THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable J. Cordell Maddox, Circuit Court Judge

Appellate Case No. 2025-000455

Brock Landscape Contractors, LLC d/b/a Brock Landscape,
Respondent,

v.

Clyde E. Abernathy, Sharon M. Abernathy, and Michael L. Abernathy, individually, d/b/a Abernathy Welding & Sandblasting,
Appellants,

AND

Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting,
Appellant,

v.

William Harold Brock, Jr.,
Respondent.

FINAL BRIEF OF APPELLANTS

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STATEMENT OF ISSUES ON APPEAL

I.

Did the Circuit Court err in finding that the Respondents had a valid mechanic's lien against the Appellants in the amount of $15,381.31 and that said lien should be foreclosed by sale of the Appellants' real property for said amount plus costs and attorney's fees when the evidence presented at trial did not reasonably support said findings?

II.

Did the Circuit Court err in denying all relief sought by the Appellants in their Counterclaims and Third Party Claims against the Respondents, except for an offset in the amount of $1,330.00 against the Respondents' lien, when the evidence presented at trial did not reasonably support said findings?

STATEMENT OF THE CASE

The Respondent, Brock Landscape Contractors, LLC d/b/a Brock Landscape, commenced this action on April 19, 2019, seeking the foreclosure of a mechanic's lien against the Appellants, in the amount of $16,711.31, plus costs and attorney's fees, for alleged unpaid hauling and grading, pursuant to the provisions of S.C. Code Ann. § 29-5-10, *et seq.*

The Appellants filed responsive pleadings denying the Respondent's claims and averring that they had already paid the Respondent for the hauling and grading work. The Appellants also asserted Counterclaims against the Respondent for unpaid welding and sandblasting in the amount of $30,810.00. Additionally, the Appellants filed a Counterclaim for Slander of Title against the Respondent in which the Appellants sought an award of actual damages in the amount of $34,180.54, punitive damages in the amount of $170,902.70, plus attorney's fees and costs.

The Appellant, Michael L. Abernathy, acting as a Third Party Plaintiff, also asserted third-party claims against the Respondent, William Harold Brock, Jr., as Third Party Defendant, related to the same alleged unpaid welding and sandblasting services.

A non-jury trial was held on June 3, 4, and 5, 2024, before the Honorable J. Cordell Maddox, Jr., Circuit Court Judge. The Respondent, William Harold Brock, Jr., and the Appellant, Michael L. Abernathy, both testified as to their understanding of the agreement of the parties and the work done by both parties. The Respondents also presented testimony from their former employees, Dennis Rankin and Larry Helms, both of whom testified as to work they had done for the Respondents on behalf of the Appellants. Additionally, the Respondent presented testimony from Douglas Merrit regarding work that the Appellants did for the Respondents on a

large “shaker” machine. The Appellants also presented testimony from their employee, Jacob Abernathy, who testified in detail regarding the work that the Appellants did for the Respondents and payments made by the Appellants to the Respondents. The Appellants additional called one of their neighbors, Gail Glick, as a witness, and he testified that he saw agents of the Respondents carrying dirt away from the Appellant’s property.

Following the trial and submission of post-trial memoranda by the parties, the trial court issued a final written Order on January 6, 2025. The Court found in favor of the Respondents, ordering the foreclosure of the mechanic's lien to satisfy their claim. The Court limited the Respondents' recovery on their Counterclaims and Third Party Complaint to a set-off of $1,330.00 for welding work, an amount conceded by the Respondents, and denied the Appellants’ remaining request for relief.

The Appellants filed a Motion to Reconsider, Alter, or Amend Judgment and Motion for New Trial on January 16, 2025 pursuant to Rule 52(b) and Rule 59, SCRCP. The Court issued an Order denying said Motion on February 19, 2025. The Appellants subsequently filed and served the Notice of Appeal in this matter on March 10, 2026.

STANDARD OF REVIEW

"An action to foreclose a mechanic's lien is a law case in [South Carolina]." *Adams v. B & D, Inc.,* 297 S.C. 416, 420, 377 S.E.2d 315, 317 (1989). "In an action at law, on appeal of a case tried without a jury, the findings of fact of the judge 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*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976).

ARGUMENT

I.

The Circuit Court erred in finding that the Respondents had a valid mechanic's lien against the Appellants in the amount of $15,381.31 and that said lien should be foreclosed by sale of the Appellants' real property for said amount plus costs and attorney's fees because the evidence presented at trial did not reasonably support said findings.

