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May 11 2022

SC Court of Appeals

**FORM 13
BRIEF OF APPELLANT***

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel D. Hall, Circuit Court Judge

Case No. 20022CP4600225

Bernard Gill

Appellant,

v.

Ezekiel Grier

Respondent.

[INITIAL] BRIEF OF APPELLANT

Bernard Gill
561 Cotton Field Rd.
Rock Hill, South Carolina 29732
(803) 448-5584
Appellant

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STATUTES

S.C. Code 1976 § 27-40-7101
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S.C. Code Ann. § 27-37-60,27-37-801

STATEMENT OF ISSUES ON APPEAL

1. DID THE MAGISTRATE COURT ERR BY NOT ADDRESSING THE NOTICE TO QUIT AND DISMISSING IT OUT OF COURT?
2. DID THE MAGISTRATE COURT ERR KNOWING THE RESPONDENT WAS GIVEN A WRITTEN NOTICE AND PROOF WAS SHOWN HE HAD MOVED OUT?
3. DID THE MAGISTRATE COURT ERR BY KNOWING RENT WAS NOT PAID FOR MONTHS BY THE RESPONDENT AND SEEING DAMAGES TO THE PROPERTY CAUSED BY THE RESPONDENT?
4. DID THE MAGISTRATE COURT ERR KNOWING THAT THE RESPONDENT HAD NO RENTAL AGREEMENT, NO CONTRACT OR ANY PROOF OF RESIDENCE?
5. DID THE MAGISTRATE COURT ERR ALLOWING AN UNLAWFUL OUSTER TO TAKE PRIORITY INSTEAD OF THE NOTICE TO QUIT, WHICH WAS FILED FIRST?
6. DID THE MAGISTRATE COURT ERR NOT RULING AGAINST THE RESPONDENT FOR NOT PICKING UP HIS EQUIPMENT AS AGREED IN COURT?
7. DID THE MAGISTRATE COURT ERR CHARGING THE APPELLANT FOR UNLAWFUL OUSTER WITH NO FINDINGS?
8. DID THE MAGISTRATE COURT ERR RULING FOR THE RESPONDENT TO RECEIVE 3X RENT MONEY THAT HE DID NOT PAY?
9. DID THE MAGISTRATE COURT ERR IN NOT PROVIDING EXIBITS IN THE TRANSCRIPT OR MENTIONING THEM IN THE TRANSCRIPT?
10. DID THE MAGISTRATE COURT ERR GIVING THE RESPONDENT IMMEDIATE POSSESSION TO PROPERTY?
11. DID THE MAGISTRATE COURT ERR NOT ALLOWING THE APPELLANT TO PRESENT PROOF THAT NO UNLAWFUL OUSTER WAS COMMITTED?
12. DID THE MAGISTRATE COURT ERR NOT GIVING THE APPELLANT NOTICE

OF A COURT HEARING FOR UNLAWFUL OUSTER?

13. DID THE MAGISTRATE COURT ERR NOT ALLOWING THE RIGHTS OF A JURY TRIAL?
14. DID THE MAGISTRATE COURT ERR NOT ASKING THE WITNESS ABOUT PAYMENTS?
15. DID THE CIRCUIT COURT ERR SAYING THEY WERE NOT HEARING THE DETAILS OF THE CASE?
16. DID THE CIRCUIT COURT ERR NOT BEENING PREPARED FOR MY HEARING AND RUSHING THE CASE?
17. HOW CAN AN APPEAL BE JUDGE CORRECTLY WITHOUT THE DETAILS?
18. DID THE RESPONDENT MOVE OUT AND LEAVE THE PROPERTY IN A UNHEATHY; UNSAFE CONDITION WITH DAMAGES?
19. IS THE APPELLANT WRONG FOR KEEPING HIS PROPERTY SAFE AND SECURED UNTIL THE WORK CAN BE DONE?

STATEMENT OF THE CASE

On January 6, 2022 I was in court thinking it was to address my Notice to Quit filed on December 27, 2021. Showed proof of my house left abandoned (provided pictures filed as exhibits in the court), I gave proof that no payments was never received from the Respondent, No Contract, and No Rental Agreement. I showed a letter given to the Respondent with notice to move out of my house by December 1, 2021 that the Respondent says he received. Later founded out an Unlawful Ouster was filed against me on January 3rd which I was not aware of (no proof of findings). The Respondent and the court agreed for me to arrange a day for the Respondent to pick up his equipment out of my house to settle the case. The court gave us until January 11, 2022 to get it done.

On January 10, 2022 I called the Respondent to meet me at my house to pick up his equipment. He replied back in a text message that he needed more time then called back. I inform him we had to January 11, 2022 to get it done. He said he would call and meet me there, but never did.

On January 12, 2022 I was back in court thinking it was to settle the Respondent not picking up his equipment as agreed, but instead the court ruled to give the Respondent immediate possession of my house. When I challenged the decision based on my evidence provided to the court, the Judge got very upset and threw out my Notice to Quit. I reminded the court again he have no contract, rental agreement nor payments. It's my house and I pay everything, but the Judge said it didn't matter.

