

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMONS PLEAS
CASE NO. 2022-CP-46-01509

KALISHWAR DAS,)
)
Plaintiff,)
)
-vs-)
)
YORK COUNTY, et al,)
)
Defendants.)
_____)

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Jun 06 2024

SC Court of Appeals

TRANSCRIPT OF RECORD

February 13, 2024
Rock Hill, South Carolina

B E F O R E:

Honorable William McKinnon, Judge.

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

Mr. Kalishwar Das
Pro Se Plaintiff (telephonically)

Mr. A. Todd Darwin
Attorney at Law
Attorney for Defendant York County
Spartanburg, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: Mr. Das?

2 MR. DAS: Yes, sir.

3 THE COURT: This is Judge McKinnon

4 MR. DAS: Is this the Court?

5 THE COURT: This is Judge McKinnon. Yes, sir. We're
6 in court.

7 MR. DAS: Yes, sir. Good morning, sir. How are you?

8 THE COURT: Good morning.

9 Can we put it under the microphone, Ms. Foster, so that
10 the court reporter can hear it well?

11 MS. FOSTER: With the --

12 THE COURT: Yeah. Just kind of bend the microphone
13 down like we do sometimes.

14 MR. DAS: Are we ready?

15 THE COURT: Mr. Das, we're ready. I just -- can you
16 hear me okay? This is Judge McKinnon. Can you hear me?

17 MR. DAS: I can hear you, but it's not (audio dropped)
18 --

19 THE COURT: I'm sorry?

20 MR. DAS: -- distance.

21 THE COURT: Mr. Das, I couldn't hear what you just
22 said.

23 MR. DAS: I hear you from great distance.

24 THE COURT: From great distance. Okay.

25 Ms. Foster, is that -- can you move that microphone up

1 to my Judge's Bench here?

2 MS. FOSTER: I can't that one, but I can-

3 THE COURT: Let's do this one. Okay.

4 MS. FOSTER: ---this one.

5 THE COURT: So we don't get feedback, I'm going to turn
6 off the mic on my bench.

7 COURT REPORTER: Okay.

8 THE COURT: And then we'll just use -- will that work
9 for you?

10 COURT REPORTER: Yes, sir.

11 THE COURT: Okay.

12 COURT REPORTER: It should.

13 THE COURT: Okay. Mr. Das, how about now?

14 MR. DAS: Yeah. Very good, sir.

15 THE COURT: Okay. All right. So I just want to put on
16 the record first that you requested to do this hearing
17 telephonically and so I've done that. I mean, you requested
18 that because that you had some -- you had issues with your
19 English; you wanted to do it telephonically. Is that
20 correct?

21 MR. DAS: Yeah. That is correct, and-

22 THE COURT: Okay.

23 MR. DAS: ---another issue left now, because, you know,
24 you and I are talking on phone. That's the way --

25 THE COURT: Okay.

1 MR. DAS: So that is not a problem, sir.

2 THE COURT: Okay. Well, --

3 MR. DAS: I was most concerned about technically how
4 (indiscernible) of the hearing that would be not good for me
5 and for anybody for the case --

6 THE COURT: Okay.

7 MR. DAS: -- was to give me a chance to attend the
8 court some other way and, again, a remote hearing on the
9 telephone, since he provided the -- you actually ordered
10 that it could go on phone and that's --

11 THE COURT: Okay. So I'm allowing you to go by phone,
12 so you're --

13 MR. DAS: Yes, sir.

14 THE COURT: I'll be happy to hear -- this is your
15 motion to reconsider, so go right ahead.

16 MR. DAS: Yes, sir. The (indiscernible) is to request
17 you to set aside this (indiscernible) case, because other --
18 there's so many, you know, the obvious thing like a
19 disadvantage on March 29 by the Judge -- by the Judge --
20 what his name -- Sprouse -- on 27th of last year -- I'm
21 sorry -- 2022. He -- like, he forced me to me to change the
22 name of the defendant. That is -- that is not lawful.
23 Nobody can dictate me to change the defendant name and I
24 changed the name and since then everything has started
25 (indiscernible). The main question was that I was

1 humiliated. I was infringed. My personal security was
2 infringed by the magistrate and that total (indiscernible)
3 litigation came on the York County. York County is not the
4 defendant actually. Myself believe that what I mentioned
5 the name of Ms. Colton as the defendant is my main reason I
6 want to retain that and anything that was ordered on 27th of
7 20- -- 2022 must be re-addressed. There's no issue left of
8 previous -- other defendant regarding the --- you also
9 mentioned in your order that, what do you call, tort claim
10 and the, you know, the -- the matter of (indiscernible) aid
11 that obtained. That was not relative to this case at all
12 so -- for (indiscernible). So when -- when I see that order
13 and proceeding according to that order and your order of
14 dismissing, that did not mismatching -- that is mismatching.

