

STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
COUNTY OF RICHLAND) CASE NO. 2021-CP-40-06223

September 21, 2022

BEFORE: The Honorable Judge DeAndrea Benjamin

Edward T. Hills,
Plaintiff,
vs.
Dean, University of South Carolina,
Defendant.

RECEIVED
Nov 21 2022
SC Court of Appeals

APPEARANCES:

Edward T. Hills
Pro Se Plaintiff

Rachel Hutchens, Esq.
Attorney for the Defendant

Official Court Reporter,
Cynthia D. Weaver

1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT: All right. The next case -- is anyone
3 on for 2021-CP-40-6223, Edward Tyrone Hills versus Dean,
4 University of South Carolina?

5 MS. HUTCHENS: Good afternoon, Your Honor.

6 THE COURT: Good afternoon.

7 MR. HILLS: Your Honor.

8 THE COURT: We're here. Okay. All right. So
9 there are two motions. One filed by the plaintiff and one
10 by the defendant. The -- it looks like the defendant filed
11 -- plaintiff filed a motion for default and has a supporting
12 affidavit. And the defendant has filed a 12(b) motion.

13 All right. I'll be glad to hear from
14 Ms. Hutchens, you represent the University?

15 MS. HUTCHENS: Yes, Your Honor.

16 THE COURT: Mr. Hills, you are representing
17 yourself?

18 MR. HILLS: Yes, Your Honor. I really will have
19 to object for you hearing anything from USC at this time,
20 because I never received any information concerning this
21 hearing. I only received the hearing 12 -- September the
22 14th, 2022, about the hearing and I inquired to the Clerk of
23 Court by email when the hearing was going to be. And they
24 sent me an email about the hearing and then the schedule of
25 notice was finally received to the plaintiff by mail on

1 September the 15th.

2 So I didn't receive any information, wasn't able
3 to write any motions, and didn't receive anything concerning
4 the defendant until today. So I have to object to all of
5 that. As a matter of fact, I would like to make an oral --
6 when I get into my case, I would like to make an oral
7 motion, so that I could make a motion, because I couldn't
8 make a written motion, because it was given to me too late.

9 THE COURT: When did you get notice?

10 MR. HILLS: I got notice from the Clerk of Court
11 once we emailed them on September the 14th. And I think you
12 had on your -- on the paperwork that you had to have that
13 you needed it, then input a writ to the Court that it had to
14 be in on the 14th and I didn't get it until the 14th, and
15 the letter itself didn't come here until the 15th.

16 And I -- and so I didn't know anything about this
17 at all. I didn't have time to enough to do anything with
18 it, because it was supposed to be in by the 14th by your
19 paperwork.

20 THE COURT: All right. So this is your -- one of
21 them is your motion.

22 MR. HILLS: I've got information to do my case.
23 I'm ready to do my case. But this, what they have here is a
24 total surprise because I have a default motion and they have
25 tried to put a dismissal motion underneath my case. And,

1 like I said, I haven't had any time to look over anything
2 and I didn't have time to write you any motions that I
3 wanted to write. So like I said, inside out, I've read my
4 case, I wanted to have an oral motion towards what was going
5 on if I could.

6 THE COURT: Ms. Hutchens. Ms. Hutchens, did you
7 give him -- when did he get your memo?

8 MS. HUTCHENS: We mailed -- we -- when we
9 submitted the memo we copied Mr. Hills on the last known
10 email address we had and we put it in the mail that day. I
11 don't know when he received it, but our memo essentially
12 repeats what is in our motion and we sent him a copy of our
13 motion when it was filed months and months ago.

14 MR. HILLS: No. You filed it on the 14th, you
15 sent it on the 14th. We have the --

16 MS. HUTCHENS: Right.

17 MR. HILLS: -- copy of the envelope and it has on
18 it the date that you -- you mailed it was on the 14th.

19 MS. HUTCHENS: Our motion was filed on
20 February 7th of 2022.

21 MR. HILLS: Oh, yes. The motion that you filed --
22 you filed on the 7th was a --

23 MS. HUTCHENS: Motion.

24 MR. HILLS: -- a motion to dismiss and you didn't
25 file the motion what she was supposed to file for a default

1 motion. Yes, you filed it months ago a default motion -- a
2 dismissal motion, not a default motion.

3 MS. HUTCHENS: Your Honor, I'd just like to
4 explain a little bit.

5 The defendant filed a 12(b)(6) motion to dismiss
6 in lieu of an answer. We sent a copy of that motion back in
7 February to Mr. Hills. Mr. Hills subsequently filed a
8 motion to dismiss essentially saying we had failed to file
9 an answer.

