ELECTRONICALLY FILED - 2024 Jun 14 9:59 AM - BEAUFORT - COMMON PLEAS - CASE#2024CP0700145

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

CALVIN C. HOAGLAND,

Appellant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

Appeal Case No.: 2024-CP-07-00145
Ticket No.(s): 5658, 5659, 5660, 5661

ORDER ON APPEAL OF JUDGMENT FROM MAGISTRATE

This appeal arises from convictions of Calvin C. Hoagland (herein, "Hoagland"), on four (4) municipal citations tried before the Hon. Erin Vaux, Magistrate for Beaufort County, South Carolina, on January 10, 2024. The citations were issued at two separate meetings of the Town Council for the Town of Hilton Head Island, South Carolina, at which Hoagland's behavior resulted in disruptions of the meetings.

On January 22, 2024, Hoagland filed his "Notice of Appeal" with the Beaufort County Clerk of Court. On March 1, 2024, the Hon. Erin Vaux filed her Magistrate's Return with the Clerk of Court for Beaufort County, South Carolina.

The appeal was heard by the undersigned on May 28, 2024, at the Beaufort County Courthouse. Present were Taylor M. Smith, representing Hoagland, and Curtis L. Coltrane and LaQuin J. Andrus representing the State of South Carolina.

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SCOPE OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Thus, an appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *Id*.

In criminal appeals from magistrate or municipal court, the circuit court does not conduct a *de novo* review, but instead reviews for preserved error raised to it by appropriate exception. *State v. Henderson*, 347 S.C. 455, 457, 556 S.E.2d 691, 692 (Ct.App. 2001).

"The appeal must be heard by the Court of Common Pleas upon the grounds of exceptions made and upon the papers required under this chapter, without the examination of witnesses in that court. And the court may either confirm the sentence appealed from, reverse, or modify it, or grant a new trial, as to the court may seem meet and conformable to law." S.C. Code Ann. § 18-3-70.

In criminal appeals from a magistrate court, the circuit court is bound by the magistrate court's findings of fact if any evidence in the record reasonably supports them. *State v. Taylor*, 411 S.C. 294, 768 S.E.2d 71 (Ct.App. 2014).

APPELLANT'S STATED GROUNDS OF APPEAL

In his January 22, 2024 Notice of Appeal, Hoagland stated the following grounds of appeal:

1. The Court erred in its findings of facts necessary to and as a matter of law generally that Mr. Hoagland on October 17, 2023, and December 5, 2023 did "engage in disorderly conduct" at the aforementioned Hilton Head Island Town Council meetings, pursuant to Section 2-5-80 of Hilton Head Island ordinances.

   (a) Uncontroverted testimony from the bench trial of this matter elicited evidence that Mr. Hoagland's name was called to address Town Council at each of the three (sic) meetings.

   (b) Uncontroverted testimony from the bench trial of this matter elicited evidence that on all occasions no actual (much less material) disruption of town council business at these meetings occurred.

2. The evidence failed to establish beyond a reasonable doubt in each of the four charges that conviction was appropriate as a matter of law and fact.

3. This appeal is also based upon all other applicable law, the record, and any further memoranda or arguments that the Defendant has submitted or may submit.

Only Ground number 1 presents a reviewable question. Every ground of appeal ought to be so distinctly stated that the reviewing court may at once see the point which it is called upon to decide without having to 'grope in the dark' to ascertain the precise point at issue. *Herron v. Century BMW*, 395 S.C. 461, 466, 719 S.E.2d 640, 643 (2011). While not directly applicable, Rule 208(B), SCACR, is instructive. It reads:

> (B) Statement of Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.

RELEVANT ORDINANCES

The relevant ordinance is § 2-5-80(a)(1), *Municipal Code of the Town of Hilton Head Island* (1983).

§ 2-5-80(a)(1) reads:

> (a) *Rules of decorum.* While any meeting of town council, its boards or commissions is in session, the following rules of decorum shall be observed:
> (1) Any person who speaks at a council, board or commission meeting shall conduct himself or herself in a manner appropriate to the decorum of the meeting and shall not use any profane, abusive, or obscene language nor any fighting words or otherwise engage in disorderly conduct. Any person who makes such remarks or otherwise engages in disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of a council, board or commission meeting shall, at the discretion of the mayor, or in his absence, the mayor pro tempore, or such chairperson of the meeting, be barred from further audience before council, the board, or commission during that meeting and may be removed from the building.

§ 2-5-70(e) of the Ordinance states:

> Unless further time is granted by majority vote of the council, he shall limit his remarks to three (3) minutes. All remarks shall be addressed to the council as a whole and not to any member thereof.

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FACTS AS FOUND BY THE MAGISTRATE COURT

As to all four citations, Judge Vaux found as a matter of fact that Hoagland's actions constituted disorderly conduct that resulted in an actual disruption of the Town Council meetings. Judge Vaux found that the actual disruption of the Town Council meetings was a violation of § 2-5-80(a)(1) of the *Municipal Code of the Town of Hilton Head Island,* (1983).

