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Sep 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas

Honorable Daniel Dewitt Hall

CASE NO: 2021-CP-46-02684

MALIA SANTIAGO,

Appellant

vs.

ASHLEY HOGGARD,

Respondent

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 16

2 COUNTY OF YORK) COURT C.A NO..2021-CP-46-02684

3

4 Malia Santiago,)

5) Plaintiff,)

6 Versus)

7 Ashley Hoggard,)

8) Defendant.)

9

10 H E A R I N G

11

12 DATE: September 21, 2023

13

14 LOCATION: South Carolina Circuit Court 16

15

16 JUDGE: Daniel D. Hall

17

18 TRANSCRIBED BY: ERIN REILLY

19

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1 are undoubtedly considered exercising reasonable care to avoid
2 the accident. Based on that, we -- just to give a fuller
3 picture, Judge, which is why I submitted the discovery
4 responses, we specifically asked what evidence Ms. Santiago had
5 that would establish that my client failed to keep her vehicle
6 under control or that she failed to keep proper lookout as what
7 was alleged in the complaint.

8 And essentially the responses that we got were simply the
9 accident wouldn't have happened but for her failing to keep a
10 proper lookout. And as the Court is well aware, the law in the
11 state is just because an accident happened, that in and of
12 itself is not evidence of negligence. And unfortunately, the
13 only thing that Ms. Santiago has presented in this case is the
14 occurrence of an accident without anything more. She has not
15 presented any actionable negligence against the Defendants and
16 therefore we believe that summary judgment is appropriate in
17 this case and would ask the Court to grant our pending motion.
18 Thank you.

19 THE COURT: All right, thank you. Mr. Meehan, I'll
20 be glad to hear from you.

21 MR. MEEHAN: Yes, sir, Your Honor. So, we're
22 preparing for trial last week and in our preparation for trial,
23 we became aware of a new witness, specifically the uncle of
24 Malia Santiago, his name's Buster Patterson. He's actually in
25 town or moved here temporarily to take care of the

1 | grandparents. And as soon as we discovered him, I supplemented
2 | discovery and Mr. LaFave went to take his deposition last
3 | Friday. I wasn't available, my plan was to take his deposition
4 | before trial on Monday potentially but yesterday I noticed his
5 | deposition for October -- let's see, October 6th, before trial,
6 | Mr. LaFave said it was unavailable -- he was unavailable that
7 | date. He was at his -- had to go to a cross country meet for
8 | his son which I understand.

9 | So, I emailed him this morning so he could work on a date,
10 | so discovery is not complete. And as the -- you know, the law
11 | says, summary judgment is a drastic measure until both parties
12 | had a full opportunity to conduct discovery. We didn't worry
13 | about this witness until I was literally having a conversation
14 | with Malia's mom and she said, you know, my brother was there
15 | and you know, Ms. Hoggard told him this. Which is -- if it's
16 | true is different than her testimony that she gave me. So,
17 | it's could be a potentially a very good witness for us, Your
18 | Honor. So, that's -- we think it's improper for summary
19 | judgment at this time, respectfully.

20 | THE COURT: All right. Any response, Mr. LaFave?

21 | MR. LAFAVE: Yeah, Judge and I appreciate it and I'm
22 | going to try and be as succinct as possible about this. And
23 | I'll note for the record that this is in fact the second time
24 | that this motion has come before the Court. And this is in
25 | fact the second time that Mr. Mehan has used the same rationale

1 THE COURT: All right, thank you. Mr. Meehan, I'll
2 give you an opportunity to respond.

3 MR. MEEHAN: Yes sir, Judge. You know, it's not
4 disingenuous. No, I literally -- my client suffered a -- you
5 know, a very bad traumatic brain injury and she had short-term
6 memory loss. So, a lot of what I get comes from her mother
7 and, you know, she had knocked out teeth and very bad injuries.
8 And so, you know, in prepping for trial I was having a casual
9 conversation with her mother and she says, well, Buster's
10 talked to Ashley and she said this. And I said, well -- I need
11 to talk to Buster then.

12 I mean, you know, Judge, it's a -- he's a very
13 integral witness and yeah, it might have been two years but as
14 you know, we have 150 cases a piece. So, you know, in the way
15 that the docket works in our courts we don't have time to
16 spend a month prepping for trial.

