

**RECEIVED**

**Aug 21 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas  
Teasa K. Weaver, Master In Equity

Case # 2020-CP-46-00549  
Appellate Case # 2022-001650

LB PARK, LLC, ..... Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, ..... Defendants,

of whom Ryan Powell is the ..... Appellant.

**Amended Motion to Reinstate**

Comes now Appellant, Ryan Powell ("Ryan"), who pursuant to Rule 240 SCACR, Rule 260(a) SCACR, and Rule 60(b)(4) SCRPC makes this Amended Motion to Reinstate that replaces his Motion to Reinstate filed on August 15, 2023. Ryan moves this Court to vacate or reverse its order that erroneously dismissed this appeal ("Dismissal Order") and reinstate the appeal. A copy of the Dismissal Order is attached as Exhibit A and is fully incorporated herein by reference. This motion is based on the following five (5) grounds: 1) this Court is obligated to hear this appeal in order to cut the Gordian Knot Williams tied; 2) the Dismissal Order is void for violating many of Ryan's due process rights; 3) this Court's June 28th order had no effect on this appeal and did not obligate Ryan to re-file and re-serve his Record on Appeal; 4) despite frivolous allegations to the contrary, Ryan fully complied with all requirements of Rule 210

SCACR; and 5) had Ryan complied with Clerk's demands to re-file and re-serve his Record on Appeal, he would have had to violate Rule 210 SCACR.

### **Mandatory Judicial Notice**

This Court is to take mandatory judicial notice under 201(d) SCRE of the following adjudicative fact: Ryan paid the following to **buy** his property "*Twenty-One Dollars and Zero Cents (\$21.00) tendered in the form of United States' silver Dollars minted and dated prior to 1964*". This fact is evidenced in Ryan's deed, a copy of which is attached as Exhibit B and is fully incorporated herein by reference.

### **This Court Is Obligated To Hear This Appeal In Order To Cut The Gordian Knot Williams Tied**

In 1933 President Roosevelt issued an executive order stating that the United States was having a banking emergency. That executive order took the money (gold) away from the people and in its place gave them private debt instruments (e.g., federal reserve notes). Since no one can pay a debt using another debt, the people living within the United States were left unable to pay their debts. The United States congress quickly enacted statutes that gave the people the ability to discharge their debts instead of paying them. Thereafter, the people could no longer own property as one cannot own property by discharging a debt as the debt always remains, it is only forgiven. Since law is based on ownership of property, and no one had access to gold any longer, no one could own any property of value. Therefore, after 1933 there was no longer any law being used within the United States. However, the law still exists as the legislature has no authority to take it away. Then in 1934, equity and law were merged in civil procedure in order to hide the fact that the people had lost access to the law when the bankers stole their money.

In 1938 the United States Supreme Court decided the Erie Railroad Co. v. Tompkins, 304 U.S. 64 case. The Erie Court decided that any contracts or debts issued or settled in private commercial debt instruments (federal reserve notes) would fall under a private colorable law-merchant in colorable admiralty-maritime jurisdiction. In other words, there would be a new "special common law" under the Uniform Commercial Code. Cases would thereafter be decided in general equity (conscience of the court), and not special equity (explicit terms of the contract). "Conscience of the court" is equivalent to the Satanic creed "Do what thou wilt". By the United States adopting private commercial debt instruments as "money" an "at law" mixture of public, maritime, bankruptcy, equity, etc., could be exercised in the same court at the same time.

However, even within those mixed jurisdictions there is still a legal **requirement** that every court hearing any case must have subject matter jurisdiction to do so. This requirement is so important that not having subject matter jurisdiction is the only basis upon which judicial immunity can be denied to a defendant judge.

In this case, Ryan did not have any contract/agreement/debt with Respondent, York County, this State, or any other person/entity that could have brought him into Respondent's equity case. Also Ryan bought his property using real money (i.e., United States minted silver coins) which guarantees to Ryan a law action because Ryan actually owns his property. Not only does Ryan have the highest and only **legal claim** to his property, but his deed (Exhibit B) proves that no court of this State has jurisdiction to decide Ryan's **legal claim** to his property because no court in this State has the ability to hear a law case which also makes the Dismissal Order void.

