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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

2013-CP-28-358

Richard Hough,

Appellant,

vs.

Angela Hough

Respondent.

SUPPLEMENTAL RECORD ON APPEAL

Angela Hough
42 Magnolia Lane
Lugoff, South Carolina 29078

Respondent

William A. Hodge
P.O. Box 8753
Columbia, SC 29202

Attorney for Appellant

INDEX

OTHER MATERIALS OR DOCUMENTS:

Return of the Honorable William D. Corbett1

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

IN THE MAGISTRATE'S COURT
Warrant No.: M098876CSW

Richard W. Hough,)
)
Plaintiff/Appellant,)
)
vs.)
)
Angela Hough,)
)
Defendant,)
)
Kershaw County Summary Court)
William D. Corbett)
Summary Court Judge,)
)
Respondent.)

2013-CP-28-358

RETURN

FILED FOR RECORD
2013 APR 29 PM 1:19
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

TO: PRESIDING JUDGE, FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS:

¶ Immediately preceding the above referenced case, set for Jury Trial on 12 April, 2013, Defendant motioned the Court for a Pre-trial hearing: previously sworn jury was removed from Court. Defense made Motion to Dismiss for lack of prosecution pursuant to In the Matter of Richland County Magistrate's Court, Opinion No. 26876 (South Carolina Supreme Court filed September 7, 2010).

¶ Defense contends that Affiant, Richard Hough, brother-in-law to Defendant, Angela Hough, is a non-lawyer not authorized to prosecute the Defendant on the criminal charge of Petit Larceny. Defendant alleges Affiant brings this action in order to influence "settlement in a civil suit, or [is] merely seeking vengeance". (Ibid.)

¶ Affiant of the Courtesy Summons Warrant, does not deny being a non-lawyer and avers that he is representing himself and not a business: his contention is that (In the Matter of Richland County Magistrate's Court, Opinion No. 26876 (South Carolina Supreme Court filed September 7, 2010)) is a narrow ruling concerning business representation and he should be

allowed to prosecute his own case.

¶ Included in ample documentation provided this Court by Defendant is Case No.: 2011-CP-28-073, Order Granting Injunction: in this case, Angela Hough, et al. is a Plaintiff and Richard Hough is sole Defendant. Mr. Hough is enjoined from destroying property and denying access to Plaintiffs. Additionally, the Circuit Court recognizes “the undivided interest of the Defendant in the property, and its use for business purposes . . . ”: this injunction has been in effect since 11 February, 2011 and as of this date appears to be still so. As well, in Mr. Hough’s Answer number three (3) contained in Answers to Plaintiffs’ First Set of Interrogatories on Behalf of Defendant Richard Wesley Hough: Civil Action No.: 2011-CP-28-0073, there is claim for damages in excess of Three Hundred and Fifty Thousand and No/100 Dollars (\$350,000.00). Defense states that partitioning of the undivided interests of the several family members, parties in this action included, is pending and the primary reason Affiant sought a Courtesy Summons charging his sister-in-law with removing posted signs from the disputed, undivided property is vengeance. Mr. Hough’s claim for damages and the Circuit Court’s recognition of the undivided property as used for business purposes could lend a reasonable person to believe he is not only an affiant, but an affiant representing his own business interests.

¶ South Carolina Code of Laws, 1976 annotated, Title 40-5-80 states “*This chapter may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires.*” On the other hand, Title 40-5-10 gives “*inherent power . . . with respect to regulate the practice of law . . .*”, to the Supreme Court of South Carolina. Moreover, Title 40-5-60 gives South Carolina’s General Assembly power to prohibit “*the practice of law in this State by any class of individuals.*”. Precatory language contained in Section 80 connotes permission must be sought, and given, before a citizen is allowed to prosecute his own cause.

¶ In abolishing the privilege of citizens to swear out arrest warrants against fellow citizens and replacing that privilege with the ability to swear to the issuance of a Courtesy

Summons Warrant, the General Assembly did not speak to the issue of prosecution of issued Courtesy Summonses. It appears the intent of the Legislature is to allow prosecution of all criminal matters to remain the province of the State, i.e. under the auspices of the Attorney General and Solicitors of South Carolina.

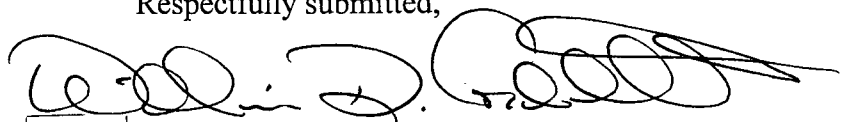
¶ As discussed In the Matter of Richland County Magistrate's Court, Opinion No. 26876 (South Carolina Supreme Court filed September 7, 2010), South Carolina's Supreme Court has given permission for non-lawyers to proceed *pro se* as Plaintiffs in civil matters, which carry no loss of liberty should a Defendant fail to prevail. Mr. Hough sought a private attorney to prosecute his criminal matter; his attorney was denied permission by the Fifth Circuit Solicitor's Office and at a motion hearing before this Court. Nothing was forthcoming that Mr. Hough sought permission to, or was granted leave by any competent authority to prosecute his own cause.

¶ Although South Carolina's Supreme Court made a narrow ruling In the Matter of Richland County Magistrate's Court, Opinion No. 26876 (South Carolina Supreme Court filed September 7, 2010) argumentation does not seem to preclude that anyone other than the State is able to prosecute criminal matters in the Magistrate's Courts of South Carolina.

¶ The instant case is a textbook example as to the pratfalls of allowing an individual, non-lawyer, affiant to have unfettered power to subject another individual to deprivation of liberty, however short a period of time. Mr. Hough's actions seem calculated to optimize his percentage in the settlement of the contested division of property and smack of nothing less than a vindictive act.

¶ For the afore mentioned reasons, I granted dismissal of this case for lack of prosecution.

Respectfully submitted,



April 29, 2013
Camden, SC

WILLIAM D. CORBETT
Magistrate, Kershaw County Summary Court

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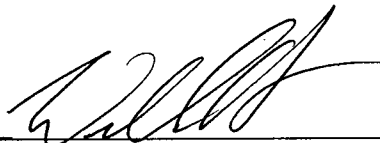
Angela Hough

Respondent.

PROOF OF SERVICE

I, William A. Hodge, the undersigned attorney for Appellant, do hereby certify that I have served a copy of Appellant's Supplemental Record on Appeal, by causing a copy of same to be deposited in the U.S. Mail, proper postage prepaid addressed as follows:

Angela Hough
42 Magnolia Lane
Lugoff, SC 29078



William A. Hodge

Columbia, South Carolina
August 7, 2014

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Roger M. Young, Circuit Court Judge

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Richard Hough,

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vs.

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Respondent.

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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ATTORNEY FOR APPELLANT

August 7, 2014