

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

The Honorable Thomas Russo

Case No. 2016-CP-21-02533
Appellate Case No. 2017-00746

R&R Cleaning Service
Natalie Harris,

Respondent,

v.

Edward Spears

Appellant.

FINAL BREIF OF APPELLANT

Edward Spears
503 Roughfork Street
Florence, SC 29501
843-496-3711
edward4920@att.net
Acting Attorney

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STATEMENT OF ISSUES ON APPEAL

1. DID JUDGE RUSSO INCORRECTLY RULE THAT THE ~~CAPPEAL~~ APPELLANT FAILED TO APPEAL OR REQUEST RECONSIDERATION OF THE ORDER OF FINAL LETTER OF DISPOSITION OF JUDGE LANGELY WHICH DISMISSED CASE NO. 2015CV2110108515?
2. DID JUDGE RUSSON INCORRECTLY RUL THAT CASE NO. 2016CV21103875 CONTAIN THE SAME ALLEGATIONS AGAINST TWO OF THE SAME PARTIES, AS DID CASE.NO. 2015CV2110108515?
3. DID JUDGE RUSSON INCORRECTLY RULE THAT APPELLANTS FILING OF A SECOND CASE, AGAINST TWO OF THE SAME CASES OF ACTION AS CONTAINED IN THE FIRST CASE THAT WAS DISMISSED WITH PREJUDICE WAS IN VIOLATION OF THE DOCTRINE OF RES JUDICATA?

STATEMENT OF THE CASE

To get to the bottom of this case and find out if it should go back to default hearing is easy. First we must establish exactly what happened in a pretrial hearing on April 7, 2016. Then we must establish rather the June 8th disposition sent out by the defendant's lawyer, Mike Hopewell, legal assistant should have been appeal.

To establish what leads up to our meeting on April 7th was that I filed a case against R&R Cleaning Service and Natalie Harris (one party) and Matt Rogers (second party) in a two party case. The case was filed January 19th, 2016 (see R. p. 1). Mr. Hopewell in his lying and deceiving ways claim in his initial brief that the law suit was filed December 31, 2015. Mr. Hopewell further lied in his initial brief on page one of his initial brief saying the defendant filed motion to dismiss that lawsuit and a hearing was set April 7, 2016. Nothing can be further from the truth. It was a pretrial hearing set by the magistrate court (see R. p. 2). Mike Hopewell and his legal assistant have displayed nothing but lies and deception through the course of this entire case. The case against the security guard, Matt Rogers, was dismissed with prejudice. The case against Natalie Harris and R & R Cleaning (same party) was dismissed without prejudice until I fulfilled administrative remedies (see R. P. 3, 4). Mike Hopewell in the appeal hearing on February 16, 2017 admitted to Judge Russo that he heard Judge Langely giving the order (see R. P. ~~line~~ line 6). That should have been clear and convincing evidence to anyone in the court with brains and ears that is what happened on April 7, 2016.

Next in question is the June 8th disposition sent out by Leigh Caprelaud the defendant's lawyer legal assistant and rather it should have been appealed.

I presented to Judge Russo many pieces of evidence, testimony, etc. to show that the disposition mail by Mike Hopewell legal assistant was irrelevant and contained false and misleading information and any appeal would have been frivolously.

To begin with I presented to Judge Russo a decision from summary court showing the disposition from Mike Hopewell's office contained false and misinformed information (see R. P. 16 lines 20-22). Now let me explain how I got to this point.

The June 8th disposition mailed to me very, very mysteriously on June 23rd only one day after filing new lawsuit on June 22, 2016 (see lawsuit R. P. 5) (see letter on certificate of service R. P. 6). The letter was sent by defendant's lawyer legal assistant. I never, never received anything from Florence's Magistrate Court saying the case was dismissed with prejudice (no order, no decision, no disposition, etc.) that not only made it questionable to me but to the clerk of court Nick Williams as well as head magistrate Sandra Grimesly.

I took the very questionable disposition to magistrate clerk Nikki Williams on June 24, 2016. I explained the same thing to Judge Russo. The clerk told me she had absolutely no record of the case ever being dismissed with prejudice. She then explained to me as I also did to Judge Russo the due process that must follow by the courts and judges when a case is given a final order. She said due process obviously was not followed in this case. First she told me the courts and judge must follow magistrate rule 58 called Entry of Judgment to make any decision by the court to make it official. I explained to Judge Russo that didn't happen. She then explained to me as I did to Judge Russo ~~for~~ ~~than~~ ~~58~~ the decisions are signed by the judge, filed by the clerk, and then sent to each party in a three day period. As you can see that never happened (see R. P. 7) showing June 8th as decision date and (R. P. 6) June 23rd as the delivered date. She further explained that clerks must follow Rule 7.10.2 when a case ends. They must end a case in the computer system, enter the judge's code who gave the order, then file it. When asked, the defendant's lawyer could not produce one ounce of evidence showing the disposition his legal assistant was made official.

