

Ulisano Transcript

1 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
2 COUNTY OF HORRY) CASE NO.: 2016-CP-26-00128

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April 21, 2016

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BEFORE: The Honorable D. Craig Brown

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DENA J. ULISANO,

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Plaintiff,

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vs.

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FREDERICK ULISANO,

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Defendant.

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APPEARANCES:

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Riley Bradham, Esq.
Attorneys for the Plaintiff.

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N. David DuRant, Esq.
Attorneys for the Defendant.

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Official Court Reporter
Natalie Dahl, RPR

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SC Court of Appeals

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WITNESS

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Direct Examination by Mr. DuRant..... 6
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9 a citizen and resident of the State of South Carolina
10 and has lived here since 2003. He's employed by a
11 company down in Florida; it is a subsidiary of a New
12 Hampshire company. Mr. Ulisano was served with some
13 pleadings by a Florida attorney from his step
14 grandmother back in -- what year -- 2013 down in
15 Florida, although he was not a resident in the State
16 of Florida.

17 The pleadings were served on him, and he did file
18 an answer pro se. Apparently, because of an injury,
19 he had some type of an injury, he wasn't able to
20 travel, was not able to attend the hearing, but did
21 participate in a hearing by telephone. As a result of
22 that hearing, the Court entered a judgment against him
23 in the State of Florida for \$40,000 for what was
24 contended was owed to his step-grandmother. They
25 tried to garnish wages from the subsidiary company in

1 the State of Florida, and at that point he did hire an
2 attorney and the garnishment order was dismissed
3 because he was not a resident of the State of Florida.

4 The firm that counsel represents is from
5 Walterboro -- they do a lot of collections work -- had
6 filed with the clerk's office -- or attempted to file
7 with the clerk's office the judgment for the State of
8 Florida, and that is when Mr. Ulisano contacted me and
9 hired me to file a motion under Rule 60 on the grounds
10 of jurisdictional issues.

11 I will hand up to the Court case law, and a copy
12 to counsel, if I could approach. The case law that is
13 relevant to our position in this case, essentially the

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14 state of South Carolina has as a general rule will
15 domesticate foreign judgments from other states as a
16 matter of course unless -- like in this particular
17 case -- it does not meet the jurisdictional grounds of
18 a minimum contact with the state.

19 The PYA Monarch case is a case involving a
20 company from North Carolina suing a South Carolina
21 company. North Carolina obtained a judgment, and the
22 judgment was subsequently set aside because, according
23 to the ruling of the Court, they wouldn't domesticate
24 it because there was no minimum contacts with the
25 State of North Carolina.

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1 It is our position in this case that my client
2 has never resided in the State of Florida. While he
3 is employed by a subsidiary of a New Hampshire
4 corporation, his territory is the State of South
5 Carolina. He doesn't go to Florida -- he goes to
6 Florida maybe once a year for corporate meetings or
7 possibly go to Florida to Disney world or something
8 like that, but he's never been a resident of the State
9 of Florida. He always resided -- moved from Arizona
10 to here, and always resided in the State of South
11 Carolina.

12 The proper place to bring this case would have
13 been in the State of South Carolina because he had no
14 minimum contacts with the State of Florida. I had
15 debated on whether or not to prepare affidavits, but I
16 would like to proffer for the record his testimony,
17 and that would allow counsel an opportunity to
18 cross-examine my client about where he resided. I

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19 will prepare affidavits if the Court wants me to, but
20 I would like to proffer his testimony where he
21 resided, and it should take about five minutes.

22 THE COURT: All right. Before I make a decision
23 on that, tell me your name.

24 MR. BRADHAM: Riley Bradham, sir.

25 THE COURT: Do you have any objection, Mr.

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1 Bradham?

2 MR. BRADHAM: I don't have an objection, per se,
3 but I don't know that it is relevant to our position,
4 which is that we are relying on an exemplified
5 judgment from Florida.

6 THE COURT: okay. If you are relying upon that,
7 Mr. DuRant raised a defense as to that issue here;
8 what is your defense to it?

9 MR. BRADHAM: Well, if I'm to understand good
10 Counsel, and we've had good communication, his defense
11 is one of the nature of the contract, at least that is
12 what is in his motion; that is a matter that's already
13 been adjudicated. If his defense today now is the
14 service, he has admitted service, and I just see
15 everything going towards jurisdiction.

