

THE SOUTH CAROLINA COURT OF APPEALS

APPELLATE CASE NO. 2023-001705

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SC Court of Appeals

SUZANNE SILVERMAN, RESPONDENT

V.

RIDEAWAY MOTORS LLC, CHRIS WOODBURY, AND TREY COOPER
INDIVIDUALLY AND/OR D/B/A/ RIDEAWAY MOTORS LLC, DEFENDANTS

OF WHOM CHRIS WOODBURY IS THE APPELLANT

THE HONORABLE GEORGE M. McFADDIN, JR.

THE HONORABLE MICHAEL G. NETTLES

FLORENCE COUNTY COURT OF COMMON PLEAS

TRIAL CASE NO. 2023CP2100754

APPELLANT'S FINAL BRIEF

APPELLANT

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STATEMENT OF ISSUES ON APPEAL

- I. WHETHER THE LOWER COURT ABUSED ITS DISCRETION BY DISMISSING APPELLANTS MOTION TO TRANSFER VENUE FOR LACK OF PROSECUTION, IN VIOLATION OF S.C. CODE OF LAWS UNANNOTATED SECTION 15-7-30(E)(1), WHEN RIDEAWAY MOTORS LLC HAS ITS PRINCIPAL PLACE OF BUSINESS IN KINGSTREE SOUTH CAROLINA (WILLIAMSBURG) COUNTY), NOT IN FLORENCE COUNTY, AND RESPONDENT WAS NOT PRESENT TO OBJECT, REQUIRING REVERSAL OF SUMMARY JUDGMENT?

- II. WHETHER APPELLANT WAS DENIED DUE PROCESS WHEN THE LOWER COURT GRANTED DEFAULT JUDGMENT FOR THE RESPOND AND THE LOWER COURT ONLY 21 DAYS AFTER APPELLANT WAS SERVICED WITH RESPONDENT'S DEFAULT JUDGMENT MOTION, REQUIRING REVERSAL?

- III. WHETHER APPELLANTS RIDEAWAY MOTORS LLC AND TREY COOPER WERE DENIED DUE PROCESS WHEN RESPONDENT COMPLETELY FAILED TO SERVICE THEM ITS DEFAULT JUDGMENT MOTION AND THE LOWER COURT SUBSEQUENTLY GRANTED THIS MOTION, REQUIRING REVERSAL?

STATEMENT OF THE CASE

On April 4, 2023, Respondent filed a Summons Complaint in the Florence County Court of Common Pleas against Appellants in reference to a vehicle that Respondent purchased. See (Complaint, paragraph 6-7)(Record, mp. 10). Also see (Sup. Record, p. 5).

On June 23, 2023, Appellants filed a "Motion To Transfer Venue To Kingstree South Carolina, Williamsburg County" - with exhibits in support. See (Motion, pp. 1-3(Record, pp. 17-21). On September 1, 2023, Respondent filed a motion for default judgment. See (Default motion, pp 1-5)(Record, pp. 23-27). On September 18, 2023, a motions hearing was held before the Honorable George McFaddin where neither the Respondent nor the Appellant were present. See (Transcript, p. 2)(Record, p. 22). On September 22, 2023, the Honorable George McFaddin entered a judgment dismissing Appellant's motion to transfer venue for lack of prosecution without prejudice. (Judgement, pp. 1-3)(Record, pp. 5-7). On October 3, 2023, the Honorable Michael G. Nettles entered an Order granting Respondent's motion for default judgment. (Order, pp. 1-3)(Record, pp. 2-4). On October 31, 2023, Appellants filed a notice of appeal. (Notice of Appeal, p. 1)(Record, p. 28).

