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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY

Common Pleas

Roy R. Hemphill, Special Referee

Case No. 2023-CP-24-00287

Appellate Case No. 2026-000235

Brian C. Holtzclaw,

Appellant

Vs

Jeffrey K. Gillian, Marshall Casey Pfeiffer,

Respondents

FINAL BRIEF OF RESPONDENTS

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TABLE OF AUTHORITIES

CASES

1. The Kitchen Planners, LLC v. Friedman , Op. No. 28173 (S.C. Sup. Ct. filed Aug 23, 2023) (from Marshall)
“In most cases applying Rule 56(c), this Court and our court of appeals have applied the "genuine issue of material fact" standard set forth in the Rule, requiring the party opposing the motion show a "reasonable inference" to be drawn from the evidence, and we have rejected the "mere scintilla" standard.”
2. Amick v. Hagler 334 S.E.2d 525 (Ct. App. 1985) (from Order)
“Specific performance will not be ordered unless the contract expresses the true intent of the parties and is fair, just and equitable.”
3. Ingram v. Kasey’s Assoc., 531 S.E.2d 287(2000) (from Order)
“Specific performance should be granted only if there is no adequate remedy at law and specific enforcement of the contract is equitable between the parties. King v. Oxford, 282 S.C. 307, 318 S.E.2d 125 (Ct.App.1984) (citing Monteith v. Harby, 190 S.C. 453, 3 S.E.2d 250 (1939)). In order to compel specific performance, a court of equity must find: (1) there is clear evidence of a valid agreement; (2) the agreement had been partly carried into execution on one side with the approbation of the other; and (3) the party who comes to compel performance has performed his or her part, or has been and remains able and willing to perform his or her part of the contract.”

SOUTH CAROLINA CODE OF LAWS

1. §32-3-10(4)

SECTION 32-3-10. Agreements required to be in writing and signed.

No action shall be brought whereby:

(4) To charge any person upon any contract or sale of lands, tenements or hereditaments or any interest in or concerning them;

Unless the agreement upon which such action shall be brought or some memorandum or note thereof **shall be in writing and signed by the party to be charged** therewith or some person thereunto by him lawfully authorized.

STATEMENT OF ISSUES ON APPEAL

- I. The Special Referee granted Summary Judgment after finding no disputed facts remained and after finding Appellant failed to produce any evidence of a contract. Appellant seeks to overturn this Summary Judgment.
- II. Appellant seeks specific performance for breach of a non-existing contract.
- III. Appellant seeks to overturn the summary Judgment based on alleged verbal communications, instead of a signed written instrument as directed by S.C. Code §32-3-10(4).
- IV. Appellant claims the Summary Judgment should be overturned because the Referee failed to acknowledge Appellant's unverified facts alleging the existence of a Real Estate Contract.
- V. Appellant claims the Summary Judgment should be overturned while in the absence of a written contract as required by South Carolina Law and as recognized by the South Carolina Courts.
- VI. Appellant claims, without evidence, Alicia Compton was Respondent's real estate's Attorney thereby authorized to bind Respondent; however this was dispelled by Compton in her August 06, 2025 deposition page 46 lines 17 through 25, **no other evidence or testimony was provided to the contrary.**

STATEMENT OF THE CASE

The alleged facts presented in this Action by Appellant are either fabrications or imaginations by and from David Peart, Appellant's Father-in-Law (page 3 paragraph 3 in Appellant's Brief).

The facts presented by Appellant shows David Peart is in fact the **Real Appellant** and Brian Holtzclaw, (page 3 paragraph 3 in Appellant's Brief), is David Peart's strawman.

The name Holtzclaw appears 12 times in Appellant's Brief, however, not once in these 12 appearances is there a reference of any communications involving Appellant and

Respondent(s).

The name Peart on the other hand appears 24 times in Appellant's Brief, and 13 of these express David Peart was in fact the litigant and the one attempting to take Respondents' property at Foreclosure, when that failed David Peart and Brian Hotszclaw teamed up to use the South Carolina Legal System to take over appellant's Home.

Appellant Holtzclaw has not interacted with any person mentioned in Appellant's Brief other than David Peart. Appellant Holtzclaw has never entered or attempted to enter into any agreement, verbal or written, with Respondent(s). Appellant therefore filed a Lis Pendens and Legal Action without legal basis, but filed such Action with fraudulent intentions.