The magistrate clerk, as I explained to Judge Russo, told me there was no way in the world I could have filed a new case on June 22, 2016 if the prior case had been dismissed with prejudice. It would have been a violation of doctrine of res judicata or double jeopardy. Anyone who calls themselves a judge should know that.

I was told to call head magistrate in order to file complaint. I called Ms. Grimsley to file a complaint. It was the only way to file a complaint so there were no ex parte communications as Mr. Hopewell insisted on page four of his initial brief. Ms. Grimsley said an appeal ^{was} not necessary since there were no records in the magistrate court that the case was dismissed with prejudice and that an investigation would begin on the very questionable disposition sent by the defendant's lawyer.

The defendant's on the new lawsuit R & R Cleaning and Natalie Harris defaulted on the new lawsuit a default hearing was held on August 15, 2016. However the defendant's lawyer committed perjury and deception in his usual way continued to use the misinformed disposition (June 8 disposition) that he knew contained false information (see R. P. 20 line 6). He then

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convinced Judge Becker who doesn't his head from his feet about civil law to dismiss the case stating violation of doctrine of res judicata (see default R. P. 10).

However about the same time the magistrate court concluded its investigation in the questionable disposition and found it contained misinformed or untrue information therefore making it irrelevant (see R. P. 16 lines 20-22).

Ms. Grimsley then ordered a second default hearing (see R. P. 16) she also gave instructions to Judge Jerry Rivers it was to be a damage hearing nothing more. However, this so called judge turned out to be a complete fruit cake and not follow the instructions. He continued to blurt out he was going to give me a jury trial when I never asked for one.

I then appealed the case to Judge Russo in common pleas court. Judge Russo seemed to have his heart set on the disposition which was sent out by the defendant's even though I gave clear and convincing evidence that it was irrelevant and this case should go back to a default hearing. Below I would like to recap some of the evidence, testimonies, laws, etc. that I presented to Judge Russo to show the June 8, 2016 disposition was irrelevant.

- a) The conclusion of the investigation showing the disposition contained false information (see R. P. 16 lines 20-22)
- b) The admission of defendant's own lawyer saying the disposition his legal assistant sent out contained false information (see R. P. 20 lines 6-7)
- c) The filing of the June 22, 2016 lawsuit (see R. P. 5) you cannot file a new lawsuit on same defendants if case has been dismissed with prejudice.
- d) I ~~showed~~ ^{showed} Judge Russo Rule 10 Court Bench Book civil rules saying evidence or testimony are not allowed in a default hearing if it's disputing liability to the plaintiff (see R. P. 13).
- e) I showed and explained to him that the June 8, 2016 was given without cause and a violation of the judge's oath. There were no appeal motions filed by the defendants from April 7 to June 8 (see R. Line 6a P. 9)

Judge Russo was bias as well as prejudice when he claimed I should have appealed the misinformed disposition sent by the defendant's lawyer Mike Hopewell. It was the defendant who should have filed an appeal after I filed a new lawsuit on June 22, 2016. If the defendant's claim of violation of doctrine of res judicata then they had 30 days to appeal the June 22, 2016 lawsuit. It is clear the judge used prejudicial thinking in his decision (see R. P. 8 lines 2, 5, 6)

Mr. Hopewell and Judge Russo alike must have visited the same bar or drug house too long on February 16, 2017 the day of the appeal. Their argument of the two names are the same on the January 19, 2016 lawsuit and the June 22, 2016 lawsuit and the June 22, 2016 makes absolutely no sense at all and has no bearing on this case at all. This sounds like an argument from somebody in la la land. There are only two parties from the get go, Natalie Harris and R & R Cleaning Service representing one party and Matt Harris who represent the second party who represent the second party who is also excluded on the June 22, 2016 lawsuit. This argument makes absolutely no sense at all. Maybe Jeff Foxworthy can help on their arguments by asking the both of them Are You Smarter Than a 5th Grader?

