

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2021-000449

Joseph N. Grate,

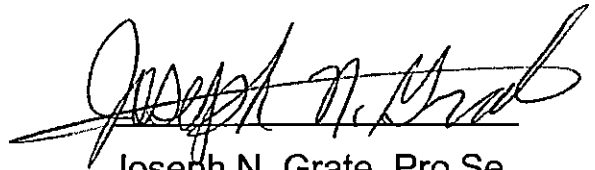
Appellant,

v.

Jameka Cohen,

Respondent.

APPENDIX



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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN) 2020-CP-22-00896

Joseph N. Grate,)
)
 Plaintiff,) **Transcript of Record**
)
 vs.)
) **APRIL 8, 2021**
 Jameka Cohen,)
)
 Defendant.)
)

B E F O R E:

Honorable Benjamin Culbertson
Georgetown County Courthouse
Georgetown, South Carolina

A P P E A R A N C E S:

Joseph N. Grate, Plaintiff
Appearing Pro Se

Sallie Beth Todd
Circuit Court Reporter

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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(THERE WERE NO WITNESSES CALLED DURING THIS HEARING.)

Certificate of Court Reporter..... 11

E X H I B I T S

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(THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.)

1 **THE COURT:** All right. Next is 2020-CP-22-00896, Joseph
2 N. Grate vs Jameka Cohen. This is an appeal from the
3 Magistrate's Court. Please give the court reporter your name.

4 **MR. GRATE:** Joseph Grate.

5 **THE COURT:** All right. Sir, you're Mr. Grate?

6 **MR. GRATE:** Yes, sir.

7 **THE COURT:** All right. And you are appealing Judge
8 Pyatt's decision? Hold for a second and let me take a look at
9 this right quick.

10 All right. Mr. Grate, what was your underlying action in
11 the Magistrate's Court? I mean, all I can tell from the
12 return from Judge Pyatt is that you were asking Jameka Cohen
13 to show proof of insurance and she provided that, so he ruled
14 in favor of the defendant. What were you asking for?

15 **MR. GRATE:** I was asking for her to be removed from my
16 property, sir.

17 **THE COURT:** Because you own the property that she's on?

18 **MR. GRATE:** Yes, sir.

19 **THE COURT:** All right. Mr. Grate, let me hear from you.
20 What do you want to say?

21 **MR. GRATE:** Your Honor, it's very complicated. First of
22 all, does Your Honor know I have two motions there?

23 **THE COURT:** I see -- well the only one the roster -- oh,
24 you're right -- no. The only one on my roster is the appeal.
25 I see a motion for recusal that was just filed in March.

1 Let's see what it says. All right. Let me hear from you on
2 the motion to recuse.

3 **MR. GRATE:** Well, sir, I'm requesting that the Judge
4 recuse himself.

5 **THE COURT:** Okay. Well I deny that. Without a reason --
6 there's no reason to recuse myself. All right.

7 **MR. GRATE:** I guess I can object and prepare to appeal
8 that, but anyhow, moving forward. The other motion addresses
9 the matter that the Judge -- the question that the Judge first
10 raised when he asked about, you know, when he asked about what
11 was provided by Judge Pyatt and what was I looking -- asking
12 for. So the motion is about that issue because what Judge
13 Pyatt provided to the Court is not accurate. So I requested
14 that -- I made a motion for the best evidence to be provided
15 and that motion was denied by the Judge.

16 **THE COURT:** You were asking that he provide a recording
17 or a transcript of the hearing.

18 **MR. GRATE:** Yes, sir.

19 **THE COURT:** But under the law they're not required to do
20 that, they just have to give a return.

21 **MR. GRATE:** Okay.

22 **THE COURT:** Which is what he did, which was a summary of
23 your testimony and a summary of Ms. Cohen's testimony.

24 **MR. GRATE:** Okay. But that was not accurate. That does
25 not represent what happened in the hearing.

1 **THE COURT:** Well tell me what happened in the hearing.

2 **MR. GRATE:** Okay. First of all, okay, I started by
3 saying I filed the motion because of all that had happened
4 before that lead me to the point that I felt I had to file the
5 case. I had to file the case because I was trying to deal
6 with this lady, asking her from December of 2019 to provide me
7 with proof of liability insurance before she started operating
8 the building. So we went back and forth and I kept trying to
9 get that information from her. She kept telling me stuff,
10 lies and stuff. So when she finally told me that she could
11 not present me with the paperwork because her printer had
12 broken, I offered to leave my copy machine at her door ready
13 to go with paper and ink, all she had to do was copy it and
14 give me a copy of the proof of insurance. When she didn't do
15 that, I asked her to leave. I gave her a date and when she
16 didn't leave, I filed an action. So when I came to -- when I
17 came to Judge Pyatt's court, I was telling him that what
18 brought me there was the situation that she refused to give me
19 proof of insurance. So he grabbed on to that and said that
20 she had a copy of her insurance policy and said that --
21 specifically told me well now you have it. Essentially what
22 he's saying is that settles it. That's essentially what
23 happened.

24 **THE COURT:** Well according to his return, Judge Pyatt's -
25 - her testimony was that she was dealing primarily with your

1 brother and provided him all of the information, that you had
2 basically turned everything over to your brother. So she was
3 dealing with him and she had a signed lease with the brother
4 and had given him all of the information. That you -- she got
5 an e-mail or something from you, but it didn't have a
6 deadline. So she brought to court what she had already given
7 to your brother.

