

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Case No. 2006-CP-39-1826
Appellate Case No. 2015-001536

J. Scott Kunst,Respondent

v.

David Loree.....Petitioner

BRIEF OF PETITIONER

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STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

1. Did the Court of Appeals err concerning the defense of qualified privilege when it made a *factual* finding that Petitioner acted in a reckless and wanton manner with a conscious disregard of Respondent's rights?
2. Did the Court of Appeals err in failing to find that the trial court should have determined as a matter of law as to whether Petitioner had proven the defense of qualified privilege?

STATEMENT OF THE CASE

Respondent J. Scott Kunst ("Kunst") filed his Complaint on December 19, 2006, naming Richard Gaby, Barbara Gaby, and David Loree as Defendants. Kunst alleged tortious interference with contractual relations, unjust enrichment, intentional infliction of emotional distress, and defamation. (Appx. 32, Complaint). The Gabys were dismissed from the case on April 14, 2007, (Appx. 21, Order of Dismissal) because the trial court found that Kunst's causes of actions were compulsory counterclaims of another action involving Kunst, *Gaby v Kunst and Kunstwerke Corp.*, case number 2006-CP-23-2943 (the "Gaby Action"), as set forth in SCRCP 14, which left Petitioner David Loree ("Loree") as the sole defendant. Loree moved for summary judgment as to all causes of action and on March 3, 2009, the Honorable Edward W. Miller granted Loree summary judgment as to the tortious interference and intentional infliction of emotional distress claims, but denied summary judgment as to the defamation claim. (Appx. 20, Order of the Honorable Edward W. Miller dated March 3, 2009).

After Kunst lost his appeal in the Gaby Action, Loree again moved for summary judgment on Kunst's defamation claim based on collateral estoppel. The trial court granted summary judgment (Appx. 6, Order of the Honorable Edward W. Miller dated October 19,

2010), which Kunst then appealed to the South Carolina Court of Appeals. On August 14, 2013, the Court of Appeals reversed and remanded the case for trial.¹

Trial of the case took place May 26-28, 2015, in the Pickens County Court of Common Pleas, the Honorable Robin Stilwell presiding. The jury returned a verdict in favor of Kunst and awarded him \$1,000,000 in actual damages. On June 8, 2015, Loree moved for JNOV, New Trial in the Alternative, New Trial *nisi remittitur* and New Trial absolute. (Appx. 236, Loree JNOV motion). Loree's motion was denied on June 17, 2015. (Appx. 27, Order of the Honorable Robin Stilwell). Loree filed the Notice of Appeal on July 13, 2015. The Court of Appeals affirmed the trial court in its decision of May 30, 2018. (Appx. 1464). Loree filed his Petition for Reconsideration on June 25, 2018, (Appx. 1482) which the Court of Appeals denied on August 16, 2018. This Court granted certiorari in part on May 15, 2019.

STATEMENT OF FACTS

In the Gaby Action, the trial court found that Kunst and his business, Kunstwerke Corp., defaulted after each failed to file an answer. When Kunst moved to have the default set aside on December 12, 2006, Judge Patterson denied Kunst's motion. Less than one week later, on December 16, 2006, Kunst filed his Complaint in this action, naming Richard and Barbara Gaby and David Loree as defendants. This case is Kunst's attempt to re-try the Gaby Action. Kunst alleged claims of tortious interference with a contractual relationship, unjust enrichment, intentional infliction of emotional distress, and defamation against all defendants. Petitioner Loree is the only defendant remaining in this case and the only cause of action tried was slander *per se*.

¹ See *Kunst v. Loree*, Appellate Case No. 2011-199507.

Petitioner Loree is employed by Richard and Barbara Gaby. The Gabys hired Respondent Kunst to design and build a home in The Reserve on Lake Keowee. Loree, at the direction of the Gabys, investigated Kunst's work on the Gaby home when it became evident that Kunst was over budget and taking longer to complete the house than he represented. (Appx. 964-965, Tr., testimony of David Loree, pgs. 163: 3- 164: 9). In the course of the investigation ordered by Loree's employer, Loree contacted subcontractors and vendors to determine whether or not they had been paid by Kunst. (Appx. 972, Tr., testimony of David Loree, p. 171: 11-19). Loree found that Kunst had not paid the subcontractors and vendors as he was obligated to do, even after receiving funds from the Gabys to pay the subcontractors and suppliers. (Appx. 1034-1046, Tr., testimony of David Loree, pgs. 233-245). Loree also found in some cases that Kunst changed invoice amounts submitted to the Gabys for amounts more than submitted by the subcontractor. (Appx. 1024-1046, Tr., testimony of David Loree, pgs. 223-245). These, and other of Loree's findings, were among the evidence presented at the damages hearing in the Gaby Action, held before the Honorable G. Edward Welmaker on March 13, 2007. (Appx. 29, Order of Judge Welmaker). Judge Welmaker found all facts pertaining to the pertinent causes of action were admitted. The facts included:

