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SC Court of Appeals

MOTION FOR STAY
Court of Common Pleas
THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Case No. 2018-CP-0802131

The Estate of Mary Westbrooks a/k/a Mary Y. Westbrooks, and John Doe and Richard Roe, as Representatives of all heirs and devisees of Mary Westbrooks a/k/a Mary Y. Westbrooks, deceased, and all persons entitled to claim under or through them; also, all other persons, corporations or entities unknown claiming any right, title interest in or lien upon the subject real estate described herein, any unknown adults, whose true names are unknown, being a class designated as John Doe, and any unknown infants, persons under disability, or person in the Military Service of the United States of America whose true names are unknown, being a class designated as Richard Roe, Aubrey Schultz, Kadeem Gaddist, The United States of America acting by and through its agent the Secretary of Housing and Urban Development, South Carolina Department of Motor Vehicles, CIT Group Consumer Finance, N/K/A CIT Loan Corporation,

Respondent,

v.

Kadeem Gaddist, Aubrey Schultz

Appellant.

NOTICE OF APPEAL

Aubrey Schultz and Kadeem Gaddist appeals the order of Writ of Assistance of the Honorable Dale E. Slambrook dated on September 19 2023. Appellant received written notice of entry of this order of Writ Of Assistance on September 25 2023

On September 14 2023 Aubrey Schultz and Kadeem Gaddist were summons to court of another rule to show cause and judgment of the courts was found for a writ of assistance of 30 days due to a no show court date when aubrey schultz nor kadeem gaddist where giving notice to the hearing and proof that mrs. schultz was not notified is that Mrs.

Schultz was incarcerated in the FBOP from July 27th of 2022 till June 2, 2023 and records of mail from the FBOP and the affidavit of service was sent to her address and not to the FBOP for Mrs. Schultz to be served her notice of court hearing. **South Carolina Rules of Civil Procedure** § 15-9-510, S.C. Code, 1976 states Service on imprisoned persons or persons confined in a state hospital or similar institution, in or out of this State, shall be made by delivering a copy of the summons and complaint to the confined person personally; and service shall be made by the sheriff of the county in which the person is imprisoned or confined. In cases of persons imprisoned, and patients in a state hospital or similar institution, personal service of process may be made by the superintendent of the institution or by the director of the prison system or by assistants duly designated by the superintendent or the director in writing for the purpose of making service of process, instead of the sheriff. The superintendent or the director or their designated assistants shall not be entitled to any costs therefore. Service on confined or imprisoned persons shall also conform to the provisions of § 15-9-510, S.C. Code, 1976.

Fact 2SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY. (a) In General- In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to-- (1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant-- (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph

.Aubrey Schultz and Kadeem Gaddist both have a written lease that is filed with Berkeley County courts and were not giving their rights as bona fide tenants even when their lease was presented to Bank of America and proof of that will be attached to appeal. Aubrey Schultz and Kadeem Gaddist both fall under all the rules to the PTF and we are afforded their rights as tenants.

September 25, 2023

s/ Aubrey
Schultz and
Kadeem
Gaddist _____
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From: [Aubrey schultz](#)
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