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Feb 22 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Case No. 2023-001394-000678

Deutsche Bank National Trust Company as Trustee
for NovaStar Mortgage Funding Trust,
Series 2006-5 NovaStar Home Equity Loan
Asset-Backed Certificates, Series 2006-5,

Respondent,

v.

Terry Lennette Grant,

Defendants,

Of whom, Terry Lennette Grant is the Appellant.

RENEWED MOTION TO DISMISS APPEAL AND MEMORANDUM IN SUPPORT

Chad W. Burgess, Esq.
(S.C. Bar No.: 72520)
BROCK & SCOTT, PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
(803) 454-3540
Attorney for Respondent

NOW COMES Respondent Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 NovaStar Home Equity Loan Asset-Backed Certificates, Series 2006-5 (“Deutsche Bank”), by and through its undersigned attorney, and pursuant to Rule 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order dismissing the instant appeal filed by Terry Lennette Grant (“Appellant”), averring as follows:

BRIEF PROCEDURAL HISTORY

On December 11, 2023, Deutsche Bank filed a motion to dismiss this appeal alleging, inter alia, that Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure throughout the pendency of this appeal. On February 9, 2024, the Court of Appeals issued an Order denying Deutsche Bank’s motion and denying Appellant’s motion to stay and request for sanctions. The February 9, 2024, Order required Appellant to “serve and file an amended initial brief and designation of matter that complies with Rules 208 and 209 of the South Carolina Appellate Court Rules within ten days of the date of this order. Appellant has failed to serve and file her amended initial brief and designation of matter as set forth in the February 9, 2024 Order. Therefore, this Court should dismiss the appeal.

ARGUMENT AND CITATION OF AUTHORITY

“[T]he Appellate Court Rules ‘are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.’”

Forner v. Butler, 319 S.C. 275, 276 n.1, 460 S.E.2d 425, 426 n.1 (1995) (quoting *Henning v. Kaye*, 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992)). “Whenever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Rule 260(a), SCACR. All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules of the Court. See *State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014) (“Appellant [who moved to be allowed to proceed pro se] acknowledged he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence.”).

Despite being given an opportunity to serve and file an amended initial brief and designation of matter that comply with the SCACR, Appellant has yet again ignored this Court’s guidance and explicit instruction, and, the Court should dismiss her appeal accordingly. *Harkins v. Greenville Cnty.*, 340 S.C. 606, 616, 533 S.E.2d 886, 891 (2000) (affirming trial court decision where appellant failed to satisfy burden of presenting an adequate record on appeal); *Milton v. Richland Cnty.*, No. 2015-MO-046, 2015 S.C. Unpub. LEXIS 45, at 6, 2015 WL 4642832 (S.C. Aug. 5, 2015) (dismissing appeal “[b]ecause [p]etitioner failed to submit a sufficient record, th[e] case present[ed] nothing more than a dispute of a hypothetical character”); *Epps v. Epps*, No. 2012-UP-146, 2012 S.C. App. Unpub. LEXIS 207, at *1 (S.C. Ct. App. Mar. 7, 2012) (dismissing an appeal because procedural defects precluded meaningful review of the appeal).

CONCLUSION

For the foregoing reasons, Deutsche Bank respectfully requests that this appeal be dismissed and requests such other relief this Court deems just and proper.

Respectfully submitted,

BROCK AND SCOTT, PLLC



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*Attorney for Respondent Deutsche Bank
National Trust Company as Trustee for
NovaStar Mortgage Funding Trust, Series
2006-5 NovaStar Home Equity Loan Asset-
Backed Certificates, Series 2006-5*

Dated: February 22, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 22, 2024, she served a copy of Respondent's Renewed Motion to Dismiss Appeal and Memorandum in Support, and Certificate of Service by Mail upon the person below by depositing the same in the U.S. Mail with proper postage affixed and addressed as follows:

Terry Lennette Grant
PO Box 21936
Hilton Head Island, SC 29925

Terry Lennette Grant
226 Wild Horse Road
Hilton Head Island, SC 29926



Dione Griffin
BROCK & SCOTT, PLLC