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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas
Kristi F. Curtis, Circuit Court Judge

Case No. 2025-000242

Barbara Ann Johnson Appellant.

v.

McLaughlin Ford, Respondent

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

This appeal stems from a decision of the circuit court affirming the decision of a magistrate's court. Petitioner filed her Summons and Complaint in the Sumter County Magistrate's Court on May 17, 2024, alleging Respondent performed work on her vehicle without her authorization. Specifically, Petitioner alleged the vehicle's motor was removed unnecessarily, causing her to suffer damages. (Complaint) Respondent's Answer was filed on June 4, 2024, denying Petitioner's claims and asserting that Petitioner had given authorization to perform the work on her vehicle to include removal and tear down of the motor. (Answer)

The case was tried before a Sumter County Magistrate on July 17, 2024. Both parties appeared and presented testimony and exhibits. (Trial transcript) The Magistrate's decision was issued July 23, 2024, finding in favor of Respondent. Specifically, the court ruled that Petitioner gave her authorization for Respondent to complete the work on her vehicle to include tear down of the vehicle's motor to the point of failure. This work was necessary to support Petitioner's claim for warranty benefits through a third party. (Trial Court Order)

Petitioner then appealed to the circuit court and a hearing was held on November 18, 2024. (Circuit court transcript) The circuit court affirmed the magistrate's judgment by order dated January 9, 2025, finding that Petitioner failed to meet her burden of proving the magistrate committed any error of law. (Circuit Court order) Petitioner served her notice of the instant appeal on February 21, 2025.

STANDARD OF REVIEW

An action for breach of contract is an action at law. *Moore v. Crowley & Associates, Inc.*, 174 S.E.2d 340 (1970). In an action at law, tried by a judge, findings of fact will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings. *Townes Associates, Ltd. v. City of Greenville*, 221 S.E.2d 773 (1976). The trial judge is in the better position to assess credibility of witnesses. *Dorchester County Dept. Of Social Services v. Miller*, 477 S.E.2d 476 (Ct.App. 1996).

STATEMENT OF FACTS

Petitioner took her vehicle, a 2005 Ford Explorer Sport Trac, with 145,319 miles on the odometer to Respondent due to concerns with its operation described by her as "violent shaking". (Complaint and Trial transcript) Petitioner had a warranty service plan through a third party provider, not the manufacturer. Petitioner authorized Respondent to work on her vehicle and signed an authorization for work, as well as a disclaimer acknowledging the age and high mileage of the vehicle impacted the availability of parts. (Answer and Trial transcript)

Petitioner's third party warranty company would not pay for diagnostics, and to receive any benefits from the warranty, Respondent was advised that it needed to tear down the vehicle's motor to the point of failure and document same through photographs submitted to the warranty company. (Trial transcript) Petitioner authorized the tear down and Respondent completed the work, determined that the engine was beyond economical repair and sent the requested information to the warranty company. (Trial transcript) The warranty company in response

offered Petitioner a monetary amount less than the full amount to cover the entire cost of replacing the vehicle's motor. (Trial transcript) Petitioner refused to pay the difference and instead demanded that Respondent reinstall the torn down motor at no cost to her, claiming she did not authorize the tear down work as required by her warranty company. (Trial transcript)

When Respondent's repair bill remained unpaid for several months, it applied to the summary court, asserting its warehouseman's lien and seeking a public sale of the vehicle in satisfaction of its outstanding repair and storage costs. (Trial transcript) In response, Petitioner filed her Summons and Complaint seeking return of the vehicle.

ARGUMENT

I. THE TRIAL JUDGE PROPERLY DETERMINED RESPONDENT HAD GIVEN AUTHORIZATION FOR WORK PERFORMED ON THE VEHICLE

In the order the trial judge found that Petitioner had given authorization for the work performed by Respondent. (Trial order) This finding was based on the evidence submitted at trial, to include the written authorization and disclaimer signed by Petitioner, as well as the several telephone conversations between Petitioner and Respondent. (Trial transcript)

The findings of the trial court are supported by the evidence presented. The trial court in its order specifically determined that Petitioner's testimony was not credible. (Trial order)

II. THE CIRCUIT COURT DID NOT ERR IN ANY MANNER IN AFFIRMING
THE DECISION OF THE MAGISTRATE

The circuit court affirmed the decision of the magistrate and found that Petitioner failed to meet her burden of proof of showing an error of law. (Circuit court order) Petitioner's oral argument that she did not authorize the work performed by Respondent was contrary to the evidence presented in the trial. The magistrate's return and order provided that Petitioner's testimony was not credible and that she had given Respondent authorization to do the work in tearing down the vehicle's engine to the point of failure. (Trial court order and Return) Respondent's work resulted in an offer to pay benefits under the warranty against the cost of engine replacement. The circuit court's decision to affirm the decision of the magistrate and dismiss the appeal was correct.

