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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM MCCORMICK COUNTY
Court of Common Pleas

Walton J. Mcleod, IV.

Case No. 2017-CP-35-00045

(Appellate Case No. 2024-000831)

Robert Jay Lagroon,

Appellant,

vs.

Crystal Suggs and Scott Suggs,

Respondents.

FINAL BRIEF OF APPELLANT

Robert Jay Lagroon
791 Highway 7
McCormick, South Carolina

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STATEMENT OF ISSUES ON APPEAL

1. Whether the trial court properly excluded evidence that the Defendant swore at the process server when being served with the instant action.

STATEMENT OF THE CASE

This appeal arises from a case filed by Dr. Robert Jay Lagroon in the McCormick County Court of Common Pleas on June 16, 2017. Lagroon filed a three-count amended complaint for (1) intentional infliction of emotional distress; (2) civil conspiracy; and (3) trespass damages. The trial court dismissed the IIED and civil conspiracy claims, which this Court affirmed on September 1, 2022. The parties proceeded to trial on the trespass claim on April 23 and 24 of 2024, and the jury returned a verdict in Dr. Lagroon's favor on April 24, 2024 awarding him \$1 in nominal damages and \$200 in punitive damages. A judgment was entered in Dr. Lagroon's favor on the verdict that same day.

Dr. Lagroon timely appealed the judgment in his favor.

STATEMENT OF FACTS

Dr. Lagroon is a lifelong resident of McCormick County, South Carolina. (R., Volume I p. 67, lines 17-20). He owns property in McCormick County where he resides. (R., Volume I p. 68, lines 16-25). Dr. Lagroon's then-wife, Kelli Barnett, worked with Defendant Scott Suggs at the park system, and the Suggs had been to the Lagroons' home between one and four times in the past. (R., Volume I p. 71, lines 3-10). In May of 2014, the Lagroons determined they no longer wanted the Suggses on their property "because of the drinking." (R., Volume I p. 71, lines 11-14). Dr. Lagroon spoke with Chief Deputy Junior Gable from the McCormick County Sheriff's Office, and decided to type up a trespass notice. (R., Volume I p. 72, lines 1-12). On May 26, 2014, Kelli Barnett (then Lagroon) delivered the trespass notice to the Suggses, which stated, in pertinent part: "Because of your repeated egregious behavior while inebriated . . . this letter is being given to you informing you that you are not allowed on the property of R. Jay Lagroon at 791 SC Hwy 7 in the County of McCormick." (R., Volume II p.110 - 111).

On the morning of June 19, 2014, Dr. Lagroon woke up and could not find his minor children. (R., Volume I p. 75, lines 18-21).

He discovered someone had driven around his gate, turned around in his yard, left tire tracks, ripped up the yard, and abducted his children. (R., Volume I p. 80, lines 3-9). He further noticed his gate was broken. (R., Volume I p. 80, lines 14-16). Dr. Lagroon had a security camera that recorded the kidnapping, which was played to the jury. (R., Volume I p. 84, line 1- 3). The video very clearly shows Scott Suggs picking up the kids' belongings and loading them into his vehicle, while Crystal Suggs remains inside the vehicle. (R., Volume II p. 112).

At trial, Dr. Lagroon repeatedly sought to refer to this incident for what it was: an abduction and kidnapping of his children. He also sought to admit evidence that upon being served with the lawsuit, Crystal Suggs uttered a string of profanities at the process server. This was all in furtherance of his claim for punitive damages. The Court disallowed the evidence.

STANDARD OF REVIEW

“The standard of review for evidentiary rulings is very deferential.” Matter of Bilton, 432 S.C. 157, 161, 851 S.E.2d 442, 444 (Ct. App. 2020). “The admission or exclusion of evidence is a matter within the trial court's sound discretion, and an appellate court may only disturb a ruling admitting or excluding evidence upon a showing of a ‘manifest abuse of discretion accompanied by probable prejudice.’” State v. Commander, 396 S.C. 254, 262-63, 721 S.E.2d 413, 417 (2011) (quoting State v. Douglas, 369 S.C. 424, 429, 632 S.E.2d 845, 848 (2006)).

“In an action at law, on appeal of a case tried by a jury, the jurisdiction of this Court extends merely to the correction of errors of law, and a factual finding of the jury will not be disturbed unless a review of the record discloses that there is no evidence which reasonably supports the jury's findings.” Townes Assocs., Ltd. v. City of Greenville, 266 S.C. 81, 85, 221 S.E.2d 773, 775 (1976), abrogated on other grounds by Matter of Est. of Kay, 423 S.C. 476, 816 S.E.2d 542 (2018)

ARGUMENT

1. The trial court improperly excluded evidence that the Defendant swore at the process server when being served with the instant action.

