

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
)
 Click Properties, LLC)
 And Hyper Formance, LLC,)
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 Plaintiffs,)
)
 vs.)
)
 Thomas SC Properties, LLC)
 And All-Tech Tire and Auto Repair,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE #: 2020-CP-39-00266

ORDER

RECEIVED
Nov 18 2024
SC Court of Appeals

This matter is before the Court again on continuing rule to show cause and contempt motions filed by the parties arising out of an Order issued by the Honorable Perry H. Gravely following a trial in May 2022. The contentious and lengthy procedural and factual history has been set out numerous times by both Judge Gravely and this Court and therefore will not be set forth again here. The present motions are Defendants’ Motion for Rule to Show Cause and Plaintiffs’ Emergency Motion to Enforce Contempt Order and Fourth Amended Motion for Emergency Rule to Show Cause. The parties presented evidence and testimony in support of their respective positions regarding alleged violations of Judge Gravely’s original order of September 21, 2022 and subsequent orders which center on the order to refrain from harassing each other and to abate the nuisance.

I. THE PARTIES’ ALLEGATIONS

The Defendants’ Allegations Against the Plaintiffs

- Brent Click placed a no parking sign in front of one of defendants’ parking places about 4 feet away from the parking lot.

- Jonathan Thomas' daughter and the daughter's boyfriend were dumping trash at the shop dumpster on Defendants' property, resulting in Brent Click recording them with his phone, which is not allegedly the first time that Click has recorded and taken pictures of Thomas' daughter.
- One of Defendants' customers leaned against Brent Click's truck, resulting in Shelly and Brent Click screaming at the customer for several minutes. When Jonathan Thomas later tried to apologize, Shelly Click "just flipped out on him."
- One of Defendants' customers left his car for repairs over a weekend, resulting in Brent Click having the vehicle towed off defendants' lot without the knowledge of Jonathan Thomas. Thomas had to pay \$250 to get the car back.
- Thomas believes that one of the Clicks called to have a Camaro towed off from Defendants' property.
- Brent Click started recording Greg Grissinger Jr. when he came to Defendants' shop, and, when Thomas asked Click to stop recording, a verbal altercation took place.
- Click had some equipment removed from his building and, without notice or consent, the moving company started pulling large machines onto defendants' property, disrupting the flow of traffic on the property.
- While the retaining wall was being built, Click continually kept coming over to the edge of the embankment recording and taking pictures of Thomas and the people working, while also making comments like "looks like more DIY work." Defendants claim that the conduct violated the "no trespass" notice that Defendants have against Click. Thomas also claims that he saw Click on CCTV footage reaching out on Defendants' property to look at the work and take pictures.

- Brent Click was shooting at a drone that was flying over defendants' parking lot in the presence of customers and employees.
- Shelly Click gave two of Defendants' employees the middle finger "not once but twice" and stared at one of them "for quite some time."
- Brent Click stood in the driveway waving his hand in an "L" shape while mouthing "loser."
- One of Brent Click's customers parked in Defendants' parking lot while speaking with both of the Clicks, and neither Click attempted to move the customer out of the lot.
- Brent Click has continued to block the driveway in front of Plaintiffs' property to where the Defendants cannot use the deeded right of way.
- Thomas' wife picked him up that afternoon and Brent Click came out and began recording and taking pictures of them, upsetting the wife and causing a vocal altercation. Click did this while bragging about all the money the Defendants owe him.
- Click told Thomas that Thomas needed to move his cars, that Defendants "owed him a lot of f---ing money," and that Jonathan needed "to stay the f--- out of his way."
- Shelly Click went to the edge of the hill and took pictures of two of Defendants' employees. When contractors came to begin digging for a retaining wall, the Clicks began yelling and cursing at Thomas. The Clicks also made racial comments about the contractor's Hispanic workers. Jonathan Thomas called the Sheriff's Department, who came and spoke to those involved.
- A Sheriff's officer came to the Defendants' property responding to a complaint from the Clicks about the retaining wall. Later that day, two more officers came by stating that there were complaints about the noise and work.

