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SC Court of Appeals

The State of South Carolina
In the Court of Appeals

Appeal from Richland County
Court of Common Pleas

Paul M Burch, Circuit Court Judge

Case No 2018-001809

Carmen Morgan Appellant,

v.

Yvonne Murray Boyles Respondent.

Final Brief of Appellant

Carmen Morgan 2/8/19
Carmen Morgan
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Statement of Issues on Appeal

1. Did the court err in failing to find that the Assigned member/ investigator did not call back to complete the investigation?
2. Did the court err in failing to find the fact the assigned member/ investigator did not give me the opportunity to submit evidence into the record, which lead to a partial report, decision, and recommendation?

Statement of the Case

On March 27, 2017 I completed and returned the application for resolution of disputed fee. On August 15, 2017 I received written notice of the report and recommendation. Mr. David Miller assigned member/ investigator report dated August 9, 2017 and Ms. Lisa Cotten Long Fifth Judicial Circuit Co-chair Resolution of disputes Board letter dated August 11, 2017 stating the fee was earned. On September 8, 2017 I appealed to the Richmond County common pleas/ circuit court. On September 14, 2017

Respondent was served Notice of Appeal on September 7, 2018 a Appeal hearing was held with Judge Paul Burch. I received the order September 26, 2018 stating a affirmed the fee dispute board. On October 9, 2018 I served Notice of Appeal on Respondent, Ms. Michelle Dennis fee dispute coordinator, Ms. Ann Huntey (Jeanette McBride Clerk of Court) Richland county clerk of common Pleas. On October 9, 2018 I filed Notice of Appeal with the South Carolina Court of Appeals.

Statement of Review

Rule 20 Appeals (a) A party aggrieved by the final decision of the board may appeal the decision of the circuit court in the county where the principal place of practice of the attorney is located.

(f)(2) There was evident partiality or corruption in an assigned member or hearing panel member, or misconduct prejudicing the rights of any party.

Facts and Arguments

The assigned member/investigator did not address the fact that the contract/fee agreement does not address phone calls or travel time (R. p. 11, R. p. 8). I was not receiving a monthly account activity/bill from respondent to see how she was billing (R. p. 4, lines 8-17). The assigned member/investigator never asked respondent about the May 8, 2013 duplication of calls from respondent (R. p. 7, R. p. 9).

The assigned member/investigator report (R. p. 11, R. p. 12) state respondent explained that she drafted and sent a subpoena to the apartment complex. The assigned member/investigator took respondent word for this work. I have not seen a subpoena and if it is one it was done without my approval and not necessary for the case. Respondent told me she did not need a subpoena (R. p. 5, lines 20-25).

The report of the assigned member / investigator stated respondent alleges she never knew anything about child support and was never asked to handle any issues related to child support including transferring the child support case from York to Lexington. On May 1, 2013 respondent charged \$700.00 for (R. p. 2) that states custody visitation and child support. On June 3, 2013 financial declaration was done for the purpose of child support and never got used (R. p. 10, R. p. 6 lines 18-24). The assigned member / investigator let respondent enter Affidavit into record stating she discussed the case with her friend Kelly Seabrook who had worked on the case (R. p. 14).

The assigned member / investigator report (R. p. 12) states respondent further explained that she was never asked to file any post trial motions. The assigned member / investigator took her word again. I told the assigned member / investigator that I would like to enter text message into record.

The assigned member/investigator did not give me the opportunity to submit the text message, nor did he call back to finish the investigation (R. p. 3 lines 8-22). By text message I asked respondent what do you plan on doing next on the case? Respondent stated he told me about a motion to reconsider, but never did it. Respondent had from July 30, 2014 until November 2014 to file a motion to reconsider/post trial motions.

The Report of the assigned member/investigator (R. p. 12) states respondent billed over the retainer. On May 1, 2013 Respondent said \$5,000.00 would do the custody case and it was no need for me to initial the revisit of the contract / fee agreement (R. p. 8).

Conclusion

I was not given the opportunity to submit evidence into the record. I was overcharged for work done on my case, work that was not necessary and without my approval. After the temporary hearing the amount of filing, fees, preparing for court, and court time could have waited for trial.

I was not receiving a monthly account activity / bill from respondent during the case. I asked the assigned member / investigator to investigate the duplication of respondent phone calls he never did, assigned member / investigator took respondent word for the subpoena, child support, filing of post trial motions. The assigned member / investigator had no supporting evidence. The fact that the assigned member / investigator never finished the case need to be sent back for reexamination.

Respectfully Submitted
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Certificate of Compliance

The undersigned certified that
this final Brief complies with
Rule 211(b), SCACR.

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