17 So, in my preparation for trial, yes, I did discover
18 he was a witness and I immediately supplement discovery and I'm
19 trying to schedule depositions. So, I don't understand, Mr.
20 LaFave is trying to say this disingenuous when he was telling
21 me that these dates don't work for him for deposition. I was -
22 - the uncle too, so I don't understand why we're before the
23 Court here. I mean, I think that after we take the deposition,
24 if he doesn't have any good evidence and I think it's time for
25 summary judgment. Yeah, I think that then it would be proper

1 | then but until then I think it's -- you know, I think that we
2 | have a right to take a deposition and put it on the record.

3 | THE COURT: All right, thank you. All right. I'll
4 | look to the file what's -- the documents have been filed; the
5 | arguments been made. I'll rule by -- I'll issue my ruling by
6 | the end of the day tomorrow. Thank y'all.

7 | [END OF HEARING]

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STATE OF SOUTH CAROLINA.

-----x

MATIA SANTIAGO,

Plaintiff,

Case No.

-against-

2021-CP-46-02713

ASHLEY HOGGARD,

Defendant.

-----x

November 16, 2023

York, S.C.

B E F O R E:

HONORABLE DANIEL DEWITT HALL

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

JERRY ANDREW MEEHAN JR.

Attorney for the Plaintiff

MATTHEW CLARK LAFAVE

Attorney for the Defendant

Aileen Butler

Official Court Reporter

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THE COURT: The the next matter is Santiago vs Hoggard. Is anyone here for Santiago versus Hoggard.

MR. MEEHAN: Good morning, Your Honor.

THE COURT: And you are? /SKWRER me /HAPB.

MR. MEEHAN: Jerry Meehan for Maila Santiago.

MR. LAFAVE: Matthew LaFave for Ashley Hoggard.

THE COURT: This is 2021-CP-46-02684, Maria Santiag versus Ashley Hoggard. Representing the plaintiff is Jerry Meehan. Representing the defendant is Matthew LaFave.

This appears to be a motion to reconsider filed by the plaintiff. So Mr. Meehan, I'll be glad to hear from you.

MR. MEEHAN: Good morning, Your Honor. May it please the Court. We previously had a motion for summary judgement in this case, September 21, 2023. We were set to go to trial right about then. As we were preparing for trial the week before upon speaking with the plaintiff's mother she identified to me that her brother was a witness to the case and that he had some information which was basically opposite of what the defendant testified to. We supplemented

1 discovery to the defendant on September 14, 2023
2 and on the 15th defense counsel noticed this
3 witness's disposition. That didn't work for
4 everyone because it was the next day, and then we
5 were going back and forth trying to schedule when
6 was a good time to get this witness deposed and
7 then we had the summary judgement motion heard.
8 So we weren't able to depose this witness prior
9 to the hearing and I think that based upon the
10 the posture of the case and the importance of
11 this witness that we needed to be able to take
12 his disposition testimony. I think that at that
13 time it was improper for summary judgement
14 respectfully because we weren't allowed to take
15 his testimony.

16 What I mentioned to the Court that day was
17 that if we were allowed to take his testimony and
18 it didn't bear any fruit then it would be a
19 proper time for summary judgement. So all we
20 would like to do is respectfully ask you to
21 reconsider your ruling based upon what we filed
22 and testimony we presented in order to reopen the
23 case and allow us to take this witness's
24 testimony.

25 THE COURT: All right. Thank you. Mr.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
CASE NO. 2021-CP-46-02684

Malia Santiago,)
)
 Plaintiff,)
)
 vs.)
)
Ashley Hoggard,)
)
 Defendant.)

DEPOSITION OF MALIA ROSE SANTIAGO

Pursuant to Notice of Deposition and/or agreements in the above entitled case, the deposition of MALIA ROSE SANTIAGO was taken at the law offices of Stewart Law Offices, 1242 Ebenezer Road, Rock Hill, South Carolina, on Thursday, June 8, 2023, commencing at 10:18 A.M.

REPORTED BY: Kathy Gula
 Professional Verbatim Reporter

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.....On behalf of the Defendant

ALSO ATTENDING: Ashley Hoggard, Naveah Hoggard
Roger Hoggard, Princess Santiago

* * * * *

STIPULATIONS: The within deposition was taken pursuant to
Rule 30 of the South Carolina Rules of Civil Procedure.

