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Aug 30 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Hon. Alex Kinlaw, Jr., Circuit Court Judge

C.A. No.: 2019-CP-23-06576
Appellate Case No. 2020-001075

Jefferson Davis, Jr.Appellant,

v.

Nate Leupp, Facebook, Inc., & John Doe(s) 1–40,Respondent.

INITIAL REPLY BRIEF OF APPELLANT

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

Appellant

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ARGUMENT

This matter is very simple. Despite Respondent's false musings in his "Statement of the Case" (e.g., "take over the Greenville Republican Party" and "multiple time unsuccessful candidate for election" ... *seriously, where do they get this stuff???*), the fact remains that Respondent Nate Leupp has never had the merits of his previous and ongoing false and defamatory statements, nor any of the other valid causes of actions sought against him, heard by any court. To allow Respondent Leupp to avoid the consequences of his actions will only embolden him and others of his ilk. And worse, to allow the ruling of the lower court to stand will prevent Appellant Davis from having the merits of his claims heard. Everyone deserved their day in court, and to deny Appellant Davis this right is contrary to the basic judicial principals of our Country and the State of South Carolina.

LEUPP REJECTED BY THE PEOPLE OF GREENVILLE!!!: Yes, as pointed out in his Initial Brief, Respondent Nate Leupp is the former chairman of the Greenville County Republican Party. And now, Appellant Jeff Davis is the *current chairman* of the Greenville County Republican Party ... elected by an overwhelming percentage due to the outrage the community has against Respondent Leupp's unprofessional, unethical, potentially criminal, and in this matter certainly tortious actions. The people have spoken, and it is now time for the courts to speak as well. To allow Respondent Leupp to escape the consequences of his tortious actions will be a travesty of justice which this Court should not tolerate ... just as the people in Greenville County have refused to tolerate his other bad acts.

LEUPP CLAIMS DOUBLE JEOPARDY?: Respondent Leupp was never a party to the Richland case. He was never served, nor did he ever make an appearance. Jeopardy has therefore never attached. Appellant Davis has every right to include, or exclude, Respondent

Leupp in the Richland case. Appellant Davis was ordered to name and serve every potential John Doe defendant in the Richland case that he might want to name. By not serving Respondent Leupp in the Richland case (in which he may have had a minor role), Appellant Davis chose to pursue Respondent Leupp in Greenville with a case where he had a much bigger role. It is a false argument for Respondent Leupp to state he escapes liability for his actions under 12(b)(8) due to a case he was not even a part of.

LEUPP CLAIMS IMMUNITY FOR HIS FUTURE DEFAMATORY ACTS?: The facts in this case are wholly different from the facts in the Richland case. Some acts listed in the Complaint actually occurred after the filing of the Richland action ... and after the filing of the Amended Complaint in that action as well. As recently as March 2021 witnesses have attested that Respondent Leupp falsely claimed that Appellant Davis (and one other party) had a “RAP sheet a mile long”. As this Court well know, “RAP sheet” is a Record of Arrests and Prosecutions ... or more plainly stated, a criminal record. Appellant Davis has no RAP sheet or criminal history. He has never been charged with a crime. In fact, Respondent Davis is a licensed attorney and Certified Public Accountant, yet there is also new evidence that Respondent Leupp has recently continued to tell people that Appellant Davis has been disbarred. Is Respondent Leupp claiming in his Initial Brief that he is now immune from litigation forever ... and now free to defame Appellant Davis for the rest of time? Surely this Court could not agree with that position.

LEUPP CONCOCTS A PUBLIC FIGURE DEFENSE?: Respondent Leupp’s Initial Brief also falsely claims Appellant Davis is some sort of public figure, like that makes it OK to defame him. In what world (or court) is it OK to falsely state that Appellant Davis (or any licensed lawyer) is disbarred ... or has a criminal record? Appellant Davis’ only defense against

the false and defamatory lies of Respondent Leupp is to as broadly publish the truth and the fact that Respondent Leupp is lying to people. How better to do that than going straight to the source of the lies – within the Greenville County Republican Party – where Respondent Leupp was defaming Appellant Davis regularly and maliciously. Appellant Davis did just that by running and being elected as the Chairman of the Greenville County Republican Party. By electing Appellant Davis, the people loudly are rejecting the likes of Respondent Nate Leupp. Appellant Davis is merely mitigating his damages, and even if he were ever deemed a public figure, Respondent Leupp will still be subject to litigation for maliciously making false and defamatory *per se* statements such as claims of a RAP Sheets and being disbarred from the practice of law.

LEUPP IS DESPERATE & MUST BE HELD ACCOUNTABLE: Respondent Leupp's Initial Brief is a desperate attempt to mislead this Court with his sophistry. Respondent Leupp uses fallacious arguments in an effort to deceive this Court. The people of Greenville County clearly saw this desperation and rejected him ... and this honorable Court should see and reject it as well. Respondent Leupp's bad acts are catching up with him ... and it is now time he is held accountable for them as well.

[CONTINUED ON NEXT PAGE.]

CONCLUSION

For the foregoing reasons, Appellant asks this Honorable Court to reverse the judgment of the circuit court order dismissing this case under Rule 12(b)(8) and grant Plaintiff Davis leave to Amend his Complaint deleting the 6th, 7th and 8th causes of action against Respondent and making any further amendments Appellant deems necessary.

Respectfully submitted,



Date: August 30th, 2021

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Appellant

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PROOF OF SERVICE

I certify that I have served the below listed document(s) on the below named party at the email addresses noted on the **30th day of August, 2021**. Due to the current coronavirus crisis, no hard copy is being mailed.

PLEADINGS: **INITIAL REPLY BRIEF OF APPELLANT**

PARTY SERVED: Geoffrey Kelly Chambers, *Esq.*
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August 30th, 2021

Via Email Only (ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: Jefferson Davis Jr, Appellant vs. Nate Leupp, et al., Respondent
Appellate Case No.: 2020-001075
C.A. NO.: 2019-CP-23-06576

Dear Ms. Kitchings:

Please find attached the original of the following for the above referenced matter.

- 1. Initial Reply Brief of Appellant**
- 2. Proof of Service**

I have also served this filing on Respondent via email only for safety reasons. Pursuant to recent Orders from the Supreme Court of South Carolina, it appears service by email is preferred due to the current Coronavirus Emergency.

Thank you for your assistance. If you have any questions, please feel free to email me at jeff@apogeetax.com or give me a call at 843-901-8036 (cell).

Sincerely,



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Appellant
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cc: Geoffrey Kelly Chambers, Esq. (via email only per COVID-19 Orders)
(g.k.chambers@gmail.com & Geoffrey@cperlgroup.com)