

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
R. Ferrell Cothran, Circuit Court Judge

AUG 22 2022

SC Court of Appeals

Case Number: 2022-000626

Tamara Gaylord..... Appellant

V.

Ronnie Gainey..... Respondent

RECORD ON APPEAL

Tamara Gaylord
C/O Brent Lyons
2330 Addison Street
Sumter, SC 29153
Pro Se

Ceth Land
Post Office Box 138
Manning, SC 29102
Attorney for Respondent

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

CASE NO: 2020-DR-14-130
IN THE FAMILY COURT FOR THE
THIRD JUDICIAL CIRCUIT

RONNIE GAINEY,)
)
PLAINTIFF,)
)
VS.)
)
TAMARA GAYLORD,)
)
DEFENDANT.)

ORDER

BEULAH G. ROBERTS
CLERK OF COURT
JUL 12 A 10:30

RECEIVED TRUE COPY
DATE 7-12-2021

HEARING DATE: June 8, 2021
JUDGE: Thomas M. Bultman
ATTORNEY FOR PLAINTIFF: William Ceth Land
ATTORNEY FOR DEFENDANT: Ken H. Lester
COURT REPORTER: Maryann S. Nevers

That by Order of Judge Gordon B. Jenkinson dated July 17, 2020 the issue of common law marriage and other issues in the case were bifurcated. That by Order of Judge Angela R. Taylor dated February 24, 2021 the Clerk of Court was directed to set a hearing to resolve the issue of common law marriage and the matter was scheduled before the undersigned to be heard on June 8, 2021.

Present and appearing at the appointed time and place were: Plaintiff; Defendant; William Ceth Land, Esquire, attorney for Plaintiff; and Ken H. Lester, Esquire, attorney for Defendant.

For the purposes of this Order the Plaintiff, Ronnie Gainey, shall be referred to as "Mr. Gainey" and Defendant, Tamara Gaylord, shall be referred to as "Ms. Gaylord".

Based upon a review of the pleadings, the exhibits, and having judged the credibility and demeanor of the witnesses from the witness stand while under oath, and taking into consideration any stipulations, I make the following findings of fact and conclusions of law:

I: Jurisdiction and Venue

1. Mr. Gainey and Ms. Gaylord have been residents of Clarendon County for more than a year before this action was commenced.
2. Ms. Gaylord contends that the parties are common law married.
3. This Court has personal jurisdiction over the parties and the subject matter.
4. Venue is properly in the Family Court of the Third Judicial Circuit, Clarendon County, South Carolina.

II: Evidence Failed to Establish a Common Law Marriage

5. A party seeking to prove the existence of a common law marriage must demonstrate mutual assent to be married by clear and convincing evidence. The Court can consider factors including, but not limited to: tax returns; documents filed under penalty of perjury, introductions in public, contracts; and checking accounts. *Stone v. Thompson*, 428 S.C. 79, 833 S.E.2d 266 (2019).

6. Ms. Gaylord contends that the parties entered into a common law marriage on or about December 25, 2012.

7. The Court received testimony from Mr. Gainey, his daughter, Ms. Gaylord, and her daughter.

8. For the following reasons, the undersigned finds the evidence was insufficient to establish a common law marriage:

(a) The daughter of Mr. Gainey testified that she has never heard Mr. Gainey refer to Ms. Gaylord as his wife and she also offered Plaintiff's Exhibit 1, an envelope that she addressed to Mr. Gainey and Ms. Gaylord using the nicknames "PaPa" and "Mammy Tammy". These nicknames were used by her children to refer to the

parties, but that they never called Ms. Gaylord "grandmother," "grandmama" or other common names for a grandmother.

(b) Mr. Gainey's Exhibit 2 was his tax returns for 2011 through 2019 and they revealed that his filing status was "single". While most of those returns did claim Ms. Gaylord and her two grandchildren as Mr. Gainey's dependents, none of them set forth that Ms. Gaylord was his spouse.

(c) Mr. Gainey's Exhibit 3 was a letter to the IRS dated April 29, 2014 clarifying the relationship of the dependents he listed on his 2014 federal tax return as "the grandchildren of my fiancée, Tammy Gaylord."

(d) Mr. Gainey's Exhibit 4 was an application for an IRA with the Bank of Clarendon dated March 23, 2009 and it does not list a spouse and Mr. Gainey testified that he never amended his IRA to list a spouse.

(e) Mr. Gainey's Exhibit 5 was a cover letter for Mr. Gainey's checking account that lists only him, and he testified that he has never had a joint checking account with Ms. Gaylord.

(f) Mr. Gainey's Exhibit 6 was tax assessor's records for three pieces of real estate and one mobile home owned by Mr. Gainey, and none are joint owned with Ms. Gaylord.

(g) Mr. Gainey's Exhibit 7 was his Last Will and Testament that was prepared by his lawyer, Thomas E. Player, Jr., and he left his estate to Ms. Gaylord; however, she was never referred as Mr. Gainey's wife, only as a beneficiary or devisee. Subsequently, Mr. Gainey had another Last Will and Testament prepared in which he left his entire estate to his daughter.