WAIVER: Examination and reading of the deposition are
waived by the witness and by the parties.

1 living dad. We just freshly moved and didn't have
2 a house.

3 Q. Got it. Mount Gallant Road, that's in Rock Hill?

4 A. Yes.

5 Q. Do your maternal grandparents still live at the
6 house on Mount Gallant?

7 A. Yes.

8 Q. What is that address?

9 A. It's 5025 Mount Gallant Road.

10 Q. And that's the house that you moved to when you
11 moved to South Carolina?

12 A. Yes.

13 Q. Where do you currently live?

14 A. I live on 2267 Nuthatch Drive.

15 Q. Nuthatch is all one word?

16 A. Yes.

17 Q. And is that also in Rock Hill?

18 A. Yes.

19 Q. Who lives there with you?

20 A. Currently, it is me and my mother.

21 Q. What is your mom's name?

22 A. Princess Santiago.

23 Q. How long have you lived at Nuthatch Drive?

24 A. It's been about, I am not entirely sure, but
25 between 13 to 14 years.

1 Q. Were you living at Nuthatch Drive then on the date
2 of this accident in August of '21?

3 A. Yes.

4 Q. Okay. Who lives at 5025 Mount Gallant Road?

5 A. Currently, my grandmother, my grandfather, and my
6 uncle; their eldest child.

7 Q. What are their names?

8 A. Rose Patterson, Buster Patterson, and Buster
9 Junior Patterson.

10 Q. Other than the family that we have talked about,
11 do you have any other family members over the age
12 of 18 that live in York County?

13 A. Yes.

14 Q. What are their last names?

15 A. Crawford.

16 Q. Crawford?

17 A. Uh-huh. Yes.

18 Q. Any others?

19 A. Does Fort Mill count?

20 Q. Fort Mill? Yeah, I think Fort Mill is in York
21 County.

22 A. Then it would be Barr.

23 Q. B-A-R-R?

24 A. Yes.

25 [DISCUSSION OFF THE RECORD]

- 1 A. They were having a family dinner.
- 2 Q. Did your mom go with you?
- 3 A. No. She was already there.
- 4 Q. Who else was there?
- 5 A. My grandparents: my grandpa, my grandmother. Then
6 my uncle, my aunt.
- 7 Q. And sorry to jump in, but real quick just to
8 clarify, your uncle was Buster Junior?
- 9 A. Buster Junior. Then my Aunt Evelyn, I believe,
10 yes.
- 11 Q. Evelyn? -----
- 12 A. Evelyn.
- 13 Q. What is her last name?
- 14 A. I do not know. That sounds bad that I don't know
15 her last name. Sorry.
- 16 Q. That's okay. Does she live in York County?
- 17 A. No.
- 18 Q. Anyone else?
- 19 A. I do not recall anyone else. There were probably
20 more, but I just don't remember who.
- 21 Q. Was there anything particular that led to having a
22 family dinner that day?
- 23 A. It's a routine thing.
- 24 Q. So you all weren't celebrating anything?
- 25 A. No. Not that I remember, no.

1 Q. Let's talk about that. Who did you talk to after
2 the accident?

3 A. I remember my mom being with me the first night.
4 No one really came to talk to me until sometime
5 after I was already in the hospital. Who talked
6 to me? The information that I was given was
7 between my mom, and I believe there was an officer
8 who came and questioned me. But after the fact,
9 most of the information was given to me either by
10 my uncle, Buster Junior, because I was told he was
11 in contact with the driver. Really most of the
12 information that I like remember is all after when
13 I was in the hospital.

14 Q. Do you know of anybody that actually witnessed the
15 accident itself?

16 A. No.

17 Q. So sitting here today, you don't know of anyone
18 who can say Ms. Hoggard did this before impact or
19 didn't do this? Do you know anybody that can
20 testify to any of those details?

21 A. No.

22 Q. So the only thing that you know is, is that the
23 accident happened, right?

24 A. Yes.

25 Q. And you said that your Uncle Buster Junior was in

1 contact with Ms. Hoggard. What information did
2 you get based on that communication?

3 A. He told me he was in contact with Ms. Hoggard. I
4 do remember him giving me her number while I was
5 in the hospital. I sent her a message to let her
6 know that I was okay and that I hoped that she was
7 okay. After that there was no contact. Most of
8 the information or updates on either side, on her
9 side and my side, came from my uncle because he
10 said he was the one in contact with her.

