Docket #: 16-4315cv
Short Title: Moody v. National Football League

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 15-cv-1072
DC Court: EDNY (BROOKLYN)
DC Judge: Block
DC Judge: Kuo

BILL OF COSTS INSTRUCTIONS

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:

- * be filed within 14 days after the entry of judgment;
- * be verified;
- * be served on all adversaries;
- * not include charges for postage, delivery, service, overtime and the filers edits;
- * identify the number of copies which comprise the printer's unit;
- * include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
- * state only the number of necessary copies inserted in enclosed form;
- * state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
- * be filed via CM/ECF or if counsel is exempted with the original and two copies.

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25th day of April, two thousand eighteen.

Aura Moody, on behalf of her minor child, JM,

Plaintiff - Appellant,

ORDER

Docket No: 16-4315

Julian Moody,

Plaintiff,

v.

National Football League,

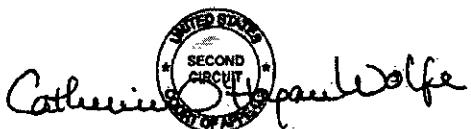
Defendant - Appellee.

Appellant, Aura Moody, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe