

RECEIVED

Oct 31 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr, Judge

Case No. 2017-CP-04-02099
Appellate Case No. 2020-000421.

John Harbin,

Appellant,

v.

April Blair, Tracy Dunn, HUB Enterprises, Inc.,
Shawn Conway, Gallivan White & Boyd,
Sam Nikopoulos, and John Doe,

Respondents,

**APPELLANT’S RESPONSE TO RESPONDENTS’ MOTIONS FOR
THEIR COSTS OF THIS APPEAL**

Anderson, South Carolina
October 31, 2022.

s/Donald L. Smith
Donald L. Smith, (Bar No.: 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellant

Other Counsels:

Mr. Samuel W. Outten, Esquire
Ms. Katie Towery, Esquire
NELSON MULLINS RILEY & SCARBOROUGH, LLP
104 South Main Street/Ninth Floor
Post Office Box 10084 (29603-0084)
Greenville, SC 29601
T: (864)373-2300 F: (864)-373-2925

Mr. Alfred Johnston Cox, Esquire
Ms. Jessica W. Laffitte, Esquire
Gallivan, White & Boyd, P.A.
55 Beattie Place , Suite 1200
Greenville SC 29601
T. (864) 271-9580
F. (864) 271-7502

Attorneys for Gallivan White & Boyd & Sam Nikopoulos

Mr. James P. Walsh, Esquire
1164A Woodruff Road
Greenville, SC 29607
T: (864) 232-4400
F: (864) 2365-4399

Attorneys for Respondent April Blair

Mr. Steven J. Pugh, Esquire
Mr. R. Wilder Harte
RICHARDSON PLOWDEN & ROBINSON, P.A.
1900 Barnwell Stree (29201)
Columbia, SC 29202
(803) 771-4400

Attorneys for Respondent HUB Enterprises and Mr. Shawn Conway

The undersigned files this reply to question whether South Carolina believes in zealous advocacy. Is zealous advocacy saved for those entitled to same? The undersigned respectfully requests that fees associated with this appeal be extinguished. It is truly mind boggling that zealous advocacy in this State is met with penalties because it illustrates how easy it is for the heirs of a deceased housekeeper to be cheated out of their rightful shares of money damages for their mother's inopportune passing. Appellant was not a maid, but like her, he was no one of consequence in this State. As a result, his foray into South Carolina's "system" allowed him to be shot three (3) times.

My issues with drugs are not by any stretch of the imagination a secret. Those issues brought me to Lawyers Helping Lawyers (LHL). It is a great group to be linked to as you address the stresses life has to offer in ways society frowns upon. They take you regardless of your background, your friends, your status. But for them, I likely would not be able to write this reply.

What I didn't know about was another group having a great influence on the South Carolina legal community. Lawyers Protecting Lawyers (LPL) is a very impressive group. If you are lucky enough to be a part of it, you are insulated with Teflon. If you aren't, you will be nothing but mediocre. I am not part of it.

The following are examples of my lack of a membership.

1. In the above-referenced case. I had a man shoot my client leaving him with permanent debilitating nerve damage in his leg. We were offered \$100,000.00 to settle the case for defendants who consisted of a boyfriend (BF) and girlfriend (GF). BF shot my client based on the fact he slept with girlfriend the night before-consensually, but she told BF client raped her.

We sued them. Client thought his permanent nerve damage; and everything associated with the gun shot were worth far more than the \$40,000.00 he would have cleared. We got a defense verdict. We later learned defense counsel had acted as the middleman in the correspondence between the BF and GF. He had to be their parrot because BF was strictly prohibited from communicating with GF as a condition of bond (which he could not meet due to a lack of money). Defense counsel violated the bond conditions while arranging the testimony of BF who was in jail for holding a gun to the head of GF. GF offered to drop the CDV high and aggravated, if BF would accept full responsibility for the shooting. BF had previously said client shot himself; he also stated he shot at the ground to scare client-never saying he willfully and wantonly shot him. He agreed and testified as he was told. They fixed the trial.

