

1 STATE OF SOUTH CAROLINA) IN SOUTH CAROLINA CIRCUIT COURT 16
2 COUNTY OF YORK) COURT C.A NO. 2022-CV-46-01509

3
4 Kalishwar Das)
5 Plaintiff,)
6 Versus)
7 Jennifer S. Colton)
8 Defendant.)

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SC Court of Appeals

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10 H E A R I N G

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12 DATE: September 20, 2022

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14 LOCATION: South Carolina Circuit Court 16

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16 JUDGE: R. Scott Sprouse

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18 TRANSCRIBED BY: ERIN REILLY

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EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
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1 PROCEEDINGS

2 THE COURT: Okay. Call the next case.

3 COURT REPORTER: We have Kalishwar Das versus
4 Jennifer S. Colton. Case number 2022-CP-46-01509. Judge,
5 that is currently number 8 and 9 on our paper roster.

6 THE COURT: Oh, this is the one moved from Des
7 Moines?

8 COURT REPORTER: Yes, sir.

9 THE COURT: Okay. That's why --

10 COURT REPORTER: My apologies.

11 THE COURT: I was looking in the wrong place. Okay.
12 File -- there's a motion to dismiss and a motion for an
13 expedited order to seize and preserve computer hard drive. So,
14 is Mr. Das present?

15 MR. DAS: Yes, sir, Your Honor, I'm here.

16 THE COURT: Okay. Mr. Das is present and I have
17 listed through his defense counsel, Ms. Caskey, Mr. Darwin, and
18 Mr. Rowl?

19 MR. DARWIN: Your Honor, I believe -- this is Todd
20 Darwin. I believe I'm the only attorney left. The claim
21 against defendant Rollinson Coroner LLC, who was represented by
22 another attorney. There's been a joint stipulation of
23 dismissal with prejudice entered against that [indiscernible]
24 Your Honor.

25 THE COURT: Okay. Well, let's -- this is Jennifer

1 Colton's motion to dismiss listed first. I'll hear that first,
2 and then we will hear Mr. Das motion for an expedited order
3 after that. So, go ahead, Mr. Darwin.

4 MR. DARWIN: Thank you, Your Honor. May it please
5 The Court, I am representing defendants Jennifer Colton, the
6 Magistrate on Duty and the three court staffs on duty of the
7 Catawba Magistrate Court. Your Honor. Just by way of brief
8 background this lawsuit that Mr. Das filed arises out of the
9 alleged conduct of Judge Jennifer Colton and the -- some of the
10 staff of the Catawba Ebenezer Magistrate's Court related to a
11 commercial eviction, where Mr. Das was a defendant in that
12 case. As I mentioned earlier, Rollinson Coroners was the
13 plaintiff in that underlying Magistrate court eviction case.
14 They were alleging unpaid rent of \$27,450 and 48 cents. Judge
15 Colton ruled against Mr. Das in that case, and allowed the
16 eviction to go through. Your Honor, I believe, although it's
17 sometimes difficult to read the complaint, I believe Mr. Das
18 complained of conduct of the court staff and Judge Colton
19 unrelated to the actual -- any of the court proceedings in the
20 courtroom. But on April the 18th of this year he was in the
21 courthouse, in the lobby. According to Judge Colton became
22 disruptive. Was not allowing other citizens to get to the
23 window to conduct court business. And she instructed her staff
24 to escort him from the premises. That was done as Mr. Das even
25 alleges in his complaint without incident. He was just

1 escorted out. On May the 2nd, Your Honor, of this year, Mr.
2 Das filed an appeal of that eviction ruling from Judge Colton.
3 And then for some reason, on May the 12th of this year, 10 days
4 later, he voluntarily withdrew that appeal. And as I go
5 through the complaint, Your Honor, I'll state that and I'll
6 reiterate that really the only remedy for him was to go forward
7 with that appeal, and he's withdrawn that voluntarily. And
8 then on May 16th, Your Honor, he filed this action. So, I'd
9 like to go through if you're -- Judge Sprouse, if you have it
10 in front of you, Mr. Das complaint.

