

No. _____

In the
Supreme Court of The United States

Linda A. Petralia,

Petitioner,

v.

AMERICAN EXPRESS NATIONAL BANK,

Respondent.

APPENDIX A: DECISIONS OF STATE COURT OF APPEALS

**NH Supreme Court Case No. 2021-0315
NH Superior Court Case No. 226-2020-CV-00517**

MANDATE

Certified and Issued as Mandate Under NH Sup. Ct. R. 24

Timothy A. Gudas

2-18-2022

Clerk/Deputy Clerk

Date

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2021-0315, American Express National Bank v. Linda A. Petralia, the court on January 14, 2022, issued the following order:

Having considered the defendant's brief, the plaintiff's memorandum of law, and the record submitted on appeal, we conclude that oral argument is unnecessary in this case. See Sup. Ct. R. 18(1). The defendant, Linda A. Petralia, appeals the granting of summary judgment by the Superior Court (Temple, J.) in favor of the plaintiff, American Express National Bank. She argues that granting the plaintiff summary judgment was in error because, she claims, the trial court had already entered a "final and binding" dismissal of the case several months earlier. In its memorandum of law, the plaintiff asserts, and the defendant has not disputed, that five days after the earlier dismissal order, the plaintiff moved to vacate the dismissal, and that the trial court granted its motion and vacated the dismissal two weeks later.

Until a case has gone to final judgment, the trial court retains broad discretion to reconsider any decision in order to correct error, including a decision dismissing the case. Goudreau v. Kleeman, 158 N.H. 236, 249 (2009); Redlon Co. v. Corporation, 91 N.H. 502, 503, 505-06 (1941). A non-appealed dismissal does not go to final judgment until either the thirty-first day from the trial court's notice of decision on the dismissal, or, if a timely post-dismissal motion was filed, the thirty-first day from the notice of decision on a ruling denying that motion. Super. Ct. R. 46(d)(1), (2); see Kalil v. Town of Dummer Zoning Bd. of Adjustment, 159 N.H. 725, 729 (2010) (observing that, under predecessor to Rule 46, trial court's final order became a "final judgment" thirty-one days after the trial court had issued its decision). Here, the trial court vacated its dismissal order well before the dismissal went to final judgment. Accordingly, the dismissal did not preclude the subsequent granting of summary judgment.

Affirmed.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

Clerk, Hillsborough County Superior Court South, 226-2020-CV-00517

Honorable Charles S. Temple

Honorable Tina L. Nadeau

Ms. Linda Petralia

Randall L. Pratt, Esquire

Carolyn A. Koegler, Supreme Court

Lin Willis, Supreme Court

File

MANDATE

Certified and Issued as Mandate Under NH Sup. Ct. R. 24

Timothy A. Sudas 2-18-2022
Clerk/Deputy Clerk Date

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2021-0315, American Express National Bank v. Linda A. Petralia, the court on February 18, 2022, issued the following order:

The court has modified its docket entries for the defendant's January 21, 2022 motion to remove the presiding trial court judge and January 24, 2022 motion to intervene and strike to reflect that such motions were filed as "expedited" motions. Accordingly, to the extent that the defendant's January 24, 2022 motion to "correct" the docket requests that we describe such motions as "expedited," the motion is moot. To the extent that the motion to correct the docket requests that we re-docket the January 24, 2022 motion to intervene and strike as having been filed on January 22, 2022, and re-docket the January 24, 2022 motion for reconsideration as having been filed on January 23, 2022, the motion is denied. We note that January 22, 2022 was a Saturday, and that January 23, 2022, was a Sunday. See Sup. Ct. R. (Elect. Filing) 9(b) (a docketed document "shall be deemed to have been filed on the date that it was submitted, unless that date is a Saturday, Sunday, legal holiday, or other day that the clerk's office is closed, in which case the document shall be deemed to have been filed on the next day that the clerk's office is open for business" (Emphasis added.)). We further note that the January 24, 2022 motion for reconsideration is timely.

With respect to the defendant's January 20, 2022 motion to stay, January 21, 2022 motion to remove the presiding superior court judge, January 24, 2022 motion to intervene and to strike, and January 27, 2022 motion to intervene and for other relief, to the extent that those motions request that we stay any proceedings in this court, "intervene" in any superior court proceeding, or conduct a "criminal investigation," the motions are denied. As to the remaining relief requested in those motions, the motions are denied without prejudice to seeking relief from the superior court.

