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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

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Appellate Case No. 2019-001750

Case No. 2019-CP-23-02093

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APPEAL FROM GREENVILLE COUNTY

COMMON PLEAS

Edward W. Miller, Judge

---

William Barry Chisholm..... Appellant,

v.

Guadalupe Juariz..... Respondent.

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**APPELLANT'S FINAL BRIEF**

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Date: Jan 15, 2021

William B. Chisholm

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Pro Se

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**TABLE OF AUTHORITIES**

**CASES CITED**

- NONE -

**STATUTES**

*South Carolina code of Laws 1976 as amended*

**STATEMENT OF ISSUES ON APPEAL**

**I.**

- 1. Did Most Honorable Judge Edward W. Miller err in thinking that the transcript of the case he was given would be the same as that given to the Appellant ?**

**II.**

- 2. Did the Appellant err in believing that the record of transcript he was given was real ?**

**STATEMENT OF CASE**

This began when I entered into a contract with Guadelope Juariz ( Trim All Tree Service. LLC ) to cut down one tree in my back yard.

Mr. Juariz looked at the tree in my back yard, and offered to do the work for \$ 1000.00. I accepted the price. It was a legal transaction. There was a price established for doing the work.

It was further agreed that Mr. Juariz that a bucket truck would have to be used to safely remove the tree. It was agreed that his company would use a bucket truck to safely remove the tree as it was approximately 110 feet tall. This brought up a problem that I had an old pick-up truck parked at the only access to the back yard. It had not been cranked in approximately 14 years , my dog got mad at me because I would not take him for a ride and chewed the rubber gas line in half, and also chewed off all the electrical wiring he could get to. Mr Juariz told me that he had a small vehicle that could move the if I had a key to the truck. I agreed to put the key into the truck and left it for Mr. Juariz to use. The key would only unlock the steering column and unlock the transmission . I put the key in the ignition switch, left both of the doors open. The next morning I left for a previously scheduled meeting in North Carolina.

Upon arrival back at home, the tree cutters had already left, and walking out my back door, I immediately noticed that the safety railing was damaged and the access way, the interlaces horizontal boards to below deck were missing. In looking around , I could view more damage. My boat was trashed.

It soon became apparent to me that they HAD NEVER MOVED MY TRUCK , it further became apparent that they had tried to cut down the tree without using the bucket truck, as had been previously been agreed upon. It further became apparent to me

that the tree had landed upon my sailboat, a 28 foot Columbia, weight 7000lbs, approximate value, \$ 10,000.00.

This felled tree had an impact of 14.57 tons, traveling at 65 miles per hour.

The photographs that follow indicate the damage to my boat , and the events that occurred when my boat was damaged.

There was quite a bit of discussion as to the unkept nature of my back yard. I spent the last 10 years of my career working for Areva , at the Savannah River Site, mostly working 10 hours a day , six days a week on the MOX Project. Upon ending my working career, although having never had high blood pressure or high cholesterol , I have four strokes. This is why I have left my back yard unattended, it is enclosed by a 6 foot high, vision proof fence.

## CALCULATIONS FOR DAMAGE TO BOAT

The calculations were prepared by William B. Chisholm , who was a Registered Professional Engineer , until retirement .

In the early 1970's , he was employed at Davis Mechanical Contractors, Inc. , as an estimator. DMC was considered the third largest mechanical contractor in the nation. I was there for about seven years. It was owned by F. Harold Gillespie. He later closed the company and retired. Later when Francis Freeman ( Freeman Mechanical Contractors ) died , his two daughters ask Harold to sell the company for them. Harold and Francis had been the best of friends for about forty years , Harold looked at the books and bought the company himself. He then hired me to work there as an estimator and it lasted about four years , until he sold that company also.

What I am saying is, I know how to estimate.

ESTIMATE OF COST

1. Entryway and Rails ( Lumber ) .....	\$ 648.00
2. Hardware .....	65.98
3. Used Mass .....	1982.50
4. Radio Antenna .....	74.52
5. Coax Cable .....	56.04
6. Radio .....	322.92
7. Lifeline .....	1492.79
8. Stanchions .....	586.00
9. Safety Wire .....	325.00
10. Paint .....	770.00
11. Labor .....	2600.00
	<hr/>
Total	\$ 8923.75

## CONCLUSION

Mr Juarez states that a bucket truck was brought into the yard. This is a lie . The leaves it each of the truck wheel indicate that the truck has nor been moved in some time , the license plates on the truck indicate that it has not been driven in the highway for a number of years . It just stayed parked in the same place for years.

Since the tree events, I bought another truck , and it took me two and a half days to move the Chevrolet truck out of the way . It took two come-alongs , three people , and an ample supple of beverages to get it moved. The emergency brake was left “on” , the brake shoes had rusted to the brake drums . We finally had to remove the rear wheels, place each rear brake drums on a length of 1 inch x 8 inch pine board and slide the truck to a distance that would allow me to get the “new” truck into the back yard.

I do not think that he was there when the tree was felled. In any event, my “old:” truck was never moved .

With regard to my gate, he is combining that issue with another day . I got him back to discuss the truck incident with him, on that date, his truck driver intentionally drove his truck over my gate ( it was laying on the ground ) laughed about it and went on.

I later fired him for unsafe work behavior, I paid him regardless.