11 THE COURT: Okay.

12 MR. DARWIN: Primarily I'll start on page -- and
13 they're outnumbered. So, I numbered. So, the second page of
14 the complaint. You'll see that he claims that there was a
15 charge of courthouse corruption, law -- lawlessness, and the
16 court staff incompetency. And they successfully stopped the
17 case to get transferred to the Circuit Court. So, he'll -- in
18 the complaint, he alleges that because the jurisdictional limit
19 of the magistrate court is \$7,500, that Judge Colton didn't
20 have the ability to hear the eviction case at all, Your Honor,
21 which I think Your Honor knows, is erroneous. That Magistrate
22 Court has jurisdiction to hear commercial evictions in any
23 amount and counterclaims. Even if she didn't, that is an issue
24 he should have brought up on appeal. And again, he filed his
25 appeal, but he withdrew it voluntarily. So, the only remedy he

1 had from that was to seek the appeal through the Circuit Court.
2 Which he availed himself of, and then withdrew. Your Honor, on
3 page three, if you'll look at his, it's under the section of
4 background of this dispute. Again, the second and third
5 paragraphs on that page are what I was referring to, that he
6 claims that Judge Colton didn't have jurisdiction over \$7,500
7 much less his \$42,000 or \$55,000 counterclaim. Again, even if
8 that's correct, Your Honor, which it's not, that remedies
9 through an appeal. If you go through his factual allegations
10 at the top of page four, the same thing, Your Honor. As a
11 matter of fact, in the second full paragraph there, he says,
12 considering this erroneous error of law, her order in this case
13 was erroneous and qualifies for substantial compensation to the
14 tenant being himself. Again, if anything, if there's any
15 remedy available to him, it was to seek an appeal to the
16 Circuit Court. The last thing in his complaint, Your Honor, I
17 cannot see any cause of action asserted. The closest I can
18 come because he requests \$6 million from Judge Colton claiming
19 some type of discrimination against him, is -- would be the
20 intentional infliction of emotional distress, which as Your
21 Honor knows, is not avail -- an available remedy under the
22 South Carolina Tort Claims Act. Which this case squarely falls
23 under as Judge Colton is a York County employee, as are the
24 staff of the Magistrate's Court. Your Honor, part of my motion
25 to dismiss was, again, if this case is to go forward, the only

1 defendant should be York County, not any of the either unnamed
2 court staff or Judge Colton in her individual capacity. The
3 South Carolina Tort Claims Act 15-78-70C says that the only
4 party to be named under the Tort Claims Act, are -- is the
5 entity, the governing entity. Your Honor, Judge Colton, as you
6 are aware enjoys judicial immunity. There's no allegation that
7 she was not a sitting York County magistrate judge. She was
8 and still is. And under the Common Law should, should be
9 granted judicial immunity as well as under the Tort Claims Act
10 15-78-61 and 2. Your Honor, as for the courtroom staff, they
11 have immunity under 15-78-65, subsection five. Judge Colton
12 directed their actions, and under that section, a governmental
13 entity is not liable for a loss resulting from the exercise of
14 discretion by the government entity or employee, or the
15 performance or failure to perform any act service, which is in
16 the discretion or judgment of that employee. And as I stated
17 here earlier, Your Honor, I cannot really see any asserted
18 cause of action in Mr. Das' complaint, unless it is the
19 intentional infliction of emotional distress, which under the
20 definition, 15-78-30F, loss does not include the intentional
21 infliction of emotional harm. So, for those reasons I think
22 the complaint should be dismissed in its entirety. If not,
23 Judge Colton definitely should be dismissed under the Tort
24 Claims Act immunity as, as well as common law with judicial
25 immunity and any courthouse staff, again, Your Honor, if the

1 case is to go forward, should be taken out as individually
2 named defendants in York County inserted as the only defendant.
3 Thank you.

4 THE COURT: Thank you, Mr. Darwin. All right, Mr.
5 Das your response?

6 MR. DAS: Yes, sir, Your Honor. When Mr. Darwin
7 started speaking about the case, I thought he will explain the
8 truth and the reason why I was ousted from the court, and he
9 did not explain anything about that. He's hiding the whole
10 entire thing and that he's explaining the thing which is
11 already discarded from the case. I was in dispute with the
12 landlord, and landlord and I signed the agreement and he filed
13 a John stipulation and he's out. And I'm totally focusing on
14 what happened on that day on 18th, 14th, and 12th. That must
15 be in record -- in the court recording and the transcript,
16 which they are voluntarily, violently, instantly ignoring.
17 They're not providing anything. Luckily, my friend recorded
18 the last moment of recordings on the 18th in the court lobby,
19 and I have the recording of that. And I'm so strongly
20 representing myself in this case of discriminating. Because my
21 case was with the landlord. Landlord is out. And I'm claiming
22 that when I went to deal in the court to file the -- take the -
23 - like my motion to be scheduled, they keep me -- throw me out.
24 I told them, okay. Why you are throwing me out, sir? If
25 they're -- if my complaint is that I was disturbing to the

