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**Dec 28 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM JASPER COUNTY  
Court of Common Pleas

The Honorable Bentley D. Price, Presiding Court Judge

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Case No. 2022-001054

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Charles Bradford Keiffer.....Appellant

v.

Jasper County Delinquent Tax Office  
and Carolina Heritage, LLC.....Respondents

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FINAL REPLY BRIEF OF APPELLANT

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Darrell Thomas Johnson, Jr.  
S.C. Bar No. 3010  
Mills L. Morrison, Jr.  
SC. Bar No. 68546  
Law Offices of Darrell Thomas Johnson, Jr., LLC  
Post Office Box 1125  
Hardeeville, South Carolina 29927  
(843) 784-2142  
Attorneys for Appellant

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES.....3

ARGUMENTS.....4

Any defects in mailing could not be “cured” by posting,  
because the tax sale requirements are mandatory and must be strictly followed.....4

There are genuine issues of material fact as to whether  
Jasper County gave proper notices throughout the tax sale process.....4

CONCLUSION.....5

**TABLE OF AUTHORITIES**

**CASES:**

Baughman v. American Tel. & Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991).....5

Halsey v. Simmons, 429 S.C. 385, 837 S.E.2d 919 (S.C. App. 2020).....4

Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 577 S.E.2d 202 (2003).....4

King v. James, 388 S.C. 16, 694 S.E.2d 35 (Ct.App. 2010).....4

**SOUTH CAROLINA RULES OF CIVIL PROCEDURE**

Rule 56.....4

## ARGUMENTS

***A. Any defects in mailing could not be “cured” by posting, because the tax sale requirements are mandatory and must be strictly followed.***

Respondent argues that any defects in the mailing were cured by the posting of the property, but this is not the law in South Carolina. In South Carolina, tax sales must be conducted in strict compliance with the statutory requirements. Failure to give the statutory notice of a tax sale is a fundamental defect that renders the proceedings absolutely void. All requirements of law leading up to a tax sale are intended for the protection of the taxpayer against surprise or sacrifice of his property and are mandatory and are to be strictly enforced. Even the fact that the defaulting taxpayer has actual notice of the impending sale is insufficient to uphold a tax sale absent strict compliance with statutory requirements. Halsey v. Simmons, 429 S.C. 385, 837 S.E.2d 919 (S.C. App. 2020) citing King v. James, 388 S.C. 16, 694 S.E.2d 35 (Ct. App. 2010); Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 577 S.E.2d 202 (2003) Assuming, arguendo, that the posting could cure the mailing defects, Joseph Cody Parker, in his Affidavit, claimed the Property was never posted. See Affidavit of Joseph Cody Parker (ROA page 121). Appellant does not believe Jasper County would submit false evidence, but the wrong property could have been posted or there could be another innocent explanation. Regardless, this Court should reverse the Order granting summary judgment and remand this matter for trial on the merits.

***B. There are genuine issues of material fact as to whether Jasper County gave proper notices throughout the tax sale process.***

Respondent gives much argument that the actions taken by the Jasper County authorities satisfy the statutory requirements, but these arguments highlight the existence of genuine factual disputes. Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, summary judgment is appropriate only where there is no genuine dispute as to any material fact and the moving party

is entitled to judgment as a matter of law. Summary judgment is a drastic remedy and should be cautiously invoked so that no person is deprived of a trial where there are disputed issues of fact. *See eg. Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991)

Respondent argues (1) regular mail notices were not returned, (2) the PO box was “not used” but not “closed,” (3) no change of address form was filed. Respondent does not dispute that (1) the certified mailings were all returned; (2) Jasper County had notice of a working address on the DOR liens and sent notice to the DOR; (3) despite having notice of the working address on the DOR liens, Jasper County chose to send notice to other addresses. Whether the Jasper County authorities used the best address available is a genuine issue of material fact. The Circuit Court previously found that there were issues of material fact in the case, in denying summary judgment for Appellant and that should be the same for Respondent’s motion.

Tax sale cases such as the present one are hard cases and that is why the statutory requirements are stringent and why the South Carolina Courts and Legislature require strict compliance. County authorities who put on tax sales deal with hundreds or thousands of delinquent sales each year and are challenged to get it right. When they do not, and family property is lost, the remedy is to set the sale aside and return the property to its rightful owners, subject to the payment of back taxes and penalties, of course. Tax sale investors, such as Respondent, know and assume these risks. This Court should reverse the ruling of the Circuit Court and remand this matter for trial so that Appellant may regain family land.

### **CONCLUSION**

The Order of the Circuit Court should be reversed, because there are genuine issues of material fact as to whether the Jasper County authorities used the best address available and

otherwise complied with the notice requirements in the tax sale statute. This matter should be remanded for trial on the merits, so Appellant Keiffer can regain family property.

Respectfully submitted this 28th day of December, 2022.

Law Offices of Darrell Thomas Johnson, Jr., LLC

s/Mills L. Morrison, Jr.  
Darrell Thomas Johnson, Jr.  
S.C. Bar No. 3010  
Mills L. Morrison, Jr.  
S.C. Bar No. 68546  
Post Office Box 1125  
Hardeeville, South Carolina 29927  
(843) 784-2142  
[Tdjohnson1@hargray.com](mailto:Tdjohnson1@hargray.com)  
Attorneys for Appellant Charles Keiffer