

1 State of South Carolina) Court of Common Pleas
2 County of York) 2020-CP-46-01045
3
4 Timothy J. Saj,)
5 Plaintiff,)
6 vs.) Transcript of Record
7 The Haven at Regent Park,)
8 Defendant.)

Tuesday, July 28, 2020
York, South Carolina

B E F O R E:

The Honorable Daniel Dewitt Hall.

A P P E A R A N C E S:

Timothy James Saj (Telephonically)
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Fort Mill, South Carolina 29715
Pro Se

Samantha Simpson, Esquire
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Nadine Capps, CVR
Court Reporter

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WITNESSES FOR THE COURT: Direct Cross Redirect Recross Redirect Further

(No witnesses.)

CERTIFICATE 10

EXHIBITS: Marked Received

(No exhibits.)

P R O C E E D I N G S

(The matter was heard in open court.)

THE COURT: This is the case of Timothy Saj verses Haven at Rengent Park, 2020-CP-46-01045. This is an appeal from magistrate's court.

Mr. Saj, you filed a motions so the Court will be glad to hear from you what it is that you're asking the Court to do. Let me be sure you understand that an appeal from magistrate court is not a rehearing of everything in the case. An appeal from magistrate's court before a circuit court judge means that the Court reviews what happened in magistrate's court to determine whether there was an error made, so this is not a rehearing of everything that happened in magistrate's court, but I'll be glad to hear from you.

MR. SAJ: See, this happened -- y'all need --

THE COURT: Hold on just a minute.

MR. SAJ: Let me gather my thoughts here.

THE COURT: All right. Go ahead.

MR. SAJ: All right. This is -- the way that -- up to the common pleas court was I contacted the appeals court in Columbia, and they said this was the path that I needed to take. The Court there was -- and the -- my only request to common pleas court was for another 790 hearing, where they can -- The Haven can present their side, and it

1 gives me an ability to present my side to come up with the
2 actual numbers and then allow me to secure a bond.

3 And the reason that I did that -- and I can say
4 that counsel for The Haven also did agree with my concern.
5 During that 790 hearing, there was no way to really to push
6 forward or present a defense. Under the scope of the law
7 when I looked it up, it said lack of capacity -- I think
8 that's how it was -- I think it said lack of capacity,
9 defendant, counsel or court. And then that whole court
10 deal, that 790 hearing -- which I'm telling you, I could not
11 make heads or tails on how that thing was turning out --
12 Judge Berinsky -- which was a good man -- he was having a
13 terrible day, I know that -- but stated in that -- and I
14 gave the CD to the common pleas court. He stated in
15 there -- I'm not saying this is word for word, but it's in
16 that CD. It was in there twice that he shouldn't be there.
17 He should be in the hospital. He had a stroke. He had a
18 stroke that morning. Later -- well, not later. It was like
19 a view minutes later, he had stated that he did not want to
20 die in that courtroom listening to the hearing. You gotta
21 listen. It's -- I mean -- he stated that he shouldn't be
22 there.

23 THE COURT: All right. Hold on, Mr. Saj. What
24 the court has before it is simply a return from
25 Judge Berinsky, where he indicated what -- the record from

1 the magistrate's court is that your appeal was filed 59 days
2 after notice of judgment, and so that's what this Court's
3 going to consider about whether you are entitled to an
4 appeal when it was filed 59 days later. So that's what
5 Judge Berinsky's return says. And so I'm going to hear from
6 the attorney from the other side, and I'll come back to you.

7 MS. SIMPSON: Yes, Your Honor. That is correct.
8 A return from Judge Berinsky was sent into the Court of
9 Common Pleas for your consideration with respect to the
10 timeliness or lack thereof of the appeal.

11 Just by way of some procedural history, which I
12 will admit took me some time to figure out. This matter was
13 originally heard -- or at least originally -- the
14 magistrate's decision was appealed firstly,
15 January 31st, 2020, with the CP 381. The same claims and
16 allegations that he was just speaking to, with respect to
17 that 790 hearing, were raised; however, that appeal was
18 dismissed by Magistrate Wood on February 12th, 2020, for
19 his failure to post any appeal bond, which was in the
20 statutes, the code in South Carolina.

21 That a second appeal was brought, which is where
22 it gets a little bit weird, on February 27th, 2020, with
23 CP 782, and refers to a notice of judgment on
24 February 7th, 2020. It was notice of judgment on
25 February 7th. What that really was was the dismissal from

1 Magistrate Wood that she had signed February 7th and was
2 filed February 12th. So, therefore, this second appeal
3 with CP 782 was actually invalid and meant to be an appeal
4 to the higher court, if anything at all. And so on
5 March 5th, 2020, there is a dismissal of that CP 782
6 entered by the clerk for lack of jurisdiction and also that
7 document states that the case ended at that point.

8 In the interim, there was a writ that was filed in
9 March, once that appeal was -- that second appeal that was
10 dismissed for lack of jurisdiction was dismissed. However,
11 it was right there when COVID hit. And I believe it was
12 actually meant to be executed the morning of March 18th,
13 and in fact it was that same morning where the State of
14 South Carolina stopped all writs. And then now we've got
15 the March 20th -- or I apologize -- March 16th, third
16 appeal, with CP 1045, that states it's appealing that
17 January 17th judgment, which would most certainly be much
18 too late and also, technically speaking, the second appeal,
19 which is nowhere to be found in any code that that is
20 permitted by the great state of South Carolina. And even if
21 it was going to be considered the first, it would most
22 certainly be late, 59 days late, by the count of
23 Judge Berinsky in his return of civil appeal.