1 citizen, you can see in the video who was disturbing and for
2 what. And the involvement of court staff. First day, the lady
3 court staff, I don't know the name. I asked them in the
4 interrogatories, they never provided me the interrogatories
5 answer. I asked them the name, they did not. And she, two
6 times stopped me going in the court. My session is going on
7 inside the court, and she has stopped me. You cannot go in the
8 court until my state calls you in. Why? The first case I lost
9 and they dispose the case. Second case, she was just holding
10 me tight. You cannot go inside. But why I cannot go inside?
11 This is my time. 3: 30, it's 3 45 it is, and you are stopping
12 me outside, what is going on? So, I, this time, second time, I
13 just throw everything out, went inside the court and I saw
14 everybody was discussing my case over there. And I wanted that
15 court recording plus the -- like, you know, the transcript,
16 nobody's providing me anything. So, where I am, so what I have
17 currently with that clause and with that proof, I'm simply pro
18 -- shall, okay. I have the mistake in my complaint because
19 when I filed this case on 16th, landlord was in the case. And
20 when he's out, I need the amendment, which I filed yesterday,
21 and on the 15th, I filed the supplementary to amend it. So, I
22 don't know why he's not talking anything about that. Why he's
23 not talking about like, you know, my -- where is my recording?
24 Where is my transcript? Where is my verbatim -- anything, he's
25 not providing? No answer. What kind of justice system is

1 that? I don't understand. We are not living in general, sir,
2 we are living in the United States of America, and I want my
3 court details. I have only one recording. My friend recorded
4 this. Keep -- on -- okay. Let me explain you what happened on
5 18th, why I'm aggravated on that part. On 18th, I went to
6 court to request to a schedule -- sorry. On the 10 o'clock in
7 the morning, I went to court to file a motion to stop the writ
8 of ejectment. And because writ of ejectment were telling me
9 that they will -- like no, sorry if I'm not doing mistake. On
10 the -- in the morning, I went over there because I found an
11 error in my old case. So, I requested the court to reconsider
12 the case. And it was a huge fuss. Court clerk didn't have the
13 duty to decide whether any motion is acceptable or not. But
14 they accept -- they did not accept it. Same guy who refused to
15 take my counterclaims. Mr. Darwin is not talking anything
16 about the counterclaims. When 27,000 was charged on me again
17 by the landlord, I had the counterclaim. And his staff, like a
18 court staff, they refused two times. I have the proof of that,
19 how they refused it. I have the same thing. If I file the
20 counterclaim, this is the duty of magistrate to consider about
21 that. And he told me, okay. Give that counterclaim paper
22 inside the court. And he -- she will consider that. When I
23 went there inside the court and gave the -- gave her the
24 counterclaim paper, she refused it. And now I lost the case.
25 So I went in the -- I was totally sought, sir. In the

1 | previously -- the same case it was. And I had the error -- I
2 | found the error. That case was disposed wrongly. So, I went
3 | on 18th of April in the morning, and I filed the case and the
4 | motion and they, again, started fussing with me that, no, you
5 | cannot do this. You cannot do that. Well, sir, hold on one
6 | second. This is my case and your duty is to accept my paper.
7 | Let the judge decide what is the best, what is the bad kind of
8 | thing. So let the judge, judge. You are not the authority to
9 | decide. So somehow, I got success in getting that. But what
10 | happened on 18th of April in the morning, they put a sign
11 | outside the court door that you cannot bring your phone or any
12 | electronic device inside. Okay. So, I did not bring my phone
13 | inside, but I saw other people, they were walking in, going
14 | outside, inside, they had the phone. Only I was not allowed to
15 | take my phone inside the court premise. I'm not talking about
16 | the court room, sir. I'm talking about the court lobby. Lobby
17 | area. And I was not allowed. So -- okay. Then I came to a
18 | store, and in the store, I saw the sign that was saying that
19 | within 24 hours you'll have to vacate the store. Oh my God.
20 | How I can do that in 24 hours. So, I run back again in court.
21 | And this time I had a friend. I gave them this device. And I
22 | told him, please record my thing because they're not letting me
23 | go inside the court with the phone. So, record them because
24 | this fellow is fussing me and he's not taking any paper from me
25 | to get considered in the court. Okay. So, he recorded

1 everything, but luckily -- like mistakenly, he, instead of
2 putting this side -- like, you know, the -- like this way, he
3 did this way. So instead of recording the court incidents, he
4 recorded for a few minutes his own face. But voice is clearly
5 recorded. Then he remembered, oh, mistake. Then he turned it
6 this side. And everything is recorded. So, I had a problem in
7 getting the file retrieved and playable. Everything is
8 visible. I can see what happened. I can -- you can hear,
9 everybody can hear what kind of conversation was going on over
10 there. It was very clearly -- it is a false allegation that I
11 disturbed the court. No sir. I was peacefully standing over
12 there because she told me, the court clerk told me, let us ask
13 the magistrate, she will decide whether your motion will be
14 accepted or not, and I was simply waiting. And suddenly police
15 came and he hold my hand -- Okay. Get out from here. Why?
16 She's telling me my state is coming to answer me. But no, she
17 told me to kick you out. And that is recorded here. That is
18 recorded here. So --