8 **MR. GRATE:** Okay, Your Honor. That's what I'm saying.
9 The easiest way to say it is that the return is not accurate.
10 However, what she -- what she said to the Court was that she
11 had given my brother proof of insurance. Then later on she
12 said she didn't give my brother proof of insurance because my
13 brother trusts her. All of that's in the recording. So
14 anyhow, what is represented in the Judge's return is totally
15 inaccurate. That's why I asked for a recording to be provided
16 to the Court. However, she gave him a document, the written-
17 up document that I gave her, I had her sign receiving the
18 document that I gave her requesting proof of insurance from
19 her that I gave her in December of 2019. That should be in
20 the file. What Judge Pyatt is addressing is Item 4 on that
21 document that says any further -- any further dealing with
22 this situation is between you and my brother. That document
23 didn't start with Item 4, it started with Item 1. Item 1 laid
24 out what she needed to do in order to get to the point of
25 being able to deal with my brother. She didn't do that Item

1 1, which was provide me with the proof of insurance, so I took
2 it to court.

3 **THE COURT:** Okay. All right. Mr. Grate, this is an
4 appeal, this is not a retrial. All I can do is look at the
5 return and see if there's any evidence that supports Judge
6 Pyatt's decision. He is the Judge that heard the testimony.
7 He is the one that has to judge the credibility of the
8 witnesses and what was said. Based upon his return that he
9 provided, which is in compliance with the law, I have to
10 affirm his decision because I can't say that he made an error
11 of law. I can't say that he admitted anything into evidence
12 that he shouldn't have, or that he kept anything out that he
13 didn't. So I have to go with his decision.

14 **MR. GRATE:** Can I say something before you?

15 **THE COURT:** Yes, go ahead.

16 **MR. GRATE:** First of all, I filed the action in June, in
17 June of 2000 ---

18 **THE COURT:** 2020.

19 **MR. GRATE:** Today is April 2021.

20 **THE COURT:** Correct.

21 **MR. GRATE:** There has not been an answer to the complaint
22 yet.

23 **THE COURT:** Well there are avenues you can go, if she has
24 not answered the complaint -- I mean I don't know how you had
25 a trial without an answer to the complaint.

1 **MR. GRATE:** Same here.

2 **THE COURT:** Okay. Well you can take that up -- that
3 issue is not in front of me.

4 **MR. GRATE:** Yes, sir. It's on the -- I included it on my
5 appeal.

6 **THE COURT:** Okay. Well I would suspect that there is not
7 an answer because Judge Pyatt set a trial date and you came up
8 for trial. In other words, when you bring an eviction action
9 the tenant can request a hearing and a jury trial and file an
10 answer. Or I think, and I don't recall, I think that you can
11 just have a hearing within a certain number of days if the
12 defendant does not request a jury trial and that appears to be
13 what Judge Pyatt did because there must not have been a
14 request for a jury trial so he went ahead and just set it up
15 for a hearing and when you go there he conducted the hearing.

16 **MR. GRATE:** Okay. Your Honor, please forgive me. You
17 are speculating I think on what Judge Pyatt did and that's
18 kind of difficult for me because see my real estate is tied up
19 with this lady and I'm just hanging ---

20 **THE COURT:** Well if there's a lease and she violates the
21 lease you can evict her.

22 **MR. GRATE:** She doesn't have a lease.

23 **THE COURT:** Well then it's a month to month rental
24 period.

25 **MR. GRATE:** She doesn't have anything with me, any kind

1 of deal with me.

2 **THE COURT:** I don't know what you filed in front of Judge
3 Pyatt, but it appears as though you were trying to evict her
4 because she didn't provide you with proof of insurance. And
5 they had a hearing and everything was dealt with with you
6 brother and she had given him everything that y'all were
7 requesting.

8 **MR. GRATE:** That's not correct. Very inaccurate.

9 **THE COURT:** Well I mean your notice of appeal says the
10 case was filed on June 15th, 2020 for the purpose of having
11 respondent removed from the property. All right. To have the
12 respondent pay for any alterations or damage to the property,
13 to have the respondent pay for all costs associated with
14 bringing the action. Appellant has not been notified of
15 service upon the respondent. Appellant has not received an
16 answer to the complaint. Appellant contends that Items 4 and
17 5 above represent serious procedural, legal, and judicial
18 violations. Appellant contends that given Items 4, 5, and 6
19 the Judge committed serious error in his handling of the
20 proceedings or even convening the proceedings. Appellant
21 contends that the Judge erred in accepting the presented the
22 dubious documents from the respondent. One of the dubious
23 documents bears evidence of a fraudulent nature. The Judge
24 did not present a decision on the case during the trial. So
25 even your notice of appeal doesn't state legal -- it shows

1 what you're upset about, but it doesn't show what error Judge
2 Pyatt made other than you say he accepted dubious documents.
3 But you don't say what the dubious documents are, why they
4 were inadmissible, or things of that nature. So I'm going to
5 have to deny your appeal.

6 **MR. GRATE:** Okay. With respect to the motion for
7 recusal, as well as the motion for production of best evidence
8 I intend to appeal.

9 **THE COURT:** Okay. That's fine. That's how the system
10 works. Thank you.

11 (HEARING IS ADJOURNED.)

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C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the Transcript of Record of the hearing held in the interest of Joseph N. Grate versus Jameka Cohen in the Court of Common Pleas for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on April 8, 2021.

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

S. Todd

Sallie Beth Todd, CVR
Official Reporter

June 8, 2021.