

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Master-In-Equity
The Honorable Jeffery M. Tzerman

Case No. 2012-CP-28-0981

Appellate Case No. 2012-212971

RECEIVED

JUN 18 2013

SC Court of Appeals

CitiMortgage, Inc.....Respondent,

V.

Ellen R. Springer,..... Punished-Appellant-Victim, Pro Se.

EMERGENCY MOTION TO FILE A LATE RETURN

Pursuant to this court’s letter dated June 3rd, 2013: and SCACR rule 240, Your Appellant- Ellen R. Springer (herein after referred to as, “Punished-Appellant-victim”), moves this court, **Pro Se**, to file a late return in reply to Respondent’s newly filed Motion to dismiss the instant matter of appeal (dated May 15th, 2013), based upon the grounds that, (1) untimely receipt of said motion that deprived due process of law, **Res judicata**; and, (2) proof of service was facially void of legal sufficiency to sustain proper proof of service, **Res judicata**; and (3) the instant matter of appeal is impervious to use of the procedures of the court to win the client’s case; and (4) Respondent would be unjustly enriched by improper conduct by a party to the action, known to this court as the Law Office of Mullen, Nelson, Riley and Scarborough, PC (Columbia, S.C.), were any of the requested relief denied, **Res judicata**. The grounds for the requested relief are interposed as follows:

STANDARD OF REVIEW

Pursuant to State v. Burton, 356 S.C. 259, 265 n. 5, 589 S. E.2d 6, 9 n. 5 (2003) “A pro se litigant who “Knowingly elects” to represent h[er]self assumes full responsibility for complying with substantive and procedural requirements of the law”. However, this general SCACR rule is not applied in cases where right to counsel of choice is abrogated by the inconsistent position of S.C. State Defense attorneys, at large, with reluctance to defend a case that challenge the

improper conduct of the Hon. Tzerman, J. (Master in Equity), that, thereby, deny access to counsel, as a matter of due process of law, Res judicata.

Turning to the instant case, your punished-appellant-victim has stated on several occasions that she, is a Elderly Senior citizen, of 79 years of age, who appears in the instant proceeding without counsel of choice traceable to inability of the S.C. Bar referral to provide defense counsel that demonstrated a willingness to represent here case, traceable to the highly prejudicial complaint raised against the Hon. Tzerman, J. (Master in Equity), Respondent-CitiMortgage, Inc. and their agents and their predecessors known an unknown, Res judicata.

The documented evidence to the case sustained a finding that, your punished-appellant-victim, herein, has always paid her bills and did present a prima fascia claim of foreclosure fraud before the lower court, on July 9th, 2012 (Review of emergency Pro se Rule 60 (b) motion for Order to show cause to dismiss the complaint). The evidence was suppressed by the inconsistent position of officers of the lower court. Both lower court officers, in fact, appeared from the wrong side of the fracture to defend against complaint that challenged their own actions: while in their official capacity as officers of the court.

This was highly improper an indicative of sham court, and, more importantly, was captured by the documented evidence to the case that sustains the merits of the conduct and basis for the complaint. Therefore, your punished-appellant-victim appears in the instant proceedings without counsel of choice, wherein, the defense attorneys of S.C. demonstrate an unwillingness to defend a case that challenges the acts of the Hon. Tzerman, J (Master in Equity).

The scope of review on emergency Pro se Rule 60 (b) motion for show cause Order seeking to dismiss the complaint instrument, was fraud on the court traceable to the improper acts of Rogers Townsend and Thomas that filed a complaint instrument upon misrepresentation of a material fact of injury and: the fact find, rational and conclusion of law of the Hon. Tzerman, J. that endorsed order of summary default and judgment of sale and, thereafter, endorsed order and judgment for sale of the property in favor of Respondent herein. Therefore, it is fair to say that actor agents for CitiMortgage, Inc., ran the court: this was conspiracy by officers of the lower court that sought to defraud and defile the inanimate S.C. Constitution, to advance Corporate interest over the Public interest, Res judicata.

STANDARD OF REVIEW

It is well established Constitutional Law that, as your punished-appellant-victim, moves in the instant proceedings, pro se, it is well established constitutional law that, her pleadings are to be held to less stringent standards than pleadings drafted by an attorney, Res judicata. This review court is charged with the legal duty and moral obligation to construe the instant pro se pleadings liberally to raise the strongest arguments suggested therein, Res judicata.

MOTION TO FILE A LATE RETURN

Untimely Receipt of Respondent's Motion to Dismiss:

On or about May 15th, 2013, Respondent's appeal attorney (Nelson, Mullen, Riley & Scarborough, PC [Columbia, S.C]), filed their second Motion to dismiss (see exhibit) based upon formal pleadings and allegations that sought to use the procedures of the court to win the client's case, Res judicata. Said motion relied heavily on this court's letter dated April 17th, 2013 (see exhibit).

