

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CASE NO. 02-CP-40-3298

GTECH Corporation,)
)
Appellant,)

v.)

State of South Carolina, South)
Carolina Educational Lottery,)
)
Respondent,)

And)

The South Carolina Procurement)
Review Panel,)
)
Respondent,)

And)

Information Technology)
Management Office,)
)
Respondent.)

ORDER

FILED
2005 FEB -2 AM 10:05
CLERK OF COURT

This matter was heard by the undersigned on the 21st day of January 2004 in open court. Appearances by counsel for the parties are of record.

The court took the matter under advisement. The issues are well briefed and were for approximately two hours, well argued by counsel. The brevity of this Order in no way diminishes the gravity of the issues herein nor the vigor and zeal of counsels presentations, both written and oral.

However, as Maria sings in the Sound of Music, "Let's start at the very beginning." That would be this court's scope of review under §1-23-380, South Carolina

Code of Laws, 1976, as amended. The circuit court sitting as an appellate court is limited to only such jurisdiction as it is statutorily granted. As an analogy, the Court of Appeals jurisdiction is limited by §14-8-200, South Carolina Code of Laws, 1976, as amended.

Here §1-23-380 establishes this court's jurisdiction and its scope in appeals such as the instant one. This court is limited in the actions it may take to:

1. Affirming the Panel's decision, or
2. Remanding the Panel's decision, or
3. If the court finds prejudice to substantial rights of Appellant it may;
 - a) reverse the Panel's decision, or
 - b) modify the Panel's decision.

Since the court finds the Panels' decision is correct, the court can only affirm. Since the Panel ruled that it lacks subject matter jurisdiction of Petitioner's petition and the court affirms such finding, a remand would be futile. How could a court without jurisdiction of a matter entertain it in any degree? If the Panel has no subject matter jurisdiction any action it takes on this petition, other than to find it has no subject matter jurisdiction is a nullity.

I find the court is restricted by virtue of its findings herein to affirm Order (§1-23-380(A)(6)).

I find that since the court does not find any prejudice of Appellant's substantial rights and it cannot modify the Order (§1-23-380(A)(6)).

I find the decision of the Procurement Review Panel finding that it lacks subject matter jurisdiction of Petitioner's petition to be correct.

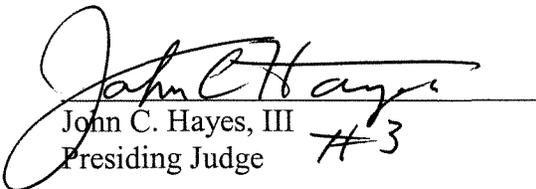
A handwritten signature in black ink, appearing to read "JETA" with a flourish at the end.

I find that the ruling herein is, by virtue of §1-23-380(A)(6), very narrowly based due to the options available to the court to wit: the court has no jurisdiction to modify the subject Order unless the court finds prejudice to substantial rights of Appellant.

I find here the Procurement Review panel lacked subject matter jurisdiction of GTECH's petition and so hold. The court here lacks jurisdiction under §1-23-380(A)(6) to alter in any way the Panels' Order since the Order's ultimate conclusion, i.e. it lacks subject matter of GTECH's petition, is correct and must be affirmed. This is true even if the court were to conclude the Panel is right, but for a wrong reason. (Here the court makes no such analysis and thus reaches no such conclusion.)

Therefore, the Order of the Procurement Review Panel finding it lacks subject matter jurisdiction of Appellant's Petition is AFFIRMED.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge #3

January 29, 2004
York, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 02 -CP-40-3298

G TECH Corporation,

State of South Carolina,
et al.

PLAINTIFF(S)

DEFENDANT(S)

FILED
JULY 2 AM 9:57
BARBARA A. SCOTT
CLERK & G.S.

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN** (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at _____, South Carolina, this _____ day of _____, 20____.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 2 day of July, 2004 to attorneys of record or to parties (when appearing pro se) as follows:

E. Wade Mullins III

Keith C. McCook / Baylen T. Morse
M. Elizabeth Croom
Emily Howard
Ester F. Haymond

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Barbara A. Scott

CLERK OF COURT