(h) Ms. Gainey is disabled and is receiving Supplemental Security Income benefits (SSI) from the Social Security Administration. She began receiving these benefits when she was single; however, even after the date she testified she and Mr. Gainey were married (December 25, 2012), she never notified the Social Security Administration that she was married as she was required to do as set forth in Mr. Gainey's Exhibit 8, which was a letter from the Social Security Administration to Ms. Gaylord.

(i) Ms. Gaylord's Exhibit 1 was an obituary for the brother for Mr. Gainey and it listed the family, including "Ronnie Gainey (Tammy)". Ms. Gaylord contends that the listing of her first name following Mr. Gainey's name indicated that Mr. Gainey's family believed they were married; however, under cross examination Ms. Gaylord agreed that the obituary was dated September 7, 2011 and therefore predated the time when she contends the common law marriage was formed in December of 2012.

(j) Ms. Gaylord's Exhibit 2, a single page record from McLeod Hospital, did list Mr. Gainey's marital status as "married"; however, the document lists Ms. Gaylord as Mr. Gainey's "significant other", not his spouse. Mr. Gainey testified that he had been married twice, but each ended in divorce and that the listing of "married" could have come from prior treatment at McLeod during periods that he was married.

(k) Both parties agreed that Mr. Gainey did give Ms. Gaylord an engagement ring in December of 2011, but after an incident which took place at a bar, the engagement ring was returned to Mr. Gainey.

(l) Ms. Gaylord testified that Mr. Gainey gave her a wedding ring in December of 2012; however, Mr. Gainey denied that he gave her a wedding ring and Ms. Gaylord offered no proof of the wedding ring's existence.

(m) On cross examination Ms. Gaylord admitted the following regarding the years that she was with Mr. Gainey: she has never filed a tax return listing herself as married; had never stated that she was married on any document that she signed under penalty of perjury; has never listed Mr. Gainey as her husband on any contract; has never had a joint checking account with Mr. Gainey; has never owned any real property with Mr. Gainey; has never informed the Social Security Administration that she was married to Mr. Gainey; and has never gone by the last name Gainey.

FWS

III. Attorney's Fees and Costs

9. In deciding whether to award attorney's fees, the Family Court should consider: (a) the parties' ability to pay their own fees; (b) the beneficial results obtained by counsel; (c) the respective financial conditions of the parties; and (d) the effect of the fee on each party's standard of living. *E.D.M. v. T.A.M.*, 307 S.C. 471, 415 S.E.2d 812 (1992); *Shirley v. Shirley*, 342 S.C. 324, 536 S.E.2d 427 (Ct. App. 2000). In determining a reasonable attorney's fee the following factors are applicable: (a) the nature, extent, and difficulty of the case; (b) the time necessarily devoted to the case; (c) professional standing of counsel; (d) contingency of the compensation; (e) beneficial results obtained; and (f) customary legal fees for similar services. *Glasscock v. Glasscock*, 304 S.C 158, 403 S.E.2d 313 (1991).

10. While this case did not involve any novel issues of law, still Mr. Land and Mr. Lester had to devote time and effort in order to represent their respective clients.

11. The attorney fee affidavits submitted by Mr. Land and Mr. Lester provided the amount of time each expended in representing their respective clients, as well as the time Mr. Lester's paralegals expended.

12. Both Mr. Land and Mr. Lester have excellent reputations as family law practitioners. The number of hours each devoted in representing their respective clients was reasonable. The hourly rate of \$200.00 for out of court time and \$250.00 an hour for in court time which Mr. Land charged was within the range charged for similar services in this community. Mr. Lester's hourly rate of \$420.00 is in the range which lawyers of his ability charge in South Carolina for representing clients who have the financial ability to pay. Mr. Gainey incurred fees and costs of \$7,890.00 and Ms. Gaylord incurred fees and costs of \$17,649.00.

13. As to favorable results achieved, Mr. Gainey prevailed as I found there was no common law marriage.

14. Ms. Gaylord, who is receiving monthly SSI payments of \$746.00 and occasional child support for her two grandchildren, does not have the financial ability to pay the fees and costs which Mr. Gainey incurred and requiring her to pay any portion of those fees would have a detrimental impact on her standard of living. Also, Ms. Gaylord will have a difficult time paying Mr. Lester.

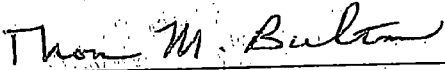
15. After considering all the factors in *E.D.M. v. T.A.M.* and *Shirley v. Shirley*, the Court finds that neither party is awarded attorney's fees and costs from the other.

NOW, THEREFORE, on motion of Plaintiff's counsel and in consideration of the findings hereinabove set forth, it is accordingly.

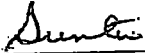
ORDERED ADJUDGED AND DECREED:

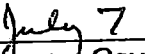
- a. That the findings as hereinabove set forth shall become the Order of this court in each and every particular as if repeated herein again verbatim.

AND IT IS SO ORDERED.



