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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia Verdin, Circuit Court Judge

S.C. COURT OF APPEALS
Case No: 2023-0066

Christopher Jones,

Appellant

v

.

Anytime Towing & Services
24/7 Towing, LLC
Elvis Paulino,

Respondents

AMENDED FINAL BRIEF OF
APPELLANT

Christopher Jones
309 Perry Avenue
Greenville, South Carolina
29601
Appellant

Elvis Paulino
4384 Wade Hampton Blvd
Taylors, SC 29687
Respondents

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN ALLOWING RESPONDENTS, AND THIRD-PARTY TO ARGUE FOR CORPORATION IN COURT WITHOUT AN ATTORNEY, CONSTITUTING UNAUTHORIZED PRACTICE OF LAW.
2. DID THE TRIAL COURT ERR IN EXAMINING FINDING OF FACTS.

STATEMENT OF THE CASE

On July 24, 2022, Appellant was informed that Respondents Elvis Paulino and his son, Anytime Towing & Services along with 24/7 Towing had towed away several cars either owned or under the custody and control of the Appellant.

The issue were not so much of the tow, the issues are surrounded by what happened subsequent to the tow. Once the Respondents were contacted about the tow on July 24, 2022, (the very next day), Respondents informed Appellant that they owed \$600 per car for the tow. For a total of \$1800.00. Appellant tried to reason with Respondents stating that the fees were excessive and unlawful. Respondents stated that they damaged their trucks while towing the all three cars at once and affixed that cost to Appellant. Respondents appeared in Court without attorney at the magistrate level and the Circuit Court level.

Paulino owns a motor vehicle towing service which is licensed by the State and County and maintains a storage facility for the retention of the towed vehicles. Paulino operates under a license issued by the County of Greenville.

The Appellant Christopher Jones had lost the property in a foreclosure action but still maintain residency with the new owners. Appellant and new owners were business associates and past friends. While Appellant was out of town, new owner representative Jason Alverson requested that

Paulino and his companies tow away the cars. When Jason Alverson contacted Appellant Jones, Alverson informed to contact Respondents.

Paulino towed Jones's cars to his storage facility in Taylors, South Carolina. Less than 20 miles away. Paulino maintained a chain link fence around the storage area, and had an employee on the lot around the clock. The employees' duties included periodically leaving the office to check on the storage area which was some distance away from the office.

Appellant Jones called multiple times to retrieve his vehicles, but was informed he would have to wait until he paid towing and storage fees. Upon Jones's arrival to pick up his car the following morning, he paid the fees. Appellant brought this suit in Greenville County Magistrate Court.

The magistrate, in summarizing Jones's testimony, concluded that “Jones is right” you can’t charge excessive fees in Greenville County for towing. The magistrate judge inform Paulino of the violations and warned Paulino against future violations. The magistrate judge ruled against Appellant because Appellant did not register the vehicles in his name. Yet, Defendants are a corporation and did not execute a non-lawyer authorization form and did not have a licensed attorney at either Court, especially Greenville County Court of Common Pleas.

In addition to the findings of the magistrate judge, this is error. There is no State law requirement for registering vehicles to prove ownership. There was no evidence or challenge to Appellant’s residency at the address. The vehicles were towed in the course of Appellant moving from this property. Under the magistrate judge’s rational, any tow that occurs on property not owned by the automobiles’ owner is not subject to recovery of that vehicle.

The main issue is that the Respondents, in defending their actions, is a corporation and did not have an attorney representing the Corporate Defendants at either court hearing in Greenville County..

STANDARD OF REVIEW

SOUTH CAROLINA CODE §40-5-310 No person may either practice law or solicit the legal cause of another person or entity in this State unless he is enrolled as a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. The type of conduct that is the subject of any charge filed pursuant to this section must have been defined as the unauthorized practice of law by the Supreme Court of South Carolina prior to any charge being filed. A person who violates this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both

UNAUTHORIZED PRACTICE OF LAW

- A person who is not an attorney licensed to practice in South Carolina may not render a service that constitutes the practice of law.
- Unless you are a member of the South Carolina Bar or otherwise authorized to perform prescribed legal activities by action of the South Carolina Supreme Court, you are prohibited from the practice of law.

There is no question that Elvis Paulino appeared at the Greenville County Magistrate Court to defend for his company and defended his son and Anytime Towing & Services.

At the Greenville County Circuit Court hearing of the appeal, a third party individual appeared to represent the interest of Elvis Paulino, 24/7 Towing LLC and Anytime Towing Services, LLC.

CRIMINAL LIABILITY

- Pursuant to S.C. Code §40-5-310, a person who engages in the unauthorized practice of law is guilty of a felony and, upon conviction, must be fined not more than \$5,000 or imprisoned not more than five years, or both.
- This is the penalty per offense.

In re Unauthorized Practice of Law Rules Proposed by the SC Bar, 309 S.C. 304, 422 S.E.2d 123

- Businesses may be represented by an officer, agent, or employee in civil magistrate's court proceedings.
 - “Agent” cannot be a third party – only someone with a “nexus or connection” with the business.
 - Written authorization from the company's president, chair, etc. must be provided.
 - Business assumes risk of any problems resulting from the representation.

Rogers Townsend & Thomas, PC v. Peck, 419 S.C. 240, 797 S.E.2d 396 (2017)

FACTS

The facts of this case are simple. The Respondents appeared in court without an attorney and without the execution of the prerequisite non-lawyer authorization form in Greenville County Magistrate Court. As for the hearing before the Honorable Judge Verdin, respondents failed to be represented by a licensed attorney. The Court erred in allowing the third party individual to appear and defend on behalf of Respondents. This is reversible error.

ARGUMENTS

- I. RESPONDENTS FAILED TO RETAIN LICENSED ATTORNEY AND COMMITTED THE UNAUTHORIZED PRACTICE OF LAW.

Citations above.

- II. RESPONDENTS ADMITTED TO OVER CHARGING FOR TOWING. THE MAGISTRATE JUDGE WAS IN ERROR TO ADMONISH RESPONDENTS BUT DENY APPELLANT RELIEF

Citations included.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

January 17, 2024

/s/ Christopher Jones
Christopher Jones
309 Perry Avenue
Greenville, South Carolina 29601
Appellant