However, it was not until June 4th, 2013, that your Punished-appellant-victim, herein, received her copy of Respondent's second motion to dismiss, via regular mail, no return receipt requested. This incidental passing was untimely, to say the least, and wanted due process of law, Res judicata. Your Punished-appellant-victim was stricken with hardship and an inability to file a timely reply opposition thereto, traceable to said untimely receipt of said motion to dismiss, Res judicata.

Improper Proof of Service:

Moreover, it is important to note that, the proffered proof of service, was facially void of legal sufficiency to sustain proper proof of service, Res judicata. At second glance, the date affixed to respondent's proof of service appears below the signature endorsement to the document. The requisite proof of venue fails to appear on the face of this document, all together. Therefore, based on these points, punished-appellant-victim has provided this court with extraordinary circumstances and legal argument that rebutted the presumption of the legal sufficiency of Respondent's proof of service proffered, Ab initio, Res judicata, on its face and in fact, Res judicata, and rendered said proof of service unreliable as a matter of due process of law, Res judicata.

Accordingly, pursuant to applicable SCACR Rules of procedures, Respondent's motion to Dismiss must be rejected by this court, as a matter of due process of law, **Res judicata**. Pursuant to the S.C. Law of void judgment, any judgment rendered in a manner that deprived due process of law, from its inception, was, therefore, a void judgment, that was not voidable but was SIMPLY VOID!, **Res judicata**. Based on this point, a granting of motion to dismiss in favor of Respondent would be a void judgment, **Res judicata**. Were this court to disregard its own rules, then and therefore; the instant motion to file late return must be granted as a matter of due process of law, **Res judicata**. To do otherwise would be indicative of ineffective assistance of Officers of the S.C. Court of Appeals within the meaning of Strickland v. Washington, supra.

Were it not for said untimely receipt, a definitive defense in opposition to the motion to dismiss would have been timely filed. The outcome of Respondent's motion to dismiss would have resulted with dismissal based on this court's letter dated June 3rd, 2013 (see exhibit), which shows compliance in accordance with this court's former letter of the dated April 17th, 2013, that was contrary to the legal position presented by the formal pleadings and allegations that purported to sustain Respondent's motion to dismiss, **Res judicata**. Therefore, said motion was wholly improper, **Res judicata**.

WHEREFORE, based on the entire aforementioned, and the documented evidence to the case, it was inescapable that, Respondent would be unjustly enriched by a granting of motion to dismiss the instant matter of appeal, were any of the requested relief denied, traceable to ineffective assistance of Officers of the Court, **Res judicata**:

THEREFORE, your punished-appellant-victim prays that this court enter Order to strike Respondent's motion to dismiss, with prejudice and without recourse, pursuant Civ. P. R. 1 (1:50 [sham pleadings]), **Res judicata**; and or, in the **interim**,

that this court enter an order that grants the instant motion to file a late return, pursuant to applicable SCACR rules of the court, **Res judicata**; and

that, this court enter order and judgment that preclude Respondent's appeal attorney from all future filing of frivolous motions to dismiss, wherein, the doctrine of estoppel barred Respondent's attorney's use the procedures of the court to defend against the instant matter

of appeal, to the detriment of the punished-appellant-victim, herein, who had clean hands that did no wrong, and was punished by officers of the lower court, simply to win the client's case with modus operandi to leave an infirm judgment undisturbed, and to save Respondent-CitiMortgage, their agents and their predecessors, known and unknown, from "High prejudice" traceable to the found presence of fraud on the court, by misrepresentation of a material fact of injury, traceable to improper conduct by a party to the action, that was prevalent in the instant case, **Res judicata** (Strickland v. Washington, supra), and for such other and further relief as to this court may seem just and proper, **Res judicata**.

Dated: June 14th, 2013
Jamaica, New York

Respectfully Submitted,



Mrs. Ellen Ruth Springer, Punished-appellant-victim
18 Arlington Dr., Lugoff, S.C.
C/o 147-21 109th Avenue, Jamaica, N.Y. 11435
Fax # (803) 438-9600

CC: Attorney for Respondent-CitiMortgage, Inc.
Nelson, Mullen, Riley and Scarborough, PC
1320 Main Street/ 17th Flr.
Columbia, S.C. 29201

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PROOF OF SERVICE

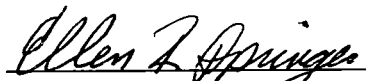
I, the undersigned "Punished-Appellant-Victim, Pro Se, do hereby certify that I have served all former parties in interest to the instant action with a copy of the following pleadings by mailing a copy of the same by United States Mail, postage paid, to the following addresses:

Pleadings: Emergency Pro se Motion to file a late Return

Parties served: Respondent's attorney
Nelson, Mullen, Riley and Scarborough, PC
1320 Main Street/ 17th Floor.
Columbia, S.C.

Dated: June 17th, 2013
Jamaica, New York

Very Truly Yours,



Mrs. Ellen Ruth Springer,
Punished-Appellant-Victim, Pro se
18 Arlington Dr., Lugoff, S.C.
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