The circuit court judge in Respondent's first case ("First Case"), judge Daniel Hall, correctly ruled that Ryan could not intervene into that case because Ryan did not have any contract, agreement, or debt with any party in that case so there was nothing that could have bound him to that case. When Ryan appealed judge Hall's order denying him intervention, this Court should have affirmed the lower court's decision and it should have also dismissed that First Case because it is non-justiciable. That appeal would have put a **final end to Respondent's attempts to steal Ryan's property.**

But Respondent did not want to lose its defective case, so after losing a motion to dismiss that appeal, it moved to remand that appeal so that it could dismiss its First Case and bring a new case wherein it "promised" to name Ryan as a defendant. A copy of the first page of Respondent's Motion to Remand is attached as Exhibit C and incorporated herein by reference.

In October of 2019, Chief Judge H. Bruce Williams ("Williams") signed an order granting Respondent's Motion to Remand ("Remand Order") knowing full well that the Court did not have subject matter jurisdiction to grant Respondent the relief it had requested. This Court does not have the authority to give a respondent the ability to dismiss the case upon which an appeal is taken because doing so denies the appellant all effective relief for his appeal. In other words, Williams' Remand Order in effect dismissed Ryan's appeal without any grounds thereby also making the Remand Order void for violating his due process rights. Without any doubt, Williams knew that by giving Respondent the **ability** to bring a new case naming Ryan as a defendant, he would end up losing his property because equity can not hear claims from a

trespasser on the case who was not involved in any contract/agreement/debt that created the equity case! A copy of Williams' Remand Order is attached as Exhibit D and incorporated herein by reference.

Williams then hid the fact that he acted without subject matter jurisdiction when he made his Remand Order. Williams accomplished that by omitting language from his Remand Order that would have disclosed the actual reason he was granting a remand and he also omitted the requirement for Respondent to make monthly status reports, which he *sua sponte* added five months later. Why was Williams so interested in this case that he would need to know its progress every single month, especially since this case was not under this Court's jurisdiction?

This also explains why this Court denied consolidating the appeal of the First Case with this appeal. The two appeals needed to stay separate so that after this appeal was **dismissed**, using whatever means necessary, the appeal of the First Case could then be dismissed for being moot! That is the reason why the clerk of court, Jenny A. Kitchings ("Kitchings") had to create whatever nonsensical ground(s) she could scheme up to dismiss this appeal. The following four (4) sections below clearly demonstrate that Kitchings' schemed up grounds for dismissing this appeal are nonsensical, frivolous, and unlawful. Williams clearly does not want this Court to have to decide the appeal of the First Case because he knows that the order on appeal therein will be affirmed which will **prove** that Ryan could not be made a party to that case, or to this case! Oh what a tangled web we weave when we first practice to deceive!

Williams tied this Gordian Knot by granting Respondent's Motion to Remand without jurisdiction to do so which made the theft of Ryan's property possible. In other words, Williams is 100% responsible for the theft of Ryan's property. Williams' plan could have only succeeded if Ryan did not know and understand what Williams had done to him. But it is too late for that. Now, this Court will need to decide if it should abandon Williams' plan to illegally dismiss this appeal **or** if this Court should proceed forward with Williams' plan and assist him to complete the theft of Ryan's property.

**The Dismissal Order Is Void For Violating  
Many Of Ryan's Due Process Rights**

This Court has no authority to enter any order unless and until there is a motion made by a moving party. This is not only basic legal procedure but is required to ensure that all parties receive their due process rights which includes notice and opportunity to be heard. Yet Williams

entered his Dismissal Order without any motion, any notice of a motion, or any opportunity to be heard before this appeal was dismissed violating Ryan's due process rights and making the Dismissal Order void -

"It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in court, or opportunity to be heard, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights.", Blanton v. Stathos, 351 S.C. 534, 542, 570 S.E.2d 565, 569 (2002).

"The definition of "void" under the rule [\*Rule 60(b)(4) SCRCPP\*] only encompasses **judgments from courts which failed to provide proper due process**", Linda Mc Co., Inc. v. Shore, 703 SE 2d 499 (SC Supreme Court 2010).

Williams entered his Dismissal Order on the 14th day after Kitchings wrote a letter to the parties dated July 25, 2023 that threatened to unlawfully dismiss this appeal if Ryan did not succumb to her fraudulent demands to violate the Rules and to do so within 10 days of her letter. A copy of Kitchings' July 25, 2023 letter is attached as Exhibit E and is fully incorporated herein by reference.

If Ryan violated Rule 210 SCACR, as both the Dismissal Order (Exhibit A) and Kitchings' July 25th letter (Exhibit E) allege, then it is the clerk who is required to enter the order of dismissal. Rule 260(a) SCACR clearly specifies this authority -

"Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, **the clerk shall issue an order of dismissal**".