1. Kunst failed to pay vendors and subcontractors as called for in the contract with the Gabys;
2. Kunst performed defective work;
3. Kunst diverted the Gabys' funds for his own personal use;
4. Kunst engaged in unfair and deceptive trade practices; and
5. Kunst breached his fiduciary duty to the Gabys.

Judge Welmaker also found the Gabys proved their damages claim and he awarded \$353,993.91 in damages, with attorney's fees and costs in the amount of \$35,807.41.

Kunst, although a former CPA, was unable to keep his company, Kunstwerke, financially solvent. Kunst claimed his business failed because Loree informed other Kunstwerke clients about Kunst's nefarious acts. However, uncontroverted record evidence in the form of tax liens filed by both the Internal Revenue Service and the South Carolina Department of Revenue indicate that Kunst's financial woes began as far back as 2003, well before Loree started his investigation in 2006. (Appx. 414-460, Defendant's trial exhibits 19, 20, and 21, tax liens).

In sum, during the scope of the investigation Loree performed for his employer, he found Kunst failed to pay vendors and subcontractors, overcharged on vendor invoices, and used funds from the Gabys for subcontractors and vendors for his personal use. Judge Welmaker granted damages to Loree's employer based on Loree's findings.

STANDARD OF REVIEW

On appeal from a case tried before a jury in an action at law, the appellate court only has the authority to correct errors of law. *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 221 S.E.2d 773 (1976). Thus, the jury's factual findings will not be disturbed unless a review of the record discloses that there is no evidence which reasonably supports the jury's findings. *Id.*; *see, e. g., Berberich v. Jack*, 392 S.C. 278, 709 S.E.2d 607 (2011); *Watson v. Ford Motor Co.*, 389 S.C. 434, 699 S.E.2d 169 (2010).

ARGUMENT

- I. The Court of Appeals erred concerning the defense of qualified privilege when it made a *factual* finding that Petitioner acted in a reckless and wanton manner with a conscious disregard of Respondent's rights.**

In Opinion #5564 heard on January 17, 2018 and filed May 30, 2018 (Appx. 1464) the Court of Appeals stated in its standard of review:

In an action at law, when a case tried by a jury is appealed, the jurisdiction of the appellate court extends merely to the correction of errors of law, and a factual finding by the jury will not be disturbed unless a review of the record discloses there is no evidence which reasonably supports the jury's findings. *Wright v. Craft*, 372 S.C. 1, 18, 640 S.E.2d 486, 495 (Ct. App. 2006).

Petitioner David Loree asserts that the Court of Appeals erred when it made a *factual* finding that he had exceeded the scope of qualified privilege by acting in a reckless and wanton manner with a conscious disregard of Respondent Kunst's rights. In making this factual finding, the Court of Appeals disregarded precedent set by this Court and narrowed the scope from what is called for in *Constant v. Spartanburg Steel Prod., Inc.*, 316 S.C. 86, 447 S.E.2d 194 (1994). The Court of Appeals also overlooked that Petitioner Loree established a *prima facie* presumption rebutting malice and that the burden was on Respondent Kunst to show actual malice or that the scope of the privilege had been exceeded. *Swinton Creek Nursery v. Edisto Farm Credit, ACA*, 334 S.C. 469, 514 S.E.2d 126 (1999). In order for Kunst to prove actual malice, he must show that Loree was activated by ill will in what he did with the design to causelessly and wantonly injure Kunst or that the statements were published with such reckless disregard for Kunst's rights. *Id.* at S.C. 485. There is nothing in the record to show that Kunst met this burden of proof. The Court of Appeals may not "find" its own facts to support its Opinion.