Family Court Judge Thomas M. Bultman


_____, SC


_____, 2021
Gainey vs. Gaylord
2020-DR-14-130

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

CASE NO: 2020-CV-14-10100124
IN THE SUMMARY COURT

RONNIE GAINEY,)
)
PLAINTIFF,)
)
VS.)
)
TAMARA GAYLORD,)
)
DEFENDANT.)

Certified True Copy of Original
filed in this office.

Date: 8-25-21

ORDER

Marcia N. Fry
Clarendon County
Summary Court

HEARING DATE: August 19, 2021
JUDGE: Marcia N. Fry
ATTORNEY FOR PLAINTIFF: William Ceth Land
ATTORNEY FOR DEFENDANT: Ken H. Lester

The above entitled matter was before the undersigned pursuant to the Plaintiff's Application for Ejectment filed on January 31, 2020. That due to the Family Court case that was pending between the parties this action had been delayed until the current trial date. The Family Court case ended with the issuance of an Order by Judge Thomas M. Bultman on July 7, 2021 finding that the parties were not common law married.

Present and appearing at the appointed time and place were: Plaintiff; Defendant; William Ceth Land, Esquire, attorney for the Plaintiff; and Ken H. Lester, Esquire, attorney for the Defendant.

Prior to receiving evidence on the eviction case the Court addressed the Defendant's Motion for Continuance. The Defendant requested a continuance based on four grounds. The first ground was that the Defendant is now requesting a jury trial. Pursuant to Magistrate Court Rule 13 the request for a jury trial must have occurred five days prior to the original date set for the trial, in this case the original trial date was set for

March 19, 2020. The Undersigned finds that the request for a jury trial is not timely pursuant Rule 13.

The second ground was that the Defendant is "under treatment for breast cancer, has COPD and physically unable to appear personally in Court." The Defendant did not submit any medical evidence that she was unable to appear in Court and she had appeared in Family Court on June 8, 2021 for half day trial. The Undersigned finds that the health of the Defendant did not prevent her from appearing at the trial.

The third ground was that the Plaintiff's attorney "did not coordinate the hearing [date] with Defendant's attorney." The Court set the date for hearing and the attorney for the Defendant did not have another hearing that would take priority over the Magistrates Court pursuant to Appellant Court Rule 601.

The fourth ground was that "South Carolina and Federally issued Eviction Moratorium" prevented the Court from evicting tenants at the time of the hearing. The South Carolina moratorium on evictions was ended April 30, 2020 by Chief Justice Beatty by Order 2020-04-30-02. The Federal moratorium pursuant to the CDC Order issued on August 3, 2021 is limited to "covered person" that must meet six criteria. The Defendant did submit an "Eviction Protection Declaration", but the Undersigned finds that the declaration was inaccurate because the Defendant states "I cannot pay my full rent or make a full housing payment because, my household income has gone down substantially." This statement cannot be true because the Defendant had been living with the Plaintiff rent-free because they were boyfriend and girlfriend, and the Defendant had never paid rent to the Plaintiff. The Undersigned finds that Defendant is not a covered

person pursuant to the CDC issued moratorium because her financial condition is not the grounds for the eviction.

The Undersigned found that the four grounds for the continuance raised by the Defendant to not warrant a continuance and the hearing proceeded.

The Court received testimony from the Plaintiff whereby he testified that he and the Defendant were formerly boyfriend and girlfriend, however, their relationship deteriorated and pursuant to Plaintiff's Exhibit 1 he hired William Ceth Land, Esquire, to send a letter on January 10, 2020 requesting that the Defendant vacate the home by January 31, 2020. The Defendant did not vacate the home and therefore the Plaintiff filed the present eviction action on January 31, 2020. The Plaintiff further testified that following the issuance of Judge Bultman's Order that found that they were not common law married that the Defendant left the home, however, her personal property remains in the home and the Defendant has not returned to get her personal property. The Plaintiff testified that he was willing to allow the Defendant a week to remove her personal property from the home, but wanted the assistance of law enforcement to ensure a peaceful interaction between the parties.

That following the direct examination of the Plaintiff the attorney for the Defendant did not question the Plaintiff. The attorney for the Defendant did not offer any witnesses because the Defendant had left the courtroom and did not return.

The Undersigned finds that the Plaintiff is entitled to the eviction of the Defendant and a Writ of Ejectment will be issued giving the Defendant 24 hours to vacate the home.

The Plaintiff offered to allow the Defendant until August 26, 2021 to obtain her personal property from the home and either party may request the assistance of law

enforcement to ensure the peaceful removal of the personal property. If the Defendant does not retrieve her personal property, then the Plaintiff may dispose of the property as abandoned property.

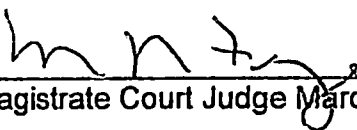
The Plaintiff requested attorney's fees from the Defendant; however, the Court finds that attorney's fees are not warranted in this action and therefore denies the Plaintiff's request for attorney's fees.

NOW, THEREFORE, on motion of Plaintiff's counsel and in consideration of the findings hereinabove set forth; it is accordingly

ORDERED ADJUDGED AND DECREED:

- a. That the findings as hereinabove set forth shall become the order of this court in each and every particular as if repeated herein again verbatim.

