

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM COLLETON COUNTY  
Diane Schafer Goodstein, Circuit Court Judge

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JUN 13 2013

SC COURT OF APPEALS

Civil Action No. 2010-CP-15-00894  
Appellate Case No. 2012-212865

Jake Wright and Theresa Gadsden, as  
Personal Representatives of the Estate  
Of Jacob Cleveland Wright, and Jake  
Wright and Theresa Gadsden,  
individually,.....Respondents,

v.

Colleton County Sheriff's  
Department,.....Appellant,

APPENDIX TO RECORD ON APPEAL

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Sheriff George Malone (in-camera)

Direct Examination by Mr. Siegel ..... 1

Deputy Scott McCoy

Direct Examination by Mr. Murdaugh..... 3

1 A No, sir.

2 Q Can you tell me the results of his criminal history  
3 check?

4 A Criminal history check -- I don't recall that. I was  
5 only looking for his driving record.

6 Q Okay. So was a criminal history check done on Deputy  
7 McCoy?

8 A As I can recall, yes, sir. There should have been and  
9 I -- well, I can't swear to that. I'm under oath. A  
10 criminal history should have been run on this employee.  
11 Now, whether or not it was absolutely done, I can't tell  
12 you.

13 Q But today, under oath, you will say that you never  
14 personally reviewed a criminal history on Deputy McCoy prior  
15 to his hiring as a deputy?

16 A No, sir.

17 Q Okay. And you said that you get a clearance through  
18 the Clerk of Court as far as judgments go; was there any  
19 record in the personnel file that you or the department  
20 investigated the presence of or absence of judgments against  
21 Mr. McCoy at the time of his application?

22 A Well, I can only speak to what we normally do is we get  
23 a statement from the Clerk of Court's office stating that  
24 this person has no judgments against them or not. So if  
25 this person was hired, this person should not have had any

1 judgments against them.

2 Q Do you know whether or not there was a statement from  
3 the Clerk of Court regarding judgments in Deputy McCoy's  
4 personnel file?

5 A I don't know. There should have been. I can't swear  
6 to that.

7 Q But you haven't personally reviewed any statement from  
8 the Clerk of Court or any transcript of any judgment that  
9 might have been against Deputy McCoy.

10 A No, sir. I've got 125 other people and I have other  
11 people designated to have done that and whether they did or  
12 not, I can't say.

13 Q So then, am I safe in recounting your testimony in  
14 saying that you never personally reviewed any record prior  
15 to Deputy McCoy's hiring?

16 A Correct.

17 Q Now, in his personnel file ---

18 MR. SIEGEL: Excuse me, Your Honor.

19 THE COURT: Sure.

20 Q I'm going to show you what looks like it's a memorandum  
21 typed under your name. Have you ever seen that document  
22 before?

23 A (Witness reviews document.) I think I have.

24 Q All right.

25 THE COURT: Just identify for the record.

1 Office, the Clerk of Court's Office, and can you read after  
2 it says, "To whom it may concern," can you read that  
3 sentence for me?

4 A Yes, sir. It says, "This is to certify that there is  
5 one record of judgment instituted in the Court of Common  
6 Pleas for Colleton County against Scott McCoy up to the  
7 present date."

8 Q Can you read the next line? Ignore the CP number,  
9 that's the court number, but who was the judgment with?

10 A Ford Motor Credit.

11 Q Okay. So let's go back, then, to Plaintiff's Exhibit  
12 Two, question 51 in your application, "Do you have any  
13 judgments or civil cases pending against you?" Your answer  
14 was "No," was that truthful?

15 A To my knowledge, yes.

16 Q To your knowledge it was truthful?

17 A I wasn't aware that this judgment was against me.

18 Q Okay. Well, let me ask you this, presumably, Ford  
19 would have served you with papers?

20 A I'm not sure.

21 Q Do you ever recall going to Court?

22 A Yes, sir.

23 Q Was there a disposition of your case?

24 A I never talked with anybody at Court.

25 Q So what did you do, just sit in the courtroom?

1 A I got something in the mail that told me to show up to  
2 this Court.

3 Q Which Court was that?

4 A It was this Court.

5 Q To this Court?

6 A Yes, sir.

7 Q And you came in this courtroom or was it the  
8 Magistrate's Court?

9 A It was this Court.

10 Q Okay. And what happened?

11 A I came in, sat down with everybody else; they called a  
12 few names and that was it. My name wasn't called, so I  
13 left.

14 Q Did you follow up with the Court and ask what do I need  
15 to do? Or should I come back? Or did you ask any  
16 questions?

17 A No, sir.

18 Q So your testimony is that you were unaware that there  
19 was a judgment against you?

20 A Yes, sir.

21 Q Would you agree today, sitting here, that there was, in  
22 fact, a judgment against you?

23 A Yes, sir.

24 Q And would you also agree, based on the document in your  
25 hand, it appears that the Clerk of Court's office notified,

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CERTIFICATE OF COUNSEL

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The undersigned certifies that the Appendix to Record on Appeal contains all additional material to be included by consent of Attorneys for Appellant and not any other material.

June 12, 2013

[SIGNATURE PAGE FOLLOWS]



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PROOF OF SERVICE

We certify that on June 12, 2013, we served the Appendix to Record on Appeal on the Appellant by depositing a copy in the United States Mail with postage prepaid and addressed to Marshall H. Waldron, Jr., Griffith, Sadler & Sharp, P.A., Post Office Drawer 570, Beaufort, SC 29901-0570, and Matthew D. Cavender, Griffith, Sadler & Sharp, P.A., Post Office Drawer 570, Beaufort, SC 29901-0570.

[SIGNATURE PAGE FOLLOWS]



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