16 THE COURT: That's all I've heard.

17 MR. BRADHAM: Yes, sir. It seems proven that the
18 Florida court had jurisdiction. Again, he answered
19 and took part in the hearing and was served there, and
20 so we stand by the fact that the Florida court has
21 issued a judgment.

22 THE COURT: Let me ask you this. Mr. Bradham
23 kind of hit on this and was going to lead to my

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24 questioning of you. What, if any, leg does your
25 client have to stand on, at this juncture, pertaining 7

1 to jurisdiction when he answered and didn't raise that
2 issue in the State of Florida for the court to make a
3 determination down there as to whether, in fact, they
4 did have jurisdiction over him, what grounds do I have
5 at this point when he answered to some extent, and I
6 don't know what, at least answered and to some extent
7 participated in the case there? what grounds do I
8 have at this point to rule on a jurisdictional issue
9 when, in fact, maybe he waived that down there?

10 MR. DURANT: Yes, sir. The facts are what they
11 are. I think that for purposes of our position today,
12 under this PYA Monarch case, the lower court basically
13 domesticated the order and said that they'll give it
14 full effect of credit, went up to the appeals court
15 solely on the issue of what contacts this company had
16 with the State of North Carolina, and in that case
17 there was a contract of -- that was -- well, it was an
18 oral contract where they were selling products to this
19 company down in South Carolina. In that case they
20 stated clearly that there has to be some type of
21 minimum contact with the State of North Carolina for
22 them to enforce that judgment under that PYA Monarch
23 case, and it is my position that this is a little more
24 form shopping. Granted, it would -- I wouldn't be
25 here if he hired an attorney down in Florida and had 8

1 taken representation, but, you know, what they did was
2 they filed it down in Florida hoping to garnish his

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3 wages from that subsidiary company that he worked for,
4 but my client had no contact with the state of
5 Florida.

6 THE COURT: I understand.

7 MR. DURANT: If there was no jurisdiction,
8 regardless of the fact that he filed an answer pro se
9 and he was allowed to participate -- and I would raise
10 this issue, in the documents he received from the
11 court, there is a mandatory mediation clause that was
12 not complied with by the State of Florida. Being a
13 layperson, I assume that he felt there would be a
14 mediation process, and that was never complied with.

15 THE COURT: As you well know, I mean, pro se
16 litigants are held to the same standard you are when
17 you walk in the courtroom. I mean, it is unfortunate,
18 but that is what the rules are. I can't speak for the
19 state of Florida, but certainly that is the rules here
20 in this state. Since your client is here, I'll hear
21 what he has to say and I'll let you, if you want to,
22 ask him questions. But I do have -- and you didn't
23 address this issue in the PYA, but the defendants in
24 that case filed an answer in the State of North
25 Carolina and litigate the matter in the State of North

1 Carolina, or did PYA file suit, get a judgment and
2 then come down here and try to domesticate it? I can
3 read -- I mean, if you know, great, you can address
4 it; if you don't know, I'll read the case and make a
5 determination on that, but I'll hear from him.

6 MR. DURANT: Thank you.

7 THE COURT: If you will, come around here and

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8 place your left hand on the Bible.

9 (FREDERICK JOSEPH ULISANO, having been duly
10 sworn, testified as follows:)

11 EXAMINATION

12 BY MR. DURANT:

13 Q State your full name for the record.

14 A Frederick Joseph Ulisano the Third.

15 Q Where do you currently reside?

16 A Here in Myrtle Beach.

17 Q How long have you lived here?

18 A May of 2003.

19 Q Where did you live prior to that?

20 A Phoenix, Arizona.

21 Q Have you ever lived in the State of Florida?

22 A No.

23 Q What, if anything, is your contact with the State
24 of Florida?

25 A My -- the company that I work for is

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1 headquartered in Florida. They are a subsidiary of a
2 New Hampshire company, and that is about it. One
3 meeting a year down in Florida.

4 Q Do you have any other contact with the State of
5 Florida?

6 A No, sir.

7 Q What are the circumstances surrounding your
8 participation? Just give the Court a little background
9 of what happened for the record.

10 A Well, when I received this, I guess, suit, you
11 know, I, of course, should have hired an attorney, but
12 I didn't. I figured if I just answered and told the

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13 truth about this, you know, it would be fine.
14 Basically, what happened was there was money that was
15 given to me by my grandfather to help when the economy
16 turned bad. As far as I knew, it was from my
17 grandfather. My grandfather and his wife, Dena, they
18 shared some accounts, but others they didn't. Whatever
19 was on the back-end with this money was between the two
20 of them. My grandfather passed in 2009, New Year's
21 Eve, and some years later after that, in 2013, this
22 suit was brought against me. I just did the best of my
23 ability to answer the suit. Before that, my
24 grandmother, step grandmother, was estranged from our
25 family, by her doing. She cut off all contact, and

11

1 this was the next thing I heard from her. I can guess
2 what her motives are, but it would be just a guess. I
3 know that there is some other factors, some other
4 people behind her pushing her towards doing things like
5 this, but.

