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Jun 14 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM Horry COUNTY
Court of Common Pleas
Cynthia Graham Howe, Master in Equity

APPELLATE COURT CASE NO.: 2022-000665

Leticia, LLC Movant,

In Re:

M&T Bank Plaintiff,

v.

Tyrone Davis, Bobby J. Bellamy, BC Fund and Management LLC d/b/a BC Fund, LLC
..... Defendants.

AND

M&T Bank Respondent,

v.

Tyrone Davis, Bobby J. Bellamy, BC Fund and Management LLC d/b/a BC Fund,
LLC Defendants.

Of whom Bobby J. Bellamy is the Appellant,

And

Tyrone Davis, Bobby J. Bellamy, and BC Fund, LLC are Respondents,

And

Bobby J. Bellamy, Appellant,

v.

William O. Smith, Respondent.

MOTION TO REMOVE RESPONDENT TYRONE DAVIS FROM APPEAL

Pursuant to Rule 240, SCACR, Respondent Tyrone Davis (“Davis”) hereby files his Motion to be Removed from the Appeal. In support of this motion, Respondent Davis states as follows:

1. Respondent Davis was the owner of the real property located in Horry County that is the subject of this appeal (“Property”) at the time the underlying case was heard in the Court of Common Pleas by Cynthia Graham Howe, Master in Equity for Horry County (“Lower Court”). Respondent M&T Bank named Respondent Davis a defendant in the original case to foreclose on a mortgage given by Respondent Davis to Respondent M&T to secure a loan to acquire the Property.

2. On May 4, 2018, the Lower Court issued a Master’s Order and Judgment of Foreclosure and Sale (the “Foreclosure Order”). Pursuant to the Foreclosure Order, the Property was sold to Coastal Resort Properties, LLC (“Coastal”) as the highest bidder on September 4, 2018. Coastal assigned its foreclosure sale bid to Leticia, LLC (“Leticia”) by Assignment of Bid recorded September 3, 2019. On September 3, 2019, the Lower Court entered its Master in Equity’s Report on Sale and Disbursements reporting that Leticia complied with the bid. The Lower Court subsequently issued a deed to the foreclosed Property to Leticia. Therefore, Respondent Davis no longer has an ownership interest in the Property.

3. Although Respondent Davis was a party in the underlying action, the Appellant did not appeal any of the the findings of the Lower Court concerning Respondent Davis. As such, none of those findings were determined by the Court of Appeals.

4. Further, the allegations and claims in Appellant’s Amended Petition for Writ of Certiorari are not clear and do not appear to allege any error by the Lower Court or Court of

Appeals concerning Respondent Davis. Therefore, it appears that Respondent Davis is not a necessary party to this appeal, or to Appellant's Petition for Writ of Certiorari.

5. Respondent Davis is therefore entitled to an order dismissing him as a party to the appeal and removing him from the caption of this proceeding.

THEREFORE, for the reasons outlined above, we move that this Court dismiss Respondent Davis from this Appeal and amend the caption to reflect such removal.

WOMBLE BOND DICKINSON (US) LLP

s/Daniel Q. Orvin

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Attorneys for Respondent Tyrone Davis

Charleston, South Carolina
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PROOF OF SERVICE

I, Daniel Q. Orvin, certify that on June 14, 2022, I have served the foregoing **MOTION TO REMOVE RESPONDENT TYRONE DAVIS FROM APPEAL** on Appellant Bobby J. Bellamy via US Mail, proper postage attached and addressed as follows:

Bobby J. Bellamy
PO Box 1674
Little River, SC 29566
Appellant

And on all other parties via electronic mail, addressed to their attorneys of record as follows:

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