

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,

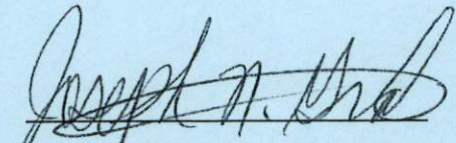
Appellant,

v.

Jameka Cohen,

Respondent.

FINAL BRIEF OF APPELLANT



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(A) Table of Contents and Case

	Page
(B) Statement of Issues on Appeal.....	2
(C) Statement of the Case.....	2,3
(D) Standard of Review.....	3
(E) Argument. Judge Pyatt's decisions.....	3,4
(D1) Standard of Review; Best Evidence.....	4
(E-2) Argument. Judge Culbertson's decisions.....	4,5
(E-3)Argument. Court Reporter's Actions.....	5
(F) Conclusion.....	5

(B) Statement of Issues on Appeal.

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?
2. Was Magistrate Pyatt Legally / Ethically correct in accepting Document from Respondent as sufficient to satisfy Appellant's remedy sought in his Pleading?
3. Was Magistrate Pyatt Legally / Ethically correct in his decision to accept the information regarding Insurance, as sufficient to set aside Appellant's Complaint?
4. Was Magistrate Pyatt Legally / Ethically correct in his lying about the Judgment rendered in this Case?
5. Was Magistrate Pyatt Legally / Ethically correct in his lying in his representation in his Return in this Case?
6. Was Judge Culbertson Legally / Ethically correct in denying the Motion for admission of Best Evidence?
7. Was Judge Culbertson Legally / Ethically correct in denying the Motion for his "Recusal in the interest of Justice"?
8. Was the Court Reporter Legally / Ethically correct in her lying in the production of the Transcript?

(C) 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 bases of responding not having authorization for being there.
3. Responded did not provide an Answer to the Complaint.
4. Appellant is unaware of any written defense to 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, and 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. 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 Motions, on April 20, 2021.

(D) Standard of Review.

A Da Novo review, per, Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) is the standard sought to be applied in this Case, in general.

(E) 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 day and a copy of which was to be delivered to Appellant. (Rule 7, SCRMC); Rule 8, SCRMC. (R. p. 20)**
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. (R. p.16)**
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. (R. pp.16,17,18)**

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. (R.p.2)

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. (R.pp.3,4)**

(D1) Standard of Review; Best Evidence.

Tayloe v. Riggs :: 26 US 591 (1828) :: Justia US Supreme Court Center

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**(E-2) 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 if 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. (R.p.15)**

**(E-3) Argument.
Court Reporter's Actions**

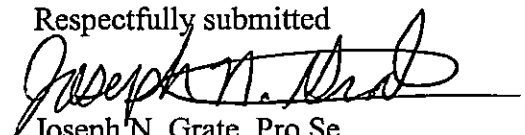
7. Was the Court Reporter Legally / Ethically correct in her lying in the production of the Transcript? **She stated that the Judge asked for a reason for the Recusal Motion. That is a lie. There was no need for the Judge to ask for the reason for the Motion to recuse himself because he had already found 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.)**

(F) 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 does not.

For the stated reasons, the Court should reverse the Judgment of the Circuit Court.

Respectfully submitted



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December 3, 2021