



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 34
TAI-F15-23**

Sheriff Principal A Y Anwar KC

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL A Y ANWAR KC

in appeal by

SHEILA MARIA MANOSO BLAZQUEZ

Pursuer and Appellant

against

DILLAN HILL

Defender and Respondent

**Pursuer and Appellant: [Counsel; Solicitors]
Defender and Respondent: [Counsel; Solicitors]**

8 June 2026

Introduction

[1] Following a diet of proof, the sheriff found the appellant liable to the respondent in the expenses of the action. The appellant subsequently lodged a motion to vary the award of expenses to nil. That motion was refused by the sheriff. The appellant has appealed that decision. She did not seek leave to appeal. The respondent challenged the competency of the appeal. The question the court is asked to address is whether an appeal against a refusal to modify an award of expenses, which follows a prior interlocutor dealing with liability for

expenses, is competent, without leave, in terms of section 110(1) of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”)?

Legislation

[2] Section 110 of the 2014 Act, in so far as relevant, provides as follows:

“110 Appeal from a sheriff to the Sheriff Appeal Court

(1) An appeal may be taken to the Sheriff Appeal Court, without the need for permission, against—

- (a) a decision of a sheriff constituting final judgment in civil proceedings, or
- (b) any decision of a sheriff in civil proceedings—
 - (i) granting, refusing or recalling an interdict, whether interim or final,
 - (ii) granting interim decree for payment of money other than a decree for expenses,
 - (iii) making an order ad factum praestandum,
 - (iv) sisting an action,
 - (v) allowing, refusing or limiting the mode of proof, or
 - (vi) refusing a reponing note.

(2) An appeal may be taken to the Sheriff Appeal Court against any other decision of a sheriff in civil proceedings if the sheriff, on the sheriff's own initiative or on the application of any party to the proceedings, grants permission for the appeal.”

[3] Section 136 of the 2014 Act defines a “final judgment” as

“a decision which, by itself, or taken along with previous decisions, disposes of the subject matter of proceedings, even though judgment may not have been pronounced on every question raised or expenses found due may not have been modified, taxed or decerned for.”

Background

[4] In this action of divorce, following a diet of proof, the sheriff provided an *ex tempore* decision on the merits of the action and pronounced an interlocutor on 28 August 2025 granting *inter alia* decree of divorce, decree for payment of a capital sum by the appellant to the respondent, reserving the question of expenses and dismissing the parties’ remaining craves. He thereafter issued a note of his decision in terms of Rule 12.3(3) of the Ordinary

Cause Rules 1993, having been requested to do so by the appellant's agent. On 25 September 2025, following a hearing on expenses, the sheriff found the appellant liable to the respondent in the expenses of the cause, as taxed.

[5] On 12 November 2025, the appellant lodged a motion to vary the award of expenses to nil. There then followed three hearings on the appellant's motion; on 4 December 2025 and 6 January and 12 February 2026. The sheriff refused the appellant's motion on 12 February 2026.

Submissions

[6] On behalf of the respondent, it was submitted that section 110(1) of the 2014 Act sets out the classes of decision which may be appealed against without leave. The appeal did not fall into any of those classes. Nor was the decision appealed against a "final judgment" as defined in terms of section 136(1) of the 2014 Act. The sheriff's *ex tempore* judgment had disposed of the subject matter of the proceedings. The question of expenses had been addressed at the hearing on expenses on 25 September 2025; that was the "final judgement". The appellant did not appeal that decision. The motion to vary the amount of expenses, related to the extent of the expenses to be paid, not to the liability for expenses. It was an incidental matter. An appeal against a refusal to vary the amount, in these circumstances, not being a final judgment, required leave to appeal.