THERE IS EVIDENCE IN THE RECORD SUPPORTING EACH OF THE FINDINGS OF THE MAGISTRATE COURT

The Circuit Court is bound by the Magistrate Court's findings of fact if any evidence in the record reasonably supports them. In this case, the only evidence in the record supports Judge Vaux's findings of fact:

1. Hoagland's Conduct caused an actual disruption of the October 17, 2023, Meeting.

A video recording from the October 17, 2023, meeting show Appellant turning away from the Council to address the audience, despite repeated instructions from the Mayor to address his comments to the Town Council. The witness Jeff Shumaker testified he was present at the meeting and that Hoagland's actions caused several disruptions to the meeting, leading to the Mayor calling a recess of the meeting. Jeff Shumaker testified that Hoagland's behavior resulted in a disruption of the meeting. The video showed that the Mayor had to call for order multiple times due to Hoagland's conduct. After the recess, the video shows Hoagland resuming his disruptive behavior by speaking without being recognized and by speaking over the Town Council as it tried to conduct business.[1]

[1] Hoagland's ground of appeals 1(a) and 1(b) are contrary to the only evidence in the record. At the October 17,2023, meeting, Hoagland' behavior resulted in the Mayor calling a recess of the meeting. Following the recess, Hoagland began to speak without being recognized and speaking while Council was attempting to conduct business.

The video evidence and witness testimony provide evidentiary support Judge Vaux's findings that Hoagland engaged in disorderly conduct that created an actual disruption of the Town Council meeting. Because there is evidentiary support for Judge Vaux's findings, the Circuit Court is bound by the findings, and there is no basis for reversal. *State v. Taylor, supra.*

2. Hoagland's Conduct caused an actual disruption of the December 5, 2023, Meeting.

A video recording from the December 5, 2023, meeting shows Hoagland disrupted the Town Council meeting by engaging in a heated exchange with an audience member, disregarding the direction of the Mayor to address Town Council and not the audience. The witness Jeff Shumaker testified that he was present at the meeting and that Hoagland was warned several times to direct his comments to the Town Council and adhere to the time limits for speakers. Jeff Shumaker testified that Hoagland's behavior resulted in a disruption of the meeting. The video further corroborates Shumaker's testimony, showing Hoagland continuing to speak beyond his allotted time despite the Mayor's repeated instructions to conclude his remarks.. The video shows Hoagland physically approaching the audience member with whom he was arguing. Jeff Shumaker testified that the Director of Public Safety stepped forward to intervene.

The video evidence and witness testimony provide evidentiary support Judge Vaux's findings that Hoagland engaged in disorderly conduct that created an actual disruption of the Town Council meeting. Because there is evidentiary support for Judge Vaux's findings, the Circuit Court is bound by the findings and there is no basis for reversal. *State v. Taylor, supra.*

THERE IS NO ERROR OF LAW

Although none of Hoagland's stated grounds of appeal allege any error of law on the part of Judge Vaux, I conclude there is no error of law in Judge Vaux's rulings. Judge Vaux concluded that a Town Council meeting is a "limited public forum" as described in *Steinburg v. Chesterfield*

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County Planning Commission, et al., 527 F.3d 377. The law is that in a limited public forum, reasonable restrictions on speech are permitted.[2] Judge Vaux also relied on *White v. City of Norwalk*, 900 F2d 1421 (9th Cir., 1990). In that case an ordinance regulating public appearances was challenged as overbroad and vague. The Ninth Circuit held that an ordinance and citations based on an actual disruption were constitutional. In these cases, the only evidence in the record shows that there was no restriction on the content of Hoagland's speech, rather, it was his behavior that resulted in an actual disruption of the Council meetings that resulted in the citations. There is no error of law in Judge Vaux's rulings.

CONCLUSION

For the reasons set forth above, the findings and Judgment of the Magistrate Court of Beaufort County, South Carolina is affirmed, and the appeal of Calvin C. Hoagland is dismissed.

[SIGNATURE PAGE FOLLOWS]

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[2] In *Steinburg v. Chesterfield County Planning Commission, et al.*, 527 F.3d 377 (4th Cir. 2008). In that case, a person was removed from a meeting for making personal attacks. Ruling for the Planning Commission, the Court said:

> We conclude that a content-neutral policy against personal attacks is not facially unconstitutional insofar as it is adopted and employed to serve the legitimate public interest in a limited forum of decorum and order. Such a policy is deemed content-neutral when it "serves purposes unrelated to the content of the expression … even if it has an incidental effect on some speakers or messages but not others." [citation omitted]
>
> Moreover, denying a speaker at the podium in a Commission hearing the right to launch personal attacks does not interfere with what that speaker could say without employing such attacks. The same message could be communicated, indeed probably more persuasively, as we have witnessed in the videotape other speakers at the proceedings in this case. In the language of First Amendment jurisprudence, the Commission's policy has left open "ample alternative channels for communication of the information. [citations omitted]

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Beaufort Common Pleas

Case Caption: Calvin Hoagland VS State Of South Carolina

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IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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