Evidence presented at trial of the actions of the Respondent, William Harold Brock, Jr., as to invoices exchanged and payments made in this matter does not support the Court's findings. The Appellants introduced into evidence, as their Exhibit 17, a video as well as a transcript of the same that showed the interactions between the Appellants' employee, Jacob Abernathy, and the Respondent, William Harold Brock, Jr. (R. pp. 391-410). The conduct of said Respondent during the video shows that the amount of work claimed on the Respondents' invoice was not accurate. In the video, said Respondent immediately became hostile and combative when Jacob Abernathy gave him the invoice of the Appellants' invoice. (R. pp. 393-407). The Appellant's invoice, introduced into evidence as Appellants' Exhibit 6, totaled $30,810.00 which was apparently a higher amount than William Harold Brock, Jr. expected. After the conclusion of the interaction shown on the video, the evidence at trial is uncontroverted that said Respondent never made any payments to the Appellants.

The Respondents later sent their invoice, presented at trial as Respondents' Exhibit 1, to the Appellants for purported additional services. (R. p. 213, lines 6-24). The total amount claimed by the Respondents in said invoice was $33,568.81 (R. pp. 308-310). The Respondents did not introduce any evidence at trial explaining why this happened to be very similar to the amount of the invoice previously given to the Respondents by Jacob Abernathy.

The finding of the Circuit Court that the Respondents had a valid lien against the Appellants for the full invoiced amount of $33,568.81 is not supported by the testimony of the Respondent, William Harold Brock, Jr. On cross examination, the Respondent, William Harold Brock, Jr., admitted that the last line item on his invoice should have been removed because it was not authorized by the appellants. (R. p. 142, lines 7-22). Thus, the Respondents' mechanic's liens should be reduced by at least $625.00. Moreover, this admission reduces the credibility of the Respondents' invoice as a whole. The Respondents maintained that said invoice was correct when it was filed with the Register of Deeds as part of the initial mechanic's lien, they represented to the Court that the invoice was correct in the Complaint, and the Respondent, William Harold Brock, Jr., testified that it was correct. (R. p. 141, lines 18-19). Then, by immediately admitting that this portion was incorrect, said Respondent effectively conceded that those previous representations to the Court had not been truthful.

The Circuit Court's findings are also not supported by the other testimony presented as trial as to the amount of work completed by the Respondents. The former employees of the Respondents, Dennis Rankin and Larry Helms, consistently maintained in their testimony that all dirt moved from the neighboring property owner was dumped on the Appellants' property. However, Gail Glick, an independent and unbiased third party, credibly testified that he witnessed agents of the Respondents hauling dirt away from the Appellant's property. (R. p. 55, lines 16-25, p. 56, lines 1-11). The Respondents did not offer any explanation for this during the trial as to this even during the self-serving testimony of the Respondent, William Harold Brock Jr., and the Respondents' former employees. This undermines the credibility of all of all these witnesses whose testimony was the foundation of the Respondents' case.

The Respondent, William Harold Brock, Jr., did offer rebuttal testimony in which he introduced documents, as Respondents' Exhibit 11, that allegedly showed the number of truckloads of dirt moved on behalf of the Appellants. (R. pp. 302-305). However, these documents are not credible. The Respondents failed to produce these documents to the Appellants in discovery. Further, the Respondent, William Harold Brock, Jr., did not mention the same during his initial direct examination, cross examination, or redirect examination at trial. (R. pp. 106-149). In fact, he waited until the last day of trial after he had heard all the testimony presented by the Appellants to produce these documents to attempt to rehabilitate his case.

The evidence presented at trial also does not support the Court's finding that the testimony offered by the Appellants lacked credibility as to the work done by the Respondents and the amount paid by the Appellants to the Respondents. The Appellants' employee, Jacob Abernathy, provided date-stamped photographic evidence, admitted as Appellants' Exhibit 10, proving that the initial loads of dirt arrived in September 2018. (R. pp. 184-186). Jacob Abernathy also provided the Court with date-stamped photographic evidence, admitted as Appellants' Exhibit 15, that the Appellants' cash payment to the Respondents was prepared on October 2, 2018. (R. pp. 197-200). The assertion of the Respondent, William Harold Brock, Jr., that work occurred extensively starting in May 2018 and that $16,000 was paid in July 2018 is directly contradicted by this timestamped evidence. (R. pp. 116-117).

II.

The Circuit Court erred in denying all relief sought by the Appellants in their Counterclaims and Third Party Claims against the Respondents, except for an offset in the amount of $1,330.00 against the Respondents' lien, because the evidence presented at trial did not reasonably support said findings.