AND IT IS SO ORDERED.



Magistrate Court Judge Marcia N. Frye

Clare SC

8-25, 2021
Gainey vs. Gaylord
2019-CV-14-10100124

Regarding the Appellant's claim that she was protected from eviction by the CDC's moratorium on evictions the undersigned finds that the Appellant did not meet the requirements of the moratorium at the time of the hearing and that the CDC's moratorium was stayed by the Supreme Court of the United States by Order No. 21A23 issued on August 26, 2021; therefore, her claim of protection by the moratorium is now moot. The Appellant did not meet the requirements of the CDC's moratorium because it required that the applicant must "have done my best to make timely payments that are as close as possible to the full payment and to get government assistance in making my rent or housing payment." The Appellant admitted to the Court that she had always stayed at the Respondent's home rent-free; therefore, the statement that she had "done her best to make timely payments" or seek "government assistance" is not true.

The Magistrate Court ruling of Judge Marcia N. Frye issued on August 25, 2021 is upheld.

AND IT IS SO ORDERED.

Judge R. Ferrell Cothran, Jr.

_____, 2021
2021-CP-14-00425



Clarendon Common Pleas

Case Caption: Tamara Gaylord VS

Case Number: 2021CP1400425

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2021-12-07 10:09:52 page 4 of 4

LAND PARKER WELCH LLC
ATTORNEYS AT LAW
POST OFFICE BOX 138
MANNING, SOUTH CAROLINA 29102

JOHN C. LAND, III
NELSON R. PARKER
J. CALHOUN LAND, IV
RICCI LAND WELCH
WILLIAM CETH LAND

29 SOUTH MILL STREET
TELEPHONE: 803-435-8894
FACSIMILE: 803-435-8362
Email: ceth@lpwlawfirm.com

January 10, 2020

Tamara Gaylord
3109 Stone Road
Manning, South Carolina 29102

COPY

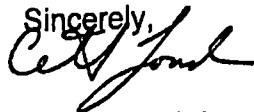
Re: Gainey vs. Gaylord

Dear Ms. Gaylord:

I have been retained by Ronnie Gainey regarding the removal of you from his home located at 3109 Stone Road, Manning, South Carolina. As you know you are an "at will" tenant of Mr. Gainey and he has now requested on numerous occasions to vacate his home. It is my understanding that you have refused to vacate the home.

This is your notice to vacate the home removing all of your personal property by January 31, 2020 or an action for ejectment will be brought to have you removed from the home.

With kind regards, I am

Sincerely,

William Ceth Land

WCL/sr
Encls.

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

RONNIE V. GAINNEY

PLAINTIFF(S)

VS.

TAMARA GAYLORD

DEFENDANT(S)

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

APPLICATION FOR
EJECTMENT
(Eviction)

I, Ronnie V. Gainey, plaintiff in this action, state that I am the landlord-lessor of premises within the jurisdiction of Magistrate Clarendon which is described as: (address and description of premises – apartment, house, etc.)

- House located at 3109 Stone Road, Manning, SC.

I further state that, with regard to the above-described premises, a landlord-tenant relationship exists between myself and the defendant, Tamara Gaylord, the tenant-lessee, as evidenced by the following: (Attach lease papers or other written proof.)

- The lease was a verbal agreement between Ronnie Gainey and Tamara Gaylord allowing her to live in the home as a tenant at will.

Grounds for this ejectment are one or more of the following:

The tenant fails or refuses to pay the rent when due or when demanded in the amount of \$ _____ ; or

The term of tenancy or occupancy has ended; or

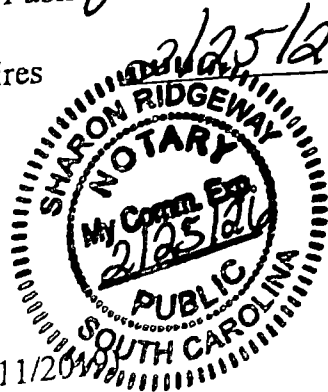
The terms or conditions of the lease have been violated as follows:

- Landlord has requested that the tenant leave the home and she has failed to do so. The attached letter was sent to the tenant on January 10, 2020 requiring her to vacate the home by January 31, 2020. The tenant has not vacated the home.

Sworn to before me
this 31 day of January, 2020.

Sharon Ridgeway
Magistrate or Notary Public for South Carolina

My Commission expires



[Signature]

PLAINTIFF (or his attorney/agent)

P.O./Box 138

Address

Manning, SC, 29102

City/State/Zip

803-435-8894

Phone Number

STATE OF SOUTH CAROLINA

2020CV1410100124
CIVIL CASE NUMBER

COUNTY OF CLARENDON

IN THE MAGISTRATE'S COURT
NOTICE TO QUIT PREMISES

Ronnie Gainey
C/O Land Parker Welch Llc
Post Office Box 138
Manning, SC 29102
(803) 435-8894

PLAINTIFF(S)

Vs

Tamara Gaylord
3109 Stone Road
Manning, SC 29102

DEFENDANT(S)

Upon an affidavit filed by the plaintiff which states you:

Tamara Gaylord

defendant(s), are a trespasser(s) and are occupying the premises at
3109 Stone Road
Manning, SC 29102

without permission of the owner of said premises. You are required to immediately vacate the premises or
contact the:

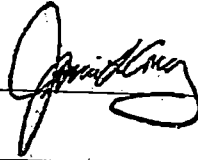
Clarendon County Magistrate
102 South Mill Street
P O Box 371
Manning, SC 29102
Phone: (803) 435-8925
Fax: (803) 435-0885

within five (5) days to show cause, if any you can, why you should not be ejected from these premises.

