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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

nettle
Michael Hopewell, Court Judge

Case No. 2019-CP-21-43521

Michael Hopewell

Respondent,

v.

Edward Spears

Appellant.

INITIAL BRIEF OF APPELLANT



Edward Spears
503 Roughfork Street
Florence, SC 29501
(843) 496-3711

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STATEMENT OF ISSUES ON APPEAL

1. WAS THE JUDGE BIAS WHEN HE DENIED THE CASE TO BE REINSTATED IN PUSUCANT OF RULE 9 (b)?
2. WAS THE JUDGE'S DECISION TO DISMISS THE CASE ARBITRARY AND CAPRICIOUS WHEN HE SAYS THERE WAS NO CIVIL CAUSE OF ACTION?
3. WAS THE JUDGE'S DECISION TO DISMISS THE CASE PURSUANT TO S.C. CODE 15-3-350 ARBITRARY AND CAPRICIOUS?
4. DID THE JUDGE VIOLATE MANY OF THE RULES OUTLINES IN S.C. COURT RULE 501 CANNON 3?

STATEMENT OF THE CASE

This case began back on January 19, 2016 when I filed a complaint against R & R Cleaning, Natalie Harris, and Matt Rogers (see R p _____). A pretrial was heard on April 7, 2016 (see R p _____). The case of Matt Rogers only was dropped of the 3 (see R p _____). The case for R & R Cleaning and myself was dismissed without prejudice until I received my administrative remedies. Then I was told I could refile (see R p _____) and (R p _____).

I refiled the case June 22nd (see R p _____). I received a notice mysteriously from defendant Mike Hopewell's office claiming the case against R & R Cleaning and Natalie Harris was dismissed with prejudice. No one, to this day, knows how the defendant Mike Hopewell got the document not even the Florence Magistrate Court. The defendant has refused to reveal how he got the document (see R p _____). The defendant defaulted on the June 22nd complaint. On August 15th a default hearing was heard and the defendant managed to use the false document to have the case dismissed. After investigation by Sandra Grimsley a second default hearing was held (see R p _____). The case was never heard because the defendant keeps making frivolous motions that started a string of appeals all the way to the Supreme Court.

On October 28, 2019, I filed a personal lawsuit against Mike Hopewell. In the lawsuit I filed for obstruction of justice. The lawsuit was filed August 28, 2019. (see R p p _____)

After filing the lawsuit I filed for a change of venue since I thought I was not getting fair treatment by a number of judges in Florence. I got the change of venue and the trail went to Lake City, S.C. (see _____ and _____).

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In the pretrial in Lake City I was awarded a jury trial by Judge Dominic Owens an African American judge. The Lake City Magistrate office only could provide taped recordings of the hearing. Enclosed are the entire recordings of the hearing (see R p _____). Please listen to the tape!!

About a week after the pretrial hearing I got a letter from the Lake City Magistrate saying he found out the defendant's lawyer, Michael C. Abbott, had filed a counter claim in excess of the jurisdictional limit. This letter was directly written to the judge. This was ex-parte communications at the highest level (see R p _____). Until that time there was never any mention of counter claims by the defendant.

The case was sent back to Common Plea Court in Florence. I filed a motion that the case be reinstated in Lake City.

The trial was held on February 12, 2020 in the Common Plea Court in Florence with Judge Michael Nettles presiding the case. The judge in this case violated many of the rules of S.C. Rule 502 Cannon 3. A set of rules the judges should follow to assure litigants get a fair trial (see R p _____). The first violation of Rule 502 by Judge Nettles is 7(i) which states no judge believes any party will gain procedural or tactical advantage thru exparte communications. On page 6 of this transcript I explained to the judge a letter was sent to the Lake City Magistrate by Mr. Abbott was surprise and shocking. The judge never questioned Mr. Abbott about the letter nor addressed the letter only kept looking at them with a smirk on his face (see T _____) also (see R p _____). The second violation of Rule comes in his decision (see R p _____) on page 2 of his decision the judge claims the defendant's count claim exceeded the magistrate jurisdiction of \$7,500. I explained and showed the judge a copy of form SCCA705. The copy commended in filing a counter claim. It's the only way to know the specific amount of lithogen can seek in a counter claim. The judge on page 2 actually ~~lied~~ for the defendants saying it was a violation of Rule 9 (b). I showed the judge a copy of the counter claim form and gave an explanation about the form. He never questioned the defendant or addressed the forms but kept looking at them with a smirk on his face (see transcript P) (also R p _____). This clearly was a violation of Rule 501 Cannon 3 B5.

The judge eroded when he made a decision on page 2 of his decision saying there was no cause of action for obstruction of justice under S.C. law. Obstruction of just is a federal law. Under this law is also obstruction of court orders (see R p _____) highlighted.

