

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

CASE NO: 11-CP-42-04385

Nellie Josephine Brown,)

Plaintiff/Respondent,)

**ORDER AFFIRMING THE
MAGISTRATE COURT
VERDICT**

v.)

Delilah Goode,)

Defendant/Appellant.)

This matter came before the Court on appeal by Delilah Goode of a jury verdict rendered against her on the basis of libel and slander towards Nellie Josephine Brown.

The Appellant appeared through her attorney Cyrus Hinton and the Respondent appeared through her attorney Charles J. Hodge. The appeal was heard on September 10, 2014.

The Appellant did not submit a brief but utilized oral references from the transcript of record. The Respondent did submit a brief which contained arguments in anticipation of Appellant's arguments.

Absent valid grounds for relief under the rule governing the relief from judgment and unfavorable ruling at trial does not provide an unsuccessful litigant another opportunity to litigate and issue. Bowman v. Bowman, 357 Sc146 591 S.E. 2nd 654 (2004). The test of legal sufficiency of evidence to sustain judgment in favor of a Plaintiff is whether the evidence serves to prove fact or permits inference of fact that would enable ordinarily intelligent and ordinarily intelligent mind to draw a rational conclusion therefrom in support of the right of the Plaintiff to recover. Mahaffey v. Ahl, 264 S.C. 241, 214 S.E.2nd 119, (1975).

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SPARTANBURG COUNTY

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D. AGLEY

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SC Court of Appeals

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Based on arguments submitted by Appellant's counsel it appears Appellant is arguing no evidence exists which could be construed to infer Appellant accused Respondent of cheating.

At trial the Plaintiff presented evidence by testimony from herself and Dr. Joseph Harris which inferred Delilah Goode accused Ms. Brown of cheating.

The class in question was a master's level education course taught by Dr. Joseph Harris. Dr. Harris testified at the trial of the case and indicated his investigation unequivocally revealed no evidence of cheating on behalf of Josephine Brown.

As a result of the allegations by Delilah Goode, Ms. Brown was forced to participate in an honor code violation hearing. She vehemently denied any wrong doing and was unanimously exonerated. Ms. Brown testified she underwent a polygraph examination as well in order to prove her innocence.

In South Carolina the tort of defamation allows the Plaintiff to recover for injury to his or her reputation as a result of the Defendant's communication to others of a false message about the Plaintiff. Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 629 SE 2nd 653 (2006).

In order to prove defamation the Plaintiff must show a false and defamatory statement was made, the unprivileged publication was made to third party, the publisher was at fault and either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Erickson, Supra; Parrish v. Allison, 973 S.C. 308, 656 SE 2nd 382 (SC Appellate 2007).

A statement is classified as defamatory per se when the meaning or message is obvious on its face. Erickson, Supra.

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In this case the evidence is clearly susceptible that Appellant accused Ms. Brown of cheating in an adult education setting. She was forced to hire an attorney, undergo the humiliation of a school hearing in which she was exonerated and in preparation for that hearing also underwent a polygraph.

Specific cases that have supported jury's actual damage award include the case of Lynch v. Toys R Us Delaware, Inc., 375 SC 604, 654 SE 2nd 541 (SC Appellate 2007). In that case the court determined evidence supported the jury's actual damages award of \$50,000.00 for each cause of action in a shopper's false imprisonment, malicious prosecution and slander case. The shopper testified that she was arrested without justification, that she was handcuffed and escorted to a police car in the full view of customers and that she was jailed for 10 hours, the combination of which injured her reputation and led to her humiliation, sleeplessness and emotional pain. In that same case, the court determined evidence supported the jury's punitive damages award of \$250,000.00 for each cause of action in the shopper's false imprisonment, malicious prosecution and slander case, warranting the trial courts denial of the retail store's Motion for a new trial absolute or nisi remittitur. In that case it was determined the store wantonly, willfully and maliciously fabricated and distorted the facts of the shopper's actions to police officers and rejected alternatives offered by police officers by electing to have officers immediately arrest the shopper and her mother all without ever observing any illegal action by the shopper.

The Respondent submits and the Court agrees the present case has remarkable similarities to Lynch, Supra. In the present case Josephine Brown was accused of cheating on an exam at a graduate level college course. This forced her to go through the humiliation of a full trial in which she was unanimously exonerated before the School Honor Council. The

Defendant, while initially asserting Ms. Brown had cheated, admitted in open Court she never observed the Plaintiff engage in a cheating episode yet she persisted with her charges.

It is well established that a trial Court's ruling on Motions for directed verdict and judgment notwithstanding the verdict can only be reversed when there is no supporting evidence. Clark v. South Carolina Dept. of Pub. Safety, 353 S.C. 291, 578 S.E.2nd 16 (Ct. App. 2002).

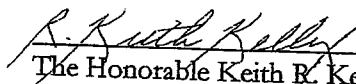
A trial Court's grant or denial of a Motion for directed verdict or judgment notwithstanding the verdict is reversed only when there is no evidence to support the ruling or when the ruling is governed by an error of law. Abu-Shawareb v. South Carolina State University, 364 SC. 358, 613 S.E.2nd. 757 (Ct. App. 2005). Norton v. Norfolk Southern Ry. Co., 350 S.C. 473, 567 S.E.2nd 851 (2002).

In this case it is abundantly clear the evidence supports the finding of the jury and the Lower Court's denial of new trial and Judgment NOV motions as the verdict is fully supported by the law and the evidence.

For the reasons stated above it is:

ORDERED ADJUDGED AND DECREED:

THE VERDICT OF THE MAGISTRATE


The Honorable Keith R. Kelly
Presiding Circuit Court Judge
Seventh Judicial Circuit

M. HOPE BLACKLEY

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FILED
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SPARTANBURG COUNTY

September 16, 2014

State of South Carolina)
County of Spartanburg)

IN THE MAGISTRATE COURT

Nellie Josephine Brown,)
Plaintiff,)

vs.)

Dalilah Goode,)
Defendant.)

JURY VERDICT
2008-CV-42
FILED
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SPARTANBURG COUNTY
HOPE BLACKLEY

We the jury find for the Plaintiff.

\$ 2,500.00 actual damages.

We the jury find for the Plaintiff.

\$ 5,000.00 punitive damages.

We the jury find for the Defendant.

Melissa Parks

Quetta Robinson

Amanda Blackwell

Jean M. Elysi

Christy [Signature]

Ellen A. Holcombe

5-17-11