FAILURE TO VACATE THE PREMISES OR TO CONTACT THIS OFFICE WITHIN FIVE (5) DAYS MAY RESULT IN THE ISSUANCE OF A WRIT OF EJECTMENT.

Dated: January 31, 2020

JUDGE



PERSONALLY appeared before me, the undersigned deponent, who being duly sworn, says that s/he served the herein Notice to Quit
Premises/Rule to Show Cause on _____

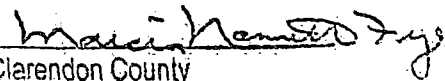
_____ on the _____ day of _____,
20____ at _____ AM PM

Sworn to and subscribed before me
this _____ Day of _____, 20____

Sheriff's Deputy or Constable

NOTARY PUBLIC or JUDGE
My Commission Expires: _____

Certified True Copy of Original
filed in this office.
Date: 1-31-2020


Clarendon County
Summary Court

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

RONNIE GAINNEY)

Plaintiff,)
v.)

TAMARA GAYLORD)

Defendant.)

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

**MOTION FOR CONTINUANCE
JURY TRIAL REQUESTED**
Case No. 2020CV1410100124

Certified True Copy of Original
filed in this office.

Date: 8-16-21

Robin C. Lallen
Clarendon County
Summary Court

**TO: RONNIE GAINNEY, THE PLAINTIFF ABOVE NAMED AND HIS
ATTORNEY, WM. CETH LAND:**

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through her undersigned attorney, does hereby move before the presiding judge of the Clarendon County Summary Court for a continuance of the hearing scheduled for August 19, 2021, beginning at 9:30 a.m. based on the following:

1. The Defendant wherein seeks a jury trial on the same.
2. That the Defendant is currently under treatment for breast cancer, has COPD and physically unable to appear personally in Court.
3. That Plaintiff is fully aware of Defendant's attorneys' involvement in the case and yet did not coordinate the hearing with Defendant's attorney.
4. That according to the South Carolina and Federally issued Eviction Moratorium, tenants at this time cannot be evicted from their homes.

NOW THEREFORE, Defendant seeks the following:

1. That a jury trial be set in the matter.
2. That the hearing for August 19, 2021, be continued until such time as it is coordinated with the Defendant's attorney
3. That the matter be dismissed in its entirety due to the South Carolina Eviction Moratorium issued against eviction.
4. For attorneys fees and costs for the defense of this action.

Ken H. Lester

Ken H. Lester
Attorney for Plaintiff
1901 Gadsden Street, Suite A
Columbia, South Carolina 29201
Telephone: (803) 252-4700
Facsimile: (803) 252-0333

Columbia, South Carolina
July 2021

STATE OF SOUTH

2021 CP1400425

APPELLATE CASE NUMBER

COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS

(Non-Jury Trial)

TAMARA GAYLORD

Appellant,

RETURN

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 9/20/2021

V.

RONNIE GAINNEY

Respondent.

Bessie B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

On August 19, 2021 the Magistrate Court heard Civil Case Number 2020CV1410100124, Ronnie Gainey, hereafter Gainey, vs. Tamara Gaylord, hereafter referred to as Gaylord. This was an eviction case.

The case began when Gaylord received a Notice to Vacate as an at will resident of the home and was given until January 31, 2020 to vacate. She did not vacate and on February 13, 2020, Gaylord was served a Notice to Quit. The original court date was March 19, 2020. Her Attorney at the time, Mr. Steve McKenzie, filed a Return to Notice to Quit citing common law marriage as a defense. Gainey was represented by Seth Land. Land and McKenzie agreed to mediation however the issue was not resolved.

Gaylord then changed attorneys to Mr. Ken Lester, Columbia, South Carolina. The case moved to Family Court where Gaylord was denied common law status on July 7, 2021 by Judge Thomas Bultman. The judgement was entered by the Clerk of Courts on July 12, 2021.

The Magistrate civil eviction case was then rescheduled for August 5, 2021. On July 21, 2021 this court received a Request for Continuance from Mr. Lester's office. The case was continued. The case was rescheduled for August 19, 2021. We again received a Motion for Continuance from Mr. Lester's office. This was denied. On Wednesday, August 18, 2021, Mr. Lester's paralegal called claiming Covid. Proper documentation was not provided and the case was not continued. Next, Mr. Lester's paralegal called claiming Gaylord had Covid. No proper documentation was provided. The paralegal called again citing the defendant had Covid. No documentation was provided. I called Mr. Lester, notified him of these calls from his paralegal, and alerted him that the case would proceed at 9:00 a.m. on Thursday, August 19, 2021. Mr. Lester was unaware of the court date but agreed to be here.

