

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

LAMONT JEREMIAH McCAULEY,)
)
 PLAINTIFF,)
)
 -VS-)
)
 FAMILY COURT CLERK)
 GREENVILLE COUNTY)
)
 DEFENDANT.)
 _____)

2017-CP-23-08068

TRANSCRIPT OF RECORD

RECEIVED

JUL 30 2018

SC Court of Appeals

MARCH 12, 2018
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE PERRY H. GRAVELY

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

PRO SE

ATTORNEY FOR DEFENDANT:

RUSSELL W. HARTER, JR., ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEX

WITNESS

PAGE NO.

CERTIFICATE OF REPORTER

28

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
-----------	--------------------	-----------	-----------------

(No Exhibits Were Presented During This Hearing)

1 **THE COURT:** The first case is Lamont McCauley versus
2 the Clerk of Greenville County.

3 **MR. McCAULEY:** Good afternoon, Judge.

4 **THE COURT:** Good afternoon. All right. So you're Mr.
5 McCauley?

6 **MR. McCAULEY:** Yes, sir, I am.

7 **THE COURT:** All right. I have looked at the motions.
8 Okay. There's two motions. The Defendant has filed a
9 motion to dismiss and you've filed a motion to change venue.

10 **MR. McCAULEY:** Yes, sir.

11 **THE COURT:** All right. I think it makes sense to hear
12 the motion to dismiss first. And then I'll hear the motion
13 to change venue. All right.

14 And these are the kind of rules, since it's his -- on
15 his motion, I'll let him go first and let you respond. And
16 then I'll give him kind of the last word. And then on your
17 motion, vice versa.

18 **MR. McCAULEY:** Yes, sir.

19 **THE COURT:** All right?

20 **MR. McCAULEY:** Yes, sir.

21 **THE COURT:** Okay. Mr. Harter.

22 **MR. HARTER:** Good afternoon, Judge. How are you?

23 **THE COURT:** Good.

24 **MR. HARTER:** Your Honor, I represent the Clerk of Court
25 in this case, as you know from the pleadings. And here --

1 and we have filed a 12(b)(6) motion to dismiss. And here is
2 what I think the case is about. I know you've reviewed the
3 pleadings.

4 But it appears, and, of course, on this motion we're
5 looking at the face of the pleadings. But it appears that
6 at some point in the past there was some type of support
7 order issued regarding Mr. McCauley in the State of Georgia
8 in some kind of Family Court proceeding. And it appears
9 that on -- from the allegations of his complaint that on May
10 the 5th that a notice was filed with the Family Court here
11 in Greenville with reference to that support order.

12 And the filing in the Family Court here in Greenville
13 on May the 5th was a notice of filing and registration of
14 that foreign support order that had been filed in Georgia.
15 That notice of filing was served on Mr. McCauley, I think,
16 by mail, dated May 5, 2017. I don't think that is in the
17 record, but I don't think Mr. McCauley would probably
18 dispute ---

19 **MR. McCAULEY:** I am objecting to that ---

20 **MR. HARTER:** And then it appears on June the 2nd Mr.
21 McCauley filed a motion to dismiss that notice of filing of
22 that foreign support order. And he served his motion on
23 June the 22nd of ---

24 **MR. McCAULEY:** Objection.

25 **MR. HARTER:** --- 2017.

1 **THE COURT:** All right. I'll hear from you ---

2 **MR. McCAULEY:** Yes, sir. I just wanted ---

3 **THE COURT:** Now, is that motion -- is that ---

4 **MR. HARTER:** I'm sorry. He filed it, I think, on June
5 ---

6 **MR. McCAULEY:** June the 2nd.

7 **MR. HARTER:** --- the 2nd. And I think he served it on
8 June the 22nd. I think that's right. But the ---

9 **THE COURT:** Is that something that was filed in Family
10 Court?

11 **MR. HARTER:** Yes, sir, filed in Family Court. Filed in
12 Family Court. And I think that under -- when that notice of
13 filing of that foreign support order was filed it was notice
14 to Mr. McCauley that he had twenty days to file some type of
15 objection to that. And from his paperwork, from the
16 allegations of his complaint he would submit that he did
17 that.

18 Now, after that the Clerk of Court in Greenville issued
19 a wage withholding for child support based on that order.
20 And I think what Mr. McCauley's -- and then later that
21 Family Court child support order was dismissed, okay?