15 So on an effort to make a case, if this is dismissed in
16 the big court, what are they tell them? That is a big case
17 here, that I was -- I was totally tortured. I was
18 humiliated and my personal safety was infringed and the
19 defendant --

20 THE COURT: You were tortured by the magistrate court?

21 MR. DAS: The magistrate (indiscernible) --

22 THE COURT: You were tortured by the magistrate court?
23 What do you mean by that?

24 MR. DAS: Yeah. The magistrate actually ordered the
25 court constable to remove me from the court premise and

1 later she barred me to enter in the court premise. When I
2 was filing motion, they did not allow me to take the motion
3 and when I asked her on my email, she technically answered
4 me that she dismissed both the motions without giving --
5 without docketing it, without hearing it, without any kind
6 of hearing. Then when I went to court after ten days to get
7 the order of that, I was not allowed to go inside the court
8 and I was stopped at the door. Court officer went inside to
9 bring the order and he gave me the wrong order, so there was
10 no order, because this was not documented, sir, and I have
11 -- I provided all the documents to the Court and your court
12 and previous court also totally ignore it, denied it
13 (indiscernible) to discuss it and --

14 THE COURT: Mr. Das, just try -- this is a motion made
15 by you to reconsider my ruling, so try to focus on what you
16 think I got -- what I was incorrect about in my earlier
17 ruling. Okay?

18 MR. DAS: Okay. Very -- okay. So let me restart then,
19 because, now, you mentioned in your order that the case is
20 regarding the previous dispute with the landlord, and
21 because of the landlord dispute, I appealed and because that
22 appeal was withdrawn, so this case is totally related to
23 that, that dispute.

24 You did not mention anything about what happened
25 between -- in the magistrate court, how magistrate

1 personally humiliated me, throw me out of the court and then
2 infringed in my personal security by exposing my name in the
3 federal investigation. You mentioned not a single line
4 about that in your order and that was a main issue. The
5 issue was not about withdrawing the case, were we going to
6 appeal the dispute, the landlord. Landlord -- landlord
7 already had part of the (indiscernible) declaration of
8 settlement on July 21st, 2022 and your order is coming from
9 after eight months and you are still mentioning the same
10 thing, which is not existing at that time. So this
11 erroneous order actually (indiscernible) from the order from
12 the Judge Sprouse, who changed -- who ordered me to change
13 the name to York County. York County did not humiliate me.
14 York County did not expose my name. This was a personal
15 offense committed by magistrate, sir. This is what I was
16 saying, sir. This is why your order is wrong and this is
17 why I request of you to set aside this order and let
18 proceeding the normal way to allow me to (indiscernible) my
19 (indiscernible) again. I will try to correct name of the
20 defendant and proceeding normally. That's it.

21 THE COURT: Okay. Let me hear from the defendant for
22 York County -- from the attorney for York County.

23 MR. DARWIN: Thank you, Your Honor. May it please the
24 Court. Todd Darwin on behalf of York County.

25 Your Honor, I --

1 MR. DAS: I can't --

2 THE COURT: Mr. Das, can you hear what Mr. Darwin is
3 saying?

4 (No audible response)

5 THE COURT: Okay. Mr. Das, I'm going to move the phone
6 to in front of Mr. Darwin so you can hear what he says, but
7 just -- okay. So if you don't mind, --

8 Go ahead, Mr. Darwin.

9 MR. DARWIN: Thank you, Your Honor. May it please the
10 Court.

11 Your Honor, I believe let's -- let's just start off
12 with this --

13 MR. DAS: It's still not coming clear. It's a little
14 bit clear of -- (indiscernible) talking, who they are.

15 MR. DARWIN: May I approach?

16 THE COURT: That will be fine. Let's do that, Mr.
17 Darwin.

18 MR. DARWIN: Thank you, Your Honor.

19 Mr. Das, can you hear me now?

20 MR. DAS: Yeah. Now I can hear you.

21 MR. DARWIN: Okay. Perfect. Thank you.

22 MR. DAS: Yes, sir.

23 MR. DARWIN: Your Honor, first of all, this is a Rule
24 59(E) motion, as you know, to reconsider you March 29th,
25 2023 order dismissing the plaintiff's second amended

1 complaint that you had given him leave to amend. Judge
2 Sprouse did once and then Your Honor did a second time. So
3 this was the second amended complaint to state a viable
4 cause of action in this case.