STATEMENT OF THE FACTS

On June 23, 2023, Appellants filed a "Motion to Transfer Venue To Kingstree South Carolina – Williamsburg County" with exhibits in support. (Motion, pp. 1-3)(Record, pp. 17-21). In this motion, Appellants stated that "Rideaway Motors LLC is a used car business owned by Trey Cooper which operates and is located at 1000 East Main Street; Kingstree SC 29556." (Motion, p.1 paragraph 1)(Record, p. 17). In support of this claim, Appellants presented as Exhibit 1 and 2 the retail business license and the SC Dealer license respectively for Rideaway Motors, LLC which both showed the location of the business to be 1000 East Main Street Kingstree SC in Williamsburg County. See (Exhibits 1 and 2, p. 1)(Record, pp. 20-21). Appellants then argued that the lower court "Should Issue An Order

To Transfer Venue Because Rideaway Motors LLC Operates And Is Located In Kingstree, South Carolina (Williamsburg County), Not In Florence SC.” (Motion, p. 2)(Record, p. 18). In support of this argument, Appellants cited S.C. Code of Laws Unannotated section 15-7-30(E)(1) which holds that “[a] civil action... against a domestic limited liability company... must be brought and tried in the county in which the (1).... limited liability company... has its principal place of business at the time the cause of action arose.” (Motion, p. 2)(Record, p. 18). Appellants then argued that “the correct venue for this civil complaint would be Kingstree, South Carolina (Williamsburg County), pursuant to S.C. Code Subsection 15-7-30(E)(1).” Id.

While Appellant’s motion to transfer venue was pending, Respondent filed a motion for default judgment on September 1, 2023. (Default motion, pp. 1-4)(Record, pp. 23-27). Notably, however, as seen by Respondent’s certificate of service for default judgment, this motion was not serviced to Appellant Woodbury until September 12, 2023 - but was never sent to Appellants Rideaway Motors LLC and Trey Cooper. See - (Motion for default judgment certificate of service, p. 1)(Record, p. 27).

On September 18, 2023, a hearing was held on Appellant’s motion to transfer venue where neither Appellants nor Respondent were present for this hearing. (Transcript, p. 2)(Record, p. 22). On September 22, 2023, Magistrate Judge McFaddin entered an Order dismissing Appellant’s motion to transfer venue for failure to prosecute without prejudice. (Order, p. 1)(Record, p. 5).

On October 3, 2023, only 21 days after Appellant Woodbury was serviced with the Respondent’s motion for default judgement and only 11 days after the Magistrate Judge dismissed Appellant’s motion to transfer venue, the lower court granted Respondent’s motion for default judgment. (Order, pp. 1-3)(Record, pp. 2-4).

ARGUMENT

- I. THE LOWER COURT ABUSED ITS DISCRETION BY DISMISSING APPELLANT'S MOTION TO TRANSFER VENUE FOR LACK OF PROSECUTION, IN VIOLATION OF S.C. CODE OF LAWS UNANNOTATED SECTION 15-7-30(E)(1), BECAUSE RIDEAWAY MOTORS LLC HAS ITS PRINCIPAL PLACE OF BUSINESS IN KINGSTREE SOUTH CAROLINA (WILLIAMSBURG COUNTY) NOT IN FLORENCE COUNTY, AND BECAUSE RESPONDENT WAS NOT PRESENT TO OBJECT, REQUIRING REVERSAL OF SUMMARY JUDGMENT.

In this case, S.C. Code of Laws Unannotated section 15-7-30(E)(1) holds that “[a] civil action ... against a domestic limited liability company ... must be brought and tried in the county in which the (1) ... limited liability company ... has its principal place of business at the time the cause of action arose.” In support of its motion for change of venue, Appellant presented the business retail license and the SC Dealer license for Rideaway Motors LLC which clearly showed that Rideaway does business at 1000 East Main Street in Kingstree South Carolina which is located in Williamsburg County.

Here, the law holds that a civil action against Rideaway Motors LLC must be brought and tried in the county where Rideaway Motors LLC has its principal place of business -- which is Williamsburg County, not Florence County. Appellants were entitled to a change of venue as required by law. This was not a matter of discretion but a requirement of the law. Therefore the lower court abused its discretion by dismissing the motion for change of venue amounting to a deprivation of Appellants legal rights.