The clerk's authority is ministerial because the Rules of this Court are precise, certain, and are based entirely on the fixed facts that are found in the documents filed, or not filed, into the record made for each and every appeal -

"The duty is ministerial when it is absolute, certain, and imperative, involving merely the execution of a specific duty arising from fixed and designated facts. It is ministerial if it is defined by law with such precision as to leave nothing to the exercise of discretion.", Wilson v. Preston, (SC Supreme Court 2008).

The clear language of Rule 260(a) SCACR proves the clerk's authority to dismiss an appeal when the appellant fails to comply with the Rules is ministerial since no motion is required for her to enter a dismissal order. Kitchings had Williams sign her dismissal order because Ryan had accused her of RICO/mail fraud. Kitchings obviously did not want to put her signature on the order dismissing this appeal because she knows Ryan's accusations are correct. Nonetheless,

Williams entered the Dismissal Order instead of the clerk and did so without any legal authority because there is no Rule, statute, code, or law that allows this Court to dismiss an appeal without a motion to dismiss being made providing Ryan an opportunity to be heard.

Assuming arguendo that this Court has the authority to usurp the ministerial authority given **only** to the clerk by Rule 260(a) SCACR, Williams still would have had to comply with the requirements of Rule 260(a) SCACR. Rule 260(a) SCACR allows a clerk to dismiss an appeal, but only on the **single** ground that the appellant has failed to comply with the Rules -

"Whenever it appears that an appellant or a petitioner **has failed to comply with the requirements of these Rules**, the clerk shall issue an order of dismissal",.

However, the Dismissal Order states that it is grounded on **both** Ryan's unspecified failure to comply with Rule 210 SCACR **and** on Ryan's unspecified failure to comply with Kitchings' July 25th letter (Exhibit E). That means the Dismissal Order could not have been a ministerially decided order made pursuant to Rule 260(a) as such a dismissal can **only** be grounded on an appellant's failure to comply with the Rules. So, for the dismissal of this appeal to be grounded in any way on Kitchings' July 25th letter, a finding/conclusion would have needed to be judicially made that determined that letter placed some legal obligation on Ryan upon which he failed to comply. Accordingly, the Dismissal Order was made by Williams without the **required** due process requirements of a motion, notice, and an opportunity to be heard making it void.

Furthermore, if Ryan actually failed to comply with Rule 210 SCACR, what specific section, paragraph, sentence, or language in that Rule did Ryan fail to comply with? Kitchings' July 25th letter does not state (Exhibit E). If this Court's June 28th order created some requirement on Ryan to re-file and re-serve his already timely filed and served ROA, then what language in that court order states that requirement? That order is silent on any obligation being placed on Ryan to do anything (see Exhibit G). Due process of law mandates that every party to an appeal be given notice by and through the orders of the Court and the Rules so that they can comply and have their appeals heard. This is not only the law but is common sense. Imagine the mass chaos and confusion that would ensue if appeal procedure was a game of guessing.

In this case, Ryan still has no idea what specific requirement of Rule 210 SCACR he supposedly failed to comply with and what language of the June 28th order he supposedly failed to comply with. Not only could Ryan not comply with Kitchings' alleged but unstated requirements, but he also cannot properly argue those issues to this Court in this motion -

"Procedural due process **mandates** that a litigant be placed on notice of the issues which the court is to consider.", Blanton v. Stathos, 570 SE 2d 565 (2002).

Further, if any Rule is so vague as to not be understood by even a pro se appellant, then it is void for vagueness -

"The concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication." Consequently, a statute may be unconstitutionally vague where "(1) it does not provide fair notice of the conduct proscribed," or "(2) it confers on the trier of fact unstructured and unlimited discretion to determine whether an offense has been committed[.]", DEPT. OF SOCIAL SERVICES v. Michelle G., 757 SE 2d 388 (SC Supreme Court 2014).

While the concept of a Rule being void for vagueness, instead of a statute being void for vagueness, may be a novel issue in this State how can a rule also not be void for vagueness when both rules and statutes proscribe conduct that must be complied with and they both use the same rules for construction and interpretation -

"In interpreting the language of a court rule, we apply the same rules of construction used in interpreting statutes.", Green v. Lewis Truck Lines, Inc., 443 SE 2d 906 (SC Supreme Court 1994).

Ryan was never given any notice from the language of Rule 210 SCACR that he had any obligation to re-file and re-serve his previously filed and served ROA after Respondent failed to make its filing/service deadline. That makes Rule 210 SCACR void for vagueness, if there is such a requirement.