[7] On behalf of the appellant, it was submitted that she did not seek to appeal against any prior interlocutor, including the sheriff's decision on the merits or on the question of liability for expenses. Her appeal was restricted to the interlocutor of 12 February 2026 which, she submitted, disposed of the issues conclusively with nothing further remaining for the sheriff to determine. When the appellant had sought to appeal that decision, neither

the respondent, the staff of the sheriff court, nor the appellant's former solicitors had advised her that leave was required. That being the case, she submitted that as a self-represented litigant, it was reasonable for her to understand that the appeal was competent without leave and that the interlocutor of 12 February 2026 was a final judgment. She submitted that the interlocutor appealed against finally determined a distinct substantive issue between parties, namely whether the appellant's liability for expenses should be modified to nil. The appeal was lodged timeously. In the event that leave was required, the appellant sought "retrospective permission and such other procedural relief as is necessary" to allow the appeal to proceed.

Decision

[8] Neither party referred the court to any authority, save for references to the terms of the 2014 Act. Neither was in position to address the court on the commentary in Macphail, *Sheriff Court Practice*, 4th ed, paragraphs 18.31 and 18.32 and the cases cited therein when the court drew their attention to the same. That is an unsatisfactory position; the court does not have the benefit of full submissions on the matters of competency raised in this appeal.

[9] The respondent challenges the competency of the appeal. The question to be addressed is whether the sheriff's interlocutor of 12 February 2026, in terms of which he refused to modify a prior award of expenses to nil, is a "final judgment" in terms of section 110(1)(a) of the 2014 Act. In my judgment, it is not.

[10] Section 136 of the 2014 Act defines a final judgment as one which disposes of the subject matter of proceedings, even though judgment may not have been pronounced on every question raised or expenses found due may not have been modified, taxed or decerned for. As explained recently in *Downie v NHS Fife Health Board* [2025] SAC (Civ) 29

(at para [31]), the language used in section 136 of the 2014 Act reflects the provisions of the Court of Session Act 1868 and the Sheriff Courts (Scotland) Act 1907 and accordingly, the earlier decisions which considered whether an interlocutor was a “final judgment” remain authoritative.

[11] Those earlier decisions are considered in Macphail at paragraph 18.31, with matters summarised thus:

“For a decision to be a final judgment it is therefore essential that it should dispose of the question of expenses, not necessarily by deciding the amount of expenses payable, but by dealing with and determining the question of the liability of one or other of the parties for expenses or finding expenses due to neither party. A decision which deals only with the merits, or with the merits and only part of the expenses, is not a final judgment and cannot be appealed without the permission of the sheriff. Where a decision pronounced after proof or debate disposing of the merits of the cause reserves the question of expenses and appoints parties to be heard thereon on a future date, there is no final judgment until the question of expenses has been disposed of. The final judgment is the decision finding expenses due”

[12] That statement of the law reflects dicta from early decisions, including the decision of the First Division in *Baird v Barton* (1882) 9 R 970, in which the Lord President (Glencorse) noted that there was a very clear implication in the language used in the 1868 Act that:

“until the question of expenses has been disposed of,- that is, until one or other of the parties has been found entitled to expenses, or expenses have been found due to neither party, - there has been no final judgment, and the whole subject-matter of the cause, in the language of the Act of 1868, has not been disposed of.”

[13] In the present case, following a hearing on expenses on 25 September 2025, the sheriff found the appellant liable to the respondent in the expenses of the cause, as taxed. The issue of liability for expenses was determined. The interlocutor of 25 September 2025, taken along with the prior interlocutor of 28 August 2025 disposed of the subject matter of the proceedings and was a final judgment in terms of section 110(1)(a) of the 2014 Act which was capable of being appealed as of right within the relevant time limit.

[14] However, the question which arises in the present case is whether the subsequent interlocutor refusing the appellant's motion for modification of expenses to nil, might also be a "final judgment", capable of being appealed without leave. Again, this issue is addressed in Macphail at paragraph 18.32;

"A decision modifying expenses, which follows a prior decision disposing of the merits of the cause and finding expenses due, may be appealed without leave, and the appeal has the effect of submitting for review all prior decisions in the proceedings."

