

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Diane Schafer Goodstein, Circuit Court Judge

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JUN 13 2013

SC COURT OF APPEALS

Civil Action No. 2010-CP-15-00894
Appellate Case No. 2012-212865

Jake Wright and Theresa Gadsden, as
Personal Representatives of the Estate
Of Jacob Cleveland Wright, and Jake
Wright and Theresa Gadsden,
individually,.....Respondents,

v.

Colleton County Sheriff's
Department,.....Appellant,

APPENDIX TO RECORD ON APPEAL

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Sheriff George Malone (in-camera)

Direct Examination by Mr. Siegel 1

Deputy Scott McCoy

Direct Examination by Mr. Murdaugh..... 3

1 A No, sir.

2 Q Can you tell me the results of his criminal history
3 check?

4 A Criminal history check -- I don't recall that. I was
5 only looking for his driving record.

6 Q Okay. So was a criminal history check done on Deputy
7 McCoy?

8 A As I can recall, yes, sir. There should have been and
9 I -- well, I can't swear to that. I'm under oath. A
10 criminal history should have been run on this employee.
11 Now, whether or not it was absolutely done, I can't tell
12 you.

13 Q But today, under oath, you will say that you never
14 personally reviewed a criminal history on Deputy McCoy prior
15 to his hiring as a deputy?

16 A No, sir.

17 Q Okay. And you said that you get a clearance through
18 the Clerk of Court as far as judgments go; was there any
19 record in the personnel file that you or the department
20 investigated the presence of or absence of judgments against
21 Mr. McCoy at the time of his application?

22 A Well, I can only speak to what we normally do is we get
23 a statement from the Clerk of Court's office stating that
24 this person has no judgments against them or not. So if
25 this person was hired, this person should not have had any

1 judgments against them.

2 Q Do you know whether or not there was a statement from
3 the Clerk of Court regarding judgments in Deputy McCoy's
4 personnel file?

5 A I don't know. There should have been. I can't swear
6 to that.

7 Q But you haven't personally reviewed any statement from
8 the Clerk of Court or any transcript of any judgment that
9 might have been against Deputy McCoy.

10 A No, sir. I've got 125 other people and I have other
11 people designated to have done that and whether they did or
12 not, I can't say.

13 Q So then, am I safe in recounting your testimony in
14 saying that you never personally reviewed any record prior
15 to Deputy McCoy's hiring?

16 A Correct.

17 Q Now, in his personnel file ---

18 MR. SIEGEL: Excuse me, Your Honor.

19 THE COURT: Sure.

20 Q I'm going to show you what looks like it's a memorandum
21 typed under your name. Have you ever seen that document
22 before?

23 A (Witness reviews document.) I think I have.

24 Q All right.

25 THE COURT: Just identify for the record.

1 Office, the Clerk of Court's Office, and can you read after
2 it says, "To whom it may concern," can you read that
3 sentence for me?

4 A Yes, sir. It says, "This is to certify that there is
5 one record of judgment instituted in the Court of Common
6 Pleas for Colleton County against Scott McCoy up to the
7 present date."

8 Q Can you read the next line? Ignore the CP number,
9 that's the court number, but who was the judgment with?

10 A Ford Motor Credit.

11 Q Okay. So let's go back, then, to Plaintiff's Exhibit
12 Two, question 51 in your application, "Do you have any
13 judgments or civil cases pending against you?" Your answer
14 was "No," was that truthful?

15 A To my knowledge, yes.

16 Q To your knowledge it was truthful?

17 A I wasn't aware that this judgment was against me.

18 Q Okay. Well, let me ask you this, presumably, Ford
19 would have served you with papers?

20 A I'm not sure.

21 Q Do you ever recall going to Court?

22 A Yes, sir.

23 Q Was there a disposition of your case?

24 A I never talked with anybody at Court.

25 Q So what did you do, just sit in the courtroom?

1 A I got something in the mail that told me to show up to
2 this Court.

3 Q Which Court was that?

4 A It was this Court.

5 Q To this Court?

6 A Yes, sir.

7 Q And you came in this courtroom or was it the
8 Magistrate's Court?

9 A It was this Court.

10 Q Okay. And what happened?

11 A I came in, sat down with everybody else; they called a
12 few names and that was it. My name wasn't called, so I
13 left.

14 Q Did you follow up with the Court and ask what do I need
15 to do? Or should I come back? Or did you ask any
16 questions?

17 A No, sir.

18 Q So your testimony is that you were unaware that there
19 was a judgment against you?

20 A Yes, sir.

21 Q Would you agree today, sitting here, that there was, in
22 fact, a judgment against you?

23 A Yes, sir.

24 Q And would you also agree, based on the document in your
25 hand, it appears that the Clerk of Court's office notified,

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CERTIFICATE OF COUNSEL

The undersigned certifies that the Appendix to Record on Appeal
contains all additional material to be included by consent of Attorneys for
Appellant and not any other material.

June 12, 2013

[SIGNATURE PAGE FOLLOWS]



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PROOF OF SERVICE

We certify that on June 12, 2013, we served the Appendix to Record on Appeal on the Appellant by depositing a copy in the United States Mail with postage prepaid and addressed to Marshall H. Waldron, Jr., Griffith, Sadler & Sharp, P.A., Post Office Drawer 570, Beaufort, SC 29901-0570, and Matthew D. Cavender, Griffith, Sadler & Sharp, P.A., Post Office Drawer 570, Beaufort, SC 29901-0570.

[SIGNATURE PAGE FOLLOWS]



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