Finally, no judge or clerk has yet to give Ryan a fair or unbiased hearing or fair treatment because of the conspiracy against Ryan that has been ongoing since at least October of 2019 when Williams made his void Remand Order. That conspiracy involves at least Williams, Teasa k. Weaver, Kitchings, her deputy clerk ("Allen"), and Respondent's attorney. As was shown above, there has been a plan in place to dismiss this appeal even before this appeal was filed. That plan included using fraud and intimidation to induce Ryan into making a procedural error so that his appeal could then be "legally" dismissed. Once that plan failed, and it did when this appeal was perfected on May 2, 2023, the backup plan was to just dismiss this appeal by scheming up some make-believe grounds, as was obviously done and this motion proves that.

As just one of numerous examples of the evil outcome produced by this on-going conspiracy, Ryan's motion to reduce the amount of the appeal bond, so that he could prevent being illegally

thrown off his property, was either not submitted to this Court for its decision or, more likely than not, was submitted to this Court and this Court refused to rule on it. See copy of March 21, 2023 letter from Kitchings' deputy clerk Allen attached as Exhibit F and fully incorporated herein by reference. In that letter Allen declares the judgment of this Court pertaining to Ryan's motion to reduce the appeal bond amount instead of the Court declaring its own judgment in an order as is required of **every** decision made by **every** court. That action alone proves this Court's involvement in the conspiracy to steal Ryan's property and thereby its bias and prejudice -

"It is axiomatic that the expectation of a fair and impartial tribunal is a basic tenet of all cherished notions of due process embodied in the United States Constitution. *In re Murchison*, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955).", *Mallett v. Mallett*, 473 SE 2d 804 (1996).

When the judges on a court are all conspiring against one party and are intentionally blocking that party from having access to their court, that party can never get a "fair and impartial" hearing.

The Dismissal Order is void for violating many of Ryan's rights to due process. Accordingly, this Court must vacate the Dismissal Order and reinstate this appeal.

**This Court's June 28th Order Had No Effect On This Appeal And Did Not Obligate Ryan To Re-file And Re-Serve His Record On Appeal**

Assuming arguendo that a ministerial dismissal under Rule 260(a) SCACR can be based on a letter from a clerk, the only thing in Kitchings' July 25th letter that allegedly places any obligation on Ryan to re-file and re-serve his previously filed and served ROA, other than supposedly Rule 210 SCACR, was this Court's June 28, 2023 order. A copy of this Court's June 28, 2023 order is attached as Exhibit G and fully incorporated herein by reference.

But how could that order place ANY requirement on anyone to do anything when it only denies Ryan's motion to strike Respondent's initial brief ("Brief") and designation of matter ("DOM")? The only effect produced by a court denying a motion is to leave the state of the case unchanged. In this case, the state of this appeal was that Respondent's two documents were filed/served after their deadline had expired and the appeal had been perfected and was ready for consideration. Therefore, denying Ryan's motion to strike did not change that state of this appeal and clearly did not grant Respondent leave to file their documents late. If that order granted Respondent leave to file their documents late it would have had to specifically state that relief was being granted. The June 28th order could not, and did not change the status or state of

this appeal and did not create any obligation on Ryan to do anything including re-filing and re-serving his already timely filed and served ROA.

Further, how could the June 28th order have had ANY effect on perfecting the appeal when this appeal had already been perfected on May 2, 2023 especially when there was no stay or abeyance order in effect? The mere insinuation that Ryan had to re-file and re-serve his ROA to accommodate Respondent's untimely filed documents because Ryan's unnecessary<sup>1</sup> motion to strike was denied, is blatantly preposterous.

The Dismissal Order constitutes an error of law and must be reversed and this appeal reinstated.

**Despite Frivolous Allegations To The Contrary,  
Ryan Fully Complied With All Requirements Of Rule 210 SCACR**

The Appellate Court Rules are written very precise and need little or no interpretation because all parties, including pro se appellants, need to be able to understand and comply with those Rules so that their due process right to have their appeals heard is not violated. Rule 210(a) SCACR clearly states that an appellant is required to serve their Record on Appeal within 30 days of the date the last brief is due to be filed -

Rule 210(a) SCACR - "**Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief.**"

With an extension of time to file Respondent's Brief and DOM granted, its filing/service deadline was April 24, 2023. In indisputable compliance with Rule 210 SCACR, Ryan properly and timely filed/served his ROA on April 28, 2023. A copy of Ryan's certificate of service for his ROA is attached as Exhibit H and fully incorporated herein by reference. Since Respondent missed its April 24th filing/service deadline for its Brief and DOM, Rule 210(a) SCACR placed no obligation whatsoever on Ryan to serve a copy of his ROA on the Respondent, so he did not do so (see Exhibit H) -

