

ORDER ON EMERGENT MOTION  
-----

SOUTH STATE, INC.  
V.  
HUNTERDON COUNTY AND  
CAPITAL PAVING AND CONTRACTING,  
LLC

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-003848-19T3  
MOTION NO. M-007277-19  
BEFORE PART J  
JUDGES: ELLEN L. KOBLITZ  
ROBERT J. GILSON

MOTION FILED: 06/23/2020 BY: SOUTH STATE, INC.  
ANSWERS FILED: 06/25/2020 BY: CAPITAL PAVING AND CONTRACTING,  
LLC  
06/25/2020 BY: HUNTERDON COUNTY

SUBMITTED TO COURT: June 25, 2020

ORDER  
-----

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS  
29th day of June, 2020, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION FOR STAY PENDING APPEAL DENIED AND OTHER

SUPPLEMENTAL:

Plaintiff South State, Inc. (South State) appealed from a June 18, 2020 final order denying its order to show cause seeking to enjoin the award of a public contract for road resurfacing. On June 19, 2020, we granted South State's emergent application to file an accelerated motion seeking to stay the award of the contract and all work under the contract pending its appeal. Having reviewed the papers filed by all parties on the motion for a stay, we deny the motion.

The underlying dispute concerns the award of a public contract. Defendant the County of Hunterdon issued an advertisement for a project to resurface certain roads. Defendant Capital Paving and Contracting, LLC (Capital) was the low bidder, submitting a bid for just over \$6,100,000. South State was the second lowest bidder and challenged Capital's bid. In that regard, South State contended that Capital's bid was materially defective because one of Capital's owners was listed using her maiden name: Shannon Lazrovitch, with an address in Florida. Lazrovitch's married name, and the name she uses on her driver's license, is Shannon Lazrovitch Lizza.

Moreover, at the time the bid was submitted, she was living with her husband in Chester, New Jersey. Her husband, Carl Lizza, and another paving company he owned, are currently disbarred from performing federal or New Jersey projects. Capital represents that in May 2020, Lazrovitch filed an action to divorce her husband.

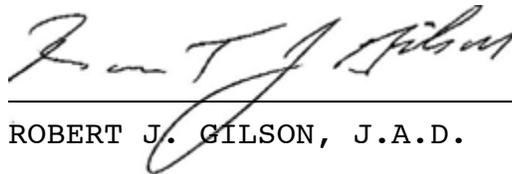
The County offered South State the opportunity to challenge Capital's bid at a hearing, but South State elected not to participate. Instead, in May 2020, South State filed a verified complaint with an order to show cause seeking to enjoin the award of the contract to Capital and any work under the contract. South State also sought to have the contract awarded to it.

After hearing oral argument, on June 17, 2020, the trial court denied the request for injunctive relief in an opinion read into the record. The trial court found that Capital had identified all its owners and the identification of Lazrovitch was not a material defect. The following day, on June 18, 2020, the court entered a final order denying all relief requested by South State and effectively dismissing its complaint.

As already noted, on this motion, South State seeks a stay of the award of the contract and work under the contract pending its appeal. We deny the stay because South State has not established the grounds for a stay.

A party seeking a stay pending appeal must demonstrate that (1) relief is necessary to prevent irreparable harm; (2) there is a reasonable probability of success on the merits that rest on settled law; and (3) the balance of the relative hardships favor that party. Crowe v. De Gioia, 90 N.J. 126, 132-33 (1982); see also Garden State Equality v. Dow, 216 N.J. 314, 320 (2013). South State has not demonstrated that it has a reasonable probability of success on the merits. The record on this motion does not clearly establish that Capital's bid was defective or that the alleged defect was material. In addition, South State has not demonstrated that the balance of the hardship from an injunction would favor it. The County represents that it has funding from the State and that funding might be lost if the work on the project is stayed. Accordingly, South State's motion for a stay pending appeal is denied.

FOR THE COURT:



---

ROBERT J. GILSON, J.A.D.