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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Honorable Debra R. McCaslin, Judge

Appellate Number: 2024-001479

New Vision Automotive and Quintin Blackmon.....Appellant.

vs.

Chiquita E. Cain and Chasity Myers..... Respondents.

INITIAL BRIEF OF THE APPELLANT

s/ John S. Keffer
John S. Keffer, SC Bar #67910
10 Law Range
Sumter, SC 29150
Tele: 803-774-1004
E-mail: jkeffer@kefferlawfirm.com
Attorney for Appellant

- II. THE TRIAL COURT DID ERR IN MOVING FORWARD WITH A BENCH TRIAL INSTEAD OF THE JURY TRIAL WHICH WAS REQUESTED. 7

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CASES

SOUTH CAROLINA CODE OF LAWS

S.C. Code of Laws §14-1-70

STATEMENT OF ISSUES ON APPEAL

- I. DID THE TRIAL COURT ERR IN AWARDING THE RESPONDENT A BENCH TRIAL WHEN COUNSEL FOR THE APPELLANT WAS REQUIRED TO BE IN A HIGHER COURT?

- II. DID THE TRIAL COURT ERR IN NOT RESCHEDULING THE JURY TRIAL?

III. DID THE TRIAL COURT ERR IN NOT HAVING THIS MATTER HEARD BEFORE A JURY AS WAS THE APPELLANT'S REQUEST IN HIS ANSWER AND AMENDED ANSWER?

STATEMENT OF THE CASE

This Appeal follows a case heard in the Magistrates Court of Lexington County, State of South Carolina which awarded default judgement in the amount of \$2878.10 to the Respondent Chiquita Cain.

The case 2020CV321061107 had originally been filed on August 25, 2020. The complaint was (SCMCR 6) personally served on Appellant, Quintin Blackmon, on August 26, 2020. The Appellant answered(SCMCR 7) on September 16, 2020. The Appellant retained counsel and the court then received an amended answer and counterclaim on October 7, 2020. The case, at that point, had been sent to mediation as there was a previous request for a trial by jury. On December 8, 2020, the Appellant, through her attorney, Michael Laubshire, filed an amended complaint and certificate of service you US Mail to Appellant's attorney John Keffer of the Keffer Law Firm, 10 Law Range, Sumter, SC 29150. The Certificate of Service was dated December 3, 2020. As of February 5, 2021, the amended complaint had not been answered. The case was transferred back to Mediation Court where mediation was held on September 29, 2021. Negotiations at mediation were unsuccessful. An Affidavit of Default was filed by the Respondent on November 9, 2021. A default hearing was held on June 14, 2022. The Court found the Appellant was in default(SCMCR 11). A damages hearing was heard on August 23, 2023 and the Court awarded judgement in the amount of \$2878.10 to the Respondent.

In the matter of the Motion to Reconsider, the defendant moves the Court to reconsider its prior ruling on the basis of Rule 12(a) in the Rules of Magistrate Court. Rule 12(a) states:

Clerical mistakes and errors arising from oversight or omissions in Judgements, Orders, or other parts of the record may be corrected by the court at any time of its own initiative or on the motion on any party and after any notice that the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court.

The Court found that there were no errors, oversights, or omissions in this case. The Court found on June 14, 2022 that the case would proceed on the merits of the original complaint which rendered the amended complaint filed by the Respondent moot. The Court found that though the Appellant did submit (pro se at that time) an answer within the 30 days as required by the Rules of Magistrate Court, it was filed without a non-lawyer authorization form and therefore ruled inadmissible. An amended answer was subsequently filed by the Appellant's attorney, John Keffer, but was done so outside of the 30-day time frame as allowed by the Rules of Magistrate Court and therefore ruled inadmissible. A motion to reconsider was filed on behalf of the Appellant. The Appellant's argument was based on SCMCR 12. The Motion to Reconsider was heard on November 29, 2023. The Motion to Reconsider was denied as the Court found that there were no errors, oversights, or omissions in the case.

The appellant filed an appeal with the Lexington County Court of Common Pleas on March 7, 2024 and filed the certificate of service March 8, 2024. The decision was upheld.