I sued the lawyer for his involvement. Once again, the court said I filed a frivolous action. Upon reading my complaint he offered that it might be something for the ODC. ODC would not help my client. He said he would never report a lawyer. Despite having an affidavit from BF's cousin (with whom he shared the agreement in the Abbeville Detention Center), regarding the lawyer's violation of the court ordered bond conditions and the negotiated testimony, the judge followed his statement he would never report a lawyer. In order to make sure I didn't sue another lawyer, he sanctioned me \$13,000.00. The lawyer who fixed the trial was protected by the lower court and this court. Not only was the lawyer protected, a member of the bar who was willing to zealously advocate for his client was penalized for bringing light to an egregiously unethical manner of trying a case. Someone who cares more for themselves than their clients would look the other way instead of suing a lawyer. If this wasn't true before, it most certainly will be after the chilling sanctions never seen in this part of the state (for non-discovery issues), if not the entire state.

2. I had a case where I proved that: a member of law enforcement lied on the stand; the solicitor withheld discovery; and the Court ignored my proof. I got in trouble with ODC because I brought it to society's attention through Facebook. Everything related to the players above were facts. My client got twelve (12) years in prison; and I got in trouble with the ODC because I had the audacity to speak out against conduct I thought was tarnishing our system. The lawyer(s) was protected; and I was dealt with so I might keep my musings about lawyers to myself.

3. I have a case where I sued a lawyer for not paying a provider he used to facilitate a settlement for his client in a PI case. The attorney used the bill and records to settle the case; and he simply disregarded the provider's invoice.

In the case involving the same facts and litigants, I sued a lawyer for lying to the LLR regarding his client's involvement with my client's suspended license. She said he filled out the complaint for her. She said she didn't know why he would have said what he said in the complaint. To that, he responded in the following manner: 1) He didn't fire her for essentially saying he lied to the LLR; (2) He didn't say a word negating what she said; and 3) He didn't amend his "misstatement of fact" to the LLR. He accepted this statement as truth.

The trial court dismissed all of the cases against the lawyers over the course of six (6) consecutive motion hearings which I lost. The court summoned me to the grand jury room to ask if I knew why I lost six hearings that day, and to my negative response said, "because you sued lawyers". The cases which remained against their clients went to trial with my former client trying his own case and being awarded over \$100,000.00 for defamation by the women to whom he allegedly exposed himself. I was sanctioned \$12,000.00 personally because I filed frivolous actions. If the Court doesn't dismiss the cases against the lawyers, they would have been paying

some money, too. The Court protected the lawyers. Nothing happened to the attorney who cheated the provider; nothing happened to the attorney who lied to the LLR (in fact, he was rewarded for his conduct with \$12,000.00 of my sanctions); the Court of Appeals affirmed the sanctions. The client didn't want any part of the appeal based on how his career was affected by actions of the attorneys and their clients. It is revolting to see educated people label something frivolous when it is so far from frivolous. The lawyers were protected by their fellow lawyers.

Of course, if the Court of Appeals addressed these scenarios based on the common man's belief in the law, the lawyers may have been in trouble. Furthermore, the lower courts knowingly ignoring these facts would seemingly have had some explaining to do. Rather than opening such wounds by finding for me in these matters, this Court hides behind: 1) The issue was not preserved for review; 2) The lower court had the opportunity to review the credibility of the witnesses; 3) Since we can find no error of law, we defer to the trial court; etc. The lower courts recognize the court of appeals has their backs. They say as much when an issue arises in which their ruling is questionable, "If I'm wrong, they will get it right in Columbia." Litigants and their respective attorneys don't have the time or money to seek vindication from rulings that conflict with the current case law. Now, it appears when they do muster up the funds/courage to appeal the lower court, they are defeated both mentally and fiscally. Of course, no lawyers were injured in the litigation discussed (except me), so the status quo is maintained, protecting those lawyers who deserved protecting.

I pray for South Carolina. I am an attorney who has the ability to speak in courtrooms (for the moment). I am getting smashed like a bug. The Murdaughs were definitely members of the LPL. If you believe they are the only members, you are naive. There are people getting shortchanged by the system all of the time. Why do you think the Murdaugh family was able to

reign supreme? Unlike myself, lawyers weren't dumb enough to take action against them for fear of reprisal. Making a living is difficult when you don't win anything except for jury trials.