22 What I think Mr. McCauley's claim is is that the Clerk
23 of Court -- the Clerk, the Family Court prematurely sent
24 notice to Mr. McCauley's employer to withhold wages for
25 payment of that Georgia Family Court order. I think that's

1 what Mr. McCauley's claim is from reading the complaint.

2 And his claim is a civil action for damages for actual
3 damages and punitive damages against Paul Wickensimer, Clerk
4 of Court, and the Greenville County -- well, Paul
5 Wickensimer, Clerk of Greenville County Family Court. And
6 so for purposes of today's motion and this argument, we just
7 assume those facts are correct.

8 **MR. McCAULEY:** I object.

9 **MR. HARTER:** And even if we assume those facts are
10 correct, we believe that a 12(b)(6) motion is appropriate in
11 this case and that his civil claim for damages against Paul
12 Wickensimer should be dismissed. And that is based on the
13 fact that any claim against Paul Wickensimer alleged in the
14 complaint for damages would be subject to the South Carolina
15 Tort Claims Act.

16 **MR. McCAULEY:** Objection.

17 **THE COURT:** Now, I'm going to let -- this is just an
18 argument. This is, I mean, ---

19 **MR. McCAULEY:** This is ---

20 **THE COURT:** And I'll hear everything you have to say,
21 ---

22 **MR. McCAULEY:** Yes, sir.

23 **THE COURT:** --- but, you know, at that point you point
24 out whatever ---

25 **MR. McCAULEY:** Yes, sir.

1 **THE COURT:** And that's just how our rules -- the way we
2 do that.

3 **MR. McCAULEY:** Yes, sir.

4 **MR. HARTER:** And the Tort Claims Act, I think under 15-
5 78-60 has a number of specific exceptions that we submit
6 apply. Subsection (1) a government -- well, a government
7 entity is not liable for losses resulting from legislative,
8 judicial, quasi-judicial action or inaction;

9 (2) administrative action or inaction of a legislative,
10 judicial, or quasi-judicial function or nature, I'm sorry.

11 (3) the execution, enforcement, or implementation of
12 the orders of any court or execution, enforcement, or lawful
13 implementation of any process;

14 Number (4) the adoption, enforcement, or compliance
15 with any law, failure to adopt or enforce any law, whether
16 valid or invalid, including, but not limited to charter,
17 provision, ordinance, resolution, rule, regulation, or
18 written policies;

19 Number (5) the exercise of discretion or judgment by
20 the government entity or employee or the performance or
21 failure to perform any act or service which is in the
22 discretion or judgment of a governmental entity or employee;

23 And/or 23 subsection -- (23) institution or prosecution
24 of any judicial, administrative proceeding. So I think
25 under the Tort Claims Act, Your Honor, there is absolute

1 immunity for Paul Wickensimer in connection with this claim.

2 Also, and as an adjunct to that, we believe that
3 there's a lack of subject matter jurisdiction here. And I
4 believe under Rule 4 the Rule provides that if at any point
5 in time the Court by suggestion or other -- I'm sorry, under
6 Rule 12 if the Court at any time by suggestion or otherwise
7 becomes aware that there's a lack of subject matter
8 jurisdiction, then the complaint would have to be dismissed.

9 And I say that because under 63-3-530 I believe that
10 spells out the areas in which the Family Court has exclusive
11 jurisdiction. And which in connection with that subsection
12 -- with that section, Judge, that subsections (1), (11),
13 (13), (14), (16) and (21) would have some application there.

14 So that in substance is our position. This is a civil
15 lawsuit for damages brought by Mr. McCauley against the
16 Clerk for monies that were withheld from his wages. We
17 believe the Clerk has absolute immunity based on the Tort
18 Claims Act for those kind of allegations.

19 And, further, that to the extent there is any issue
20 about those funds and whether or not Mr. McCauley would be
21 entitled to anything in connection with the payments that he
22 made, that is a matter that is within the exclusive
23 jurisdiction of the Family Court and would not be within the
24 jurisdiction of this Court.

25 And I believe -- and just to add to that, the Court

1 could take judicial notice of Judge Conits' order in this
2 case of October 24, 2017 when the case was dismissed in
3 Family Court and the court said this court is suspending
4 enforcement of the Georgia child support order by the
5 Greenville Clerk of Court pending the outcome of the
6 Defendant's motion to dismiss, which has been filed in
7 Gwinett County.