24 And for all of those reasons, we would contend
25 that this appeal needs to be dismissed outright today.

1 THE COURT: All right. Thank you. And your name
2 again?

3 MS. SIMPSON: Samantha Simpson.

4 THE COURT: Ms. Simpson?

5 MS. SIMPSON: Yes.

6 THE COURT: All right. Mr. Saj, did you hear
7 Ms. Simpson?

8 MR. SAJ: No. Faded in and out.

9 THE COURT: All right. Anything you want to say.
10 I'm going to take it under advisement after I hear from you.

11 MR. SAJ: Okay. I can say this: The length of
12 time, it was -- a lot of that was me being in contact with
13 the appeals court to try to see what avenue to take, and
14 also on the side of trying to obtain -- trying to get the --
15 because sometimes what you hear -- what you think you hear
16 and what you hear are two different things. And that's how
17 I was trying to get the audio CD version copy or whatever
18 from the courts, and it took a very long time to get that.
19 It was like -- I think it was 13 or 14 attempts before I
20 finally was able to get that.

21 I did file a motion for a hearing with Judge Wood,
22 but like I said, I didn't have any -- it would have been
23 hearsay, like what I thought I heard. And what -- once I
24 got the actual CD and heard word for word, the judge
25 admitting that he shouldn't be there; he should be in the

1 hospital, when I looked it up, that fell completely under
2 the scope of can I get another 790 hearing, the 50 --
3 these -- these figures actual and factual and then being
4 made again, you know -- post the whatever I do to secure a
5 bond. And even at that point, the person that come up with
6 those numbers is not even -- does not even works for the
7 Haven at Regent Park anymore. It's -- all I'm asking for is
8 to give me a 790 hearing.

9 Let's push forward this -- Your Honor, I'm a
10 single dad with sole custody of four boys. That -- it was
11 granted by York County Courts and by Judge Guyton in
12 South Carolina, and I'm trying to do the best that I can
13 with what is going on at this moment. My intention is no
14 more or no less than to ask for a 790 hearing. Let's get
15 these numbers correct, secure a bond, and then push forward
16 from there. That's all I'm asking. I don't know. I'm
17 looking at it like --

18 THE COURT: Practically, I'm just curious. Are
19 you still living in the rental?

20 MR. SAJ: Yes. Yes, sir.

21 THE COURT: All right. Even though this was heard
22 in January, you're still there six, almost seven months
23 later; is that correct?

24 MR. SAJ: That is correct, sir.

25 THE COURT: Okay. All right. Thank you.

1 MS. SIMPSON: If I could. Just one final --

2 THE COURT: Yes. Yes, Ms. Simpson.

3 MS. SIMPSON: -- comment on that. Yeah. We would
4 concur Mr. Saj is still in the property, and it would be our
5 contention that no rent or monies have been paid or
6 attempted to be paid since November of 2019.

7 THE COURT: Okay. All right. Thank you. I'm
8 going to take a look at the entire record. I'll issue an --
9 you will be notified of the Court's ruling by the end of the
10 day tomorrow. Thank you.

11 MR. SAJ: Your Honor?

12 THE COURT: Thank you.

13 MR. SAJ: Your Honor?

14 THE COURT: Yes, sir.

15 MR. SAJ: What I would say is this thing's been in
16 litigation for quite a while, and that's the reason why I'm
17 asking for that 798 -- to get the correct numbers and to
18 secure the bond -- property bond for them.

19 THE COURT: Okay. Thank --

20 MR. SAJ: I've already been in contact with
21 Samuel DeNoto, and everything's in the works. It's just I
22 need to get accurate numbers, but -- numbers.

23 THE COURT: All right. Thank you. That concludes
24 this hearing.

25 (The proceeding was concluded at 9:25 a.m.)

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2020-001225

I Timothy Saj Appellant Pro se am at this point sending transcript purchased from court reporter as requested by the court. I did speak with case coordinator Shelby at 803-734-1890 6-3-21 for 16 minutes to document concerns for computer file. I do have a request for first brief. My concern to Shelby was a full and accurate brief is going to take a bit more time but transcript I received will be sent. The transcript though rather short is missing upwards of 50 words that give context to points in hearing. I do see a word or two missed. 50 words could make a full paragraph in hearing & direct outcome. I have reached out to court reporter & feel this can be resolved properly. Evidence needed for brief also is coming from Verizon as to calls made & dates to magistrate court for audio copy of hearing that shows being hamstrung by court clerks. A CD with complete verbatim acknowledgement can be heard ^{in records} at 16 & 18 minutes from bench which shows lack of capacity by the court. I do apologize for request on brief. At time hearing regarding transcript I was going through Covid on breathing treatments with underlying cardiomyopathy. This was known and sent to CP court. Hearing still moved telephonically. Any fee needed for request on brief I will pay, none mentioned in conversation with Shelby but I could have missed it.

Thank you Tim Saj pro se

A copy of this has been sent via US MAIL as per
Scope & Service rules to

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