STATEMENT OF THE FACTS

This case 2020CV321061107 was filed as a Summons and Complaint for monetary damages on August 20, 2020. The Appellant was served personally by the Lexington County Sheriff's Department on August 26, 2020. The Appellant filed a pro se answer on September 16, 2020. A motion to strike Appellant's answer and a motion for default judgement was filed on September 25, 2020 (SCMCR 13(a)). The Appellant sought legal representation and a Notice of Appearance and an Amended Answer was filed on the Appellant's behalf on October 7, 2020. The

case moved forward with mediation as required. The Respondent filed an amended summons and complaint on December 8, 2020. The case was recalled from mediation pending an answer to the amended complaint. On February 5, 2021, the court had yet to receive an answer to the amended complaint and was transferred back to mediation.

The case went through mediation on September 29, 2021, Both parties appeared. No settlement agreement was reached and the case was transferred back to Cayce-West Columbia Magistrate Court.

On November 9, 2021, an Affidavit of Default was filed by the Respondent. The court ordered a default hearing to be scheduled.

On June 14, 2022, the court heard the default hearing. A motion to set aside default was filed by the Appellant. The Court ruled that the case had proceeded on the merits of the original complaint. It further found that while an answer had been filed timely by the defendant, the answer was filed on behalf of a corporate entity and did not include a Non-Lawyer Authorization Form as required (§33-1-103) and was therefore inadmissible. The Motion to set aside default was denied pursuant to SCMCR 7 & 11.

A damages hearing was heard on August 23, 2023. The Court issued judgement in the amount of \$2878.10 for the Respondent.

A motion to reconsider was filed by the Appellant. The defenses argument was based on SCMRC 12. The motion to reconsider was heard on November 29, 2023. The motion to reconsider was denied as the court found that there were no errors, oversights, or omissions in the case.

ARGUMENT

THE TRIAL COURT DID ERR IN AWARDING THE RESPONDENT A BENCH TRIAL AND AWARDING DEFAULT JUDGEMENT TO THE RESPONDENT.

In appeals from the Court of Common Pleas, this court may find facts in accordance with its own view of the preponderance of the evidence. The Appellant, Quinton Blackmon, respectfully requests your reversal of the Order for Judgement due to the appellant's attorney being called to a higher court to be present when this judgement was originally issued by the Court when the Appellant's attorney, John S. Keffer was called by the Honorable Diane Goodstein to be present in the court in Dorchester County. This was previously to be a virtual hearing, however at the last minute the Judge asked for everyone to be present. The Appellant, Quinton Blackmon, was not properly represented when this judgement was issued and would have been had a higher court not taken precedence over this Court SC Code of Laws Ann. §14-1-70. It is unjust to issue this judgment without being properly defended by counsel of record during the hearing. Pursuant to SC Code of Law Ann. §14-1-70 and Rule 12(a) of Administrative and Procedural Rules for Magistrates Court, the Appellant is seeking relief from this Judgement.

STATEMENT OF THE CASE

This case 2020CV321061136 was filed as a Summons and Complaint for monetary damages on September 1, 2020. The appellant was personally served by the Lexington County Sheriff's Department on September 14, 2020. The defendant filed a pro se answer on September 20, 2020. On September 24, 2020, Respondent's attorney filed a motion to strike Appellant's answer and Motion for Default Judgement. Within days the Appellant sought counsel. October 6, 2020, the Court received a letter of representation for the appellant and an amended answer from

attorney John S. Keffer. At no time did the appellant ignore this matter and diligently put in an effort for his side of the story to be heard with no reception from the court.

A bench trial was scheduled on October 27, 2020. The Respondent appeared. The appellant and his attorney, John S. Keffer failed to appear. Attorney Keffer was required by a higher court on very short notice to be present in person. It was supposed to be a virtual matter during Covid, however at the last minuet the Judge requested Mr. Keffer be there in person. The case was heard in the Appellant's absence and the Court found in favor of the respondent and issued judgement. On November 5, 2020, the defense made a motion to re-open the case and grant a jury trial as requested in the amended answer. The Court granted the motion to reopen and the request for a jury trial. The case was subsequently sent to mediation, as required.