Turning to the defendant's January 24, 2022 motion for reconsideration, Supreme Court Rule 22(2) provides that a party filing a motion for rehearing or reconsideration shall state with particularity the points of law or fact that she claims the court has overlooked or misapprehended. We have reviewed the claims made in the motion for reconsideration and conclude that no points of law or fact were overlooked or misapprehended in our decision. Regardless of whether the trial court's dismissal order had been "with prejudice," it retained discretion to reconsider and vacate that order at any time prior to the entry of final judgment. See State v. Haycock, 139 N.H. 610, 611 (1995) (observing that

trial court's discretionary power to reconsider prior decision is continuous, and may be exercised at any time prior to final judgment); cf. Silva v. Warden, N.H. State Prison, 150 N.H. 372, 373-76 (2003) (reversing in part, and vacating in part, trial court's dismissal "with prejudice" of certain claims). Accordingly, upon reconsideration, we affirm our January 14, 2022 decision and deny the relief requested in the motion.

Relief requested in motion for
reconsideration denied.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ.,
concurring.

**Timothy A. Gudas,
Clerk**

Distribution:

Clerk, Hillsborough County Superior Court South, 226-2020-CV-00517
Honorable Charles S. Temple
Ms. Linda Petralia
Randall L. Pratt, Esquire
Lin Willis, Supreme Court
File

No. _____

In the
Supreme Court of The United States

Linda A. Petralia,

Petitioner,

v.

AMERICAN EXPRESS NATIONAL BANK,

Respondent.

APPENDIX B: DECISIONS OF THE STATE TRIAL COURT

**NH Supreme Court Case No. 2021-0315
NH Superior Court Case No. 226-2020-CV-00517**

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: Hillsborough - Superior Court-Southern District
Case Name: American Express National Bank v Linda A. Petralia
Case Number: 226-2020-CV-00517
(if known)

MOTION: Motion to Dismiss

1. I, Linda A. Petralia am filing this motion on my own behalf
AND/OR
I am a person authorized by court rules to appear on behalf of another in this case. I am filing this
motion on behalf of _____

2. The facts supporting this motion are:

Case # 226-2020-CV-00517

I am currently in receipt of many correspondences from several different collection firms
regarding this matter. The Plaintiff previously sold this alleged debt and therefore,
has no standing to bring forth their claim.

[See Attachment(s), item 'Item 2' (continued)]

3. With this motion, I am requesting the following relief:

Case # 226-2020-CV-00517

I motion the court to dismiss this case with prejudice.

Thank you.

4. ☐ The other party ☐ does ☐ does not agree with the relief requested in this motion.

OR

☒ I was unable to or did not obtain the other party's opinion on this motion because:

Case # 226-2020-CV-00517

I am currently in receipt of many correspondences from several different collection firms
regarding this matter. The Plaintiff previously sold this alleged debt and therefore,

33.

Case Name: American Express National Bank v Linda A. Petralia

Case Number: 226-2020-CV-005

MOTION:

For non e-filed cases:

I state that on this date I am ☐ mailing by U.S. mail, or ☐ Email (only when there is a prior agreement of the parties to use this method), or ☐ hand delivering a copy of this document to:

Other party or _____
Other party's attorney

OR

For e-filed cases:

☒ I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

Linda A. Petralia
Name of Filer

Law Firm, if applicable Bar ID # of attorney

12 Fernwood Dr.
Address

Merrimack, NH 03054
City State Zip code

/s/ Linda A. Petralia 11/18/20
Signature of Filer Date

(617) 901-8190
Telephone
rosemarypetralia@gmail.com
E-mail

FOR COURT USE ONLY

Granted(without objection by plaintiff)



Honorable Charles S. Temple
December 2, 2020

Clerk's Notice of Decision
Document Sent to Parties
on 12/02/2020

To Motion to Dismiss

Item 2 (continued)

With this, I motion the court to dismiss this case with prejudice. Thank you.

Service Information

I state that on this date I am

☒ e-serving through the court's electronic filing system,

☐ or mailing by U.S. mail,

☐ or hand-delivering a copy of this document to:

Other party's attorney: Marci Jean Pearson

I state that on this date I am

☒ e-serving through the court's electronic filing system,

☐ or mailing by U.S. mail,

☐ or hand-delivering a copy of this document to:

Other party's attorney: Randall L. Pratt

If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.