Appellant failed to show cause for legal action against Respondent(s) in the lower Court and now fails to show cause in this Appellate Court.

The cause of action brought forth by Appellant and David Peart appear to be abuse of the Legal System, abuse which is harming Respondent(s) by tying up Respondent(s) real estate in costly legal process and denying Respondents clear title.

Some excerpts from Appellant's Brief showing this is David Peart's Appeal:

Under STATEMENT OF FACTS, page 2

"In October 2019, Gillian and Peart signed a contract for Gillian to sell his two lots to Peart."

"A title check revealed two tax liens on Gillian's lots, so the sale fell through."

Appellant's Brief show David Peart's desire to own Respondent's property since at least 2019.

Under STATEMENT OF FACTS, page 3

"During the time Gillian was in bankruptcy proceedings, Peart was in contact with attorney Compton. He expressed a desire to still purchase Gillian's lots."

"Peart recorded a number of telephone conversations with Gillian's attorney, Compton, in which a sale was established."

Appellant's Brief show David Peart allegedly attempting to buy Respondent's property through Respondent's Bankruptcy Attorney, hoping to get a bargain deal, however, Respondent's Bankruptcy Attorney Compton stated she never represented Respondent in

any real estate matter (Compton Deposition, August 06, 2025 deposition page 46 lines 17 through 25) but even if Peart's claims are accepted as true, such claims fail because David Peart is not a party to this case. The alleged audio recording was not made part of the record.

Under ARGUMENT 1, page 5

"In a series of recorded telephone calls, attorney Compton advised Peart that Respondent Gillian was willing to sell his property to Peart. Compton then proceeded to prepare for a closing by ordering a title search of the subject property, in which she stated the buyer was David Peart, the seller was Jeffery Gillian, and it is a cash sale."

Appellant's Brief makes it clear that David Peart is the one seeking "specific performance to purchase a parcel of land or damages for breach of contract" (top of page 5) not Appellant Holtzclaw. The alleged audio recording was not made part of the record.

Under ARGUMENT 1, page 5

"At the instruction of Peart, the Appellant Holtzclaw was to be the title owner."

Appellant's Brief show David Peart fabricated this legal action with the aid of his Attorney O.W. Bannister. Appellant's Brief also shows that Appellant Brian C. Holtzclaw is a strawman for David Peart.

Under ARGUMENT 1, page 5

"The record clearly reflects that Respondent Gillian's attorney conveyed her client's willingness to sell the property to Peart."

"The property was identified, the seller was Respondent Gillian, the buyer was Peart, the sale was for cash, and the parties wanted to close ASAP."

Appellant's Brief show Appellant Brian C. Holtzclaw has made false claims as to "specific performance for breach of contract" because all alleged and fabricated facts involve David Peart not Appellant Brian C. Holtzclaw.

Under ARGUMENT 1, page 7

"The Special Referee states in his Order, "Moreover, Ms. Compton testified that she had no communications with Plaintiff Holtzclaw."

This statement ignores the fact that Peart directed the Respondent's attorney to place

Appellant Holtzclaw's name on the deed, and the attorney listed Holtzclaw as the buyer on her closing documents."

Appellant's Brief shows Appellant doubling down on the fact "*Holtzclaw*" is David Peart's strawman. Appellant's Brief makes it clear that Brian C. Holtzclaw had no standing in the Court of Common Pleas in the Tenth Judicial Circuit and has no standing in this Appellate Court. The alleged "*closing documents*" were not made part of the record.

Under ARGUMENT 1, page 8

"The statement of Respondent Gillian's attorney to Peart gives rise to the inference that Respondent Gillian was willing to sell his property to Peart.

The instruction from Respondent's attorney to the title examiner that Peart is the buyer and Respondent Gillian is the seller, and it is to be a cash sale, gives rise to the inference that Respondent Gillian agreed to sell the property."

If the claims in Appellant's Brief are accepted as true, Appellant Holtzclaw has no standing because if Respondent agreed to "*sell the property*", the buyer was to be David Peart, not Appellant Brian C. Holtzclaw.

STATEMENT OF THE FACTS

&

FABRICATION OF EVIDENCE

All of Appellant's alleged facts, even if accepted as true, cannot establish legal action to enforce specific performance for breach of contract. Appellant's alleged facts, at best, establish David Peart as the litigant and strips Brian C. Holtzclaw of any standing.