I gave the judge a copy of this law. He didn't even look at it only looked at the defendants with a smirk on his face. This law makes clear that civil relief can't be denied. The judge's decision in this matter can also be seen as arbitrary a swell capricious. On page _____ of the transcript (see T _____) he went on to say let the appellate court handle it (the decision) that is what they are paid to do. That statement implies he wasn't sure of his decision. His decision and his statement can also be seen as bias because he made his final decision on this argument on page 2

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of the decision that obstruction of justice in S.C. is no cause of action. He can't have it both ways.

The judge eroded again on page 2 of his decision to dismiss the case pursuant S.C. code 15-3-350. This law has absolutely no bearing on this case. This law deals with real estate civil action and has nothing to do with obstruction of justice.

Enclosed is a copy for your viewing (see R p _____) obstruction of court orders fall under obstruction of justice law outlined in 18 U.S.C. (see R p _____). 3282 title 18 crimes and procedures obstruction of court orders is a federal crime that carries a fine as well as prison time (see R p _____). Make no mistake under these federal laws they carry a 5 year statute of limitations. Federal laws are laws of the land and have power over state laws. I have included a copy of the supremacy clause and the doctrine of preemption for your viewing (see R p _____). The judge's decision in this argument can also be seen as arbitrary and capricious as well as bias. On the transcript (see transcript P _____) the judge once again made the statement he was once again going to turn this argument over to the appeals court meaning he wasn't sure of his decision to dismiss. He then made a final decision on page 2 dismissing the case under pursuant of S.C. code 15-3-350. This is total bias behavior. How can anyone believe anything this judge says?

FACTS

The facts are simple in my opinion. The Court of Appeals has two choices. Send the case back to the magistrate court to process in a jury trial as granted by the first trial in December 2019 or the second trial on February 12, 2020. The judge in December 2, 2019 trial (Dominick Owens) was confident as well as knowledgeable of civil law. Never mention of appellant court (please listen to tape). The other judge (Mike Nettles) whose decisions were bias, the judge totally looked over the court procedures mainly ex parte communications of Mark Abbott; the judge's decision was also arbitrary and capricious. Also the judge even lied for the defendant's saying counter claim exceeded \$7,500 without specific evidence only hear say. The choice should be easy. Which trial has the more creditability?

ARGUMENTS

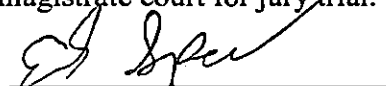
There should be no doubts in anyone's mind that Judge Nettles violated many of the rules under Cannon 3 S.C. Rules 502 for court hearings. More so there should be no doubt that the defendant and his lawyer engaged in illegal activity (obstruction of court orders) make no mistake this is a crime. A federal at that and carries a fine as well as prison time (see exhibit _____). This is a serious crime that should not be taken lightly. Under Cannon 3, rule (see R p _____). Courts have an obligation to report or investigate such illegal activity. I trust the Court of Appeals will do that. Mr. Hopewell stopped the default hearing (see exhibit Rep) and Mr. Abbott stopped jury trial (see exhibit Rep).

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CONCLUSION

This case is not about race, but to me it has the same meaning as the George Floyd case that has touched the entire country. The reason is that when people with authority stand by staring at something wrong and smirking and doing nothing to me it is a disgrace to judges everywhere. The judge clearly has seen evidence of Mike Abbott letters and Michael Hopewell false document which stop court orders. Yet he did nothing but smirk and grin like the three cowardly cops in the George Floyd case. I can only pray the Court of Appeals doesn't stand by and let these crooks (Mike Abbott and Michael Hopewell) put their knee in my neck while the court stands by smirking with them. I pray to send this case back to the magistrate court for jury trial.

September 14, 2020



Edward Spears
503 Roughfork Street
Florence, SC 29501
(843) 496-3711

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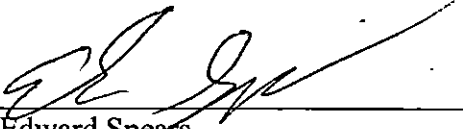
Edward Spears

Appellant.

PROOF OF SERVICE

I have personally delivered initial briefs to Michael Hopewell, 470 West Evans Street, Florence, S.C., and Florence Common Plea Court, 180 N. Irby Street, Florence, SC, and mailed copies to Court of Appeals, 1220 Senate Street, Columbia, SC, and Lake City Magistrate Court, 343 Ron McNair Blvd., Lake City, S.C. 29560.

September 13, 2020


Edward Spears
503 Roughfork Street
Florence, SC 29501
(843) 496-3711

Edward Spears
503 Rough Fork St.
Florence, S.C. 29501



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Columbia, S.C. 29201

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