5 As Your Honor knows, the second amended complaint
6 brought six causes of action, four of which were federal
7 criminal statutes, obviously not viable causes of action in
8 civil court in South Carolina. The other was a one-sentence
9 cause of action for violation of denied motions without
10 conducting a hearing and I think what Mr. Das was just
11 stating is Judge Colton, in a lower court, the magistrate's
12 court, Mr. Das had made a motion to reconsider, she denied
13 it by just sending a text order from her phone. Nothing
14 wrong with that, Your Honor. Most of the time this -- it's
15 rare that we get a hearing on a motion to reconsider; most
16 of the time you just get a Form 4 order and normally it's
17 denying it. So there's nothing wrong with that conduct.

18 Even if there were something wrong with that conduct,
19 which is what I argued on that issue before you last time,
20 it's barred by res judicata, because he could have filed an
21 appeal of that, which he did, of her rulings from the lower
22 court, then he withdrew that appeal, so the circuit court
23 never got to hear that. So that's where the one issue of
24 res judicata comes into play and the last claim that he had
25 was for attorney's fees, which first of all, he's

1 representing himself pro se, he would not be entitled to,
2 but also, as Your Honor knows, under the Tort Claims Act, he
3 or anyone else would not be entitled to attorney's fees in
4 this case, which is brought under the Tort Claims Act.

5 As far as, I guess what he's arguing, Judge Sprouse had
6 him substitute York County for the individually named
7 defendants, again, pursuant to the Tort Claims Act, so York
8 County is the proper defendant. He never appealed Judge
9 Sprouse's ruling, so that's the law of the case. York
10 County is the proper defendant, but it really is irrelevant,
11 Your Honor.

12 None of those six causes of action Mr. Das brought in
13 his second amended complaint are viable at all under the
14 laws of South Carolina and I don't think there's certainly
15 anything wrong with your ruling, Your Honor.

16 Again, a motion to reconsider can't be brought just
17 because a party is dissatisfied with the order of the Court.
18 He's got to give specific reasons. He hasn't done so in his
19 motion or in oral argument and, Your Honor, I'd cite just
20 for the record the case of *Elam versus South Carolina*
21 *Department of Transportation*, that's 602 Southeast 2nd 772,
22 for that proposition.

23 If the Court has any questions, I'll be glad to answer.
24 If not, I'll sit down and be quiet.

25 THE COURT: All right. Mr. Das, I'll be happy to hear

1 from you in reply, sir.

2 MR. DAS: Thank you, Your Honor. I would oppose this
3 argument and totally opposing, because something I missed
4 which he mentioned, I received that, but I would oppose this
5 because he did not mention anything about the main cause of
6 the action. Main cause of the action is my public
7 humiliation, able to come to court and infringing my
8 personal security in the courtroom, which she hid -- she
9 concealed by giving me a wrong piece of recording of the
10 recordings. That is the main issue. He's not mentioning
11 anything about that and I am not disputing whether my cons-
12 -- my motion was not (indiscernible). I'm not disputing
13 that at all because that was linking to the dispute with the
14 landlord and landlord already had the (indiscernible) in the
15 court on 21st of July, 2022.

16 If he's bringing up again and, again, with the recall
17 of fee, that is **** of this matter from one thing to
18 another thing, which is not a matter of cause actually. So
19 this is why I'm opposing this, it is wrong. It's totally
20 wrong.

21 And second thing, sir, when Judge Sprouse ordered me to
22 change the defendant's name, I actually -- he made a
23 clerical mistake. A mistake was that he found -- he found
24 -- blaming anybody. If I'm alleging somebody that -- that
25 he did something wrong with me and she did something wrong

1 with me and I certainly am changing the name of the -- sorry
2 -- the defendant. In that name change, how York County
3 could be held responsible for my public humiliation, how
4 York County could be held responsible for infringing my
5 personal security. It was only magistrate Colton, not the
6 York County. Then he if he want -- (indiscernible) if he
7 based on another thing of main cause of action is totally
8 here, so I say don't bring that up. That is already
9 resolved and do not -- that wasn't the case in the tort
10 claim or this claim or that claim. Come to the straight
11 line that I was infringed -- my personal modesty was
12 (indiscernible) in the court and that is not -- that is why
13 the defense and defendant York County. This is why I'm
14 telling you this is a wrong order and when Judge Sprouse
15 told me to change the name of the defendant, that is a very
16 (indiscernible) kind of order. That was not allowed and no
17 law allow -- nobody can dictate the plaintiff to change a
18 defendant's name. If defendant name is spelled wrong, you
19 simply dismiss the case. Court has order -- the Court has
20 the authority to dismiss the case if the if the defendant's
21 wrong. That's it. The Court cannot order me, tell me,
22 dictate me to go and change the name of the defendant and
23 that (indiscernible) in that case and the wrong statement.
24 So what I'm requesting (indiscernible) defendant, the
25 county and to the court also **** what happened wrong, fix

1 it and let me proceed the case in the right place. This is
2 what I'm here for. I'm not blaming anybody. I'm not
3 alleging any -- any kind of charge ****. I simply say allow
4 me to correct my application so that it can be on the proper
5 track. If you're not allowing me, the case will be in the
6 wrong track and that would be another issue that I was not
7 given the justice. That's it. (Indiscernible) There's no
8 dispute left for (indiscernible) claim or fix anything. I'm
9 not bringing anything up here. I accept I did some mistake
10 because I was given the wrong order to change the name of
11 the defendant. That happened because of that change and
12 that was not my mistake, that was the mistake on the Court.
13 Yes, Your Honor.

