

KEVIN E. HILL v. ROBERT L. HILL and BOB HILL ENTERPRISES, INC.

No. 236A01

(Filed 9 November 2001)

Gifts--sufficient evidence of gift--malicious prosecution--abuse of process

The decision of the Court of Appeals in this case is reversed for the reasons stated in the dissenting opinion in the Court of Appeals that plaintiff's evidence was sufficient for the jury to find that defendant father gifted a business and all of its assets to plaintiff son and to support submission to the jury of plaintiff's claims for malicious prosecution and abuse of process; therefore, the case is remanded to the Court of Appeals for consideration of defendants' remaining assignments of error.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 142 N.C. App. 524, 545 S.E.2d 442 (2001), reversing a judgment entered 28 September 1999 and an amended judgment entered 12 November 1999 by Tilghman, J., in Superior Court, Carteret County. Heard in the Supreme Court 17 October 2001.

Wheatly, Wheatly, Nobles & Weeks, P.A., by C.R. Wheatly, Jr., and Stevenson L. Weeks, for plaintiff-appellant.

Mason & Mason, P.A., by L. Patten Mason, and Ward and Smith, P.A., by Kenneth R. Wooten, for defendant-appellees.

PER CURIAM.

For the reasons stated in section one of the dissenting opinion by Judge Tyson, the decision of the Court of Appeals is reversed and this case is remanded to that court to address defendants' remaining assignments of error.

REVERSED AND REMANDED.