8 And the court goes on to say any funds which have been
9 collected by the Greenville County Clerk of Court and
10 disbursed to the State of Georgia shall be challenged by the
11 Defendant in his court action with the State of Georgia.
12 And that is an order filed by Judge Conits on October 24,
13 2017. And the civil action is 2017-DR-23-2020. And, Judge,
14 that's pretty much our position.

15 **THE COURT:** All right.

16 **MR. HARTER:** Thank you.

17 **THE COURT:** Now, Mr. McCauley, you can tell me all the
18 issues, all your objections, whatever you want to tell me.

19 **MR. McCAULEY:** Yes, sir. In the Tort law that the
20 gentleman quoted, he was correct on all points except for
21 lawful administration. Now, it was not a lawful
22 administration. I didn't know we was going to hear the
23 merits of the court -- the case today. I thought this was a
24 change of venue. And I didn't know he was going to file
25 that.

1 But on his case, a person working in a civil position
2 as Mr. Wickensmier [sic], in his position, is not protected
3 if he's negligent in his duties. All those that he quoted
4 from the South Carolina Codes and the Tort do apply if he
5 were lawful in his actions. And he was not.

6 And he was not because the gentleman quoted it was May
7 2nd. It was May 16th when I received it. I have it in
8 evidence that it was May 16th that it was stamped and
9 received by me.

10 I filed on June the 2nd the answer to the foreign
11 support order in the manner that administratively allowed me
12 to answer in the court. At the time of filing with Mr. --
13 am I saying Wickenstimer [sic]? In his court the lady told
14 me, we're not going to do anything with this. I said, I
15 need it filed, and I need a copy because that's what the
16 administrative procedures call.

17 I disputed the foreign order on the grounds that are
18 appropriate in the administrative process. And I waited for
19 a court date. During that sixty days between the filing --
20 and it was within the twenty -- twenty day window. If I did
21 not file it, then the order of operations would have went
22 into effect per the administrative procedures, but I filed.

23 And I awaited court date to hear the grounds of my
24 case, the merits of my case with Mr. -- with the Clerk's --
25 Defendant's office. He had on file that I was waiting for

1 that date.

2 During that time, the sixty days, it was June 2nd, on
3 August the 10th the sixty days in between the time of my
4 filing and me getting a -- not even having a court date yet
5 because my court date wasn't until October, the Clerk's
6 Office sent correspondence to my house asking for my
7 employment, my -- all these things.

8 And I sent the mail back because I was waiting on a
9 court date. There was no established case here. And
10 Georgia had no grounds to send the case here. And I argued
11 that with them.

12 So during that period of sixty days between --
13 approximately sixty days between June the 2nd and August the
14 10th I got correspondence from them. I sent it back. On
15 August the 10th he sent my employer an income withholding
16 offer, not signed by a judge of competent court. It was not
17 signed because I had not been to court yet, okay?

18 So he had no grounds to do that. He's filed it on
19 behalf of Georgia and we're in the State of South Carolina.
20 How are you working for Georgia? Okay? And I had not been
21 to court yet on it.

22 So when I did go to court on October the 2nd, well,
23 when I found out -- let me go back. I sent correspondence
24 to my employer and asked them to please stop because this
25 wasn't -- this was not a lawful action. It was not signed

1 by a court of competent jurisdiction. It was signed by the
2 Clerk of Court, who's upset because I sent mail back because
3 I was waiting on a court date to hear the merits of my case
4 against me as far as a foreign order. Okay?

5 Weeks went by. I sent the office -- and I have this.
6 This is presented in evidence. I have correspondence where
7 I sent to their office that I am a secured creditor. Please
8 stop withholding my income. I have status. I am a secured
9 creditor. Please do not do this.

10 They continued to take my -- withhold my income before
11 my court date, Your Honor. My court date was August the, I
12 mean, excuse me, October the 24th, I believe. The 24th. I
13 went in, I presented my case on the merits that I originally
14 presented on August the 2nd in my filing, and it was
15 dismissed.

16 Now, he did read where she said that, but I didn't
17 agree to that. That's what the court said after I left. I
18 asked about my funds. And they said, well, you will have to
19 pursue that in another venue, okay? She said, Georgia took
20 your money. She said -- what she said -- well, I know it's
21 hearsay. I won't go into that.