The case was heard on August 19, 2021. The case began at 9:05 a.m. Mr. Land and Gainey, and Gaylord were in attendance. Gainey and Gaylord were sworn in. The case began and Gaylord exited the courtroom in apparent anger. Mr. Lester arrived late, at approximately 9:15 a.m., and he and Gaylord

2021 SEP 20 PM 2:21
Bessie Roberts, Clerk-Clarendon S.C

came into the courtroom. Mr. Land and Mr. Lester asked for a recess to discuss the case. When they returned both attorneys spoke with their clients. Gaylord again exited the courtroom in apparent anger. The case proceeded and was completed. This court granted the eviction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judge Marcia N. Frye". The signature is written in a cursive, flowing style.

Marcia N. Frye
Clarendon County Magistrate
Third Judicial Circuit
State of South Carolina


September 20, 2021
Manning, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)
RONNIE GAINEY,)
PLAINTIFF,)
VS.)
TAMARA GAYLORD,)
DEFENDANT.)

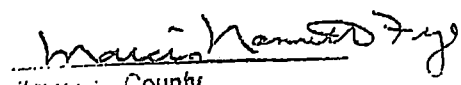
CASE NO: 2020CV1410100124
IN THE MAGISTRATE COURT.

ACCEPTANCE OF SERVICE

DUE AND LEGAL SERVICE of the Notice to Quit Premises in the above entitled matter is hereby accepted and a copy thereof retained this 13th day of February, 2020.


Steven S. McKenzie, Esquire
Attorney for Defendant

Certified True Copy of Original
filed in this office.
Date: 2-14-2020


Marcia Kamm
Clarendon County
Magistrate Court

Transcript of Proceedings August 19, 2021

STATE OF SOUTH CAROLINA

MAGISTRATE COURT
COUNTY OF CLARENDON

TRANSCRIPT OF RECORD
2020 CV 141-010-0124

RONNIE GAINNEY, PLAINTIFF
v
TAMARA GAYLORD, DEFENDANT

August 19, 2021
Manning, South Carolina

B E F O R E
THE HONORABLE MARCIA FRYE., JUDGE

A P P E A R A N C E S:
RONNIE GAINNEY
WILLIAM C. LAND, ESQ.
Attorney for Plaintiff

TAMARA GAYLORD
KEN LESTER, ESQ
Attorney for Defendant

1 THE COURT: Today is Thursday, August 19. This is Clarendon County Summary
2 Court, Civil Division. This morning, we're going to hear the case Ronnie Gainey
3 versus Tamara Gaylord. This is case number 2020 CV 141-010-0124.
4 THE COURT: Ms. Gaylord, I spoke with your attorney yesterday, but they're not here
5 yet. Have you spoken with them this morning?
6 MS. GAYLORD: I have not.
7 THE COURT: Okay. And Ms. Shirley. Waiters, our clerk has advised me that you
8 have two witnesses. And what are their names?
9 MS. GAYLORD: Ashley Dill and Brent Lyons
10 THE COURT: Okay. And what are their relations to you?
11 MS. GAYLORD: Ashley is my daughter and Brent is a family friend.
12 THE COURT: Okay. All right. So we will proceed with this case this morning. What
13 we're here to do is the motion for continuance. So because your attorney is not here, I
14 will work with you as best as I can. I cannot give you the law, nor can I help you, but
15 I can advise you in court procedure.
16 So if I would start with the plaintiff and Mr. Gainey, your lawyer is Mr. Ceth Land, is
17 that correct?
18 MR. GAINNEY: Yes, ma'am.
19 THE COURT: All right, Mr. Land, if you would proceed.
20 MR. LAND: Thank you. You just stated we're here for the motion for continuance. I
21 assume that was a missed statement or you want me to address that first?
22 THE COURT: Let's start that first.
23 MR. LAND: Okay. Your Honor, you have a motion that was filed by the attorney for
24 the defendant, claiming basically three reasons why this hearing should be continued
25 this morning. First is they're requesting a jury trial as outlined in my reply. Magistrate
26 Court rule 13 C requires that a party request a jury trial five working days prior to the
27 original date set for the trial. The original date set for this case was originally set for
28 March 19, 2020. They did not request that in their answer that they filed and they did
29 not request it five days prior to that date.
30 THE COURT: Okay, stop me just for a second. I believe, rather than me asking you
31 to state their case for them and your reply, I have read the motion for continuance.
32 And so I'd like to make my judgment on that. Thank you.
33 THE COURT:
34 All right, so the original trial. I agree with your argument. The original trial was set
35 for March 19. And so the request for jury trial should have been made back then.

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36 And so that is denied. No continuance granted for their complaint that you did not
37 discuss with them the trial date. And there's no continuance granted there. The
38 Magistrate sets our docket, not the attorneys. The request for the eviction due to
39 COVID, that's invalid. This is not a tenant agreement. This is a whole different state
40 of matter. So the COVID violation would not matter. And then I'm denying the
41 attorney fee request.

