

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

MAY 24 2023

Benjamin H. Culbertson, Circuit Court Judge

SC Court of Appeals

Appellate Case Number: 2021-000449

Unpublished Opinion No. 2023-UP-118,
Submitted March 1, 2023 – Filed March 22, 2023

Joseph N. Grate,

Petitioner,

v.

Jameka Cohen,

Respondent.

PETITION FOR WRIT OF CERTIORARI

The questions presented for review:

1. Does procedure matter, in the South Carolina Judiciary, or do Judges have discretion to make arbitrary rulings?
2. Was Magistrate Pyatt Legally / Ethically correct in not complying with the Rules of Civil Procedure, when he convened the Proceeding when, even to date, there has not been an answer to the Pleading in this Case?
3. Was Magistrate Pyatt Legally / Ethically correct in accepting Document from Respondent as sufficient to satisfy Appellant's remedy sought in his Pleading?
4. Was Magistrate Pyatt Legally / Ethically correct in his decision to accept the information regarding Insurance, as sufficient to set aside Appellant's Complaint?
5. Was Magistrate Pyatt Legally / Ethically correct in his lying about the Judgment rendered in this Case?

6. Was Magistrate Pyatt Legally / Ethically correct in his lying in his representation in his Return in this Case?
7. Was Judge Culbertson Legally / Ethically correct in denying the Motion for admission of Best Evidence?
8. Was Judge Culbertson Legally / Ethically correct in denying the Motion for his “Recusal in the interest of Justice”?
9. Was the Court Reporter Legally / Ethically correct in her lying in the production of the Transcript?

Statement of the Case:

1. The Action was commenced on June 15, 2020.
2. The Nature of the Action was to affect the removal of The Respondent from Appellant’s Property on the basis of Respondent not having authorization for being there.
3. Respondent did not provide an Answer to the Complaint.
4. Appellant is unaware of any written defense of the Complaint. A Verbal Defense was entered, along with / including Three exhibits.
5. The Case was heard in Magistrate Court, on July 28, 2020, by Judge Pyatt, in Georgetown County. The Proceeding lasted for a few Seconds under 18 minutes and was Audio Recorded by the Court.
6. Judge Pyatt claimed / insisted that the Plaintiff came to the Court, requesting Proof of Insurance and that Defendant provided such Documents in Court. One of the Documents submitted and accepted by the Court was not an Authentic Representation of Insurance but instead represented a Perjured and Fraudulent misuse of the Notary Public System.

7. Subsequently the Georgetown County 15th Judicial Circuit Public Index Site indicated (indicates, presently) that the Judgment was for Appellant and against Respondent, as of August 18, 2020.
8. On September 28, 2020, Appellant submitted a letter to South Carolina Court Administration concerning this matter, due to Appellant having not received anything from the Court regarding this Case.
9. Court Administration inform Appellant that a Judgment was rendered for Respondent on July 28, 2020.
10. On October 26, 2020, an Order of Judgment was mailed from the Magistrate Court indicating that on July 28, 2020, the Judgment was ruled in favor of Defendant, (Respondent, herein).
11. That Document was received by Appellant on October 28, 2020.
12. Appellate filed a notice of Appeal on October 30, 2020.
13. The Magistrate Court has not served a copy of the Judge's Return, in that Case.
14. Appellant filed a Motion for the admission of the Audio Recordings of that Proceeding, as Best Evidence in this Case.
15. Judge Culbertson denied the Motion for the Admission of the Audio Recording, as Best Evidence.
16. Appellant filed a Motion for Judge Culbertson to Recuse himself, "in the interest of Justice", in this Case.
17. The Motion Hearing was held on March 29, 2021.
18. At that Hearing, Judge Culbertson denied the Motion for his Recusal.
19. Appellant filed the Notice of Appeal, regarding Judge Culbertson denial of the Motion, on April 20, 2021.