22 The thought was that Georgia had taken my money.
23 Georgia had issued the withholding. They did not. That
24 came from the court, from the Clerk of Court's Office
25 without a signature. And I have that into evidence, the

1 actual income withholding with no judge's signature.

2 Now, the administrative process, you still have rules.
3 And the law does not protect him from me from getting
4 damages when he's negligent in his actions. He was notified
5 that I -- that I had an issue with the foreign order in the
6 correct administrative manner during the correct
7 administrative time, but he still, sixty days later, filed
8 an income withholding without me even going through the
9 administrative process.

10 To me, that is a dereliction of duty. And it's malice
11 especially when you know and you have a duty to hold papers
12 and file them in a correct manner. So that's why I brought
13 the case and that's why I'm here.

14 Any time a public official is negligent in their
15 duties, I think it's the right of the people, especially
16 with correct standing to be able to hold them accountable
17 for that. And the law does not protect them from that. No
18 statute that he mentioned -- he said lawful administrative
19 process, lawfully. That was not lawful according to the
20 administrative process. So that's why I'm filing. That's
21 why I filed in this case.

22 And to another point, he talked about what the judge
23 said when she dismissed, talked about the Tort cases, case
24 law and, excuse me, the dates. And, like I said, I was
25 within the administrative process. I followed the rules, he

1 did not.

2 And it seemed to me that he was very upset that, you
3 know, I was enacting my rights to be able to go through the
4 administrative process and hear the grounds against me as
5 far as a foreign order being transferred -- that was
6 dismissed in Georgia being transferred over to the State of
7 South Carolina.

8 I just -- what I did was I followed the letter of the
9 law and he did not and as far as my understanding of what
10 the administrative procedures were. And that's why we're
11 here. And ---

12 **THE COURT:** Well, let ---

13 **MR. McCAULEY:** --- everything that I mentioned is in my
14 paperwork filing. But, like I said, I didn't know that we
15 were going to -- we were going to go through the entire case
16 today.

17 But everything that I just spoke of, I have
18 insurmountable evidence against him. I have standing. I
19 have ground to be able to do it as secured creditor. And,
20 therefore, I request that we do not dismiss the case and we
21 move forward with the change of venue.

22 **THE COURT:** Let me ask you just a couple of questions
23 here.

24 **MR. McCAULEY:** Yes, sir.

25 **THE COURT:** How much was withheld?

1 **MR. McCAULEY:** One thousand, one hundred and fifteen
2 dollars (\$1,115.00).

3 **THE COURT:** All right. And so the matter was suspended
4 here by the Family Court in Greenville.

5 **MR. McCAULEY:** Yes, sir.

6 **THE COURT:** What's the status -- and this is just
7 background -- what's the status of Georgia?

8 **MR. McCAULEY:** Georgia, there is no status. They don't
9 -- they don't want to dispute it. They -- because I'm a
10 secured creditor, I notified them in this exact same way.
11 We had a case, they settled on the case, there is no case.

12 **THE COURT:** Have they dismissed the order in Georgia?

13 **MR. McCAULEY:** The order was dismissed before it was
14 even sent to South Carolina. And that's why it was
15 dismissed.

16 Now, the person who filed down there, I filed a lawsuit
17 against them for sending it here unlawfully. So -- and I
18 was trying -- I tried to let South Carolina know that that's
19 what happened.

20 And that's why I filed with his court on June -- on
21 June the 2nd within the, you know, the administrative
22 process. I let them know of that, but he still did not
23 honor my rights and he still withheld my money, my property,
24 excuse me, Mr. McCauley's property.

25 **THE COURT:** Did you -- do we have -- did you attach a

1 copy of the -- let me ask you this, though.

2 **MR. McCAULEY:** Yes, sir.

3 **THE COURT:** But you don't deny that the order was sent
4 from Georgia to Mr. Wickensimer's office?

5 **MR. McCAULEY:** No. It was -- it wasn't sent directly
6 to him. It was sent to the Division of Child Support
7 Services.

8 **THE COURT:** Right.

9 **MR. McCAULEY:** Then they filed with Mr. Wickenstimer's
10 [sic] office. And they sent a letter to me saying I had
11 twenty days to dispute this or this would go into the order
12 of operation. It would go into effect.