III. NO CLAIM FOR FRAUD OR NEGLIGENCE WAS RAISED IN THE
PLEADINGS

Petitioner did not raise any claim for fraud or negligence in her pleadings. She only alleged that her vehicle was operable when she delivered it to Respondent for repairs. (Complaint and Trial transcript) Petitioner claims fraud in her brief, and negligence by Respondent in her Notice of Appeal. Claims not presented in the pleadings will not be considered on appeal. *McNeely v. South Carolina Farm Bureau Mutual Insurance Company*, 190 S.E.2d 499 (1972). A party cannot raise an issue for the first time on appeal. *Wilder Corporation v. Wilke*, 497 S.E.2d 731 (1998). Issues not raised at the hearing cannot be raised

for the first time on appeal. Petitioner now is attempting to supplement her case after an unfavorable ruling from the lower court.

IV. PETITIONER IS NOT ENTITLED TO RELIEF AND SHE HAS
NO MERITORIOUS CLAIMS

Petitioner has failed to make any substantive argument that the trial court erred in its decision, or that the circuit court erred in its decision. Petitioner has argued previously that she was not allowed to present her evidence. She now alleges in her Notice of Appeal that she was not properly prepared to present her case and her witnesses had to work. She acknowledges in the trial transcript that she received notice of the hearing date for the summary court trial. (Trial transcript) She made no motion to continue at the start of the proceeding or that she required more time to present her case. (Trial transcript) Instead, as the trial reached conclusion petitioner stated she needed to present more evidence. (Trial transcript) The court informed her that such time to prepare and present her (petitioner's) case had passed and she could not now call additional witnesses to testify by phone. (Trial transcript)

Petitioner argues in her brief that Respondent lied under oath, and that she never signed a disclaimer. She makes such statements also in her Notice of Appeal. This is contrary to the evidence presented to the trial court and ignores the findings of the trial court that Petitioner lacked credibility, not Respondent. (Trial transcript and order) Petitioner's signature on the documents presented into evidence by Respondent are consistent with her (Petitioner's) admitted signature on her pleadings in this action. (Trial transcript) Petitioner's repeated assertion that she did not sign the disclaimer undermines her credibility. (Trial transcript) Further undermining

Petitioner's credibility is the statement in her Notice of Appeal that the official recordings may have been altered. Petitioner has no factual basis to make such assertion.

Petitioner's claim that the trial court did not ask her if she had any evidence to provide to prove her case is not supported by the record and trial transcript. The trial court had several exchanges with Petitioner during the proceeding regarding her (Petitioner's) evidence and witnesses. (Trial transcript) Petitioner acknowledged that she had proper notice of trial date. (Trial transcript) In her Notice of Appeal, Petitioner states she wanted to get the warranty company on the phone during the proceeding. The trial court simply advised Petitioner that she could not offer witness testimony by telephone as the hearing progressed. (Trial transcript)

Petitioner alleges in her Notice of Appeal that there was mis-communication between Respondent and petitioner's warranty company. She made a similar allegation during the trial that they (Respondent and the warranty company) were pointing the finger at each other. (Trial transcript) Petitioner attempted to bolster her arguments and claims against Respondent with alleged statements made by the warranty company against Respondent's interest. (Trial transcript) Petitioner did not join the warranty company as a party defendant in her pleadings and she did not subpoena it to the trial. Those were procedural decisions on her part and she can not now claim the trial should have gone differently and she suffered prejudice from either Respondent's actions or the trial court's actions.

Broad general statements in a brief may be disregarded by the appellate court. *Windsor Properties, Inc. V. Dolphin Head Construction Company, Inc.*, 498 S.E.2d 858 (1998). An issue is deemed abandoned on appeal, if it is argued in short, conclusory statement without supporting authority. *Fields v. Melrose Limited Partnership*, 439 S.E.2d 283 (Ct.App. 1993).

CONCLUSION

For the above reasons, the decision of the circuit court dismissing the appeal from the magistrate's court was should be affirmed.

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