Argument in support of the Petition:

Argument;
Judge Pyatt's decisions

1. Was Magistrate Pyatt Legally / Ethically correct in **not** complying with the Rules of Civil Procedure, when he convened the Proceeding when there was no Answer to the Pleading in this Case? **Per the Rules of Civil Procedure, Judge Pyatt should not have convened a proceeding when the Defendant had not filed an answer to the Complaint or when an Answer had not been Served on Plaintiff. The Summons required an Answer within 30 days and a copy of which was to be delivered to Appellant. (Rule 7, SCRMC); Rule 8, SCRMC.**

2. Was Magistrate Pyatt Legally / Ethically correct in accepting Document from Respondent as sufficient to satisfy Appellant's remedy sought in his Pleading? **Judge Pyatt should have been legally savvy to the extent of recognizing the falsity of the subject Notarized Document, as well as to the Legal Consequences thereof.**

3. Was Magistrate Pyatt Legally / Ethically correct in his decision to accept the information regarding Insurance, as sufficient to set aside Appellant's Complaint? **Given that the Judge had in his possession the Pleading as well as Plaintiff verbalizing the nature thereof, the Judge committed a Serious Judicial Error in his disposition of the Case. The idea that anyone would litigate for the purpose of having someone provide proof of insurance, in this context, is an idea that defies description, herein. Someone in the Magistrate's administration uploaded the Judgment information to the Public Index Web Site, so there is something very strange at play; seemingly an attempt to Fraudulently represent the status to: both the Parties of the Action, the**

**Court Administration, and the Public. CANON 3 A JUDGE SHALL PERFORM
THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

4. Was Magistrate Pyatt Legally / Ethically correct in his lying in his representation in his Return in this Case? **In this instance, there were deliberate lies in the representation of the case, in general. The only way to verify this contention is, via the Audio Recording.**

Argument;

Judge Culbertson's decisions

5. Was Judge Culbertson Legally / Ethically correct in denying the Motion for the admission of Best Evidence? **Judge Culbertson should have listened to the Recording before deciding on its admissibility / reliability, per Evidence Rule 1002- Requirement of Original. He addressed the issue, at the Motion Hearing, by Speculating as to Judge Pyatt's Motivation or Reasoning. Within the Judicial System, seemingly, even the thought of such a Tolerance would be totally ridiculous. Speculation is not a part of the process. Transcript, page 8.**
6. Was Judge Culbertson Legally / Ethically correct in denying the Motion for his - "Recusal in the interest of Justice"? **The Motion for his Recusal is a deliberate, crystal clear and informed challenge to his Judicial acumen. His standing on the matter proved the validity of the challenge. Given that this was not a jury trial and since it was indicated that his Recusal was requested," in interest of Justice", He should know the only thing between the Appellant and Justice in the situation, was him, the Judge himself; therefore, he should have recused himself. Justice demands such a challenge to the status of the trier of Justice. (Audio Recording, since the Court**

Reporter chose to lie about this matter). CANON 3-B (8) A judge shall dispose of all judicial matters promptly, efficiently, and fairly.

**Argument;
Court Reporter's Actions**

7. Was the Court Reporter Legally / Ethically correct in her lying in the production of the Transcript? **She stated that the Judge asked for a reason for the Recusal Motion. That is a lie. There was no need for the Judge to ask for the reason for the Motion to recuse himself because he had already found the reason when he read the statement asking him for the Recusal. It is simply stated that the request was with respect to "the interest of Justice". However, had he chosen to ask, in open Court, surely, Appellant would have gladly verbalized the reason. She is in violation of her duties, as proscribed in the Court Reporter Manual, by the Court Reporter to order of the Supreme Court. Transcript pages 3,4.**

Appendix

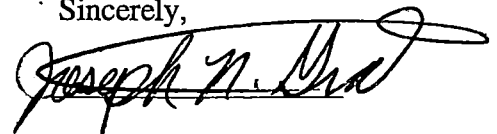
The Appendix was previously submitted; thus, omitted here, per The Supreme Court of South Carolina ORDER, August 25, 2021.

Conclusion.

In Conclusion it is requested that the issues in this Case be viewed and decided in light of Rules of Civil Procedures and all applicable Rules because, either Civil Procedure and Justice matter or they do not.

May 20, 2023

Sincerely,



Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, SC 29585
(843) 742-0696

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Joseph N. Grate, Appellant,

v.

Jameka Cohen, Respondent.

Appellate Case No. 2021-000449

Appeal From Georgetown County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2023-UP-118
Submitted March 1, 2023 – Filed March 22, 2023

AFFIRMED

Joseph N. Grate, of Pawley's Island, pro se.

Jameka Cohen, of Pawley's Island, pro se.

PER CURIAM: Joseph N. Grate, pro se, appeals the circuit court's affirmance of the magistrate court's order ruling that Jameka Cohen satisfied Grate's complaint by providing her insurance information. On appeal, Grate argues (1) the magistrate court erred in ruling Cohen's response satisfied his complaint, (2) the circuit court erred in denying his motions for recusal and admission of best evidence, and (3) the court reporter erred by lying in the production of the

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Appellate Case Number: 2021-000449

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Joseph N. Grate, Appellant,
v.
Jameka Cohen, Respondent.

