

FILED: October 14, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-2040**  
**(5:15-cv-00627-BO)**

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FREDERICK L. ALLEN; NAUTILUS PRODUCTIONS, LLC,

Plaintiffs - Appellees,

v.

ROY A. COOPER, III, Governor of North Carolina; KEVIN CHERRY, Deputy Secretary of the North Carolina Department of Natural and Cultural Resources, individually and in his official capacity; KARIN COCHRAN, Chief Deputy Secretary of the North Carolina Department of Natural and Cultural Resources, individually and in her official capacity; CARY COX, Assistant Secretary, Marketing and Communications of the North Carolina Department of Natural and Cultural Resources, individually and in her official capacity; SUSAN WEAR KLUTTZ, Secretary of the North Carolina Department of Natural and Cultural Resources, individually and in her official capacity; STEPHEN R. CLAGGETT, a/k/a Steve Claggett, State Archaeologist, individually and in his official capacity; JOHN W. MORRIS, a/k/a Billy Ray Morris, Deputy State Archaeologist - Underwater and Director of Underwater Archaeology Branch of the North Carolina Department of Natural and Cultural Resources, individually and in his official capacity; NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES; STATE OF NORTH CAROLINA,

Defendants - Appellants,

and

FRIENDS OF QUEEN ANNE'S REVENGE, A NON-PROFIT CORPORATION,

Defendant.

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O R D E R

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Appellants seek to appeal the district court's order granting Appellees' motion for reconsideration, which the district court construed as a motion made pursuant to Fed. R. Civ. P. 54(b). Appellees have moved to dismiss the appeal for lack of jurisdiction, contending that the order is neither a final order nor an appealable interlocutory order. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). Upon review of the record, we conclude that the order Appellants seek to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we grant Appellees' motion to dismiss.

Entered at the direction of the panel: Judge Niemeyer, Judge King, and Senior Judge Motz.

For the Court

/s/ Patricia S. Connor, Clerk