Defamation, the only remaining cause of action that was tried in the trial court, is an action of law. As the noted in its Opinion, the Court of Appeals is limited to reviewing for errors of law. (Appx. 1469). The Court of Appeals cannot make factual findings unless it finds that there is no evidence in the record to support the jury's findings of fact. The Court of Appeals did not state in its Opinion that there was no evidence to support the jury's findings of fact.

Therefore, it is barred from making findings of fact in this case. *Wright*, 372 S.C. at 18.

Instead, the Court of Appeals found in the facts what the jury was not asked to find, opined on factual issues not before the Court of Appeals, and made factual statements not found in the record evidence.

In its Opinion, the Court of Appeals held that Loree's alleged statement to subcontractors Goad and Alfonzo that Kunst had stolen from other clients as well as Gaby exceeded the scope of qualified privilege. (Appx. 1475). However, the trial court never ruled upon the issue of whether Loree's statements exceed the scope of qualified privilege. Thus, this issue was not properly before the Court of Appeals. Qualified privilege as an affirmative defense is raised in the trial record at pages 505:15 through 506:21 (Appx. 1308-1309) when Loree's counsel moved to amend Loree's answer to add the affirmative defense of qualified privilege, which the trial court granted. Kunst later moved for directed verdict on the grounds that Loree had not proven the defense of qualified privilege, which was also denied. (Appx. 1312-1313, Tr. 509: 11-510: 16). However, the trial court never ruled as to whether the qualified immunity applied. The trial court also never made a finding that the scope was exceeded, but determined erroneously that the jury would determine if Loree was acting within scope and whether he enjoyed qualified privilege acting outside scope. (Appx. 1311-12, Tr. 508: 20 – 509: 1). Thus, the Court of Appeals was in error in making factual findings to support its conclusion that Loree exceeded the scope of qualified immunity. *Wright*, 372 S.C. at 18.

To be clear, the Court of Appeals made the following factual "findings" that are inconsistent with the standard on appeal for this case at law:

- "We find Loree's statement that Kunst took money from other clients was not a proper matter for Loree to discuss during the investigation of the Gaby project." (Appx. 1475).

- “In the instant case, evidence demonstrates Loree’s statements to subcontractors—that Kunst took money from other clients—went beyond the scope of the subcontractors’ involvement in the Gaby project.” (Appx. 1475).
- “We find that Loree could have investigated the Gaby project without implicating Kunst’s financial affairs with other clients.” (Appx. 1475).

These “findings” are beyond the province of the Court of Appeals because they are not corrections of errors of law. Further, there is nothing in the record at trial to show that Respondent Kunst established actual malice on Loree’s part or that Loree exceeded the privilege. Because Kunst did not raise the issue of actual malice at the trial, he cannot be heard to complain now that Loree acted with actual malice. More importantly, because the issue of actual malice was not raised at trial by Kunst, the Court of Appeals cannot hold as a matter of law that Loree’s alleged defamatory remarks were not protected by qualified privilege. *Wright*, 372 S.C. at 18.

As noted earlier in this brief, Kunst did not make a directed verdict motion concerning whether the scope of the statements exceeded the protection of qualified privilege. He moved to have the defense dismissed because, in his opinion, the elements had not been proven, not because the scope had been exceeded. (Appx. 1312-1313, Tr. 509:11-510:16). The trial court in its order denying Loree’s motions for JNOV and for a new trial did not make a specific ruling concerning Loree exceeding the scope of qualified privilege. The trial court’s order of June 12, 2015 only states that the court considered the motions and denied them based on evidence in the record. (Appx. 27, Order of the Honorable Robin Stilwell dated June 12, 2015). Because there is no ruling from the trial court that Loree exceeded the scope of qualified privilege, there is no issue of law on which the Court of Appeals could rule.

