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SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2019-CP-23-04057

Mian Javed Ikram and Farhana Javed,
Husband and wife,

Respondents,

v.

Amir Afshar

Appellant.

NOTICE OF APPEAL

Amir Afshar appeals the Order Granting Summary Judgment dated September 23, 2020 (Exhibit A) and the Order Denying Plaintiff's Motion for Retrial dated February 5, 2021 (Exhibit B), both drafted by the Respondents' Attorney Rustin B. Duncan (or "Rusty" as addressed by the Judge) and despite Appellant's objections rubber-stamped by Judge J. Cordell Maddox, Jr. Order did not appear online until October 10, 2021. The order from the Greenville County Clerk of Court was received on February 12, 2020, was for a different case unrelated to the Appellant or any other party named herein. Thus, Appellant received first written notice of the final Order from Mr. Duncan on February 17, 2021.

LEGAL ARGUMENTS

There were genuine issues of material fact in this case, and judgment was clearly against the weight of the evidence. Summary judgment is appropriate only if "the movant shows that there is no genuine issue as to any material fact and the movant is entitled to

judgment as a matter of law.” Fed. Rule Civ. Proc. 56(a). In making that determination, a court must view the evidence “in the light most favorable to the opposing party.” *Adickes v. S. H. Kress & Co.*, 398 U. S. 144, 157 (1970).

SUMMARY JUDGMENT AND HEARING

Despite the disputed facts as stated below, Mr. Duncan had the case removed from the trial docket in July 2020 in violation of Rule 38, SCRCF, in order to try out his “legal” trickery of a Motion for Summary Judgment, possibly even selecting a judge of his choosing, and deliberately scheduling only a fifteen minute Zoom hearing right before noon, which was further shortened by connectivity issues at the start and hunger anxiety approaching lunchtime, and marred by audio difficulties in between. About the only thing the Appellant heard in the hearing was the Judge asking Mr. Duncan for his objections, and instead of making a lawyerly presentation, Mr. Duncan casually replied, “the ‘blank’ I-864 and the Elements of Fraud”, as if he did not even have to try, and as it turned out, he really did not (see Appellant’s Motion for Retrial dated October 2, 2020).

The elephant in the room was the I-864 (Exhibit C), which the Respondents themselves had introduced as an exhibit, and yet, there is not a single word spared on it in the Order because the Respondents realized their mistake, and suppressed it with Appellant left yelling bloody murder, but no one listening at the Court’s end, which is to be expected when a lawyer is allowed to play the roles of a lawyer, judge and jury simultaneously and draft court orders nearest to the heart’s desire. None of the exhibits provided herewith are new, except for Exhibit F to show ironies of the visa system, and has no real bearing on this case. Reason for re-providing exhibits is to minimize confusion in referencing to them.

LIE NO. 1

Respondents are willing to provide a completely-filled I-864 but not a “blank” I-864

BACKGROUND

The only undisputed fact in this case is the existence of an I-864 for an I-864 agreement between the parties since late 2012 which the Respondents admitted to in their Answer (¶ 3) dated August 6, 2019. Although the Affidavit of Support I-864 is a financial guarantee provided by a sponsor that the immigrating beneficiary would not become a public charge, to date there has not been a single case in which government at any level has collected from or fined a sponsor over a beneficiary’s public charge. This form requires three years of qualifying income, which the Appellant is lacking because on Christmas 2011 he left the United States to free himself from the visa system that is welcoming to everyone else except the visas that really matter like fiancée and spouse visas, for the Appellant has lost two fiancées to this visa system despite meeting ALL legal visa requirements (Exhibit F), and did not return until Christmas 2018, which is why he had

entered into such an agreement with the Respondents in the first place. A “blank” I-864 is a dramatic term thrown around by the Respondents to describe an I-864 in which the beneficiary part is left blank to be filled out later by the Appellant.

PROOF

1. When the Appellant approached Respondent Ms. Javed in May 2019 for a completely-filled I-864, she told him to go get it from someone in Chesapeake, Virginia, that she had legal representation, and that she needed not be “harassed” with further demands of I-864.
2. Initially, the Respondents were not asked for a “blank” I-864 when Appellant managed to locate them in May 2019. Had they been forthcoming or at least friendly, the Appellant would have waited until travelling abroad later that year to marry and then ask the Respondents for a (completely-filled) I-864. It was only their rudeness and unwillingness to live up to their promise of providing an I-864 was what led to the Appellant asking for a “blank” I-864. This is also evident from the Complaint which makes no mention of a “blank” I-864. Even at that, the only reason the Respondents were asked for a “blank” I-864 was because they had been provided with the same in the past (Exhibit C).
3. At no point during this lengthy case did the Respondents offer to settle the case for a completely-filled I-864 even with the ADR extension the Appellant was granted.
4. In September 2021, the Appellant tested Mr. Duncan to see if the Respondents were really willing to provide a completely-filled I-864 for the most probable beneficiary, but there was no response from Mr. Duncan, which is exactly what the Appellant had expected.
5. The piece of evidence the Respondents suppressed the most in this case was an exhibit which they presented themselves on August 10, 2020, without thinking it through, which is a printed copy of the fillable PDF I-864 (Exhibit C) dated October 5, 2012, which the what the Respondents received through an email attachment from the Appellant on asking of their dealer/ middleman in the United Arab Emirates (a master manipulator). Notice it is unsigned, and Respondent Ms. Javed’s date of birth is redacted. If the Respondents received a completely-filled I-864, (a) there would be no need for redaction as the Appellant would already have this information, and (b) I-864 would be signed. This proves that the I-864 which the Respondents received in late 2012 was also “blank.” Respondents would have never had a digital copy if they were mailed a completely-filled hard copy of the I-864.