10 MR. HILLS: No, I never filed a motion to dismiss,
11 ma'am.

12 THE COURT: Hold on. Sir, sir, sir, sir. Let her
13 finish speaking.

14 MS. HUTCHENS: And my understanding is that
15 there's a motion for entry of default, sorry.

16 MR. HILLS: Right. Thank you.

17 MS. HUTCHENS: For the failure to answer the
18 defendant. The defendant did not file an answer, the
19 defendant filed a 12 (b) (6) motion in lieu of an answer. I
20 did file a response to Mr. Hills' motion for entry of
21 default last week. I've provided a copy to him as best we
22 knew how, provided a copy to Your Honor.

23 I think there might be some confusion about an
24 answer versus a motion in lieu of an answer. But I'm happy
25 to answer any questions as to the two motions and however

1 Your Honor would like to proceed.

2 THE COURT: All right. So he's saying he's not
3 had an opportunity as to your motion to respond to your
4 memorandum?

5 MS. HUTCHENS: Is it that or my response to his
6 motion that he didn't -- that --

7 THE COURT: I thought he's saying he didn't have
8 an -- he's -- I think -- are you ready to go forward on your
9 case mister -- on your --

10 MR. HILLS: I'm ready to go forward on my side on
11 my case on the default motion, which I filed February the
12 9th.

13 THE COURT: Right.

14 MS. HUTCHENS: Your Honor, we did provide our
15 memo. I sent it to him.

16 MR. HILLS: Yeah, she sent a letter electronically
17 on February the 7th. It did not have anything to do with
18 the default motion. It was a dismissal motion that she
19 electronically filed on the 7th.

20 MS. HUTCHENS: And we then also mailed it to you
21 in February and that was an exhibit to our response that was
22 filed on Wednesday.

23 So I don't know, Your Honor, to just talk through
24 this motion and then address ours second.

25 MR. HILLS: We got -- excuse me, ma'am. We got a

1 letter from you when you left -- you -- you -- we got it
2 February the 10th which was late. The motion -- it was
3 supposed to be for me to February the 7th and it didn't get
4 to me until February the 10th, ma'am. That's the letter you
5 filed and inside the letter was a dismissal motion, not
6 anything to do with the default motion.

7 THE COURT: All right. So this is what I'm going
8 to do. He says he's ready to proceed on his. Let me hear
9 that and then if we need to continue the 12(b)(6) motion.

10 But what I think I'm hearing is that -- so in lieu
11 of filing an answer, it sounds like y'all filed a motion --
12 I mean, a motion --

13 MR. HILLS: To dismiss.

14 THE COURT: Yes. And that is allowable, sir,
15 under the rules, so that doesn't mean she's in default. So
16 the question is: Did she file that within the 30-day period
17 after he served the summons and complaint on y'all?

18 MR. HILLS: She didn't. I have a witness to that,
19 Your Honor, and I would like to mention her name as Victoria
20 Hills. She will be a witness to that fact. She checks my
21 mail every day. And she will be a witness to the fact that
22 when the letter came and when it arrived.

23 THE COURT: When did -- when did you file -- when
24 was the -- when were served when was the University served?

25 MR. HILLS: The University was served on January

1 7th, 2022. Can you see this, Your Honor, the paperwork that
2 was filed by Sheriff -- Sheriff Leon Lott of Richland County
3 and it was answered by Walter Carey H. Parham, which is
4 general counsel for the University of South Carolina.

5 So it was filed on 1/7/22. And when we received
6 it -- we didn't receive it till February 10th of 2022.
7 February --

8 THE COURT: When did you mail -- when did you file
9 your motion to dismiss in lieu of an answer?

10 MS. HUTCHENS: We filed the motion on February
11 7th, Your Honor, electronically. And because Mr. Hills is
12 pro se, we then put it in the mail that same day. He may
13 not have received it until the 10th, but we filed it on the
14 7th.

15 THE COURT: And we go by the date she filed it,
16 sir. And so it sounds like it was filed within the time
17 period.

18 MR. HILLS: Well, the thing about it is, she
19 electronically filed it and she electronically filed what
20 you said was a dismissal. But according to the summons, as
21 the summons reads, that you -- that you have to send me a
22 copy of the answer to the complaint. And the complaint has
23 to be sent to me within 30 days or judgment by default would
24 be rendered against you for the relief demanded in the
25 complaint. And this is what I read the summons and that's

1 what the summons, that's the law.

2 Now, that's -- she didn't do that, she did it
3 electronically. There's no reason for me to look up
4 electronically. I'm not a person that look on a computer.
5 You have to send to me by the paperwork that I sent to her.
6 I sent it to her and it was sent to her by paperwork and the
7 summons says she has to send it back to me by paperwork in
8 time, in 30 days, in a 30-day period, and she didn't, Your
9 Honor.

10 THE COURT: Ma'am.

11 MS. HUTCHENS: Your Honor, we filed our motion
12 within the time frame. We then mailed it to him. If the
13 fact that he received it -- I mean, we complied with the
14 rules and filed it within the 30 days.