14 THE COURT: Okay. Can you pass the phone up here one
15 more time, Ms. Foster?

16 (Phone placed on the Bench.)

17 THE COURT: Okay. So Mr. Das, I want to make sure I
18 understand what you're argu- -- you're saying that you were
19 forced by Judge Sprouse to take the name of the magistrate
20 judge out of the Complaint and substitute York County and
21 you believe --

22 MR. DAS: That's correct, sir.

23 THE COURT: -- and you believe the outcome would be
24 different if you had named the magistrate judge personally.
25 Is that correct?

1 MR. DAS: Yes, sir.

2 THE COURT: Okay.

3 MR. DAS: That is correct, sir.

4 THE COURT: In the Court's view that the name of the
5 defendant would not effect the validity of these causes of
6 action; the magistrate is a state official acting -- you
7 know, is a county official acting on behalf of the
8 government, so I'm going to deny the motion.

9 MR. DAS: (Indiscernible) changing. It is changing,
10 sir. Let me explain a little bit more about, communicate
11 that.

12 THE COURT: Okay. Mr. Das, --

13 MR. DAS: (Indiscernible)

14 THE COURT: Mr. Das? Mr. Das? Mr. Das? I gave you a
15 chance, sir. I'm denying your motion to reconsider. Okay?

16 MR. DAS: Okay.

17 THE COURT: If you want to say one last thing, I'll
18 give you -- I'll give you a minute or so here. Okay?

19 MR. DAS: What I'm saying that this is a personal
20 offense of the magistrate. This is the county, it's not the
21 state. This is not government mistake. There's no
22 government law to infringe my name.

23 THE COURT: Yes, sir. Mr. Das, --

24 MR. DAS: (Indiscernible)

25 THE COURT: But, Mr. Das, -- Mr. Das, please don't talk

1 over me. Mr. Das.

2 MR. DAS: (Indiscernible)

3 THE COURT: Mr. Das. Mr. Das. Mr. Das, stop talking.
4 Okay? Mr. Das, you are bringing a case or trying to bring
5 a case against a magistrate judge for actions that she
6 carried out as part of her official job duties.

7 MR. DAS: She did not. I oppose that. It was her
8 personal offense. It was not offense of -- if you're
9 (indiscernible) it was not the official offense. By naming
10 it official offense, this is another layer of torture on me.
11 This is not official offense. Her forcing a person who is
12 hiding the motion on the counter is an offense of the
13 magistrate (indiscernible) I was doing over there. Can you
14 show me one proof that I was doing anything wrong?
15 I was tortured. Is that a state law? To torture me?

16 THE COURT: Mr. Das, thank you, sir. Your motion is
17 denied, so --

18 MR. DAS: Okay. No problem. I'll be doing appeal.
19 So can I -- can you, sir, provide me the transcript of this
20 hearing?

21 THE COURT: Sir, I can't provide it, I'm a judge, but
22 you could order a transcript from the court reporter. If
23 you contact the clerk's office, they'll tell you how to get
24 that, okay, but you need -- or look at the court rules, but
25 as a judge, I -- I'm not the court reporter. I can't just

1 give you a transcript.

2 MR. DAS: Yeah; yeah. I'm sorry, sir. I thought that
3 you would allow the transcript record.

4 THE COURT: Yes, sir.

5 MR. DAS: I know the process.

6 THE COURT: Okay. Thank you, Mr. Das.

7 MR. DAS: Thank you, sir. You have a great day, sir.

8 THE COURT: You, too. Bye, bye. I've already done the
9 Form 4.

10 MR. DARWIN: I appreciate that. Thank you.

11 THE COURT: Yes, sir. Thank you, Mr. Darwin.

12 MR. DARWIN: Thank you, Judge.

13 (END OF REQUESTED TRANSCRIPT)

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STATE OF SOUTH CAROLINA)
) C E R T I F I C A T E
 COUNTY OF YORK)

I, the undersigned Shannon E. McGilberry, official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Common Pleas Court for York County, South Carolina, on the 13th day of February, 2024.

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

In witness whereof, I have hereunto subscribed my name, this 20th day of May, 2024.

Shannon E. McGilberry, CVR-M

My Commission Expires:

April 26, 2027