11 Q. Do you know who initiated the contact between your
12 uncle and Ms. Hoggard?

13 A. No. I was just told that my uncle and her talked.

14 Q. So you don't know if she reached out to him or if
15 he contacted her?

16 A. Right.

17 Q. Do you know how they even connected?

18 A. I was told after when I was in the hospital that
19 when my family came out, they were talking. He
20 was the one to mainly talk because my mom was
21 beside me.

22 Q. Do you know if they knew each other before the
23 accident?

24 A. No.

25 Q. You don't know, or they didn't?

1 A. Did my uncle know Ms. Hoggard?

2 Q. Yes.

3 A. No.

4 Q. All right. And then the contact between you and
5 Ms. Hoggard, did you initiate that contact, or did
6 she?

7 A. I did, because my uncle gave me her number.

8 Q. During your exchange with her, was anything said
9 about the accident, about how it happened or
10 anything of that nature?

11 A. I don't think I have the message anymore, but I
12 remember saying I'm okay, you know, that I'm in
13 the hospital; that I'm fine and hope you are okay.
14 I was told she had a child with her at the time,
15 and I asked if the child was okay.

16 Q. But was there any discussion about how the
17 accident happened?

18 A. No, not that I remember.

19 Q. Do you know if there was anything that Ms. Hoggard
20 could have done to avoid the accident?

21 A. I do not know. I honestly don't know.

22 Q. And you don't know how many feet she was away from
23 you when you entered the roadway, right?

24 A. No.

25 Q. Bear with me one second. Are you doing okay? Do

1 A. All I know is, is what I have been told; that she
2 had swerved in a certain way which prevented her
3 from like doing a full-on collision with the front
4 of her car, and that would have like hit me with
5 the side of her car. But I was told all of that
6 information.

7 Q. Well, number one, who told you that?

8 A. It was information given to me afterwards by my
9 attorney.

10 Q. Well, like I said, I don't want to know anything
11 that you and your attorney have talked about.

12 A. Oh, sorry.

13 Q. Did you have any information provided to you about
14 her vehicle being under control or out of control?

15 A. No.

16 Q. You mentioned her vehicle might have swerved. Do
17 you know if it would have swerved before the
18 impact?

19 A. I do not know. Like I said, like most of the
20 information about the incident was given to me
21 after.

22 Q. But just to confirm, you know of nobody that
23 actually witnessed the actual collision itself,
24 correct?

25 A. No.

1 A. I remember that part. I was on the pavement. I
2 don't know which side of the road I was on.

3 Q. All right. Who was it that told you that she saw
4 the dog and tried not to hit Shuri?

5 A. That was information given to me from my Uncle
6 Buster Junior after talking with the driver.

7 Q. Do you remember how far you were from the dog when
8 the impact happened?

9 A. I remember I was reaching for her. She seemed so
10 close. She's a fast little thing. It was like, I
11 don't know, like if I was just quicker or
12 something, I probably could have like scooped her
13 up or something.

14 Q. Have you understood all of my questions?

15 A. Yes.

16 Q. Have you answered them truthfully and to the best
17 of your recollection?

18 A. Yes.

19 Q. Is there anything else about your case that we
20 haven't discussed that you think would be
21 important for me to know?

22 A. I do remember I had like what they called like
23 abrasions. That just means that some of my skin
24 got torn off. That, I think, is just a little
25 detail. But other than that, that's as far as

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 26, 2024

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SC Court of Appeals

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THE STATE OF SOUTH CAROLINA

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APPEAL FROM YORK COUNTY

Cour of Common Pleas

Honorable Daniel Dewitt Hall

Case No: 2021-CP-46-02684

Appellate Case No: 2023-001987

MALIA SANTIAGO,

Appellant

vs.

ASHLEY HOGGARD,

Respondent

PROOF OF SERVICE

I certify that I have served the Record on Appeal by depositing a copy of it in the United States Mail, postage prepaid, on September 26, 2024, addressed to Respondent's attorney of record, Matthew Clark LaFave, Esquire, Crowe LaFave Garfield & Bagley, Post Office Box 1149, Columbia, SC 29202. Said documents were also served on Matthew LaFave via email on September 26, 2024 addressed to matt@crowelafave.com.

September 26, 2024

/s/Jerry A. Meehan, Jr.

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