The Circuit Court's finding that the Appellants were only entitled to $95.00 per hour is not supported by the evidence presented at trial. Testimony from Jacob Abernathy confirmed that the parties had an ongoing agreement for the Appellants to perform welding and related services for the Respondents for $195.00 per hour. (R. pp. 217-220). He further explained that this rate accounted for two men working simultaneously on the Respondents' machinery. *Id.* The Respondent, William Harold Brock, Jr., did not object to this $195.00 per hour rate when he was presented with the Appellants' invoice. (R. pp. 391-410). Instead, he only objected to the number of hours worked. *Id.* Despite this, the Court rejected the Appellants' $195.00 hourly rate in favor of a $95.00 per hour rate solely based on the assertion of the same by the Respondent, William Harold Brock, Jr., at trial.

The Circuit Court's finding that the Appellants were only entitled to $1,130.00 for all the work performed by them for the Respondents was also not supported by the evidence presented at trial. In his testimony, Jacob Abernathy explained in detail the different projects that the Appellants completed for the Respondents, the type of work that was performed on each project, and the time spent on each project. (R. pp. 171-180). He further testified that each time work was done for the Respondents, he marked the same in his notebook, a copy of which was admitted as Appellants' Exhibit 7. Using said notebook, he developed the final invoice that he presented to the Respondents in the amount of $30,810.00. (R. pp. 379-380).

The most time-consuming work performed by the Appellants involved the refurbishment of a large "shaker" machine owned by the Respondents. (R. pp. 175-177). The Respondents' witness, Douglas Merritt, testified that he sold the used shaker machine to the Respondents. (R. p. 92-93). Mr. Merritt acknowledged that the Appellants did approximately two (2) days of work on the machine while he was present. (R. pp. 101-102). He further admitted that the Defendant, Michael L. Abernathy, was present and working on said machine for the entire time that Mr. Merritt was on site. *Id.*

The Respondent, William Harold Brock, Jr., also admitted that the Appellants performed substantial work for him as shown on the video and transcript introduced into evidence as Appellants' Exhibit 17. In said video, Mr. Brock, like Mr. Merritt, acknowledged that the Appellants worked for "two days" making repairs to the shaker machine (R. p. 393, lines 17-18). While he initially questioned whether the Appellants had actually worked a total of seventy-eight (78) hours on the machine, his further statements on the video showed that he had no reasonable basis to question those hours. During the exchange shown on the video, Jacob Abernathy set forth in detail the work that the Appellants did on the shaker, Mr. Brock did not deny that they had fully performed said work. (R. p. 398, lines 4-17).

As further shown on the video, while Mr. Brock was reviewing the Appellants' invoice, he did not deny that the Appellants had worked twelve (12) hours to straighten and weld panels and gates for the Respondents (R. pp. 398-400). He also admitted that the Appellant, Michael L. Abernathy, worked for a "couple hours" cutting out and replacing a pin on his bulldozer. (R. p. 397, lines 18-21). Additionally, Mr. Brock admitted that the Appellants removed and repaired hydraulic cylinders for him. (R. pp. 403-404). That accounts for another six (6) hours on the Appellants' invoice. (R. pp. 379-380). The Respondent, William Harold Brock, Jr., also

contradicted himself on the video by first stating that the Appellants had never worked on any of his skid steers but later conceding that they did in fact work on at least one (1) of said machines. (R. p. 399, lines 4-6 & R. p. 401, lines 10-12). This corresponds to a further seventeen (17) total hours on Appellants' invoice. (R. pp. 379-380).

In fact, during his entire exchange with Jacob Abernathy on the video, the only specific objection that the Mr. Brock ever made to the Appellants' invoice that he did not later retract was his assertion that the Appellants only worked on one (1) forklift instead of three (3). Therefore, in Appellants' Exhibit 17 alone, the Respondent, William Harold Brock, Jr., did not offer any objection to one hundred fifteen (115 hours) of work that the Appellants performed as set forth on their invoice. (R. pp. 379-380).

If the Circuit Court had only considered the above hours not objected to by Mr. Brock, the Appellants would be entitled to a judgment in the amount $22,425.00 from the Respondents. Instead, the Court adopted Mr. Brock's baseless assertion in his testimony that the Appellants were only owed $1,330.00 the work they performed.

CONCLUSION

The totality of the evidence presented at trial did not reasonably support the Circuit Court's finding that the Respondents had a valid mechanic's lien against the Appellants in the amount of $15,381.31 and that said lien should be foreclosed by sale of the Appellants' real property for said amount plus costs and attorney's fees. Furthermore, the evidence presented at trial did not reasonably support the Circuit Court's decision to deny all relief sought by the Appellants in their Counterclaims and Third Party Claims against the Respondents, except for an offset in the amount of $1,330.00. For these reasons as set forth in detail above, the Appellants would respectfully request that the Circuit Court's Order, filed January 6, 2025, be reversed and that this case be remanded for a new trial.

October 2, 2026

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