Second, the Court of Appeals narrowed the scope of qualified privilege beyond what this Court contemplated in *Constant*, 316 S.C. 86. In *Constant*, this Court held that a “communication made in good faith on any subject matter in which the person communicating has an interest or duty is qualifiedly privileged if made to a person with a corresponding interest or duty even though it contains matter which, without this privilege, would be actionable.” *Id. at S.C. 89*. This Court also held that “the publisher must not wander beyond the scope of the occasion.” *Id.* This Court further held that “one publishing under a qualified privilege is liable upon the proof of actual malice.” *Id.* “Actual malice can mean the defendant acted recklessly or wantonly, or with conscious disregard of the plaintiff’s rights.” *Id.*

The definition of exceeding the scope of qualified privilege in *Constant* is to not wander beyond the scope of the occasion and to not act with a conscious disregard of the plaintiff’s rights. In the *Constant* case, this Court found that the scope of qualified privilege had been exceeded when the defendant called the plaintiff a thief and named him as a suspect in the disappearance of a contractor’s welding machine, even after the defendant had been informed several times by the contractor that the welding machine was not stolen nor missing. In this matter, the Court of Appeals found that Loree went beyond the scope of qualified privilege when he discussed projects other than the Gaby project to Goad and Alfonzo. (Appx. 1475). The Court of Appeals overlooked in its own factual finding that Goad and Alfonzo worked on other Kunst projects besides the Gaby project, so naturally Goad and Alfonzo would be concerned if Kunst was having problems with other clients. Putting aside that this issue was not before the Court of Appeals, for Loree to exceed the scope of privilege as contemplated in *Constant*, he would have had to go beyond the scope of the occasion (perhaps, for the sake of argument only, such as posting a warning to the public on social media), not speaking with contractors on his

employer's project. There is absolutely no evidence in the record that Loree's contact with Goad and Alfonzo was not made in good faith. In fact, this issue was not disputed at the trial court. Thus, in addition to making its own factual findings, the Court of Appeals' interpretation of exceeding the scope of qualified privilege goes beyond what this Court held in *Constant*.

Related to the Court of Appeals making its own factual findings, the Court of Appeals also erred in its use of the case of *Swinton Creek Nursery*, 334 S.C. 469 to support its finding that Loree misconstrued the law that Kunst failed to prove actual malice on Loree's part. (Appx. 1475). The Court of Appeals cited *Swinton Creek* to hold that all Kunst had to do was show the scope of the privilege had been exceeded. (Appx. 1476). However, *Swinton Creek* actually holds that, "To prove actual malice, the plaintiff must show that the defendant was activated by ill will in what he did, with the design to causelessly and wantonly injure the plaintiff; or that the statements were published with such recklessness as to show a conscious disregard for plaintiffs rights". *Id. at S.C. 485*. There is nothing in the record that shows Loree acted with recklessness and showed a conscious disregard for Kunst's rights. Certainly, there is nothing in the record that shows Kunst proved such. Therefore there is no support for the factual findings of the Court of Appeals on this issue.

This Court's holding in *Swinton Creek* concerning the plaintiff's burden to prove actual malice or reckless disregard of plaintiff's rights is based on precedent set in *Constant*, when this Court held "One publishing under a qualified privilege is liable upon the proof of actual malice. Actual malice can mean the defendant acted recklessly or wantonly, or with conscious disregard of the plaintiff's rights." *Constant, at S.C. 89*. *Swinton Creek* required the plaintiff to prove the scope of qualified privilege had been exceeded by showing actual malice or conscious disregard of plaintiff's rights. This precedent is further supported in the case of *Fountain v. First Reliance*

Bank, 398 S.C. 434, 730 S.E.2d 305 (2012), when this Court cited *Swinton Creek* to show that Fountain had not proven actual malice or a reckless disregard for his rights and therefore the defendant was entitled to the protection of the qualified privilege. Clearly, this Court has set precedent that the plaintiff must show actual malice or a reckless disregard for his rights in order to prove the scope of qualified privilege had been exceeded.

The record shows that Loree's remarks were privileged. Kunst himself established in the direct examination of Loree that Loree was conducting an investigation that his employers requested he perform. Kunst first established that Loree was working for the Gaby family and was paid by one of their family holdings. (Appx 960, Tr., testimony of David Loree, direct examination, p. 159:11-17). Kunst also established in the Loree direct examination that Loree was conducting an investigation concerning the Gaby home project. (Appx. 972, Tr., testimony of David Loree, p. 171:8-19, re meeting with Kunst). Hence, the elements of the qualified privilege were established by Kunst's own direct examination of Loree and were not disputed. The trial court should have found the qualified privilege applied as a matter of law, but refused to do so. (Appx. 1310-12, Tr. 507:20-509: 3). This was prejudicial error. *See Murray v. Holnam, Inc.*, 344 S.C. 129, 140, 542 S.E.2d 743 (Ct. App. 2001) (it is the duty of the trial judge to determine if the statement is privileged).