Rule 210(a) SCACR - "**Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief.**"

On May 2, 2023, Ryan timely filed and served his Final Brief. Since at that time Respondent had failed to file its Brief and DOM, this appeal became perfected and the clerk should have

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<sup>1</sup> Ryan realized after his motion to strike was denied that his motion was not required since striking a untimely filed document from the clerk's record is unnecessary because the clerk has no authority to include any untimely filed documents in the record that she submits to the Court for the hearing and decision of the appeal.

marked the appeal's status as "ready for consideration". A copy of the certificate of service for Ryan's Final Brief is attached as Exhibit I and fully incorporated herein by reference.

However, on May 4th two days after this appeal was perfected, Kitchings wrote a letter to the parties **admitting** that Respondent's deadline for filing their Brief and DOM had **expired**. A copy of Kitchings' May 4th letter is attached as Exhibit J and fully incorporated herein by reference. Kitchings' May 4th letter **proves** that Ryan complied with Rule 210 SCACR because on May 4th had Ryan not timely and properly filed/served his ROA, Kitchings would have dismissed this appeal.

However, instead of dismissing the appeal Kitchings pretended to give Respondent 10 days to file and serve their Brief and DOM after this appeal had already been perfected (see Exhibit J). Kitchings was clearly acting without any legal authority when she pretended to give Respondent permission to file/serve their Brief and DOM late as the Rules do not allow any late filing of any brief and a clerk of court has no authority to **modify** the Rules especially without the agreement of all of the parties and the permission of the Court (see Rule 261(c) SCACR). If Respondent wanted to file its Brief and DOM after its deadline had expired, it was required to make a motion to the Court for an order granting it leave to do so. But Respondent never made any such motion. Accordingly, on May 12th when Respondent finally filed/served its Brief and DOM, those two documents were late and could not be made part of the record that should have already been submitted to the Court for its decision on this appeal.

Moreover, if Rule 210 SCACR did create any obligation on Ryan to do anything, including re-filing and re-serving his ROA, that obligation would have been immediately communicated to Ryan by Kitchings on or shortly after May 12, 2023. Or, more likely than not, Kitchings would have just dismissed the appeal for Ryan's supposed failure to comply with Rule 210 SCACR. But, Kitchings did not dismiss the appeal or make any demand that Ryan re-file and re-serve his April 28th ROA until **almost three months later and three month after the appeal had been perfected** in her July 25th letter (Exhibit E). Why did Kitchings pass up such a golden opportunity to dismiss this appeal that she has been zealously working so hard to dismiss since the time the notice of appeal was filed? Obviously because Rule 210 SCACR does not create any obligation on any appellant to re-file and re-serve their already filed and served Record on Appeal. And if it did create such an obligation, can a respondent file/serve their initial brief and designation of matter 30, 60, 90, or 180 days late? Or can a respondent wait to file and serve

their initial brief and designation of matter after an appeal has already been perfected? Oh right that is exactly what happened!

**Had Ryan Complied With Clerk's Demands To Re-file And Re-serve His Record on Appeal, He Would Have Had To Violate Rule 210 SCACR**

If the Rules actually allow respondents to file/serve their initial brief and designation of matter at anytime they want to, or at anytime the clerk allows, then according to Rule 210 SCACR all appellants would have to re-file and re-serve their ROA within **30 days** of date respondent finally gets around to filing/serving their initial brief and designation of matter. However, in this case because Respondent filed their Brief and DOM on May 12th, Ryan would have had to re-file and re-serve his ROA by June 11th -

Rule 210(a) SCACR - "**Within thirty (30) days after service of the last brief**, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief."

But it wasn't until July 25th that Kitchings made her unlawful demand (see Exhibit E) for Ryan to re-file and re-serve his April 28th ROA which was one and a half (1.5) months **after** June 11th when the Rule 210(a) SCACR 30 day service window would have closed. Kitchings demands, made after the 30 day window expired, violates Rule 210(a) SCACR so this appeal cannot be dismissed for Ryan's refusal to comply with her unlawful demand.

If the Rules actually allow respondents to file their initial brief and designation of matter at anytime they want to, or at anytime the clerk allows, then according to Rule 210(c) SCACR all appellants would have to first recreate their Record on Appeal before they re-file and re-serve it so that all the matter that the respondent designates gets included in the record -

Rule 210(c) SCACR - "The Record on Appeal shall include **all matter designated to be included by any party** under Rule 209 and ...".