42 THE COURT: Now the defendant has just walked out of the courtroom.

43 THE COURT: Ronnie Gainey. Sir, would you raise your right hand? Do you swear to
44 tell the truth, the whole truth, nothing but the truth, so help you God?

45 MR. LAND: And you are?

46 MR. GAINNEY: Ronnie.

47 MR. LAND: Ronnie, do you own a home located at 3109 Stone Road in Clarendon
48 County?

49 MR. GAINNEY: Yes, sir.

50 MR. LAND: In the past, has Tamara Gaylord lived with you?

51 MR. GAINNEY: Yes, sir.

52 MR. LAND: And at the time, what relationship did you and she have?

53 MR. GAINNEY: My girlfriend.

54 MR. LAND: And she's lived with you for many years as your girlfriend.

55 THE COURT: Sir would you speak up a little bit just because the microphone is over
56 there. Just so we can make sure it's recorded.

57 THE COURT: And also I would like just for the record to note that the defendant,
58 Ms. Tamara Gaylord, walked out of the court.

59 MR. LAND: Mr. Gaylord (sic), in January of 2020, did you ask that I write to Ms.
60 Gaylord asking her to leave your property?

61 MR. GAINNEY: Yes, sir.

62 MR. LAND: Let me show you a letter and tell me if that's the letter that you had me
63 write to her. You can use your reading glasses if you want.

64 MR. LAND: Did you ask that she leave the property by January 31 of 2020?

65 MR. GAINNEY: Yes.

66 MR. LAND: And did she leave the property by January 31, 2020?

67 MR. GAINNEY: No, sir.

68 MR. LAND: And for the record, she did sign the certified letter on January 13, 2020.

69 THE COURT: All right, so, sir, who are you, sir?

70 MR. LESTER: Ken Lester.

71 THE COURT: Okay. The defendant's attorney has arrived just now. Mr. Lester has
72 arrived. All right, if you would stand over here, sir, you need a chair as well. All
73 right, Mr. Lester, we began about two. three minutes after nine, and I have denied the
74 - just bring you up to speed - I denied the motion for continuance.

75 THE COURT: Okay, so at this stage, we're moving to the portion of the eviction,
76 and Mr. Land has called Mr. Gainey and is questioning him.

77 THE COURT: He's asking if we can speak.

78 MR. LAND: I'll be happy to.

79 THE COURT: Switch on pause just for a minute.

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417 THE COURT: I grant the eviction against Ms. Gaylord, and so I rule in favor of Mr.
418 Gainey, and I do grant the eviction. In my reading of the COVID declaration, I do not
419 find that it applies to her because this is not a tenant landlord situation at all. At this
420 stage, my point would be that she is a squatter in his property and has refused to leave
421 So that's my ruling on that. You're asking for attorney fees, is that correct? Let me
422 read this just very quickly.
423 MR. LAND: All right.
424 THE COURT: I'm going to deny the attorney fees. I think there's a reason that I
425 should grant them to you, Mr. Gainey. But I also don't think you can get blood out of a
426 turnip. I think that this woman doesn't have anything, and a judgment is not going to
427 help the situation at all. I don't think you're ever going to get that money. So me
428 granting it - I agree that you deserve it. But I don't believe that it makes any sense at
429 this point. And so I'm going to deny that now just for on the record, too.
430 THE COURT: After reviewing the file, I do find a letter from Ms. Gaylord's doctor,
431 Her doctor said that she is well on her way to recovery, is not on narcotics and will be
432 under the care for a few more weeks. And this was dated July 14. But that activities
433 were increasing quickly. So I think that physically I don't believe that that's an issue
434 in this case. I believe that's it.
435 MR. LAND: Would you like me to prepare an order?
436 THE COURT: If you would, please.
437 MR. LAND: Okay.
438 THE COURT: Once you pay \$10, then the Sheriff will serve her.
439 MR. GAINNEY: Yes, ma'am.
440 THE COURT: After the Sheriff serves her, she can serve or post it on his door. After
441 you post on the door, if her stuff is still there and you want them to get out, she has 24
442 hours to get those stuff out. After the serving is posted, you will get in touch with the
443 Sheriff's Department and then they will help you remove the stuff from the house. But
444 first you got to pay the \$10.
445 MR. GAINNEY:
446 Yes, ma'am, we'll do that.
447 THE COURT: Okay.
448 THE COURT: And take us off the recording. If the attorneys would stay for a minute.
449 THE COURT: Mr. Gainey, would you mind going out in the hall just for a few
450 minutes?

Transcript of Proceedings November 4,2021

STATE OF SOUTH CAROLINA)	
COUNTY OF CLARENDON)	COURT OF COMMON PLEAS
TAMARA GAYLORD)	
) PLAINTIFF,)	
) v.)	TRANSCRIPT OF RECORD
) RONNIE GAINNEY,)	21-CP-14-00425
) <u>DEFENDANT.</u>)	
	November 4, 2021
	Manning, South Carolina
BEFORE :	
THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE	
APPEARANCES:	
TAMARA GAYLORD	
Pro se Plaintiff	
WILLIAM C. LAND, ESQ.	
Attorney for Defendant	
	FRANCES B. RAY, RFR
	Circuit Court Reporter

1 everything wrong.