MEMORANDUM OF AUTHORITIES IN SUPPORT OF MOTION TO
REHEAR THE REFERENCED CASE

1. South Carolina Rules of Magistrates Court: Rule 5, SCRMC.

COMPLAINT

- (a) A suit is commenced by filing with the magistrates court a short and plain written statement of the facts showing what the plaintiff claims and why the claim is made.
- (b) The plaintiff shall state on the complaint the address to which the court may mail notices and correspondence concerning the case.

2. South Carolina Rules of Magistrates Court: Rule 7, SCRMC.

ANSWER AND COUNTERCLAIM; TIME FOR FILING

(a) The defendant may reply to the plaintiff's complaint by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. This reply shall be called an "answer." If the defendant personally appears within the specified time period and makes an oral answer, it shall be reduced to writing. The court or court personnel shall assist the defendant in reducing the answer to writing if the court determines assistance is required. The defendant's answer may deny in total or in part any or all of the material allegations made in the plaintiff's complaint, and/or allege any new matter constituting a defense. The court shall deliver a copy of the answer to the plaintiff in a manner provided for in Rule 8.

(b) A defendant shall file an answer and any appropriate counterclaims with the court within thirty (30) days from the first day after the date of service. When service is by some other means, as provided for in Rule 6, the defendant shall file the answer and any appropriate counterclaims with the court within the time period designated by the statute, rule, or order, and the time period shall be stated in the summons.

3.South Carolina Rules of Civil Procedure: Rule 1, SCRCP.

SCOPE OF RULES

These rules govern the procedure in all South Carolina courts in all suits of a civil nature whether cognizable as cases at law...

4.South Carolina Rules of Civil Procedure: Rule 7, SCRCP.

PLEADINGS ALLOWED: FORM OF MOTIONS

(a) **Pleadings.** There shall be a complaint and an answer...;

Note:

This Rule 7(a) is identical to the Federal Rule

5.South Carolina Rules of Civil Procedure: Rule 12, SCRCP.

DEFENSES AND OBJECTIONS - WHEN AND HOW PRESENTED - BY PLEADING OR MOTION - MOTION FOR JUDGMENT ON PLEADINGS

(a) **When Presented.** A defendant shall serve his answer within 30 days after the service of the complaint upon him...,

Note:

This Rule 12(a) is identical to the Federal Rule except that it changes the time to answer from 20 to 30 days.

6.South Carolina Appellate Court Rules: Rule 240, SCACR

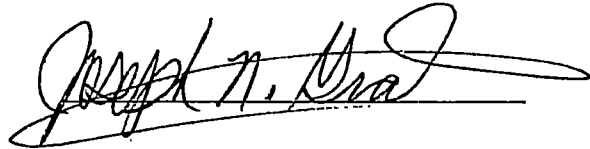
MOTIONS AND PETITIONS GENERALLY

(a) Applicability. This Rule governs all motions or petitions filed in the appellate court...

- (i) **Rehearing.** The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

Sincerely,

April 1, 2023

A handwritten signature in black ink, appearing to read "Joseph N. Grate", written over a horizontal line.

Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, SC 29585
(843) 742-0696

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

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Benjamin H. Culbertson, Circuit Court Judge MAY 24 2023

Appellate Case Number: 2021-000449 SC Court of Appeals

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Joseph N. Grate, Appellant,
v.
Jameka Cohen, Respondent.

AFFIDAVIT IN SUPPORT OF MOTION TO REHEAR
The Reference Case

For his Affidavit, your Affiant, Appellant herein here by states the following:

- 1.This is not a Traffic Court case. In such cases, in Judge Pyatt's Court, an individual who has been Cited for not having the Proper Documentation while operating a Motor Vehicle, can appear before the Court and present the Documents at issue and have the Citation removed. That is a S.O.P. in Judge Pyatt's Court.
- 2.The Case at bar is a Civil Case, Governed by the South Carolina Rules of Civil Procedure. (R .p.7,8)

The very specific complaint was properly drafted, filed and served, in accordance with said procedure. Said procedure required an answer within 30 Days. To date, no answer has been filed or served.

3. The Summons specifically laid out the requirements and the consequences of non-adherence thereto. **(R. p. 9,10)**

4. To date, all Judges have erred, in that they chose to totally disregard the very basic Rules of Civil Procedure.

5. Judge Pyatt chose to proceed in accordance with his Traffic Court M. O.

6. Judge Culbertson's M.O., per Appellant's experience, is from somewhere that would not be recognizable by the Legislator; cannot be substantiated by any South Carolina Court Rule. Appellant has appeared before him on several occasions. Also, Appellant stand by his assertion that the Court Reporter Lied.