15 MR. HILLS: I have a witness to that fact that
16 shows that --

17 MS. HUTCHENS: I understand that he received it
18 later, but it was filed.

19 THE COURT: If I were you -- sir, she filed it
20 within the 30 days. And the rules require that it be filed
21 within the 30 days, and she's filed it within the 30 days.
22 And I think you get -- I'll have to look at the mailing
23 requirements, but it was placed in the mail to you, which is
24 why you got it on the 10th. I'm assuming she placed it in
25 the mail.

1 MR. HILLS: But where is the summons? The
2 summons, in fact, the rules and regulations. I signed it.
3 I signed the summons and it was sent out to them. That's
4 not -- that's the rules and regulations that they honor the
5 summons?

6 THE COURT: We go by the Civil -- Rules of Civil
7 Procedure, sir. And so you -- she filed and we go by the
8 Clerk's Office so we won't have to dispute when the mail was
9 sent or the mail was slow or if the mail was lost, but her
10 answer had to be filed within the 30 days and she filed the
11 answer in the 30 days and then she sent you a copy of the
12 answer showing that it was filed within 30 days, all right?

13 MR. HILLS: She filed a dismissal motion.

14 THE COURT: Well, her motion for dismissal in lieu
15 of an answer, sir.

16 MR. HILLS: Well.

17 THE COURT: She's not -- based on what I can see
18 and tell they're not in default. And so, I mean, because
19 the mail -- we can't go necessarily by when the -- when you
20 received it in the mail. It's when she filed and it's
21 stamped with the Court. And it doesn't seem as if anyone is
22 disputing that she filed it on February the 7th.

23 MR. HILLS: Yeah, she filed it electronically on
24 February the 7th.

25 THE COURT: Well, that's how we file stuff, sir.

1 We file things electronically, that is our method of filing.

2 And so --

3 MR. HILLS: But the only problem I have with
4 that -- and the only problem I have with that is filing a
5 dismissal motion underneath a default motion which I felt
6 that a default motion should be absolute, because a
7 default -- I'm in business, I've been in business. If my
8 bid is late, they throw it out, it's in default. Anything
9 like that, if I don't do my paperwork right, it's in
10 default. And that's -- the only thing that know that if
11 you're in default, you're in default because you didn't do
12 your paperwork right.

13 THE COURT: Right.

14 MR. HILLS: And this, they --

15 THE COURT: I'm not -- I'm not going to find that
16 she's in default because she filed her answer within the 30
17 days as per the Rules of Civil Procedure. So they
18 electronically filed them within the 30 days. So I'm going
19 to deny the motion for entry of default.

20 And so then she's filed a motion to dismiss.
21 You've asked for additional time, because you said you've
22 just received the memorandum of law, although she filed
23 it -- she filed the motion in February, but you did not get
24 the memo until last week or early this week?

25 MR. HILLS: I just got the information yesterday

1 from my P.O. Box.

2 THE COURT: Okay.

3 MS. HUTCHENS: And I hadn't had anything. Like I
4 said, Clerk of Court sent me the information.

5 THE COURT: I'll continue the motion to the next
6 term so you'll have an opportunity to respond to her motion
7 to dismiss.

8 MR. HILLS: Well, I'm going to have to do some
9 research.

10 THE COURT: Yes, sir.

11 MR. HILLS: I'm going to have to do some research
12 here, because it's -- I really went up on this summons.

13 THE COURT: Okay.

14 MR. HILLS: Because I put my paperwork, the
15 paperwork says what it says, I've been reading. My momma
16 was an english teacher.

17 THE COURT: Okay.

18 MR. HILLS: And this is what the summons say.

19 THE COURT: We operate under the Rules of Civil
20 Procedure, so you can take a look at the Rules of Civil
21 Procedure. We'll have, Ms. Bora, I think if you can put
22 this -- the motion to dismiss on the next docket that would
23 be great. All right?

24 MR. HILLS: Okay.

25 THE COURT: Thank you.

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MS. HUTCHENS: Thank you, Your Honor.

MR. HILLS: Thank you very much.

THE COURT: Uh-huh, take care.

END OF REQUESTED PROCEEDINGS

CERTIFICATE OF REPORTER

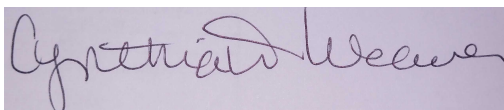
State of South Carolina)

County of Richland)

I, Cynthia D. Weaver, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Court of Common Pleas for Richland County, South Carolina, on the 21st day of September, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 17, 2022

A rectangular box containing a handwritten signature in purple ink that reads "Cynthia D. Weaver".

Cynthia D. Weaver,
Official Court Reporter
State of South Carolina