But Kitchings never demanded in her July 25th letter (see Exhibit E), or elsewhere, that Ryan had to recreate his April 28th ROA to incorporate Respondent's DOM before re-serving it which violates Rule 210(c) SCACR.

This appeal was dismissed because Ryan refused to violate Rule 210 (a) & (c) SCACR after Kitchings made her unlawful demands. No appeal can be **legally**, lawfully, justly, or rightly dismissed because an appellant refuses to violate the Court Rules. The dismissal of this appeal constitutes an error of law so it must be reversed and this appeal reinstated.

## CONCLUSION

Ryan is under no delusion that this Court is ever going to grant this motion because Ryan has been **forced** by Williams unlawful and illegally actions taken without him having subject matter jurisdiction into being a trespasser on this case so this Court cannot hear any of Ryan's claims! Nonetheless, this Court can still use its "conscience" to grant the motion and save Kitchings and Williams from being held liable for their crimes and torts, which include but are not limited to: RICO/mail fraud (18 U.S.C. 1961-68); conspiracy to deprive Ryan of his rights (18 U.S.C. 241); deprivation of Ryan's rights under color of law (18 U.S.C. 242); criminal conspiracy (18 U.S.C. 371); and possibly bribery.

Furthermore, dismissing this appeal **will not** accomplish the goals of the conspirators because of the following: it will not repudiate any of the multiple crimes having been and still being committed; it will not make Respondent's void deed valid; it will not relieve any person of their liability for the damages they have intentionally wrought against Ryan and his family; it will not make the void order on appeal valid or capable of supporting *res judicata*; and, **it will not extinguish Ryan's rights to his property**<sup>2</sup>!

On the other hand dismissing this appeal **will** accomplish the following: it will increase the amount of damages that Williams and Kitchings will be held liable to pay; it will provide irrefutable proof that the judge(s) who sign the order denying this motion are part of the conspiracy to help Respondent steal Ryan's property; and the victim that Respondent sells Ryan's property to, and/or their title insurance company, will be able to sue Respondent and its two managers for their losses since Ryan's rights to his property have never been extinguished (see footnote #2).

Be that as it may, reverse or vacate the Dismissal Order and reinstate this appeal.

August 21, 2023

/s Ryan Powell  
Ryan Powell, Ryan  
287 East Hawfields  
Pittsboro, NC 27312

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<sup>2</sup> "The order of April 22nd, not appealed from, was clearly void, and of no effect whatever and **no appeal therefrom was necessary to protect the rights of the father.**", *Webster v. Clanton*, 192 SE 2d 214 (SC Supreme Court 1972).

# The South Carolina Court of Appeals

LB PARK, LLC, Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Defendants,

Of whom Ryan Powell is the Appellant.

Appellate Case No. 2022-001650

The Honorable Teasa Kay Weaver  
York County  
Trial Court Case No. 2020CP4600549

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## ORDER

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Appellant has failed to serve a copy of the record on appeal as required by Rule 210 of the South Carolina Appellate Court Rules (SCACR) and this Court's letter dated July 25, 2023. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

A. Parker Barnes, III C. J.

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

**FILED**  
**Aug 08 2023**



recorded in Deed Book 3173 at page 343, in the Office of the Clerk of Court for York County.

The property is conveyed free and clear of all security interests, liens, claims and encumbrances from any entity or person whatsoever.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.


TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, his heirs and assigns forever.

AND THE GRANTOR does hereby bind the Grantor, and the Grantors' heirs executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, his heirs and assigns, against the Grantor or the Grantors' heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

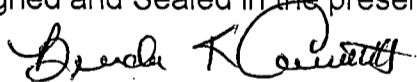
After filing for record mail to Grantee: Ryan Whitney  
[not a residence address] c/o: 25056 Timberlake Drive  
Tega Cay, South Carolina  
Without the United States

WITNESS our Hand and Seal this the 20th day of December in the year of our Lord Two Thousand and Twelve and in the two-hundred and thirty-sixth year of the independence of the United States of America.

Grantor, SAN JUAN HOLDINGS:  
  
\_\_\_\_\_  
By Brett Osborn Trustee (Seal)

Grantee:  
**With Reservation of All Rights**  
  
\_\_\_\_\_  
Ryan Whitney of the Powell family, a  
free inhabitant, without the United  
States

Signed and Sealed in the presence of:

  
\_\_\_\_\_  
Witness #1 Signature

Brenda K. Callicutt  
\_\_\_\_\_  
Witness #1 Printed Name

  
\_\_\_\_\_  
Witness #2 Signature

D. Aaron Simms  
\_\_\_\_\_  
Witness #2 Printed Name

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-name Grantor sign, seal and, as his act and deed, deliver the within written Deed to the within-name Grantee who then as his freewill act and deed did sign and seal the instrument and that (s)he, with the other witnesses subscribed above, witnessed the execution thereof.