Plaintiff Lagroon had asserted a claim for punitive damages at trial. The Court gave the jury Plaintiff's request to charge on this issue, which reads:

Punitive damages may be awarded only where the trespass was willful, wanton, or in reckless disregard for the plaintiff's rights.

In this case, the plaintiff seeks punitive damages in addition to actual damages. Punitive damages, also known as exemplary damages, are imposed as punishment. They are not intended to compensate. Punitive damages are allowed in the interest of society and the nature of punishment and as a warning and example to deter the wrong-doer and others from committing like offenses in the future. Moreover, they serve to vindicate a private right by requiring the wrong-doer to pay money to the injured party.

To recover punitive damages, the plaintiff must prove by clear and convincing evidence that the defendant's actions were willful, wanton, or reckless. The words "recklessness, willfulness, and wantonness" are synonymous. The terms are used to describe a conscious failure to exercise and observe reasonable or due care.

There is no formula or standard that can be used as a measure for assessing punitive damages; however, factors relevant to your consideration of punitive damages are:

- 1: The character of the defendant's acts;

- 2: The nature of the harm to Plaintiff which defendant caused or intended to cause;
- 3: The defendant's degree of culpability;
- 4: The punishment that should be imposed;
- 5: Duration of the conduct;
- 6: Defendant's awareness or concealment;
- 7: The existence of similar past conduct;
- 8: Likelihood the award will deter the defendant and others from like conduct;
- 9: Whether the award is reasonably related to the harm likely to result from such conduct; and,
- 10: The defendant's wealth or ability to pay.

These jury instructions were taken directly from Judge Anderson's Requests to Charge, and amount to a correct statement of the law. Ralph King Anderson, Jr., SOUTH CAROLINA REQUESTS TO CHARGE - CIVIL, Rev. ed., 2016, § 13-21; Mitchell v. Fortis Ins. Co., 385 S.C. 570, 583, 686 S.E.2d 176, 183 (2009); Hollis v. Stonington Dev., LLC, 394 S.C. 383, 399, 714 S.E.2d 904, 913 (Ct. App. 2011)

As part of Plaintiff's punitive damages claim, Plaintiff needed to show by clear and convincing evidence that defendant's acted willfully. Punitive damages are awarded to deter a Defendant from acting in a similar way in the future.

At trial, knowing full well that it was his burden to show the malice necessary for an award of punitive damages, Dr. Lagroon sought to admit evidence that Crystal Suggs had cussed out the

process server when she learned she was being sued by Dr. Lagroon. This evidence is classic “lack of remorse” evidence, that would support an award of punitive damages. See her lack of remorse, and her frivolous reason for speeding amply support the award of punitive damages. Clark v. Cantrell, 339 S.C. 369, 381, 529 S.E.2d 528, 534 (2000). Rule 401, SCRE states: “Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 403, SCRE allows for the exclusion of relevant evidence where “if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”

In this case, the jury’s award of damages in its verdict was extremely low, in part, due to the repeated exclusion of relevant admissible evidence on the grounds that it would unfairly prejudice the jury. The law only allows the exclusion of evidence that *unfairly* prejudices the jury. However, it was the Plaintiff’s burden, and indeed his duty, to *prejudice* the jury, not unfairly, by providing evidence of

the Defendants' lack of remorse. "Unfair prejudice means an undue tendency to suggest a decision on an improper basis." State v. Huckabee, 419 S.C. 414, 423, 798 S.E.2d 584, 589 (Ct. App. 2017). It was not improper to show that all years after kidnapping his children, the Defendants showed an utter lack of remorse and contempt for Dr. Lagroon. The trial court improperly excluded this evidence, which directly prejudiced the verdict at trial. Therefore, the verdict should be reversed, and the case remanded for a new trial.

CONCLUSION

What the Defendants did to Dr. Lagroon in this case was a reprehensible trespass and abduction of his children. At trial, Dr. Lagroon tried to admit evidence that the Defendants have absolutely zero remorse for their actions, and he was denied the opportunity to do so. That was his evidentiary burden, and he had admissible evidence directly on point. It was error for the trial court to exclude it.

Respectfully submitted,

/s/ Robert Jay Lagroon

Dr. Robert Jay Lagroon

McCormick, South Carolina
July 29, 2025

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Proof of Service

I hereby certify that I have this day served the following parties
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Dr. Robert Jay Lagroon

McCormick, South Carolina
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