13 I disputed it because it was not correct. And during
14 that time is when all of this happened. You know, it was
15 sixty days after that -- after my filing that he filed with
16 my employer an income withholding.

17 And then it was sixty days after that before I even had
18 a court case, a hearing about my filing. And then it was
19 dismissed on the grounds that I -- I told them about when I
20 filed the first time, that it was illegal to do that.

21 South Carolina was kind of played in the whole process.
22 It was, you know, it's a lot happened. And they tried to
23 change it over to South Carolina before -- before
24 everything, you know, clearly canceled out.

25 They found someone down there who did not know what

1 they were doing, and they transferred it and sent the
2 information up here to Division of Social Services. And
3 they tried to put it on the books here, but it wasn't legal
4 there.

5 **THE COURT:** Well, isn't that an issue with the
6 Department of Social Services?

7 **MR. McCAULEY:** It is to a point, sir. And forgive me.
8 To the point that they did what they were supposed to do.
9 They filed paperwork, and then they sent it to me and they
10 instructed on -- instructed me what to do. At that point it
11 transferred to me. And I transferred it back to them, okay?
12 And we awaited a court date.

13 In that time malice took place when this office filed
14 an income withholding without even hearing -- having a
15 hearing on it or having a withholding signed by a judge of
16 competent court, you know? And it was sent through -- it's
17 so many layers that I could address that I did not, you
18 know, with sending money, you know, it's so many acts and
19 things that I did not even address because this might not be
20 the appropriate court to do that. But, like I said, how
21 many other people have been done like this unknowingly that
22 just did not dispute it?

23 So that -- hence, that's why I filed the case. That's
24 why we're here. And that's why I believe it should not be
25 dismissed, it should move forward. And Mr. Wickensmier's

1 [sic] office should be held -- held accountable, at least
2 answer to the evidence that's been presented in front of the
3 Court.

4 **THE COURT:** All right. Mr. Harter.

5 **MR. HARTER:** Your Honor, specifically the Tort Claims
6 Act, it does -- it's very clear that this is an absolute
7 exception to the waiver of immunity as it outlined in the
8 Act.

9 **THE COURT:** What's the -- what ---

10 **MR. HARTER:** It's 15-78-60.

11 **THE COURT:** Hold on. Let me pull it up. 15-58 ---

12 **MR. HARTER:** 78.

13 **THE COURT:** Okay.

14 **MR. HARTER:** 15-78.

15 **MR. McCAULEY:** Your Honor, there are also protections
16 for negligent actions.

17 **THE COURT:** I'm just going to look up what he's
18 referencing. Hold on. All right.

19 **MR. HARTER:** 15-78-60 (1) governmental entity is not
20 liable for a loss resulting from legislative, judicial, or
21 quasi-judicial action;

22 (2) administrative action or inaction of a legislative,
23 judicial, or quasi-judicial nature.

24 **MR. McCAULEY:** (3).

25 **THE COURT:** Hold on. Let him ---

1 **MR. McCAULEY:** I'm sorry.

2 **MR. HARTER:** Excuse me, sir.

3 **THE COURT:** And I'll let -- let him ---

4 **MR. McCAULEY:** Yes, sir.

5 **THE COURT:** He's got to finish. So don't be

6 interrupting, but I'll give you a chance.

7 **MR. McCAULEY:** Yes, sir.

8 **MR. HARTER:** I think that's exactly what he's talking
9 about is administrative action. (4) [sic] is the execution,
10 enforcement, or implementation of the orders of any court or
11 execution, enforcement, or lawful implementation of any
12 process;

13 (4) the adoption, enforcement, or compliance with any
14 law or failure to adopt or enforce any law;

15 (5) is the exercise of the discretion or judgment by
16 the governmental entity or employee or the performance or
17 failure to perform any act or service which is in the
18 discretion of the government or the government entity or
19 employee.

20 And then number (23) is the institution or prosecution
21 of any judicial or administrative proceeding.

22 Those are absolute exclusions from liability under 15-
23 78-60. You know, whether or not there is negligence or not,
24 that is -- that doesn't enter into the picture. These are
25 absolute exclusions from liability.

1 And I think the issue was referenced to the exclusive
2 jurisdiction of the Family Court is pretty clear, too, based
3 on the subsections under 63-3-530.

4 **THE COURT:** Okay.