6 Q Anyway, was there some circumstances as to why
7 you could not attend?

8 A Yeah. I ruptured my Achilles tendon and was laid
9 up in bed for six weeks.

10 Q How did it come about that you got notice of the
11 hearing?

12 A The hearing notices, I just received an E-mail,
13 and sometimes it would be followed up by regular mail.

14 Q Was any mediation offered to you in this case?

15 A No, sir.

16 Q How did it come about that you participated in
17 the hearing? Tell the court what that was about?

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18 A By phone.
 19 Q And you never --
 20 A And once again for the garnishment hearing.
 21 Q Did you hire counsel for the garnishment hearing?
 22 A I did.
 23 Q What were the results of that?
 24 A The court dismissed it and then brought it to
 25 appeal, and the appeals court upheld the lower court's

12

1 decision.

2 MR. DURANT: Thank you.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. BRADHAM:

6 Q When did you first receive notice of this claim
 7 against you, approximately?

8 A I believe it was right -- I think it was right
 9 before the end of 2013, I believe.

10 Q Your first initial notice of the action filed
 11 against you, did it come to you by way of service, what
 12 we call service, what you understand to be service?

13 A It says it did, but I don't remember that
 14 particularly being served.

15 Q Did you thereafter file an answer?

16 A I did.

17 Q Where was that filed?

18 A I sent it to the court, yes.

19 Q Which court? Do you remember the county?

20 A Broward.

21 Q Florida?

22 A Yeah.

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23 Q You participated in a hearing by telephone
 24 because you were injured?
 25 A Yes. Yes.

13

1 Q Who did you set that telephone conference up
 2 with?

3 A I believe the clerk of court.

4 Q And you did, in fact, participate in that
 5 hearing?

6 A Yes.

7 MR. BRADHAM: That is all I have.

8 THE COURT: Anything else?

9 MR. DURANT: No, sir.

10 THE COURT: You may step down, sir, thank you.

11 Anything further?

12 MR. DURANT: No. It was a default case, I
 13 checked the PYA case was a default case, to answer
 14 that question for you.

15 THE COURT: Anything further, Mr. Bradham?

16 MR. BRADHAM: Judge, I feel obliged to tell the
 17 court about my legal research, the one case I found,
 18 which states simply that the burden of proof, as I'm
 19 sure this Court already knows, is upon the moving
 20 party to determine whether another state's judgment is
 21 valid. It is a pretty specific case, and I regret not
 22 having brought it with me, but it is the case of
 23 Erickson versus Boykin.

24 THE COURT: Cite number?

25 MR. BRADHAM: 681 S.E2d 575, 2009. That case

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1 stands for the burden and, again, I think bolsters our
2 position, which is to stand behind Florida's judgment
3 and procedurally go about doing these things as we are
4 used to doing, which is filing an exemplified
5 certified copy with the Court and, thus far, I have
6 not heard any challenge to the validity of the copy
7 that we have provided.

8 THE COURT: I'll take a look at what you've
9 submitted, Mr. Durant, and I'll take a look at this
10 Erickson case and let you know.

11 MR. DURANT: One procedural matter. There is a
12 motion they filed to domesticate the order, which we
13 agreed to combine these two, is that correct? Since
14 this will resolve it either way, it would be a repeat
15 of what we did today. Do you agree with that?

16 MR. BRADHAM: I do.

17 MR. DURANT: That was scheduled in May, I think.

18 THE COURT: Depending what my ruling is,
19 certainly we'll address that issue as well.

20 (Whereupon, the proceedings concluded.)
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CERTIFICATE OF REPORTER

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2
3 State of South Carolina)
4 County of Horry)
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6 I, Natalie Dahl, official Court Reporter for the
7 State of South Carolina, do hereby certify that the
8 foregoing is a true, accurate and complete Transcript
9 of Record of the proceedings had and evidence
10 introduced in the captioned case, relative to appeal,
11 for Horry County, South Carolina, on the 21st day of
12 April, 2016.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto.

15

16 May 26, 2016

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Natalie Dahl, RPR

21 Court Reporter

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