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Feb 26 2024

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BEAUFORT COUNTY

Benjamin C.P. Sapp, Special Referee, Circuit Court

Case No. 2023-001394

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 Appellant.

APPELLANT RETURN TO RESPONDENT'S RENEWED MOTION TO DISMISS

Terry Lennette Grant, Appellant, Pro Se
P.O. Box 21936
Hilton Head Island, SC 29925
terrygrantseries@gmail.com
(843)301-5750

Now Comes Appellant Terry Lennette Grant pursuant to SC Rule of Appellate Procedure, hereby moves this Court for an Order denying Respondent's Motion to Dismiss Terry Lennette Grant's appeal, stating the following:

BRIEF PROCEDURAL HISTORY

On December 11, 2023, Deutsche Bank filed a motion to dismiss this appeal, claiming that Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure throughout this appeal process. On February 9, 2024 the Court of Appeals issued an Order denying Deutsche Bank's motion to dismiss. The Order has granted Appellant 10 days 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. Appellant has filed and served her amended initial brief and designation of matter as set forth in the February 9, 2024 Order Therefore, this Court should deny Respondent's motion to dismiss and reconsider request for sanctioning the Respondent.

ARGUMENT AND CITATION OF AUTHORITY

Appellant has submitted all necessary documents requested by this Court's and never ignored the guidance and explicit instruction from this Court. The Appellant's filings were made according to the Appellate Rules of Civil procedures to the best Of her ability and understanding. The Respondent is merely pointing out minor

technicalities to circumvent replying to the facts and evidence that clearly supports Appellant, position that's on appeal. The efforts Respondent is making, is to defeat Appellant by Rules and procedures so facts and evidence are never examined or reviewed.

Respondent cited *Former v. Butler*, 319 S.C.275, 276 n.1, 460 S.E.2d425.426 (1995) to Support their Motion to Dismiss; however, this case is totally supporting Appellant's position the Rule 209 (h) SCACR, Provided, "except as provided by Rule 21 1 and Rule 207(b)(i)(C) and (2), the appellate court will not consider a fact which does not appear in the Record on Appeal. Appellant facts are clearly in the Record on Appeal. Rule 207(b)(4) states that the only matters Which should not appear in the record are those items a party believes to be not relevant to the appeal. If parties in this case considered a fact relevant and worthy of mention in the brief the Parties should have included matter in the record to support factual assertions". The Appellant Submitted everything in the record on appeal that supports her assertion.

Respondent mentioned Rule 260(a) Dismissal and Reinstatement, S.C. App. Ct. R 260 (Whenever it appears that an appellant... has failed to comply with the requirements of these see Donald H. Zeiger and Michele G. Hemam, *The Invisible Litigant:An Inside View ofPro Se Actions in the Federal Courts* · 47 N.YU.L.Rev.157, 160 (1972)(since pro se litigants often are unable to comply with procedural rules, eXCePtions are carved out in practice.) 4 Rules, the clerk shall issue an order of dismissal, Which shall have the same force and effort as an order of the appellate court') as a basis for their motion to dismiss. Appellant has not failed to comply. The court did not conclude that it appeared that the Appellant failed to comply with the

requirement of these rules, Otherwise they would have issued an order to dismiss Appellant,s appeal. Therefore, Respondent's Motion to Dismiss should be denied.

Respondent stated, "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)¹. This cited case does not state this as their opinion. This capital case was in regards to whether a person with mental illness have the capacity to waive their right to have an attorney and represent themselves as a pro se litigant. This cited case does not support Respondent's statement, it is not binding or persuasive, and grossly misapplied. Therefore, Respondent's Motion to Dismiss should be denied.

CONCLUSION

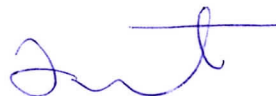
For reasons stated herein, Appellant is respectfully requesting that this Court issue an Order denying Respondent's Motion to Dismiss Appeal with prejudice. In addition, issue an Order granting Appellant's request that this Court to sanction Respondent for making frivolous arguments which are not supported by facts and filing frivolous motions and any other relief this Court deems just and proper.

Respectfully Submitted,

APPELLANT SIGNATURE PAGE TO FOLLOW

¹ 6 see also Sause v. Bauer, 138 S. Ct. 2561, 2563 (2018) (Per Curiam) (holding that "[i]n considering the defendant's motion to dismiss the District Court was required to interpret the pro se complaint Liberally"); Haines v. Kemer, 404 U.S. 519, 520-21 (1972)per curiam).

**APPELLANT'S SIGNATURE PAGE FOR RETURN TO RESPONDENT RENEWED
MOTION TO DISMISS APPEAL**



Terry Lennette Grant, Appellant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
Terrygrantseries@gmail.com
843-301-5750

February 25, 2024

Chad W. Burgess, S.C Bar No:72520
3800 Fernandina Road Ste. 110
Columbia, SC 29210
803-454-3540
Chad.bur~~g~~ss@brockandscott.com
Attorney for Respondent5

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IN 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. 2016-CP-07-01466

(Appellate Case No. 2023-001394)

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.....Respondents.

v.

Terry Lennette Grant, Pro Se.....Appellant,

APPELLANT RETURN TO RESPONDENT'S RENEWED MOTION TO DISMISS

PROOF OF SERVICE

Terry Lennette Grant, Appellant Pro Se
P O Box 21936
Hilton Head Island, SC 29925
843-301-5157
terrygrantseries@gmail.com

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

Counsel for Respondent

APPELLANT RETURN TO RESPONDENT'S RENEWED MOTION TO DISMISS
PROOF OF SERVICE

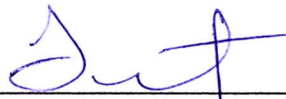
This is to certify that I, Terry Lennette Grant sent true copies of APPELLANT RETURN TO RESPONDENT'S RENEWED MOTION TO DISMISS to the attorney of record named below. A true copy was sent via email of records and/or U.S.Postal Service, with adequate postage prepaid for the following:

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

Counsel for Respondent

February 25, 2024

APPELLANT RETURN TO RESPONDENT'S RENEWED MOTION TO DISMISS



Terry Lennette Grant, Appellant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
(843) 301-5750
terrygrantseries@gmail.com

February 25, 2024

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com
Counsel for Respondent