

RECEIVED

May 05 2023

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, Circuit Court Judge

Case No.: 2019-CP-04-01212

Glenn Mechanical.....Appellant,

v.

Sihierh Smith.....Respondent.

APPELLANT'S INITIAL REPLY BRIEF

William Norman Epps III, #73158
Post Office Box 2167
Anderson, South Carolina 29622
(864) 224-2111
(864) 224-3536, fax
Attorney for Appellant

May 4, 2023

TABLE OF CONTENTS

Table of Authorities.....3

Argument

1. THE TRIAL COURT DID ERR IN GRANTING RESPONDENT’S MOTION FOR
SUMMARY JUDGMENT.....4

Conclusion11

TABLE OF AUTHORITIES

I. **CASES:**

Hancock v. Mid-South Management Comp., Inc., 381 S.C. 326, 673 S.E.2d 801, 803
(2009).....3

ARGUMENT

1. THE TRIAL COURT DID ERR IN GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

The Respondent in her brief sets forth a statement of facts and argument with little to no citation to the record, except to the deposition of John Glenn, statement of costs and expenses by Sihierh Smith, deposition of Scott Brown and deposition of Tonya Davis. (Respondent's Initial Brief pp. 6, 7, 12, and 13). Respondent further makes a statement in her argument that Respondent's boyfriend was abusive when there was no testimony or evidence before the trial court at all that would support that statement. (Respondent's Initial Brief p. 12).

The Respondent's statement of costs and expenses was not supported by any receipts or supporting documentation and the property tax records did not show how or who paid the property tax on the vehicle. (Glenn Deposition pp. 78-79). John Glenn was crystal clear that the 2016 Toyota 4-Runner was to be in the name of Glenn Mechanical. He testified:

RE-EXAMINATION

BY MR. LOGAN:

Q. All right. Just to follow up, you were asked about attachments to Exhibit 5 – excuse me – 4.

Now, if you'd flip over from the title page, would you agree with me that the attachments are documents that are Ralph Hayes Motors or Ralph Hayes Toyota documents?

A. Say that one more time.

Q. Would you agree with me those attachments beyond the copy of the title are Ralph Hayes Motors documents?

A. I do.

Q. Okay. You're not claiming that Ms. Smith prepared those documents, are you?

A. No.

Q. Okay. And Plaintiff's Exhibit 1, that's a Ralph Hayes document as well; is that right?

A. Which one? Yes.

Q. Both of those pages, right?

A. Yes.

Q. Okay. In between the – you keep referring to the difference in dates. In between the dates of July 27th and the middle of August, did anyone from Ralph Hayes Toyota call you or contact you about the difference between Plaintiff's Exhibit 1, as far as showing the purchase of Glenn Mechanical and the Ralph Hayes documents dated July 27th showing – which is the date you went out there with her – showing Ms. Smith as the purchaser of the vehicle?

A. Say that one more time.

Q. Did anyone from Ralph Hayes Toyota – in particular Scott Brown, who is listed as the salesman – call you between July 27th, 2016, and August – I believe it's the 16th, 2016 – to ask or inquire about why there is a difference between the purchases being shown as Glenn Mechanical on your Exhibit Number 1 and the purchaser being shown as Ms. Smith on the Ralph Hayes documents attached to Defendant's Exhibit 4?

A. No. The only person that called – in my recollection of the events, we went and test drove the car on the 27th. She liked it. I went in on the 1st and wrote the check.

She did not trade her car in. So they called me to finalize the payment, and I think I sent

her with the \$6,000 check, and that's when it got changed.

Q. You believe that's when it got changed?

A. That's the only time it could have been changed.

Q. Okay.

A. But I was not there when this check was delivered.

Q. All right. Did the salesperson at Ralph Hayes contact you in any way about a change being made?

A. No.

Q. Would you have expected the salesperson to do that on his own without confirmation from you that the name of the owner was being changed?

A. I wouldn't expect that, no. I mean --

Q. You wouldn't expect them to contact you and say --

A. Oh yeah. I mean, I would, but, I mean, again, Sihi handles all I've done with all 30 of my vehicles until this last one or two that I've bought. I go. I tell them what needs to be bought. I sign the paperwork, usually hand them a check, and I'm done with the transaction.

Q. And this check came from John Glenn and/or John Glenn Mechanical, correct?

A. It came from John Glenn because at the time that we were opening this business up, I had to loan the company a lot of money.

Q. Okay. And no one contacted you from Ralph Hayes Motors inquiring about why there was a change; is that correct?

A. That's correct.

Q. Would you have expected them -- because you're such a good customer of theirs and you

had been out there in July – to call you about that if that was some concern to them or they didn't have some authority to do it that way?

MR. EPPS: Objection to form.