Judge Russo failed or ruled incorrectly when he dismissed the case saying it was in violation of the doctrine of res judicata. I understood that his lacking of civil court education was very low so I took the time to explain exactly what the doctrine meant. I took my time to explain, very slowly in elementary fashion. The way I thought he might understand. I told him this case had not violated the doctrine. The parties were different. I then showed the lawsuits filed January 19, 2016 and June 22, 2016. One had the name R & R Cleaning Service, Natalie Harris (one party) and Matt Harris (second party) (see R. P 1). On the June 22, 2016 the name Matt Rogers is excluded (see R. P 5). The cause of action on the January 19 lawsuit is harassment favoritism (see R. P 1). On June 22, 2016 the lawsuit (see R. P 24) is and as far as the adjudication of the issues in the former lawsuits. He heard from the defendant's own lawyer that the case was dismissed without prejudice. The fact that I was allowed to file a lawsuit on June 22, 2016 is more than clear and convincing evidence that the doctrine of res judicata was not violated and this case should be sent back to the magistrate court for default hearing.

ARGUMENTS

- 1. Judge Russo incorrectly rule that the appellant failed to appeal or request a rehearing on the order of final disposition of Judge Langley which dismisses case no. 2015CU2110108515 with prejudice.**

The June 8th disposition in this case was irrelevant. The case was not dismissed with prejudice ^{out} by omission of the defendant's own lawyer (see R. P 20 lines 6-7) also (see R. P 16 lines 20-22). Also the defendant failed to show any documentation that would make it official coming from the Florence Magistrate's office.

- 2. Judge Russo's argument that case number 2016CV2110103875 contained the same allegations against two of the same parties as case 2015CV2110108515 is false.**

The January 19th lawsuit is Natalie Harris and R & R Cleaning Service for favoritism and Matt Rogers the security guard is excessive force. Matt Rogers's name and cause of action is excluded on the June 22, 2016 lawsuit.

- 3. Judge Russo incorrectly ruled that appellant's filing of a second case against two of the same defendants alleging the same cause of action as contained in the first case that was dismissed with prejudice was in violation of the doctrine of res judicata.**

In the January 19, 2016 case was against Natalie Harris and R & R Cleaning and Matt Rogers the security guard (see R. P 1). On the June 22nd case Matt Rogers's name was excluded (see R. P. 5) as well as cause for action. Also as far as the third element the case was dismissed without prejudice by the defendant's own lawyer Mike Hopewell (see R. P. 20 line 6-7)

- 4. Mike Hopewell committed perjury and deception.**

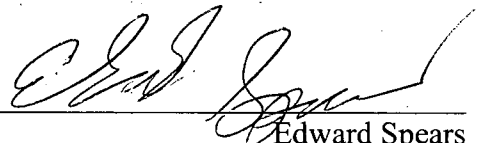
In my opinion Mike Hopewell is a crooked lawyer who can only win a case with deception and lies. Mr. Hopewell allows his legal assistant to send out false and untrue information (June 8th disposition) then goes to court with the information then persuades these judges who are

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uneducated in civil lawsuits to have the case dismissed as he did in two of my default hearings on August 15th and September 15, 2016 (see R. P 25 lines 8-12) also (see R. P 26). Perjury is a criminal act punishable by jail time as well as a fine and no court shall provide relief to any defendant or defendant's lawyer engaged in illegal activity. Judge Russo was told this in the appeal case however he must like crooks. Mr. Hopewell also violated the lawyer's oath (see R. P. 28 line 1).

CONCLUSION

It doesn't take a rocket scientist to see this judge is incapable of making rational and reasonable decisions. I am speaking of Judge Russo for example. I presented to him the June 8th disposition sent by the defendant's lawyer legal assistant (see R. P. 6 & 7). Then the defendant's lawyer testifies in front of the judge saying the information from his legal assistant is not true (see R. P. 20 lines 5-7). Then this so called judge dismisses the case saying I should have appealed a disposition he just heard containing false and untrue information. Does it sound like an episode of the T.V. show Dumb & Dumber? That's only one example, any other pieces of evidence as I presented to him from A thru E on previous pages should have persuaded him to send this case back to the magistrate court for a default hearing. People expect a judge to be highly educated in law and to be fair and honest. The courts have no room for judges who need on job training or judges who sit on the bench scratching his head, twirling his eyes trying to figure out what's right and wrong. I have presented to Judge Russo clear and convincing evidence that the June 8th disposition was irrelevant and should not have been appealed. I also presented more than enough evidence that the doctrine of res judicata was not violated. Therefore I pray this court will do the fair and honest thing and send the case back to the magistrate court for a default hearing where it should have gone in the first place.



Edward Spears
503 Roughfork Street
Florence, SC 29501
843-496-3711
Edward4920@att.net