Kunst produced only two witnesses who could testify as to what Loree allegedly said. The witnesses, Goad and Alfonzo, were vendors on the Gaby home project and they both testified that Loree was checking to see that they had been paid by Kunst. Their testimony establishes that Loree was speaking to parties with a corresponding interest. (Appx. 936, Tr., testimony of Kevin Goad, pg. 135: 4-8 and Appx. 956, Tr., testimony of Glenn Alfonzo, pg. 155: 16-17).

Kunst specifically alleged in his Pretrial Brief (Appx. 44) that Loree said Kunst had taken money from his clients Covington, Coco, Parham, and Hickey. However, of all these alleged witnesses, Kunst called only Covington, who testified he did not recall ever having a conversation with Loree on any topic. (Appx. 1087, Tr, testimony of Eugene Covington, Esq. p. 286: 9-13). In both direct examination of Loree and in his failure to rebut Loree's qualified privilege defense with any evidence, Kunst failed to show in any way whatsoever that the qualified privilege did not apply or was abused. The record on this issue is crystal clear.

Kunst also failed to offer any evidence whatsoever to show Loree acted with actual malice, that is, with a reckless disregard for Kunst's rights. First, Loree's unrefuted testimony was that Kunst did not direct Loree to avoid contacting his clients; in fact, Loree testified that Kunst did not seem to care if he contacted the clients. (Appx. 1023, Tr., testimony of David Loree, pg. 222: 2-10). Kunst's witness Eugene Covington testified that he had no personal relationship with Loree and that Loree was not involved in his house project. (Appx. 1087, Tr., testimony of Eugene Covington, p. 286, l. 3-13). Kunst's witness Goad testified Loree only discussed the Gaby project with him. (Appx. 936, Tr., testimony of Kevin Goad, p. 135: 4-8). Goad further testified that because Kunst had disappeared from the project site and could not be located, Loree became the contact man for payment. (Appx. 926, Tr., testimony of Kevin Goad, p. 125: 6-14). Kunst's witness Alfonzo testified that Loree consulted him to make sure he had been paid so that the project could go forward. (Appx. 956, Tr., testimony of Glenn Alfonzo, p. 155: 16-19). The record contains no evidence that a witness testified that Loree had behaved in a reckless or wanton manner or with a disregard for Kunst's rights. The record also shows that Kunst produced no evidence to show that Loree had made defamatory statements to people not concerned with the investigation Loree was conducting on behalf of his employer.

The Court of Appeals made the factual finding that Loree's statement that Kunst took money from other clients was not a proper matter for Loree to discuss during the investigation of the Gaby project. (Appx. 1475). The Court of Appeals also made the factual finding that the privilege did not protect matters outside the Gaby project. *Id.* However, while the Court of Appeals should not be making any factual findings whatsoever in an action at law, in its review of the record, the Court of Appeals overlooked or ignored the testimony of witness Goad, which shows the circumstances as to why the other projects would come up in conversation with Loree: Goad testified that he sometimes received payment from Kunstwerke for multiple projects. (Appx. 929, Tr. testimony of Kevin Goad, p. 128:9-17). If Goad was not getting paid for work he did on the Gaby project, naturally he would be concerned about getting paid for other Kunstwerke projects. To add to Goad's woes, he also testified that there was a period of time when he could not get in contact with Kunst. (Appx. 924, Tr. testimony of Kevin Goad, p. 123:10-15). Further, Goad testified that he did not believe that Loree was trying to get information on the Hickey project, when asked by Kunst. (Appx. 929, Tr. testimony of Kevin Goad, p. 128:21-24.) In circumstances when a supplier is working on multiple projects for the same contractor, it is understandable and reasonable that multiple projects might come up in the conversation. More importantly, Goad's testimony was that Loree was not inquiring about other accounts. Had Loree asked about other client accounts, this may have risen to the level of a conscious disregard for Kunst's rights, but Goad's testimony is clear that Loree did not do so.

The Court of Appeals also overlooked or ignored testimony from Glenn Alfonzo, another subcontractor on several Kunstwerke projects. Alfonzo testified that he had received checks from Kunstwerke that had bounced and in his testimony, he did not differentiate between the various ongoing Kunst projects. (Appx. 955, Tr. testimony of Glenn Alfonzo, p. 154:14-19).