Under ARGUMENT IV, page 9

"The Special Referee had to ignore the following as to price: The closing documents prepared by the Respondent's attorney, which reflect the price on several required pages, and the slip of paper given to Appellant with the amount he was to bring to the closing."

Appellant's Brief shows an unbridled willingness to fabricate evidence; the referenced "*closing documents*" do not exist and are not part of the record.

OBJECTION TO THE CASE LAW PRESENTED BY APPELLANT

David v. McLeod, 2006 Case

1. David v. McLeod is related to medical malpractice not real estate or contract law.
2. In David v. McLeod the South Carolina Supreme Court affirmed the grant of summary judgment, ruling that the plaintiff failed to meet the burden of producing competent expert evidence to support a claim of medical malpractice. Appellant Holtzclaw has also failed to meet his burden of producing competent evidence of a verifiable contract.
3. Appellant Holtzclaw appears to rely on David Peart's Affidavit as evidence of an agreement, however David Peart never testified on the record. Since David Peart did not testify on the record, his affidavit is at best hearsay. David v. McLeod reinforces the Referee's summary judgement in this case.

Hancock v Mid-South Mgmt, 2009 Case

1. Hancock v Mid-South Mgmt not related to contracts, real estate or any kind of agreement. Hancock v Mid-South Mgmt dealt with parking lot liability.
2. The "mere scintilla" argument brought up by Appellant Holtzclaw was overturned in 2023 by The Kitchen Planners, LLC v Friedman case.

Lord Jeff Knitting Co vs Mills, 1984 Case

1. Lord Jeff Knitting Co vs Mills is referenced by Appellant as an attempt to persuade the Court into accepting that implied consent between an Attorney and a Client can bind the Client to a Real Estate contract.
2. It is well established that Respondent Jeffery Gillian did not have a Real Estate attorney representing him in any Real Estate dealings. Attorney Alicia Compton

stated clearly that she was not acting on behalf of Jeffery Gillian. Appellant Holtzclaw has failed to produce any evidence of any agreement between Respondent Gillian and Appellant Holtzclaw.

Motley v. Williams, 2007 Case

1. Appellant Holtzclaw appears to claim Motley v. Williams makes an agreement which occurs in open court as binding.
2. Motley v. Williams is not applicable to this case, as no agreement occurred between Gillian and Holtzclaw or between Gillian and Peart.
3. This Appellate Court may take notice of the fact Appellant Holtzclaw initiated his legal action against Gillian based upon the voided 2019 Real Estate Agreement between Gillian and Peart.

Parr v Parr, 1977 Case

1. Parr v Parr is unrelated to Appellant Holtzclaw's claims. Parr v Parr is a verbal agreement conflict between two long term relatives and includes bad faith modifications to a written document.
2. Parr v Parr at best highlights the fraud which David Peart and Brian Holtzclaw are perpetrating on the Legal System. The fraud stems from the initial filed action using a void contract as a basis for their actions, then changing this position to rely on an unverified affidavit from David Peart.

Scott v McAllister, 2022 Case

1. Scott v McAllister does not support Appellant Holtzclaw's Appeal. Scott v McAllister is a federal case dealing with voting rights and gerrymandering. Scott v McAllister is not a civil case and is not a real estate dispute.

Wright v PRG Real Estate Mgmt, 2007 Case

1. Wright v PRG Real Estate Mgmt is not applicable to this action. Wright v PRG Real Estate Mgmt deals with issues of security. Wright v PRG Real Estate Mgmt does not deal with contracts or any real estate agreements.

CONCLUSION

Brian C. Holtzclaw's Case before the Court of Common Pleas and subsequent Case before this Appellate Court are evidence of Fraud On The Court. Respondents therefore request this Court remand this Case to address Respondents' legal costs and other damages. Respondents further request David Peart be made liable for damages.

07-01-2026

JEFFERY K. GILLIAN

07-01-2026

MARSHALL C. PFEIFFER

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July 2026, a true and correct copy of the foregoing was served on Plaintiff via the Court Clerk and via US Mail on

O. W. Bannister (SC Bar No. 00506)
P. O. Box 10007, Greenville, SC 29603
864-298-0084, Attorney for the Plaintiff

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