The case was called to mediation on June 16, 2021. All parties appeared. No settlement was reached at mediation and the case was sent back to Cayce-West Columbia Magistrate for a jury trial. On August 26, 2021, the court received a letter of representation for the Respondent from attorney Michael V. Laubshire.

The case was called for a jury trial on August 17, 2022. The respondent and her attorney appeared while the appellant and his attorney failed to appear. The respondent made a motion to waive the trial by jury and proceed with a bench trial. The motion was granted, the jury dismissed and the case proceeded to trial where the court found in favor of the Plaintiff and issued judgement. The Appellant has never had the opportunity to share his evidence, testimony or show a jury of his peers that he is not using any deceptive business practices that the Respondent purchased her vehicle as is, with no warranty and she signed her name on the sales contract as such.

On August 23, 2022, the Court received a motion to set aside judgement for the appellant. On August 23, 2023, the Court heard the motion to set aside judgement. All parties appeared and the motion was denied. On September 6, 2023, the Court Received a Motion to Reconsider from the Appellant. On November 29, 2023, the Court heard the motion to reconsider. All parties appeared and the motion was denied.

The appellant filed their appeal on the grounds that the appellant's attorney, John Keffer was summoned to appear before the Honorable Diane Goodstein in Dorchester County Court of Common Pleas at the same date and time (August 17,2022) of the trial scheduled in the Cayce-West Columbia Magistrate Court according to SC Code of Laws Ann. §14-1-70 Mr. Keffer was required to be in a higher court.

This court gave both parties considerable discretion in scheduling throughout the entirety of this case and that was pending for a period of approximately three years. The Court received no advance notice, motion for continuance or any communication whatsoever from the appellant prior to the August 17, 2022 trial. A proper motion to set aside the jury and proceed with a bench trial was made by the Respondent and was therefore granted.

The appellant filed an appeal with the Lexington County Court of Common Pleas on March 7, 2024 and filed the certificate of service March 8, 2024. The decision was upheld.

STATEMENT OF THE FACTS

This case 2020CV1061136 was filed as a Summons and Complaint for monetary damages on September 1, 2020. The Appellant was served on September 14, 2020. The Appellant filed a pro se answer on September 20, 2020. The Appellant, retained counsel on October 6, 2020, filing an Amended Answer and requesting a jury trial.

A bench trial was scheduled on October 27, 2020. The Respondent appeared. The Appellant and his attorney did not appear as they had requested a jury trial in the Amended Answer. The case was heard without the Appellant or his attorney present and default judgment issued. On November 5, 2020, the appellant made a motion to re-open the case and grant a jury trial as requested in the amended answer. The Court granted the motion to reopen and the request for a jury trial. The Case was subsequently sent to mediation, as required,

The case was called to mediation on June 16, 2021. All parties appeared. No settlement was reached at mediation and the case was sent back to the Cayce-West Columbia Magistrate for a jury trial. On August 26, 2021, the court received a letter for representation for the Respondent from attorney Michael V. Laubshire.

The case was called for a jury trial on August 17, 2022. The Respondent and her attorney were present; the Appellant and his attorney were not present due to being called to a higher court at the last minute. The hearing was scheduled to be virtual and at the last minute the Judge decided for it to be an in-person hearing. According to SC Code of Laws Ann. §14-1-70 that hearing had precedence and he had to be there.

ARGUMENT

THE TRIAL COURT DID ERR IN AWARDING THE RESPONDENT A BENCH TRIAL AND AWARDING DEFAULT JUDGEMENT TO THE RESPONDENT.

Conclusion

For the above stated reasons, the Appellant would request that this Court remand these matters back to the Magistrates Court for Cayce/West Columbia where the matter should be heard before a jury as requested by the appellant so that he may be judged by a jury of his peers.

Respectfully Submitted

s/John S. Keffer, Esquire
KEFFER LAW FIRM
S.C. Bar No.: 67910
10 Law Range
Sumter, SC 29150
(803) 774-1004
Attorney for Appellant

July 11, 2025