19 THE COURT: Okay.

20 MR. DAS: I'm asking them, where is my recording?
21 Where is the court recording? Where is my court transcript?

22 THE COURT: Mr. Das, let's back up.

23 MR. DAS: I'm sorry, sir. I'm sorry. [indiscernible]

24 THE COURT: Okay. I'm letting you go. I know you
25 don't have an attorney and I won't -- I'm happy that you've

1 explained to me what happened because I'm -- I've been unclear
2 about it. This is a motioned hearing and Mr. Darwin has moved
3 that your case be dismissed because you made individual
4 defendants out of governmental employees. That -- we have a
5 law in South Carolina, the South Carolina Tort Claims Act. And
6 he's brought this motion saying that since they were operating
7 as government employees, that your proper case should have been
8 against York County instead of individual defendants. So how
9 do you respond to that argument?

10 MR. DAS: Okay. Your Honor, let me explain that
11 part. I'm confused on that part. And this is why I want your
12 decision, like, you know, your decision, what to do or what not
13 to do. My state, Colton, she wrote me about her decision to
14 dismiss my motion without conducting hearing -- from her home
15 and using her cell phone. And she promised me on my email that
16 she's going to give me the official letter of this rejection.
17 That letter never came. Okay. That confused me to file this
18 case against -- directly against her or going against the court
19 or the authority that what happened. This is confusing part.
20 But what -- rest part of the incident, like, you know, the two
21 clerks, they stopped me going inside the courtroom. One clerk,
22 he stopped me taking my counterclaims two times. And you know,
23 the constable, he hold my hand and he put me out outside. So,
24 these things are the court part, but you know, my state,
25 Colton, she wrote me later from her home, she used her iPhone.

1 And she promised me -- and she told me that my motion is
2 rejected without hearing. So, this is why I got confused and
3 file a case against her. But yesterday and before on 15th, I
4 filed a supplement and plus the, you know, motion to let me
5 correct this mistake and I will refile again the main
6 complaint. And so that we will then go ahead. Because I have
7 the proof of this. And I have something -- very drastic things
8 she did in the court. I was the witness in the FBI court and
9 she has started talking about that case in the courtroom. I
10 want that court recording. That is very urgent. I asked the
11 FBI that they -- did they provide the details to my state about
12 my case? Why they're talking? Why they talked about my
13 previous case. If I'm the whistleblower in some serious
14 security related case, how somebody knows about that. This is
15 just dangerous to my life. So many things happened in the
16 court. So, I was so confused. I filed a case against her,
17 that is true. And if I did a mistake, I'm ready to correct it.

18 THE COURT: Okay. Well, that's -- Mr. Das, that's
19 what I'm going to order. I'm going to grant the motion in that
20 these individuals are dismissed as parties, but I'm going to
21 allow you to amend your complaint.

22 MR. DAS: Thank you, sir.

23 THE COURT: And you need to do that within 10 days.

24 MR. DAS: Okay.

25 THE COURT: But the -- all of these people that you

1 mentioned in your complaint --

2 MR. DAS: Yes.

3 THE COURT: -- the judge and the employees, they're
4 governmental employees. And they're dismissed as individuals
5 because they're covered under the South Carolina Tort Claims
6 Act. So, I'm going to have -- I'm going to give you 10 days to
7 amend your complaint. And Mr. Darwin, would you prepare me a
8 formal order to that effect?

9 MR. DARWIN: I will, Your Honor.

10 THE COURT: And I will hold the other motion. That
11 will be held in abeyance until such time as Mr. Das amends his
12 complaint. And then, then you can get the thing rescheduled.

13 MR. DAS: Is it about -- is it about seizure of the
14 computer peripherals?

15 THE COURT: Yes, sir. That's held in abeyance to you
16 amend your complaint. So that they can plan a proper defense.

17 MR. DAS: I have no problem in accepting that also
18 because I have the proof handy. But I need --

19 THE COURT: Okay.

20 MR. DAS: I need the court proof also. I need the
21 court transcript.

22 THE COURT: You just get your complaint amended and
23 get them served and then y'all can go from there.

24 MR. DAS: Okay.

25 MR. DARWIN: Thank you, Your Honor. Thank you, Mr.

1 | Das.

2 | THE COURT: Okay.

3 | MR. DAS: Thank you, sir.

4 | MR. DARWIN: Thank you.

5 | [End of hearing.]

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CERTIFICATE OF TRANSCRIBER

I, ERIN REILY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 16, York County, South Carolina, on the 20th day of September, 2022.

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

March 16th, 2024
ERIN REILLY
TRANSCRIBER