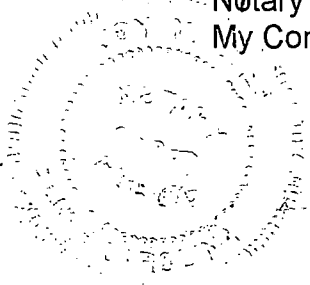
SWORN to before me this  
20<sup>th</sup> day of December, 2012

Brenda K. [Signature]  
Witness #1

[Signature]

Notary Public for State of South Carolina  
My Commission Expires: ~~12/20/12~~ April 27, 2017

Joy M. Uter  
NOTARY PUBLIC  
State of South Carolina  
My Commission Expires  
April 27, 2017.



STATE OF NORTH CAROLINA )  
COUNTY OF Durham )

Affidavit For Taxable Transfers

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

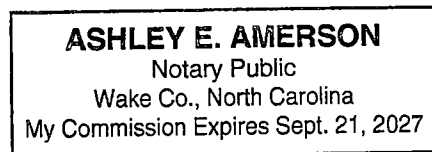
1. I have read the information on this affidavit and I understand such information.
2. The property transferred bears York County Tax Map Number 643-10-01-023 and was transferred by San Juan Holdings, Brett Osborne, trustee to Ryan Whitney Powell on December 20, 2012.
- 3, The deed is subject to the deed recording fee as a transfer for consideration paid in money or money's worth.
- 4, The fee should be computed on the consideration I paid in money or money's worth which at the time the transfer was made was \$225,000.00.
5. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as the Grantee.
6. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Ryan Powell  
Ryan Powell

SWORN to and subscribed before me this  
21 day of February, 2023

Ashley E. Amerson  
Notary Public for North Carolina

My Commission Expires: 9-21-2027



90550

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Daniel Hall, Circuit Court Judge

Case No. 2019-CP-46-00310

**RECEIVED**

AUG 13 2019

**SC Court of Appeals**

Ex Parte, Ryan Powell ..... Appellant,

In re LB PARK, LLC ..... Respondent,

v.

San Juan Holdings, Brett Osborne trustee, et al. .... Respondents.

**MOTION FOR REMAND**

Pursuant to Rule 240, SCACR, LB PARK, LLC (“LB PARK”) hereby moves that this appeal be remanded to the lower court in order for LB PARK to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRCR. If the motion for remand is granted, LB PARK will dismiss the underlying action and refile a new action to include Ryan Powell as a named defendant. LB PARK is attaching its proposed stipulation of dismissal for the Court’s review, together with a draft of a new complaint.<sup>1</sup>

As will be discussed below, this proposed procedure will allow Mr. Powell to present all of his defenses for adjudication by the trial court while preserving the procedure put in place by

<sup>1</sup> Attached as Exhibits A and B, respectively. LB PARK acknowledges that the proposed action on remand would render this appeal moot.

# The South Carolina Court of Appeals

Ex Parte, Ryan Powell, Appellant,

In re LB PARK, LLC, Respondent,

v,

San Juan Holdings, Bret Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 250056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Respondents.

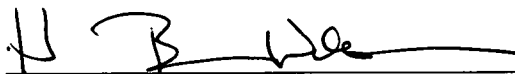
Appellate Case No. 2019-000979

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## ORDER

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LB PARK, LLC's motion to remand this case for the limited purpose of allowing LB PARK to file a motion to dismiss the underlying action without prejudice pursuant to Rule 41(a), SCRPC, is granted. This appeal shall be held in abeyance pending the lower court's consideration of the motion. LB PARK shall provide this court with status updates every thirty days.



FOR THE COURT

**FILED**

October 15, 2019

Columbia, South Carolina

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 25, 2023

Ryan Powell  
287 East Hawfields  
Pittsboro NC 27312

Re: LB Park, LLC v. San Juan Holdings (2)  
Appellate Case No. 2022-001650

Dear Mr. Powell:

Pursuant to the Court's order dated June 28, 2023 and Rule 210 of the South Carolina Appellate Court Rules (SCACR) you must serve and file the April 28, 2023 record on appeal upon respondent within ten (10) days of the date of this letter or your appeal will be dismissed.

In addition, the Court received your letter dated July 19, 2023. We construe your filing as a request to withdraw your initial reply brief. Accordingly, we will proceed with our review of this appeal without consideration of your reply brief.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings". The signature is fluid and cursive.