- Brent Click blocked defendants' driveway after "motioning that [the retaining wall] was crooked."
- Jonathan Thomas noticed tracks from equipment going through Defendants' parking lot and up the side of the hill between the Plaintiffs' and Defendants' property. Thomas implies it was from the Clicks. Later, the head of the Pickens County permit office came by in response to a complaint about the retaining wall leaning and being poorly constructed.
- Click acted like he was taking pictures of Thomas and one of Defendants' employees.
- Click, on his motorcycle, pulled up beside Thomas on Highway 123 and Click put his hand out gesturing with his fingers that he was shooting Thomas.
- Shelly Click may have been taking pictures of Thomas while they were speaking.

The Plaintiffs' allegations against the Defendants

- Defendants continue to intentionally and defiantly violate the prior orders by failing to perform the work required to abate the continuing nuisance (erosion).
- Defendants continue to intentionally and defiantly violate the order to "refrain from harassing the other party."
- Defendants continuously vandalize Plaintiffs' white GMC truck and maroon Chevrolet truck. Brent Click has incurred a minimum of \$2,700 in out-of-pocket expense to repair the damage.
- Defendants' employees "shouted at Shelly Click about how funny it would be when she is raped."
- A person who Plaintiffs believe to be Chester Stokes, an All-Tech employee, shot a Glock-style gun three times at Brent Click on a public roadway while trying to force Click (on a motorcycle) into a ditch.

- Chester Stokes (also referred to as “Chester Lee”) has stated Pickens County Sheriff’s Department “works for” Defendants, and so nothing can be done to stop Defendants.
- Jonathan Thomas and his employee, Chester Stokes, engineered an incident that Thomas illegitimately used to obtain a trespass arrest warrant against Brent Click.
- On Memorial Day weekend and through the next weekend, Defendants excavated property near Plaintiffs’ property line to install a driveway for themselves rather than complying with the order to abate the nuisance. This caused damage to Plaintiffs’ property.
- The afternoon after the order for sanctions and damages, Defendants used a drone to harass and frighten his wife’s pet ducks and flew the drone into Click’s shop to film inside.
- Jonathan Thomas told Pickens County deputies that Brent Click had trespassed, resulting in the deputies approaching his shop with their guns drawn and arresting Click.
- The day before Brent Click was arrested, Jonathan Thomas yelled over at Click smiling while gesturing to resemble a person in handcuffs.
- Chester Stokes was standing on Defendants’ property giving Brent Click the middle finger, then Click returned the gesture, resulting in Stokes running onto Click’s property screaming that he was going to “beat [Click’s] a--.”
- Defendants’ digging with excavators caused damage to the back building, which was the same damage that resulted in the initial lawsuit. When Brent Click called Pickens County Sheriff’s Department, the deputies went but did not make a report and merely stated that Click should “move back to Greenville.”
- Defendant employees continue to intentionally park in front of the driveway, obscuring Plaintiffs’ access.
- Jonathan Thomas parked his truck to block Brent Click from exiting the property.

- Jonathan Thomas' wife parked in front of Brent Click's truck and looked over at Click and said "we got something planned for you!" in reference to the plan to claim trespass and have Click arrested.
- Chester Lee yelled about killing Brent Click while Lee was standing on Plaintiffs' property.
- Defendants' employees have been blasting air horns at Shelly Click.
- Brian Standard threatened Brent Click twice by lifting his shirt to show a gun
- Workers hired by Jonathan Thomas were digging into the side of the hill that the Clicks were awarded in the lawsuit, and so Brent Click began to record the conduct that he claims violated the court order because Thomas was directing them.
- Jonathan Thomas used a drone to film Brent Click while Click was taking a shower in the outside shower, and Thomas and other employees have since made gestures imitating Click "washing [his] inner thighs in the shower ... in an obscene and humiliating manner."
- Since the hearing in February 2024, Plaintiff has had to purchase \$153,721.51 worth of equipment caused by Defendants' failure to follow the court order.
- Brent Click received a call from Rob, who works for Jeff Evans (owner of detail shop east of Click's property), who stated that he was offered money to file a false complaint against Click with the Pickens County Sheriff's Office.
- Plaintiffs' water lines broke due to the continued dissipation of the hill caused by Defendants.

II. DISCUSSION

The Court recognizes that "[C]ontempt is an extreme measure; this power vested in the court is not lightly asserted." Taylor v. Taylor, 434 S.C. 307, 317, 863 S.E.2d 335, 340 (Ct. App. 2021).

