

RECEIVED

Apr 17 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE BERKELEY COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2022-000927

Shelby Trehus and Kayden M.,
a Minor, By His Guardian Ad Litem
Shelby Trehus,

Appellants,

v.

Santee Run Apartments,
A South Carolina Corporation,

Respondent.

APPELLANTS REPLY BRIEF

April 17, 2023

/s/ Thomas S. Tisdale
Thomas S. Tisdale, 5584
Law Offices of Thomas S. Tisdale, LLC
4 North Atlantic Wharf, Suite 100
Charleston, South Carolina 29401
(843) 823-4100
tst@chancellorsc.com

Attorney for Appellants

ARGUMENTS

1. The following arguments are based on issues raised during the trial of this matter and it is obvious, we believe, that the Appellants are entitled to relief as will be shown for the legal liability and damages proved by each of the arguments raised herein.

2. The jury concluded that the Respondent was negligent, but it failed to apply the same conclusion and finding in the identical claim based on the same facts and law to the minor Appellant, Kayden M. Such a result is completely illogical, wrong and unjust. Both appellants were negligently exposed to the very same risks and damages. Such an erroneous verdict requires the grant of a new trial.

3. Even though the jury found that the Respondent was negligent as to Shelby Trehus the Appellant, the jury did not award any damages proximately caused by such negligence when the existence of damages was undisputed. Appellants damages were obviously not considered at all by the jury. A further reason a new trial is warranted and required as it is again undisputed, we contend, that any damage was proximately caused by Respondent's negligence and Breach of Contract.

4. The Court declined to present a charge to the jury on gross negligence and punitive damages. The evidence is substantial that the Respondent violated the Landlord/Tenant Statute, South Carolina Code §27-40-10, which the jury certainly could and should have considered to be reckless or grossly negligent to support punitive damages. This omission supports the necessity of such a charge and warrants a new trial.

5. The evidence presented in the trial required the jury to consider and reach a verdict on the issue of whether or not the Respondent breached its rental agreement (a contract) with the Appellant, Shelby Trehus, the mother of the Co-Appellant. The landlord Tenant Act, we submit

requires the landlord to provide the tenant with a safe place to live. It is clear error for the jury not to have considered this issue and for the Court not to have granted a new trial. The Landlord had agreed to inspect and maintain the smoke alarms. The evidence here shows, we submit, that was not complied with as the evidence proves that the danger warning alarms had not been properly inspected and were not operating and such failure was a breach of the rental contract. A new trial is therefore required to achieve a just result in this matter.

6. The evidence in the trial concludes that the smoke alarm in the Appellant's apartment did not warn the Appellant of the dangerous fire in the building, and such condition established negligence, gross negligence (to be considered by the jury had if they been allowed to do so), and the right of the Appellants to be awarded damages as it was the proximate cause of all that followed both the negligence and breach of contract. The occupants were awakened in an apartment fire with dangerous smoke and adjacent stairwell which prevented their escaping the fire except by jumping from their second story floor apartment window to the ground floor below which resulted in their damages.

CONCLUSION

It is the contention of the Appellants with our representation that they are entitled to a new trial in this matter for any and all of the multiple errors described in our reply brief to which they have encountered in the trial and in the post-trial proceedings, and they fervently request that they be awarded the justice to which we believe they are entitled.

Dated: April 17, 2023
Charleston, South Carolina

Respectfully submitted,

/s/ Thomas S. Tisdale
Thomas S. Tisdale (SC Bar No. 5584)
Law Offices of Thomas S. Tisdale, LLC
4 North Atlantic Wharf, Suite 100
(843) 823-4100
tst@chancellorsc.com
Attorney for Appellants

RECEIVED

Apr 17 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE BERKELEY COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2022-000927

Shelby Trehus and Kayden M.,
a Minor, By His Guardian Ad Litem
Shelby Trehus,

Appellants,

v.

Santee Run Apartments,
A South Carolina Corporation,

Respondent.

PROOF OF SERVICE

I certify that I have served the Appellant's Reply Brief unto the attorneys of record for Respondent Santee Run Apartments, A South Carolina Corporation, Helen Hiser and Shawn M. Bevans via electronic mail on April 17, 2023.

April 17, 2023

/s/ Thomas S. Tisdale
Thomas S. Tisdale, 5584
Law Offices of Thomas S. Tisdale, LLC
4 North Atlantic Wharf, Suite 100
Charleston, South Carolina 29401
(843) 823-4100
tst@chancellorsc.com

Attorney for Appellants