

BRIEF OF APPELLANT IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The South Carolina Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Greenville County of Common Pleas thirteenth judicial circuit

Honorable Circuit Court Judge

Perry, H

Gravelly

Case Number

2018-001886

Drake Malpass, Appellant,

v.

Nick Burns, Respondent.

Initial Brief of appellant

Drake Malpass

327 Brown Road Simpsonville, SC 29681

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Self- Represented

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JAN 16 2019

SC Court of Appeals

Drake Malpass

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Arguments

- Because respondent committed perjury in the initial trial and since the appellant could not assert claims past this perjury the second suit was required to prove perjury in which the partnership claims were reasserted.
- Because the Uniform Partnership Act exists but was not upheld in the second suit an appeal was filed in the Greenville county court house.
- Because the Honorable Perry H. Gravely erred in overlooking the initial act of perjury from the first action he dismissed the case.
- Because appellant could not have asserted these claims in the original action the case has been brought in Columbia.

TABLE OF AUTHORITIES

STATUTES

- Uniform Partnership Act Article 5 Section 33-41-310
- SC code of laws 16-9-10

STATEMENT OF ISSUES ON APPEAL

1. Did the Trial court err in failing to enforce the article 5 section 33-41-310 of the Uniform Partnership Act
2. Did the circuit court judge err in a mis-finding of fact when he overlooked the act of perjury in the original action.

Statement

Perjury and improper interpretation of fact

This is the order of events Hearing 1: Partnership and investment claim Hearing 2: Perjury and re-assertment of partnership claim Appeals 1: Judge changed my answer of "forgot" for "could" in that since I said I "forgot" (Note: you will see I did make the partnership claim) therefore I "could have". This is faulty logic.

The initial cause of this case was claims made of unpaid partnership work and repayment of an investment. In 2016 a general partnership, with no formal documents, was formed between the appellant and respondent. In September of 2016 an investment was made and the appellant gave the respondent \$500 in cash. The appellant immediately went to a computer and documented the investment. Summer of 2017, the partnership begins work at Let's Dance. On December 3rd the appellant receives notice from the respondent that he is changing the direction of the business the investment was made on and the appellant requested the return of the investment to which the respondent refused. January of 2018, the appellant sues the respondent for unpaid work at Let's Dance and the investment. (Note: The appellant only has the investment in writing at this time) The hearing is set for March 2018. The court proceedings begin and the respondent denies work at Let's Dance had anything to do with the partnership. (Note: This is the act of perjury that set the rest of actions and events) Appellant continues on with what he has in writing because he cannot further assert the claim on Let's Dance and he recovers damages from the investment. After the court proceeding the appellant finds evidence of perjury that puts the partnership at Let's Dance and files a new case reasserting the claim on Let's Dance.

(Note: Appellant has now remembered about general partnership law, but has no knowledge of article 5 section 33-41-310) The second hearing is set for June of 2018. The appellant presents an advertisement advertising the partnership at Let's Dance and the respondent presents a screenshot of the management system that shows his employment with Let's Dance and draws attention to the fact that it has his name on it. The judge puts more weight on the respondent's evidence and dismisses the case. Post hearing the appellant decides to look up the Uniform Partnership Act specifically and reads it. (Note: Appellant is now knowledgeable of Article 5 section 33-41-310) Appellant now reviews evidence presented by both parties and notices the execution of the partnership name on the management system presented by the respondent and files the original appeal using the evidence presented by the defendant. (Note: The evidence that fills the Uniform Partnership Act was not presented by the appellant and was not discovered until the second hearing.) First trial, I get my investment back but respondent lied about partnership. Second trial, respondent gives me the evidence I need to fulfill the act but case is dismissed. Third action, partnership at Let's Dance is proven but the judge overlooked the act of perjury from the first case that caused the second action. Forth action, I tie everything together.

In short, the plaintiff asserted the partnership claim for work at Let's Dance, the defendant lied and denied the claim, perjury was filed and partnership claims were re-asserted, Uniform Partnership Act is filled by defendant's own evidence he made discoverable during the second hearing, appeals judge did not see the legality of the second hearing and used faulty logic that since I said I forgot, that if I would have, I could have brought up the Uniform Partnership Act in the first hearing (Note: I did present a claim for work at Let's Dance I just did not know what to call it or have the evidence available to me to disprove the defendant's lie until the second hearing)....., the judge assumed that if I would have brought up the Uniform Partnership Act then I could have resolved this matter then, which is simply untrue.

Standard of Review

Clearly erroneous- Mis-finding of fact by perjury enforced by SC code of law 16-9-10

Arguments

- Because respondent committed perjury in the initial trial and since the appellant could not assert claims past this perjury the second suit was required to prove perjury in which the partnership claims were reasserted.
- Because the Uniform Partnership Act exists but was not upheld in the second suit an appeal was filed in the Greenville county court house.
- Because the Honorable Perry H. Gravely erred in overlooking the initial act of perjury from the first action he dismissed the case.
- Because appellant could not have asserted these claims in the original action the case has been brought in Columbia.

-Conclusion

The legality of the second hearing was based on perjury. Claims were brought against money at Let's Dance in the original hearing and warrants the further litigation of the claim against perjury.

January 13,2019/s/Drake Malpass

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PROOF OF SERVICE OF INITIAL BRIEF

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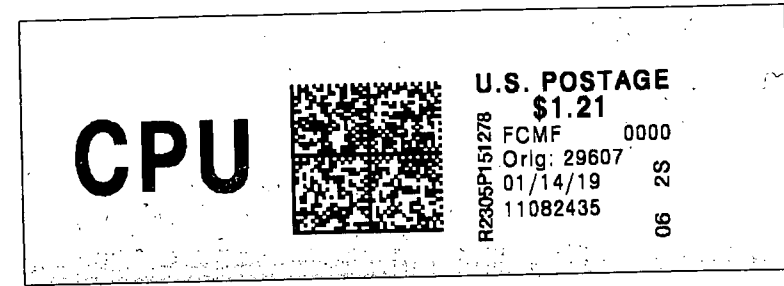
I certify that I have served the initial brief on Nick Burns by depositing a copy of it in the United States Mail, postage prepaid, on January 14th, 2019 addressed to his most recent known address of 446 Crosby Cir. Greenville SC 29605.

January 14 2019

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