

STATE OF SOUTH CAROLINA)
YORK COUNTY)

COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Kimberly Ann Condra,)
)
Plaintiff,)

AMENDED ORDER ON
MOTION TO RECONSIDER

vs.)

Gregory Scott Childers and)
Jeffrey Steven Childers,)
)
Defendants.)

Civil Action No. 2018-CP-46-02502

Plaintiff filed suit against brothers Gregory Scott Childers, hereinafter Greg, and Jeffrey Steven Childers, hereinafter Steve, for a construction project contracted by Greg. Greg signed a contract with plaintiff and later hired his brother, Steve, to do some work on the project. Steve worked at plaintiff's house for a short period of time, got paid and left. Plaintiff and Greg began to have problems resulting in this litigation. After listening to testimony and reviewing exhibits, this court directed a verdict in favor of Steve. Plaintiff promptly filed a motion to re-consider which is hereby DENIED.

This court makes the following findings of fact with regard to Steve Childers:

1. Plaintiff did not have a written or verbal contract with Steve.
2. Steve did not make any false misrepresentations to plaintiff about his working relationship with Greg.
3. Plaintiff did not produce any credible evidence that Greg and Steve were partners.
4. Plaintiff did not produce any evidence of any negligence by Steve in the work he performed or in any other area.
5. Steve did not make any false representations to plaintiff about his work or his role at

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plaintiff's house.

6. Steve worked for Greg, did his work, got paid, and left plaintiff's property never to return.
7. Plaintiff did not produce any evidence that Steve knew or should have known that Greg was not licensed by the state of South Carolina.
8. Plaintiff did not provide evidence that Steve's work at her house was negligent.
9. Plaintiff did not provide any evidence that Steve Childers engaged in any unfair and deceptive trade practices to induce plaintiff into continuing to allow work to be done on her house or to pay money for the work at her house.
10. Plaintiff did not provide any evidence that Steve Childers engaged in false representations about the timing of work and the obtaining of materials.
11. Plaintiff did not present any evidence that Steve purchased any materials.
12. Plaintiff did not produce evidence that established any duty Steve owed her, and even if such a duty existed, plaintiff did not produce any evidence Steve breached any duty.
13. There was no competent evidence that Steve was anything other than Greg's agent/sub-contractor.
14. The administrative sanction and LLR's letter of transmittal of the sanction were admitted by Counsel for Defendant Steve and were therefore properly admitted into evidence.

CONCLUSIONS OF LAW

15. A statute can establish a duty to a plaintiff. A breach of the duty can be found with a showing of violation of the statute. The finding of a statutory violation, however, does not end the inquiry. The causation of the injury must also be evaluated. Violation of a statute, while negligence per se, did not support recovery of damages because the
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violation was not the cause of the injury. *Whitlaw v Kroger Co.*, 306 SC 51, 410 SE 2nd 251 (1991). Payment of an administrative fine after the fact is not proof of any negligence on Steve's part and was not the proximate cause of plaintiff's damages as Steve made no misrepresentations and there was no evidence Steve did anything but perform competent work as a subcontractor. There is no basis for liability in contract or tort law for a subcontractor who competently performs the work he is hired to do by the principal.

16. Steve, in performing competent work as a subcontractor, did not do anything that could reasonably be constitute an "unfair or deceptive" act as required by the UFTPA.

Based on the above Findings of Fact and Conclusions of Law, the motion for reconsideration of the Directed Verdict is DENIED.

IT IS SO ORDERED.

York, South Carolina
December _____, 2020

The Honorable William A. McKinnon
Presiding Judge



York Common Pleas

Case Caption: Kimberly Ann Condra VS Gregory Scott Childers , defendant, et al
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Type: Order/Amend

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

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