5 **MR. HARTER:** And, you know, I'm not saying he didn't
6 file. I'm not going to argue with his facts, okay? I'm not
7 saying that he didn't timely file a notice. I'm not saying
8 that he didn't object to that. But the record is clear that
9 this is an administrative kind of complaint that he's
10 making.

11 And it's also clear that the Family Court of Greenville
12 County has dealt with this and issued an order that says
13 that any funds -- this is the court that has jurisdiction of
14 this issue. This issue deals with the payment of child
15 support. And a Family Court of Greenville County has issued
16 an order that says any funds which have been collected by
17 the Greenville County Clerk of Court and dispersed to the
18 State of Georgia shall be challenged by the Defendant in his
19 court action with the State of Georgia.

20 And you always know that in Family Court there are
21 ongoing proceedings, the court retains jurisdiction of
22 issues which relate to Family Court orders, and the payment
23 of fees and the payment of child support in Family Court.
24 So either the Family Court of Georgia or the Family Court of
25 Greenville has jurisdiction of this and not the Circuit

1 Court.

2 **THE COURT:** All right.

3 **MR. HARTER:** And the provisions of the Tort Claims Act
4 are an absolute immunity for the Clerk.

5 **THE COURT:** All right. Sir, I'll hear from you.

6 **MR. McCAULEY:** The provisions of the Claim Tort does
7 not. Number (3) of that said lawful action, a lawful
8 action. I'm claiming that what he did was an unlawful
9 action because he did not follow the administrative
10 procedural process, okay? What right did he have to be able
11 to file an income withholding without me even going in front
12 of a judge, which was four months later?

13 So what I'm -- what I'm claiming is number (3) of the
14 same Tort Act that he read -- and I have -- if I could use
15 my phone, I could show you where he's not protected under
16 certain situations. There is no -- the State in their codes
17 say that if you negligent, maliced [sic] in your -- in your
18 actions that you cannot -- you don't -- you don't have that
19 immunity anymore. And you could be sued up to three hundred
20 thousand dollars (\$300,000.00), okay? And this is State law
21 and this a matter of fact.

22 The judge who issued that, mind you, Judge, that was
23 four months after and two months after he had already issued
24 an income withholding without a judge's signature. Unlawful
25 to do that.

1 Now, she wrote that in there after I had left out of
2 the court. I had -- I didn't sign that. I didn't agree to
3 that because I knew who took my money, who took -- excuse
4 me, my property, who took my property unlawfully, and that
5 was the Clerk of Court's Office.

6 They had no jurisdiction. He just said it. He just
7 said that this was a Family Court jurisdiction. They had no
8 jurisdiction to be able to take my property without first
9 having my day in court upon the issue that was filed in
10 their court. So he had knowledge, which further if he -- he
11 had knowledge of this, of my dispute, and he still went
12 forward with it. Is that not malice? Is that not unlawful?

13 So his claim that he's protected and he's the -- and he
14 has immunity in this case has no grounds because, one, just
15 as he said, he had no -- he had no jurisdiction. The Family
16 Court did. He's a clerk. He filed the papers.

17 You know, in some instances, once the judge signs off,
18 if it's my -- my understanding, if I'm correct, you can
19 correct, me, Judge, because I am not a lawyer, but I
20 understand that I do have rights, okay? I made myself a
21 secured creditor for a reason, okay? To protect, to offer
22 some protections against rogue government employees doing
23 things that are outside of -- outside of the administrative
24 process, okay? I did that for a reason.

25 Mr. Wickensmier [sic], his office was caught in the

1 act. They were caught in the act. They had no grounds, no
2 jurisdiction to do that to a secured -- especially, Your
3 Honor, I notified them of my secured creditor status. I did
4 that. I sent it -- I have certified mail that I sent to
5 their office stating this fact, and he still went forward
6 with it.

7 So what the gentleman's presenting would be correct if
8 it were a lawful action on the Clerk of Court's Office, but
9 it's not. So -- and they were the ones who took that
10 unlawful action, not Georgia. Georgia didn't do it. Not
11 Division of Child Support Services. They did not do it. It
12 was the Clerk of Courts whose only signature on that income
13 withholding who did it.