2 THE COURT: Okay. All right, anything
3 else you want to tell me?

4 MS. GAYLORD: I was exposed to Covid
5 and let them know. The Covid report is in my
6 paperwork.

7 THE COURT: Okay.

8 MS. GAYLORD: Which I didn't have at
9 the time in court because the child had just been
10 diagnosed.

11 THE COURT: So you were exposed but
12 you didn't have Covid, but you showed up for the
13 hearing. It's my understanding that you and your
14 lawyer were both present at the hearing.

15 MS. GAYLORD: I was present the first
16 15 minutes; my lawyer wasn't.

17 THE COURT: And then your lawyer
18 showed up late.

19 MS. GAYLORD: Right.

20 THE COURT: Right. And so ---

21 MS. GAYLORD: And at the same time ---

22 THE COURT: And your lawyer showed up
23 and you had present before any judgment was
24 rendered on behalf by the court, right?

25 MS. GAYLORD: I'm sorry?

1 THE COURT: Your lawyer was present.
2 Based on the record I got, your lawyer -- you were
3 there, Mr. Land was there. Your lawyer showed up
4 10 or 15 minutes late. You had a time to converse
5 with your lawyer, so your lawyer was there before
6 any judgment was issued by the court. The judge
7 -- the court had not ruled prior to your lawyer
8 getting there, right?

9 MS. GAYLORD: I'll never know since
10 Judge Frye called my lawyer the day before and
11 told me in court she did.

12 THE COURT: Okay.

13 MS. GAYLORD: Why would you need to
14 speak to my counsel the day before a simple
15 so-called eviction, Your Honor?

16 THE COURT: Well, based on the record
17 because they got information that they were
18 requesting a continuance, and that she called to
19 confirm that and confirmed that unless she got
20 proper documentation it wasn't going to be
21 continued. And so it wasn't continued and your
22 lawyer showed up so the case was litigated, right?
23 Okay. Anything else you want to tell me?

24 MS. GAYLORD: I think that that
25 covered it all.

1 THE COURT: Okay. Mr. Land, you want
2 to tell me anything?

3 MR. LAND: Thank you, Your Honor, just
4 briefly. Your Honor, this action began with an
5 application for ejectment. Steve McKenzie was
6 representing Ms. Gaylord at the time. They filed
7 an answer alleging common law marriage so that put
8 the brakes on everything in Magistrate's Court.
9 Judge Bultman heard the common law marriage case
10 on June the 8th of 2021. He issued his order on
11 July the 7th finding no common law marriage
12 existed. The action in Magistrate's Court then
13 proceeded for eviction. Judge Frye had a full and
14 fair hearing on August the 19th. As Your Honor
15 pointed out, the defendant was present. Her
16 lawyer did appear; he was late. Offered no
17 explanation to the Court for his tardiness, but he
18 was present.

19 As the order indicates, the attorney
20 for the defendant, we had not actually started the
21 testimony by the time he arrived. We had just
22 addressed some preliminary issues. The attorney
23 for the defendant was present during the direct
24 examination of Mr. Gainey. He did not ask any
25 questions of Mr. Gainey. He did -- the attorney



COVID-19

Updated Jan. 9, 2022

Quarantine



If you were exposed
You quarantine and stay away from others when you have been in close contact with someone who has COVID-19.

Isolate



If you are sick or test positive
You isolate when you are sick or when you have been infected with the virus, even if you don't have symptoms.

When to Stay Home

Calculating Quarantine

The date of your exposure is considered day 0. Day 1 is the first full day after your last contact with a person who has had COVID-19. Stay home and away from other people for at least 5 days. Learn why CDC updated guidance for the general public.

<p>IF YOU Were exposed to COVID-19 and are NOT up-to-date on COVID-19 vaccinations</p>	<p>Quarantine for at least 5 days</p> <p>Stay home Stay home and quarantine for at least 5 full days.</p> <p>Wear a well-fitted mask if you must be around others in your home.</p> <p>Get tested Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19.</p>	<p>After quarantine</p> <p>Watch for symptoms Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.</p> <p>If you develop symptoms isolate immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.</p>	<p>Take precautions until day 10</p> <p>Wear a mask Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.</p> <p>Avoid travel</p> <p>Avoid being around people who are at high risk</p>
<p>IF YOU Were exposed to COVID-19 and are up-to-date with vaccination OR had confirmed</p>	<p>No quarantine</p> <p>You do not need to stay home unless you develop symptoms.</p>	<p>Watch for symptoms Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.</p>	<p>Take precautions until day 10</p> <p>Wear a mask Wear a well-fitted mask for 10 full days any time you are around others</p>

<p>COVID-19 within the past 90 days (you tested positive using a viral test)</p>	<p>Get tested Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19</p>	<p>If you develop symptoms isolate immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.</p>	<p>inside your home or in public. Do not go to places where you are unable to wear a mask.</p> <p>Avoid travel</p> <p>Avoid being around people who are at high risk</p>
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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 18, 2022

/s/ Tamara Gaylord

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C/O Brent Lyons
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RECEIVED
AUG 22 2022
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