7. The only abandonment in this case is that of the reviewing Judges, who Wholesale abandoned their responsibility and their Oath, when they crafted the bogus Opinion, that they do not want to publish. That is understandable, for publishing it would cast a bright light onto the Judges that got us to this point.

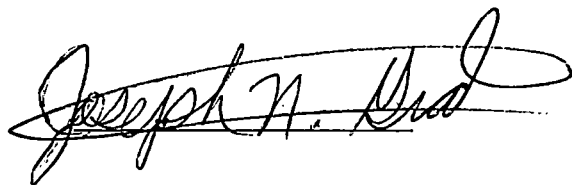
8. All that has ever been required in this case is to read the pleading. After no answer is evident, that should have ended the Case.

I have no problem so concluding. I would assume that a First Day Law
Student would concur.

FURTHER, your Affiant say the above while also reiterating, by
Reference, the related Pleading, in its entirety.

Sincerely,

April 1, 2023

A handwritten signature in black ink, reading "Joseph N. Grate". The signature is written in a cursive style with a large, sweeping flourish at the end.

Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, SC 29585
(843) 742-0696

The South Carolina Court of Appeals

Joseph N. Grate, Appellant,

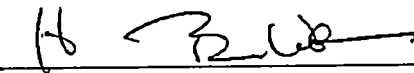
v.

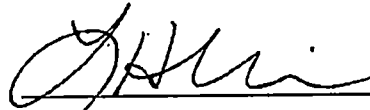
Jameka Cohen, Respondent.

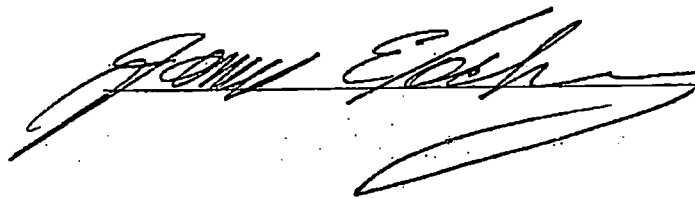
Appellate Case No. 2021-000449

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ C.J.


_____ J.


_____ A.J.

Columbia, South Carolina

cc:

Joseph N. Grate

Jameka N. Cohen

FILED
Apr 20 2023

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

APPEAL FROM GEORGETOWN COUNTY
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Joseph N. Grate, Petitioner,
v.
Jameka Cohen, Respondent.

PROOF OF SERVICE

Joseph N. Grate, Petitioner herein, certifies that a copy of the PETITION

FOR A WRIT OF CERTIORARI was sent via Certified U.S. Mail to:

Jameka Cohen
P.O. Box 1065
Pawley's Island, S.C. 29585

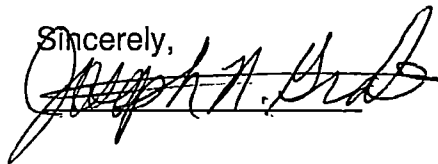
(7022-0410-0000-5962-)

Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

(7022-0410-0000-5960-6660)

May 20, 2023

Sincerely,



Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, SC 29585
(843) 742-0696

RECEIVED

MAY 24 2023

SC Court of Appeals

Honorable, Patricia A. Howard
Clerk of Court,
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

**RE: Joseph N. Grate, Appellant, v. Jameka Cohen, Respondent.
Appellate Case Number: 2021-000449**

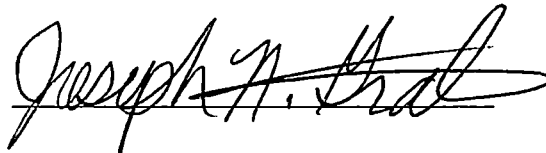
**Unpublished Opinion No. 2023-UP-118,
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Dear Madam Clerk:

Please find enclosed for filing, my Petition for Writ of Certiorari in the Referenced Case; also included is a Check in the amount of \$250.00.

Sincerely,

May 20, 2023



Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, S.C. 29585
(843) 742-0696

Joseph A. GRATE
P.O. Box 1294
Pawley's Island
S.C. 29585



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MAY 24 2023
SC Court of Appeals

HONORABLE JENNY ABBOTT KITCHINS, CLERK
SOUTH CAROLINA SUPREME COURT
POST OFFICE BOX 11629
COLUMBIA, S.C. 29211

5/24
[Signature]