I tried to be the spokesman for the three individuals who are considered the "have-nots" in society. The reaction by the LPL was to summarily dismiss the claims of my people. By sanctioning me at least \$32,000.00, I am left struggling to exist. How good is a law license if it is in a strait jacket with a muzzle? God help you if you aren't a member of the LPL.

CONCLUSION

Based on the foregoing, I pray that my sanctions for filing lawsuits against lawyers are extinguished. If not, I pray the Supreme Court has a mandatory CLE to explain what the word frivolous means. The Black's Law Dictionary version cannot be found in the matters I have presented, in particular the *Harbin* matter for which I provided an independent affidavit to support my conspiracy theory. I am too old and too overworked to waste time harassing people with my law license.

Anderson, South Carolina
October 31, 2022.

s/Donald L. Smith
Donald L. Smith (Bar No. 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attomeydonaldsmith@gmail.com
Attorney for Appellant

RECEIVED

Oct 31 2022

SC Court of Appeals

**FORM 7
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr, Judge

Case No. 2017-CP-04-02099
Appellate Case No. 2020-000421.

John Harbin,

Appellant,

v.

April Blair, Tracy Dunn, HUB Enterprises, Inc.,
Shawn Conway, Gallivan White & Boyd,
Sam Nikopoulos, and John Doe,

Respondents,

PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I certify that I have served a copy of Appellant's Response to Respondents' Motions for Appellate Costs and proof of service of same upon The Honorable Jenny Abbott Kitchings, Clerk of the South Carolina Court of Appeals, and the Respondents, by and through their respective counsel of record, via their respective email addresses as follows:

Ms. Jenny Abbott-Kitchings

ctappfilings@sccourts.org

Attorneys for Defendants Gallivan White & Boyd, PA and Sam Nikopoulos:

Mr. Alfred Johnston Cox, Esquire

jcox@gwblawfirm.com

Ms. Jessica W. Laffitte, Esquire

jlaffitte@gwblawfirm.com

Mr. Samuel W. Outten, Esquire

sam.outten@nelsonmullins.com

Ms. Katie Elizabeth Towery, Esquire

katie.towery@nelsonmullins.com

Attorneys for Defendants Shawn Conway and HUB Enterprise, Inc.

Mr. Robert Wilder Hart
Mr. Steven James Pugh

wharte@richardsonplowden.com
spugh@richardsonplowden.com

Attorney for Defendant April Blair

Mr. James P. Walsh

jwalsh@clarksonwalsh.com

The above-mentioned documents have been served on October 31, 2022.

s/Donald L. Smith

Donald L. Smith, (Bar No.: 6699)

122 N. Main Street

Anderson SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Attorney for Appellant

Anderson, South Carolina
October 31, 2022.

RECEIVED

Oct 31 2022

FORM 8
LETTER TO THE COURT OF APPEALS CLERK OF COURT
FOR FILING OF APPELLANT'S RESPONSE TO
RESPONDENTS' MOTIONS FOR APPELLATE COSTS

SC Court of Appeals

October 31, 2022

The Honorable Jenny Abbott Kitchings
Clerk of Court South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**RE: John Harbin v. April Blair, Tracy Dunn, HUB Enterprises, Inc., Shawn Conway, Gallivan White & Boyd, Sam Nikopolous, and John Doe
C.A. No. 2017-CP-04-02099
Appellate Case No. 2020-000421**

Dear Ms. Kitchings:

Please find enclosed Appellant's:

1. Appellant's Response to Respondents' Motions for Appellate Costs, and
2. Form 7-Proof of Service of same.

Sincerely,

s/Donald L. Smith

Donald L. Smith (Bar No.: 6699)

122 N. Main Street

Anderson SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Attorney for Appellant

CC:

Mr. Samuel W. Otten, Esquire
Ms. Katie Towery, Esquire
Mr. Alfred Johnston Cox, Esquire
Ms. Jessica W. Laffitte, Esquire
Mr. R. Wilder Harte, Esquire
Mr. Steven J. Pugh, Esquire
Mr. James P. Walsh, Esquire