Moreover, Respondent was not present to object to Appellants receiving the relief sought and therefore acquiesced to Appellant's motion for change of venue being granted. Respondent did object to the fact that Rideaway Motors LLC has its principal business in Williamsburg County. Nor could they. Appellants were entitled to a change of venue by law, and the court abused its discretion by not granting this relief, requiring reversal.

II. APPELLANT WAS DENIED DUE PROCESS WHEN THE LOWER COURT GRANTED DEFAULT JUDGMENT FOR THE RESPONDENT ONLY 21 DAYS AFTER APPELLANT WAS SERVICED WITH RESPONDENT'S DEFAULT JUDGMENT MOTION, REQUIRING REVERSAL.

The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. U.S. Constitution Amendment 14.

In this case, Respondent filed a motion for default judgment on September 1, 2023. (Default motion, pp. 1-4)(Record, pp. 23-27). However, Appellant was not served this motion until September 12, 2023. (Motion for default judgment certificate of service, p. 1)(Record, p. 27). On October 3, 2023, only 21 days after Appellant was serviced with Respondent's motion for default judgment, the lower court granted Respondent's motion for default judgement. (Order, pp. 1-3)(Record, pp. 2-4).

Here, less than 30 days after Appellant was serviced with the Respondent's default judgement motion, the lower court granted this motion thereby closing this case – in violation of Appellant's right to due process. Appellant was not given a adequate time to respond. Appellant was not given the opportunity to do anything in such a short period of time – all in violation of due process.

Therefore, in the interests of justice, the lower court's grant of summary judgement should be reversed, and this case remanded back to the lower court for further proceedings.

III. APPELLANTS RIDEAWAY MOTORS LLC AND TREY COOPER WERE DENIED DUE PROCESS WHEN RESPONDENT COMPLETELY FAILED TO SERVICE THEM WITH ITS DEFAULT JUDGMENT MOTION AND THE LOWER COURT SUBSEQUENTLY GRANTED THIS MOTION, REQUIRING REVERSAL.

The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. U.S. Constitution Amendment 14.

In this case, Respondent filed a motion for default judgment on September 1, 2023. (Default motion, pp. 1-4)(Record, pp. 23-27). However, as seen by its certificate of service for this motion, Respondent completely failed to service Appellants Rideaway Motors LLC and Trey Cooper. See (Motion for default judgment certificate of service, p. 1)(Record, p. 27). On October 3, 2023, the lower court granted Respondent's motion for default judgment – thereby dismissing this case in favor of the Respondent. See (Order, pp. 1-3)(Record, pp. 2-4).

Here, Appellants Rideaway Motors LLC and Trey Cooper never received any notice **of** the Respondent's default judgment motion and therefore had no ability to respond. Subsequently the lower court granted the Respondent's default judgement motion in violation of their right to due process. Rideaway Motors LLC and Trey Cooper are now being held liable in this civil proceeding based on a default judgment motion that they never received which was subsequently granted – in violation of their due process rights – requiring reversal of the default judgment order in this case.

CONCLUSION

In this case, Appellants were entitled to a change of venue by law, pursuant to S.C. Code subsection 15-7-30(E)(1) because Rideaway Motors LLC was located and operated in Williamsburg County at the time this cause of action arose. Further, Appellant Woodbury was denied due process when the lower court granted default judgment for the

Respondent only 21 days after he was served the default judgement motion. And finally, Appellants Rideaway Motors LLC and Trey Cooper were denied Due Process when the Respondent completely failed to send them any notice at all of its default judgement motion and the lower court subsequently granted this motion. Based on the above, the lower court's order granting default judgment for the Respondent should be reversed, and this case remanded back to the lower court for further proceedings.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris Woodbury", written over a horizontal line.

Christopher Woodbury

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