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SC Court of Appeals

BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. D. Morgan, Circuit Court Judge

Case No. 202-CP-23-0363

Plantation At Haywood ,

Respondent,

v.

Jonathan Hargrove,

Appellant.

[INITIAL] BRIEF OF APPELLANT

Jonathan Hargrove
66 Kenlauren Ave
Greenville, South Carolina 29607
Appellant

Plantation At Haywood
135 Haywood Crossing Dr
Greenville, SC 29607
Respondents

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STATEMENT OF ISSUES ON APPEAL

1. **Burden of Proof In Eviction Proceedings**
Appellant argues because of the constitutional implications of seizing a person's home, eviction proceedings require a court to find at least "clear and convincing proof" of a tenant's breach of a lease agreement.
2. Should eviction proceedings require a court to find at least "clear and convincing proof of a tenant's breach of a lease agreement?"

STATEMENT OF THE CASE

On January 25, Appellant Hargrove brought the Greenville County magistrate's case to the Greenville County Court of Common Pleas alleging violation of due process, where the Statute requires that proper notice be given by the Landlord to the Tenant in an eviction case. . The eviction action was tried on January 27, 2023, and judgment was entered on the same day

By order of the court dated February 17, 2023, the Appeal Bond was due by February 20, 2023. Appellant was unable to produce the appeal bond before the deadline. However, the Court erred in the days afforded to produce the appeal bond.

On February 23, 2023, Judge Morgan dismissed the Greenville County appeal. On February 24, 2023, Appellant served the Notice of Appeal on the parties and the Respondents.

STANDARD OF REVIEW

Whether Section 27-40-660 guarantees due process:

SECTION 27-40-710. Noncompliance with rental agreement; failure to pay rent; removal of evicted tenant's personal property.

(A) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement other than nonpayment of rent or a noncompliance with Section 27-40-510 materially affecting health and safety or the physical condition of the property, or Section 27-40-540, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen days after receipt of the notice, if the breach is not remedied in fourteen days. The rental agreement terminates as provided in the notice except that:

(1) if the breach is remediable by repairs or otherwise and the tenant adequately remedies the breach before the date specified in the notice, or

(2) if the remedy cannot be completed within fourteen days, but is commenced within the fourteen-day period and is pursued in good faith to completion within a reasonable time, the rental agreement may not terminate by reason of the breach.

(B) If rent is unpaid when due and the tenant fails to pay rent within five days from the date due or the tenant is in violation of Section 27-40-540, the landlord may terminate the rental agreement provided the landlord has given the tenant written notice of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period. The landlord's obligation to provide notice under this section is satisfied for any lease term after the landlord has given one such notice to the tenant or if the notice is contained in conspicuous language in a written rental agreement. The written notice requirement upon the landlord under this subsection shall be considered to have been complied with if the rental agreement contains the following or a substantially equivalent provision:

"IF YOU DO NOT PAY YOUR RENT ON TIME

This is your notice. If you do not pay your rent within five days of the due date, the landlord can start to have you evicted. You will get no other notice as long as you live in this rental unit."

FACTS

The facts are simple in this appeal. Respondents failed to provide Appellant proper notice as required by South Carolina Section 27-40-660. In doing, Respondents violate Appellant's right to proper due process.

ARGUMENTS

1. Burden of Proof In Eviction Proceedings
Appellant argues because of the constitutional implications of seizing a person's home, eviction proceedings require a court to find at least "clear and convincing proof" of a tenant's breach of a lease agreement.
2. Should eviction proceedings require a court to find at least "clear and convincing proof of a tenant's breach of a lease agreement?"

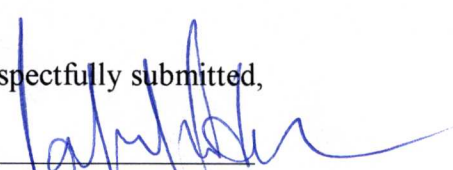
CONCLUSION

For the reasons stated, this Court should reverse the judgment of the Circuit Court and Magistrate Court.

June 21, 2023

Respectfully submitted,

/s/


Jonathan Hargrove
S66 Kenlauren Ave
Greenville, South Carolina 29607
Appellant