When determining whether to hold the Defendant in contempt, the Court must find that Defendant had a “willful disobedience of a court order.” *Ex Parte Kent*, 379 S.C. 633, 637, 666 S.E.2d 921, 923 (Ct. App. 2008). Furthermore, the “record must be clear and specific as to acts or conduct upon which the contempt is based.” *Id.* A willful act is an act that is done “voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done.” *Id.* In the case of civil contempt the burden of proof is clear and convincing evidence. *Poston v. Poston*, 331 S.C. 106, 113, 502 S.E.2d 86, 89 (1998). Civil contempt is designed to “coerce the defendant to do the thing required by the order for the benefit of the complainant.” *Poston*, 331 S.C. 106, 111, 502 S.E.2d 86, 88 (1998). The court may impose judicial sanctions in civil contempt proceedings for either two purposes: “to coerce the defendant into compliance with the court’s order, and to compensate the complainant for losses sustained.” *Floyd v. Floyd*, 365 S.C. 56, 80, 615 S.E.2d 465, 479 (Ct. App. 2005). Various civil contempt sanctions are available to the court if they find the Defendant in contempt. *Poston*, at 114-15, 502 S.E.2d at 90. The court may order the contemnor to pay a fine to the court; however, they may purge themselves of the fine by complying with the prior court order. *Id.* The court may give a jail sentence to the contemnor that will be served until they agree to comply with the prior court order. *Id.* The court may order the contemnor to pay a fine and/or damages to the complainant and they may also be ordered to pay a fine to the court. *Id.* In this scenario the contemnor may rid themselves of the fine payable to the court by complying with the previous order. Similarly, the court may order the contemnor to pay a fine and/or damages to the complainant and they may also be given a jail sentence. *Id.* In this scenario the contemnor may rid themselves of the fine payable to the court by complying with the previous order. *Id.* The court also has the power to require reimbursement of attorney’s fees to the complainant. *Id.* When assigning the fine, the court should

limit it to the complainant's actual loss and it must be based in evidence. Floyd, at 80, 615 S.E.2d at 478. In a civil contempt proceeding, the court may also require the contemnor to reimburse a complainant for the costs they have incurred in enforcing the court's prior order. Poston, 331 S.C. 106, 114, 502 S.E.2d 86, 90 (1998). This award can include reasonable attorney's fees, not to be a punishment for the contemnor, but rather an "indemnification to the party who instituted the contempt proceeding." Id

Here, Brent Click testified for Plaintiffs and Jonathan Thomas testified for Defendants and both parties submitted affidavits and documents supporting the allegations set forth above regarding harassment. Each party also provided testimony, affidavits and documents to support their respective arguments regarding abatement of the nuisance. The Court has thoroughly and exhaustingly reviewed all of the testimony and evidence submitted by the parties in this matter. Based on this evidence, the Court finds that, by clear and convincing evidence, both the Plaintiffs and Defendants have each proven certain allegations on the issue of harassment and have therefore violated the prior orders to refrain from harassing the other, including shouting at and insulting each other, using drones, trespassing, obtaining trespass warrants, making unwarranted gestures, blocking access to each other's property, filming and taking pictures of the other, filing unnecessary complaints, blasting horns, towing vehicles, placing no parking signs and having verbal altercations. The conduct of both parties shows a constant and continuous pattern of violating the Court's prior orders. Therefore, the Court holds both the Plaintiffs and Defendants in contempt, and the Plaintiffs and Defendants are each ordered to pay the sum of \$10,000 to the other within ten (10) days from the date of this Order. The Court yet again urges the parties to refrain from any more harassment in the future.

On the issue of abatement, the Court does not find that Plaintiffs have proven, by the high standard of clear and convincing evidence, that Defendants have violated the abatement Order from Judge Gravely and the prior Order of this Court. This Court previously found Defendants did violate Judge Gravely's Order and held them in contempt. As a result of being found in contempt, Defendants undertook steps to abate the nuisance.

On the issue of attorney fees, the court does not award any attorney fees or costs to either party.

IT IS SO ORDERED.



Pickens Common Pleas

Case Caption: Click Properties, Llc , plaintiff, et al VS Thomas Sc Properties Llc ,
defendant, et al
Case Number: 2020CP3900266
Type: Order/Other

So Ordered

G.D. Morgan Jr.