14 So based on those grounds that the South Carolina Codes
15 of Tort do not protect government officials in malice or
16 negligent actions in their duties, this is why I filed the
17 case, and this is why we're here, and this is why I believe
18 that we should move forward to looking at a change of venue
19 in order to, you know, offer some fairness in hearing the
20 evidence and let the judge, I mean, excuse me, let the jury
21 be the deciding factor in whether his office was maliced
22 [sic] or not.

23 **THE COURT:** Well, and the way I've got to look at it,
24 you know, just kind of show you what I've got to do at this
25 point is in a motion to dismiss, I've got to look at your --

1 what you pled in your complaint, ---

2 **MR. McCAULEY:** Um-hum (affirmative).

3 **THE COURT:** --- all right, what you filed, not as much
4 what you argue and what he argues, but I've got to look at
5 your complaint.

6 **MR. McCAULEY:** Yes, sir.

7 **THE COURT:** And then apply, for instance, the Tort
8 Claims Act to that complaint. I -- you've argued a lot of
9 things that may not necessarily be included in your
10 complaint, but I don't see where you have made allegations
11 in your complaint that brings it outside the Tort Claims
12 Act.

13 **MR. McCAULEY:** I put in there that ---

14 **THE COURT:** You've attached stuff, and I've seen stuff.

15 **MR. McCAULEY:** It's at the bottom of there. I said he
16 acted negligently. That puts it outside -- that puts it
17 inside, squarely inside the -- outside of his protections
18 for immunity. That's where I put it. It's at the bottom of
19 the page, the last ---

20 **THE COURT:** All right.

21 **MR. McCAULEY:** --- three or ---

22 **THE COURT:** I see ---

23 **MR. McCAULEY:** --- four sentences.

24 **THE COURT:** --- that there, but the -- that's not what
25 the Tort Claims talks about. You're saying negligent and

1 unlawful and malice are the same thing, but it's not. So, I
2 mean, I find that, you know, based on my review of your
3 complaint, you've not pled where -- outside the Tort Claims.
4 So, I mean, I don't think I have any choice but to grant the
5 motion to dismiss.

6 **MR. McCAULEY:** See, this is why I wanted to move it to
7 a different County.

8 **THE COURT:** Well, I mean, ---

9 **MR. McCAULEY:** Can I show you where he cannot be
10 protected?

11 **THE COURT:** I'm very familiar with the Rule and the ---

12 **MR. McCAULEY:** Yeah, but you won't hear it?

13 **THE COURT:** No. I mean, I've made a ruling. So you'll
14 have a right to appeal it.

15 **MR. McCAULEY:** I do have a right, and I will. Thank
16 you, sir.

17 **THE COURT:** And, Mr. Harter, if you will ---

18 **MR. HARTER:** I will.

19 **THE COURT:** --- prepare an order along those lines.

20 **MR. HARTER:** I will. Thank you, Judge.

21 **THE COURT:** Just submit a copy to Mr. McCauley.

22 (Whereupon the parties had exited the courtroom)

23 (Hearing Ended at 2:42 pm)

24 (Whereupon Mr. McCauley entered the courtroom at 2:42 pm)

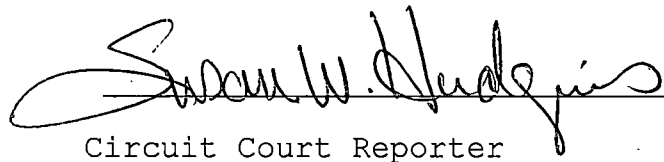
25 **MR. McCAULEY:** Judge.

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 12th day of March 2018.

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

July 6, 2018


Circuit Court Reporter

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Case No. 2018-000741

Lamont Jeremiah
McCauley,
Authorized Rep for
the Estate

Appellant,

v.

Paul Wickensimer,
Greenville County
Family Court
Clerk's Office

Respondents.

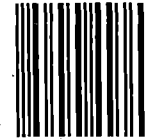
RECEIVED
JUL 30 2018
SC Court of Appeals



7018 1130 0000 4455 4069



1000



29211

U.S. POST
PAID
MAULDIN,
29662
JUL 26, 11
AMOUNT

\$7.
R2304M11

FROM:

Lamont Jeremiah McCawley

504 Bethel Drive

Mauldin SC, 29662

RECEIVED
JUL 30 2018
SC Court of Appeals

TO:

Jenny Abbott Kitchings

Clerk of Court

P.O. Box 11629

Columbia, SC 29211

RECEIVED
JUL 30 2018
SC Court of Appeals