Mr. Alfonzo also testified that he began requiring certified checks from Kunstwerke when the Kunstwerke checks began to bounce. (Appx. 955-956, Tr. testimony of Glenn Alfonzo, p. 154: 24 – 155: 8). Alfonzo further testified that his conversation with Loree concerned accounting matters and whether he had been paid. (Appx. 956, Tr. testimony of Glenn Alfonzo, p. 155: 16-18). Like Goad, Alfonzo had several projects with Kunstwerke and so it is reasonable and understandable that he would be concerned about getting paid for all projects.

The jurisprudence in South Carolina is that in an action at law tried by a jury, it is improper for appellate courts to make their own factual findings. In this matter, the Court of Appeals opined on issues and facts there were not properly before it. Despite the mountains of evidence in the record to the contrary, which the Court of Appeals did not consider, the Court of Appeals found its own facts regarding Loree's alleged exceeding of the qualified privilege. Based on its own standard of review cited in its Opinion, (Appx. 1469) the Court of Appeals should not have made such factual findings.

The Court of Appeals based its opinion not on errors of law, but rather on its own findings of facts - facts that were not raised in or disputed in the trial court. In so doing, it overlooked or ignored many facts that support Loree's argument that he did not exceed the scope of qualified privilege. The Court of Appeals' factual findings, rather than legal conclusions, is blatantly and highly prejudicial to Loree. For this reason, the Court of Appeals should be reversed:

II. The Court of Appeals erred in failing to find that the trial court should have determined as a matter of law as to whether Petitioner had proven the defense of qualified privilege.

The trial court found that the defense of qualified privilege should be allowed in the trial, but did not determine as a matter of law whether the qualified privilege should apply. (Appx. 1309-1312). This was an error of law. “It is the duty of the trial judge to determine if the statement is privileged.” *Murray*, 344 S.C. at 140; *accord Swinton Creek Nursery*, 334 S.C. at 485. In the absence of any record evidence to the contrary, the trial court should have ruled that the qualified privilege did apply. Instead, the trial court allowed the jury to determine as a matter of fact whether the qualified privilege applied. (Appx. 1347-48, Tr. 544:16-545:12).

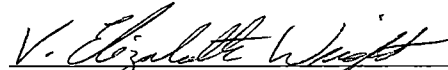
In this case there was no controversy as to the facts. Both Loree and Kunst agree that Loree spoke to Alfonzo and Goad. Both parties agree that Loree was an employee of Richard and Barbara Gaby, former clients of Kunst. Both parties agree that Loree was in the employ of Mr. and Mrs. Gaby when he made the alleged defamatory statements. Because there is no controversy as to the facts, the trial court should have ruled as a matter of law that the qualified privilege applied. *See also Harris v. Tietex Int'l Ltd.*, 417 S.C. 533, 540, 790 S.E.2d 411, 415 (Ct. App. 2016) (“Whether an occasion gives rise to a qualified or conditional privilege is generally a question of law for the court”) and *Castine v. Castine*, 403 S.C. 259, 267, 743 S.E.2d 93, 97 (Ct. App. 2013) (“In general, the question whether an occasion gives rise to a qualified or conditional privilege is one of law for the court”). Because the trial court failed to rule as a matter of law as to whether the events gave rise to qualified privilege and the Court of Appeals failed to rule as a matter of law that the trial court should have ruled on qualified privilege as a matter of law, the verdict in this case should be reversed.

Conclusion

The Court of Appeals departed from the standard of review cited in its Opinion and erred in making its own factual findings that Loree exceeded the scope of qualified privilege. It erred

when it failed to find as a matter of law that the trial court should have ruled as a matter of law on whether the defense of qualified privilege applied. The Court of Appeals ignored precedent set by this Court as well as its prior rulings in other cases. For these reasons, the Court of Appeals should be reversed.

Respectfully submitted.


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Robin B. Stilwell, Circuit Court Judge

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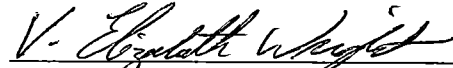
J. Scott Kunst Respondent,

v.

David Loree Petitioner.

PROOF OF SERVICE

I certify that I have served the Brief of Petitioner on *pro se* Respondent at his last-known address of 950 Progress Street, #217, Pittsburgh, PA 15212, by depositing it into the U.S. Mail, first class postage prepaid on June 14, 2019



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