CLERK

cc: A. Parker Barnes, III, Esquire  
Sarah P. Spruill, Esquire



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 21, 2023

Ryan Powell  
c/o 25056 Timberlake Drive  
Fort Mill SC 29708

Re: LB Park, LLC v. San Juan Holdings (2)  
Appellate Case No. 2022-001650

Dear Mr. Powell:

The Court has received your expedited motion to reduce or eliminate appeal bond. Upon review, the Court has declined to rule upon your motion pursuant to Rule 240(i), South Carolina Appellate Court Rules (SCACR). Furthermore, the Court has received a motion to consolidate and the timelines for perfecting the appeal will be held in abeyance pending a ruling on the motion.

Very truly yours,

A handwritten signature in blue ink that reads "V. Claire Allen".

CLERK

cc: A. Parker Barnes, III, Esquire  
Sarah P. Spruill, Esquire

# The South Carolina Court of Appeals

LB PARK, LLC, Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, Defendants,

Of whom Ryan Powell is the Appellant.

Appellate Case No. 2022-001650

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ORDER

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Appellant's motion to strike Respondent's initial brief and designation of matter is denied.



---

FOR THE COURT

Columbia, South Carolina

**FILED**  
**Jun 28 2023**

cc:

Ryan Powell

A. Parker Barnes, III, Esquire

Sarah P. Spruill, Esquire

**FILED**  
**Jun 28 2023**

**RECEIVED**

**Apr 28 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Teasa K. Weaver, Master-in Equity

Case No. 2020-CP-46-00549  
Appellate Case # 2022-001650

LB PARK, LLC, ..... Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, ..... Defendants,

of whom Ryan Powell is the..... Appellant.

\_\_\_\_\_  
Certificate of Service For Record on Appeal  
\_\_\_\_\_

I certify that I served No Respondents with a copy of the Record on Appeal because no Respondents filed an initial brief. According to Rule 210(a) SCACR no Respondent needs to be served a copy of the record on appeal if they fail to file a brief.

04/28/2023  
Date

/s Ryan Powell  
Ryan Powell, Appellant  
c/o 25056 Timberlake Drive  
Fort Mill, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

Teasa K. Weaver, Master In Equity

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Case No. 2020-CP-46-00549  
Appellate Case # 2022-001650

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LB PARK, LLC, ..... Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, ..... Defendants,

of whom Ryan Powell is the..... Appellant.

---

Certificate of Service For Appellant's Final Brief

---

I certify that I have served on Respondent Appellant's Final Brief and Rule 211 (b) SCACR Certification of Final Brief by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown and addressed as follows:

Sarah P. Spruill  
P.O. Box 2048 (29602)  
Greenville, SC 29601

May 2, 2023

/s Ryan Powell  
Ryan Powell, Appellant  
c/o 25056 Timberlake Drive  
Fort Mill, South Carolina



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 4, 2023

A. Parker Barnes, III, Esquire  
P.O. Box 11889  
Columbia, SC 29211

Sarah P. Spruill, Esquire  
P.O. Box 2048  
Greenville, SC 29602

Re: LB Park, LLC v. San Juan Holdings (2)  
Appellate Case No. 2022-001650

Dear Counsel:

According to our records, the time to file the initial brief of respondent and designation of matter has expired. Within ten (10) days of the date of this letter you must serve and file the initial brief of respondent and designation of matter or the Court will proceed with its consideration of this appeal.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings".

CLERK

cc: Ryan Powell

**RECEIVED**

**Aug 21 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Teasa K. Weaver, Master In Equity

Case No. 2020-CP-46-00549  
Appellate Case # 2022-001650

LB PARK, LLC, ..... Respondent,

v.

San Juan Holdings, Brett Osborne, the trustee; Brett Osborne as Trustee of San Juan Holdings; Ryan Powell; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-001-023, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon the real estate described as 25056 Timberlake Drive, York County, South Carolina, TMS 643-10-01-023, ..... Defendants,

of whom Ryan Powell is the..... Appellant.

Certificate of Service For Appellant's  
Amended Motion to Reinstate

I certify that I have served on Respondent Appellant's Motion to Reinstate by and through their attorney of record by First Class Mail with proper postage affixed on the date below shown and addressed as follows:

Sarah P. Spruill  
P.O. Box 2048 (29602)  
Greenville, SC 29601

August 21, 2023

/s Ryan Powell  
Ryan Powell, Appellant  
287 East Hawfields  
Pittsboro, NC 27312