6. The Appellant did not know of the Respondents address or phone number in Pakistan until seeing it on Exhibit C.

When on the receiving end of a “blank” I-864, the Respondent saw nothing wrong with it. Now the giving end, they question its legality and see more red flags with it than in Mao’s China. Mr. Duncan makes a childish argument that I-864 is required to be completely filled. Well, of course, it is required to be completely filled before submission, but it does not preclude two persons from participating in its completion. Any court that finds filling out of one I-864 by two parties illegal should also determine the Respondents presence in the United States illegal too.

LIE NO. 2

The Respondents presented proof of relationship to the American Embassy in Islamabad, Pakistan in late 2012

BACKGROUND

Of course, the Appellant never intended to prosecute a case on behalf of the United States Department of State, but merely wanted to prove to the Court that the Respondents had lied about proof of relationship before the Court in their Answer (¶ 7) dated August 6, 2019, and catching their lie would substantiate Appellant’s Complaint on Fraud.

PROOF

1. No such proof of relationship has ever existed between the Appellant and the Respondents as claimed by the Respondents.
2. In over eight generous months of discovery, the Respondents could not produce a single piece of evidence, be it a single photo or video, letter or postcard, email or text, or anything else from birth until late 2012 or even prior to May 2019 to substantiate their claim of proof of relationship with Appellant.
3. Mr. Duncan was hired by the Respondents right after Appellant’s second request for discovery for the same proof of relationship after the first one had gone unanswered because the Respondents initially feared consequences before the Court and immigration.
4. Instead of proof of relationship, on May 13, 2020, the Appellant received a letter from Mr. Duncan stating that proof of relationship was returned to the Respondent Ms. Javed’s father after the Respondents visa interview in late

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CERTIFICATE OF SERVICE

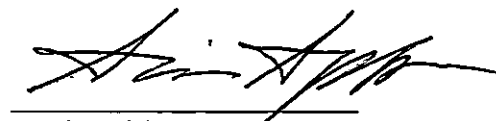
I, Amir Afshar, certify that on this 6th day of March, 2021, a copy of the foregoing Notice of Appeal in a Civil Case was also mailed to the following parties:

(1) Clerk of Court
Greenville County Courthouse
305 E. North Street # 202
Greenville, SC 29601,

(2) Mian Javed Ikram
2705 E. Lee Road
Taylors, SC 29687-3057,

and

(3) Farhana Javed
2705 E. Lee Road
Taylors, SC 29687-3057.



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2012 (Exhibit D) without explaining why the Respondents could not get it back from the father in over eight months even if they had only Pony Express and Santa Maria at their disposal.

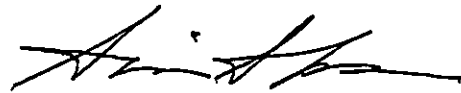
5. Further, instead of proof of relationship, on August 10, 2020, the Respondents presented an exhibit from Ms. Javed's father claiming a family relationship which is (a) obviously not the proof of relationship presented to the Embassy in late 2012, and (2) it is contradicted by the same father and Respondent Ms. Javed in his January 4, 2017, civil court petition filed before a court in Lahore, Pakistan (Exhibit E) to lay claim an inheritance property. Appellant understands that no new evidence can be presented in Appeal, but this is now new evidence because it was presented just last month as it became available as the Appellant's objection to Mr. Duncan's proposed order.

Similarly every statement in the Respondents' affidavits submitted in support of Motion for Summary Judgment is a lie or deliberately misleading. Still, the age-old wisdom of gaining credibility by telling the truth or losing leverage through lies failed to prevail before the Court. Just like the I-864, proof of relationship is a visa requirement. In absence of any proof of relationship, the Respondents had to have faked something, which they cannot do in this case which the Appellant is a party to.

Since the case stretched on for so long, the Appellant now has a beneficiary so there's no longer any demand for a "blank" I-864. If the Respondents still do not wish to provide a completely-filled I-864 for her, then the Appellant should be compensated for the breach of contract that the Respondents never intended to honor in the first place, which is apparent from their long laundry list of excuses.

March 6, 2021

Respectfully Submitted,



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Columbia, SC 29201

South Carolina Court of Appeals

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