On January 20, 2022 I was back in court again thinking it was to address the eviction papers I was asked by the court to fill out on January 12, 2022. I brought my daughter to prove no payments were giving to her for any rent. But I was accused of not giving the Respondent immediate possession to my house. I informed the court I went to the house immediately after leaving the court room. Waited over 2 hours for the Respondent, changed the damaged lock and left the house unlocked (won't lock) because of damages the Respondent did to the door (provided pictures to the court), checked by the house an entire week at different times, Respondent never showed up. Contacted the court clerk Mr. Marcus Herbert by email explaining the no show of the Respondent and requested a call back to secure my house and belonging. No response from the court, so I left my house unlocked and unsecured. I was then threaten by the Judge that I better find a key and it better work or change the lock and get a key. I explained how the Respondent lies saying he came to the door, but didn't attempt to open it. I requested a Sheriff on site to witness the key exchange and that a key don't work, it was denied, so I requested to bring the key to the court room. I was told to be back in the court room on January 24, 2022 and maybe I needed to take a video to show a key in the lock.

On January 24, 2022 When I came to court with my daughter again I was immediately accused and charged for Unlawful Ouster and the Judge ruled that I must pay the respondent 3x\$1000.00 for rent money. I was never given a chance to defend myself. When I asked if I could speak concerning these charges, I was told nothing I said would change the ruling and to make it

quick. I explained to the Judge that I have served over 20 years in the US Military and one thing I know is to follow orders. She had no proof that I committed Unlawful Ouster. I presented a copy of the email that I reached out to her clerk Mr. Marcus Herbert and got no response. She said her office don't have to return calls and that the email could not be entered as evidence. I also informed her I never got my rights to a trial by jury if I was going to be convicted for something I didn't do. She said I need a 5 day request; I informed her, I was not given a 5 day notice that she just told me on January 20, 2022 to be back in court and it's my rights for trial by jury. I informed her that I will appeal her decision.

On March 17,2022 I did a virtual hearing in the Court of common Pleas, the Respondent did not show up, the Judge stated the court was not there to hear the details, I had previously turned in pictures also and explained as much information. The Judge stated he would take a close look and basically just rushed the hearing. Too many other cases were going on and the technology kept jamming up and it was a challenge to stay focused on the case.

ARGUMENTS

1. BECAUSE RESPONDENT ACKNOWLEDGE IN COURT THAT HE RECEIVED A WRITTEN NOTICE TO VACATE THE PREMISES BY DECEMBER 1, 2021 AND WAS NOT LIVING IN THE HOUSE AFTER DECEMBER 1, 2021.
2. BECAUSE RESPONDENT FILED A FALSE POLICE REPORT 23 DAYS AFTER HE MOVED.
3. BECAUSE RESPONDENT AGREED IN COURT TO COME GET HIS EQUIPMENT BY JANUARY 11, 2022.
4. BECAUSE RESPONDENT MADE A FASLE CLAIM FOR RENT AND HOTEL FEES THAT WAS NOT PAID. NO PROOF, NO EVIDENCE.
5. BECAUSE RESPONDENT HAD NO CONTRACT OR RENTAL AGREEMENT.
6. BECAUSE THE COURT ERRED DISMISSING THE NOTICE TO QUIT.
7. BECAUSE THE COURT ERRED GIVING THE RESPONDENT IMMEDIATE POSSESSION OVER PROPERTY HE MOVED OUT OF; LEFT ABANDON AND DAMAGED.
8. BECAUSE THE COURT ERRED KNOWING THE PROPERTY WAS UNSAFE, UNHEALTHY AND NOT IN LIVEABLE CONDITION.
9. BECAUSE THE COURT ERRED GIVING UNLAWFUL OUSTER PRIORITY OVER NOTICE TO QUIT.
10. BECAUSE UNLAWFUL OUSTERING MUST BE PROVED BY REMOVING OR EXCLUDES THE TENANT FROM PREMISES.
11. BECAUSE COURT ERRED KNOWING NO PAYMENT WAS RECEIVED; NO CONTRACT, NO RENTAL AGREEMENT.
12. BECAUSE COURT ERRED NOT PRESENTING THE EXIBITS.
13. BECAUSE THE COURT ERRED WHEN IT CHARGED THE APPELLANT WITH NO EVIDENCE.
14. BECAUSE THE COURT ERRED NOT GIVING THE APPELLANT NOTICE

OF A COURT HEARING.

15. BECAUSE THE COURT ERRED DENING THE APPELLANT OF HIS RIGHTS TO HAVE A TRIAL BY JURY.
16. BECAUSE THE COURT ERRED BY NOT LOOKING AT THE DETAILS OF THE CASE.
17. BECAUSE COURT RULED FOR THE RESPONDENT TO HAVE BECAUSE CIRCUIT COURT RULED WITHOUT HEARING THE DETAILS OF THE CASE.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court; release me from this \$3,000.00 judgment or allow the Appellant his rights to a Jury trial.

Respectfully submitted,

May 10, 2022

Bernard Gill
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Appellant