[15] The authors thus identified the possibility that a decision on the modification of expenses, notwithstanding a prior decision on liability therefor, may be a final judgment, appealable without leave. While the proposition is stated in somewhat equivocal terms, it is also stated without qualification. The authority cited in support of this proposition is the decision of the Inner House in *Inglis v The National Bank of Scotland* 1911 SC 6. Curiously, the relevant passages of Macphail make no reference to the decision of Sheriff Holligan, sitting in the Sheriff Appeal Court, in *Siteman Painting and Decorating Services Ltd v Simply Construct (UK) LLP* [2019] SAC (Civ) 13. Sheriff Holligan, having the benefit of comprehensive submissions by parties, reviewed the relevant authorities in which the competency of an appeal was challenged, including that of *Inglis*, and which involved two interlocutors; a first interlocutor dealing with the merits and a second dealing with expenses or an issue related to expenses. He noted the "one unifying feature" in the relevant cases (*Crellin v Latta* (1893) 21 R 21; *Earl of Kintore v Pirie* (1904) 12 SLT 385; and *Inglis*) was that in each of the first interlocutors, liability for expenses was made expressly under reservation of questions of modification; the court was thereby clearly indicating that there was a matter yet to be determined. He concluded (at para [25]):

"where liability for expenses is determined but modification expressly reserved in the same interlocutor, it may be said that the ensuing interlocutor (unless purely

executorial) satisfies the statutory definition of a “final interlocutor” notwithstanding the fact that the earlier interlocutor may also do likewise. However, if . . . the interlocutor has dealt with liability for expenses without reservation the situation is different.”

[16] I agree with Sheriff Holligan’s analysis. To pose the question posed by the Lord President in *Inglis*, if anyone were asked whether, without reference to any statute, the interlocutor of 25 September 2025 was a final interlocutor, the answer would be, “yes”. There were no matters left for the sheriff to determine. The subject matter of the proceedings had been disposed of. All craves had been determined. Liability for expenses had been dealt with. No issues had been reserved. There was no indication that modification might be sought by the appellant or that the court regarded it as a matter which it required to determine.

[17] Section 110 of the 2014 Act sets out the categories of decisions which may be appealed to the Sheriff Appeal Court. The Sheriff Appeal Court Rules (rule 6.3) requires an appeal to be made within 28 days of the final judgment. These provisions are designed to provide the parties with certainty. It would be most unsatisfactory were a party, in receipt of a decision in its favour, to be required to wait anxiously for weeks, months or perhaps even years until expenses are taxed or discerned for, on the possibility of a motion for modification, the grant or refusal of which might be appealed as of right and which might open to review all prior interlocutors. An appeal as of right against a decision on such a motion would deprive the statutory provisions and the court rules of the very certainty they are designed to achieve.

[18] For these reasons, I am not persuaded that the interlocutor of 12 February 2026 is a final judgment. Permission to appeal was necessary. Permission not having been obtained from the sheriff, this appeal is incompetent.

[19] The appellant referred to her status as a party litigant and submitted that it was reasonable for her to understand that the appeal was competent without leave, particularly in the absence of any advice to the contrary by court staff or by the respondent. It is trite to observe that neither the court staff nor the respondent are under any duty to advise the appellant on matters of law. While I acknowledge that the issue of whether the interlocutor of 12 February 2026 constituted a final judgment was not straightforward, the question for this court is not whether the appellant has acted reasonably. This court requires to determine whether the interlocutor appealed against is a final judgment. That is a matter of law. It does not involve the exercise of a discretion.

[20] Finally, the appellant invited this court to “grant retrospective permission and such other procedural relief as is necessary to allow the appeal to proceed”. This court cannot do so (*Magistrates and Town Council of Leith v Lennon* 1875 3 R 152, per Lord Justice Clerk (Moncrieff) at page 155).

[21] I shall refuse the appeal as incompetent in terms rule 7.8(1)(a) of the Sheriff Appeal Court Rules and find the appellant liable to the respondent in the expenses of the appeal.