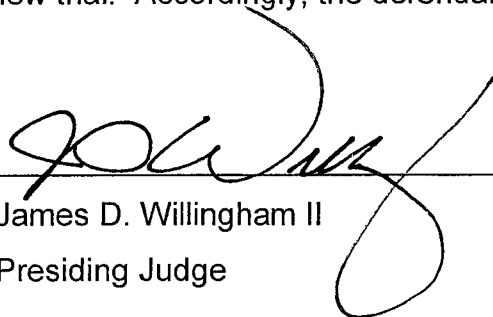


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SC Court of Appeals

EXHIBIT A

Simply because the defendant did not win his case based on inadequate preparation does not entitle the defendant to a new trial. Accordingly, the defendant's motion for a new trial is denied.

Spartanburg, South Carolina
July 12, 2010


James D. Willingham II
Presiding Judge

2010 JUL 12 PM 11:07

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EXHIBIT B

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF SPARTANBURG
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2011CP4201707

Bernard Terry	Kissemee Auction Co DBA Mobile Office
---------------	---

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SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
---------------	---

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:
ORDER INFORMATION *formal order by the court to follow (RKK)*

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

R. Keith Kelly
 Circuit Court Judge

2165
 Judge Code

2 April 2014
 Date

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 2014 APR -3
 11:41 AM
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 SPARTANBURG COUNTY



For Clerk of Court Office Use Only

This judgment was entered on 3 of April 2014, and a copy mailed first class or placed in the appropriate attorney's box on 3 of April 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Bernard Terry 133 Sunny Glen Dr Greer, SC 29651

Jason Michael Imhoff PO Box 5663 Spartanburg, SC 29304

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

M Hope Blackley
M Hope Blackley - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -3 AM 11:40
M. HOPE BLACKLEY

2016 01/24

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL COURT

Mike Bruce d/b/a)
Kissimmee Auction Co.)
Appellant)

RECEIVED

NOV 07 2014

SC Court of Appeals

v.)

Bernard Terry)
Appellee)

IN RE:)

Bernard Terry)
Plaintiff,)

2011
Case No. ~~2013~~-CP-42-1707

v.)

Mike Bruce d/b/a)
Kissimmee Auction Co)
Defendant)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -3 AM 9:13
M. HOPE BLACKLEY

Date
Judge
Attorney for Appellant
Attorney for Appellee
Court Reporter

1 April 2014
R. Keith Kelly
Chad M. Graham
None
Margaret Woods

BACKGROUND

This matter comes before the Court by way of an appeal from a bench trial held in the Magistrate Court for the County of Spartanburg, State of South Carolina on 29 April 2010, the Honorable

1 of 4
RKK

James D. Willingham, II, presiding. Appellant filed and served a motion to amend or alter judgment or alternatively for a new trial. By order of the trial court dated 12 July 2010, all relief sought by Appellant was denied. Appellant appealed to this Court.

STANDARD OF REVIEW

Appeals from the Magistrate Courts are to the Circuit Courts of this state. *SC Code Ann Sec. 18-7-10 (Supp 2013)*. The Circuit Court is empowered to correct errors of law or fact when sitting as the appellate court. *S.C. Code Ann Sec. 18-7-170 (Supp 2013)*. However, the reviewing court is not required to disregard the findings of the trial court judge who saw and heard the witnesses and was in a better position to evaluate the testimony.

ANALYSIS

Appellant asserts excusable neglect exists and warrants relief from the judgment. Both parties appeared before the trial court *pro se* at a regularly scheduled hearing tried without a jury. Appellant argues the trial court did not allow sufficient time to bring evidence to impeach credibility and veracity of Plaintiff's testimony. Further, Appellant argues "...it was excusable neglect to fail to prepare for allegedly dishonest statements made by Plaintiff during trial." Appellee's rendition of the facts inconsistent with Appellant's version of the facts in a trial does not constitute excusable neglect under South Carolina jurisprudence.

Appellant avers at oral argument that Plaintiff testified to matters not contained in the original complaint. However, the record is silent as to whether or not an objection was presented to the trial judge during the trial of the case or presented to the court in Appellant's motion to amend or alter judgment or alternatively for a new trial. It is well settled that upon review if an issue is not preserved, the appellate court should not reach it. *Atlantic Coast Builders and Contractors, LLC*

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SPARTANBURG COUNTY
2014 APR 9 AM 9:18
M. HOPE BLAKEY

2069
RKK

& Lewis, 398 SC 323, 730 S.E. 2d 282 (2012)

Next, Appellant asserts fraud upon the Court by Appellee which requires relief. Fraud upon the Court is "fraud which ...subvert(s) the integrity of the Court itself or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication. *Evans v. Gunter*, 294 SC 525, 366 SE2d 44 (ct. App 1988).

In order to secure relief the fraud must be extrinsic. Extrinsic fraud induces a party not to present a case or deprives a party of the opportunity to be heard. *Chewning v. Ford Motor Co*, 354 SC 72, 579 SE 2d 605 (2003) ; *Hagy v Pruitt*, 339 SC 925, 529 SC 2d 714 (2000). Both parties appeared before the trial court *pro se* and tried the case without a jury. Appellant alleges, "that (Appellee's) statements are fraudulent based upon the evidence". In other words, Appellant alleges misstatements or perjury by Appellee during the trial on the case before the magistrate. An allegation of perjury or false swearing on the part of a party or his witness is a species of intrinsic fraud, not extrinsic fraud. *Rycraft v Tanguary*, 279 SC 76 302 SC 2d 327 (1983). Appellant offered no evidence of a fraud upon the Court or extrinsic fraud such as bribery or other misleading acts which prevented him from presenting all of his case or his opportunity to be heard. As the trial judge noted, Appellant chose to appear *pro se* without his witness and without his exhibits.

CONCLUSION

The appeal of the Appellant is without meritorious issues of fact or law. Therefore, the trial judge is affirmed.

IT IS SO ORDERED.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 APR 23 AM 9:13
M. HOPE BLACKLEY

3 of 4
(RKK)

Given under my hand and the Seal of this Court this 3 day of April 2014 at Spartanburg, South Carolina.

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

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -3 AM 9:13
M. HOPE BLACKLEY

4/3/14
RKK

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SC Court of Appeals

EXHIBIT C

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP4201707

Bernard Terry

Kissemee Auction Co

Mike Bruce

RECEIVED

NOV 07 2014

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by:

Attorney Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
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 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: Motion to reconsider is denied.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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Circuit Court Judge

2165
Judge Code

Date

6 October 2014

SCANNED

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 OCT -7 PM 11:28
M. HOPKINS

For Clerk of Court Office Use Only

This judgment was entered on 7 of Oct., 2014, and a copy mailed first class or placed in the appropriate attorney's box on 9 of Oct., to attorneys of record or to parties (when appearing pro se) as follows:

Bernard Terry 133 Sunny Glen Dr Greer, SC 29651

Jason Michael Imhoff PO Box 5663 Spartanburg, SC 29304

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

M. Hope Blackley / M. Hope Blackley

M Hope Blackley - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Multiple horizontal lines for additional information.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 OCT - 7 AM 11: 29
M. HOPE BLACKLEY