THE WITNESS: I mean, again, I just found out about this not long ago. So, I mean, I don't know what their practice --

BY MR. LOGAN:

That's not my question. My question is: Would you have expected because of your relationship with Ralph Hayes Toyota if there was a change in who was going to be the owner of that vehicle to have contacted you before that change was made unless you had given them the authority to do that?

MR EPPS: Object to the form.

BY MR. LOGAN:

Q. Okay. That's my question. Would you have expected them to call you or contact you?

A. I mean, you're asking a hypothetical question.

Q. You had a relationship – Ms. Smith didn't – with Ralph Hayes Toyota, correct?

A. I did, but they also knew she was my office manager.

Q. Okay. And you had told them, had you not, why you were buying this car; is that correct?

A. I told them, yeah, it was for her. But it was always supposed to be in the Glenn Mechanical name.

Q. Okay.

A. I was not there on the 16th when it got put in her name.

Q. So you told them that it was not to be put in her name, to be put in Glenn Mechanical's

name, in July when you first went out there with her?

A. That's why I signed it.

Q. Okay. All right.

So why was it changed?

A. That's why we're sitting here.

Q. All right. Are you saying Ms. Smith changed it?

A. Her signature is on the document.

Q. All right. Why would Ralph Hayes Toyota change it just based on her statement if, in fact, it was made –

A. I'm not Ralph Hayes Toyota. I can't answer that.

Q. Let me finish my question, please.

MR EPPS: Object to the form.

THE WITNESS: I'm not Ralph Hayes Toyota. I can't answer that question. I'm not Ralph Hayes Toyota.

BY MR. LOGAN:

Q. Well you're the one that had the relationship.

A. I did my part.

Q. You're the one that went out there in July and told them about the purchase of the car and why it was being purchased, correct?

A. Correct.

Q. Okay.

A. I also bought one for my daughter, and it's not in her name. I bought one for another

project manager, and it's not in his name. Typically, we put these things in the name that it's supposed to be in, and when I sign my name on a document, it's done. I did not sign these other documents.

Q. But that's why you would have expected and –

A. Again, I can't answer for them.

Q. Let me finish my question, please. It'll go a lot quicker and I'll be through.

You would have expected they would not make any change to how the ownership was to be shown without your authority to do that, would you?

MR EPPS: Object to the form.

THE WITNESS: Again, I've answered that question. I can't tell you what expectations – expectation can be a lot of things. But what I can tell you is that when I went there and I signed this paper and put it in Glenn Mechanical's name, I was done, and she went back with a check for \$6,000 because she did not trade her car in. And they asked for final payment, and I wrote them a check, and she went back and changed it to her name. Those are the facts, and that's all I can speak to.

BY MR. LOGAN:

Q. And nobody from Ralph Hayes Toyota called you to inquire as to whether or not that was your intent, did they?

A. No.

Q. Okay. So whatever your intent was, they had to have gotten that when you were out there with her in July, correct?

A. And they got it.

Q. Okay.

MR EPPS: Object to the form.

MR. LOGAN: Okay. That's all I've got.

MR EPPS: I've got a quick follow-up.

RE EXAMINATION

BY MR. EPPS:

Q. Did you ever give Ralph Hayes Toyota permission or authority to change the purchaser name into Ms. Smith's for that Toyota?

A. No.

MR. EPPS: No questions. No further questions.

MR LOGAN: Maybe we've got another defender in the case.

That's all I've got.

(Glenn Deposition pp. 80-87).

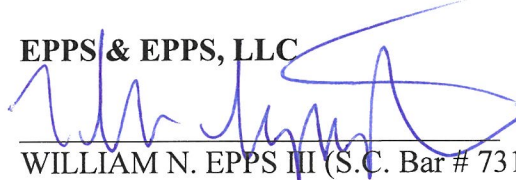
Again, the question of Glenn Mechanical's right to possession of the Toyota 4-Runner is raised with more than a scintilla of evidence. This was no gift to Smith and that is a contested issue of material fact that needs to be determined by a jury, at a jury trial that was demanded in Smith's answer. How the title came to be in Smith's name is a contested issue of material fact. Viewed in a light most favorable to Glenn Mechanical as the non-moving party, Glenn Mechanical, through raising an issue as to the material facts that establish proof of title or how that title came to be and it's right to possession, meets the scintilla of evidence standard to preclude summary judgment. *Hancock v. Mid-South Management Comp., Inc.*, 381 S.C. 326, 673 S.E.2d 801, 803 (2009).

CONCLUSION

For the reasons stated, Appellant respectfully asks that the trial court's order granting summary judgment be reversed and that this matter be remanded for a trial by jury.

Respectfully Submitted,

EPPS & EPPS, LLC



WILLIAM N. EPPS III (S.C. Bar # 73158)

230 W. Whitner Street

Post Office Box 2167

Anderson, SC 29622-2167

Telephone: (864) 224-2111

ATTORNEYS FOR APPELLANT

May 4, 2023