RECEIVED
Mar 05 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

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's Return to Respondent's Reply to Appellant's Return to Respondent's Renewed Motion to Dismiss

---

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

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*

Appellant, Terry Lennette Grant, pursuant to Rule 240(f) of the South Carolina Appellate Court Rules, hereby submits its return to Respondent's reply to Terry Lennette Grant's ("Appellant" or "Grant") return to Respondent's renewed motion to dismiss appeal, and states as follows:

BRIEF PROCEDURAL HISTORY

On December 11, 2023, Deutsche Bank filed a motion to dismiss this appeal alleging, 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 to dismiss appeal 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. The 10-day deadline expired February 26, 2024, specifically 11:59:59 pm. Appellant served and filed her amended initial brief and designation of matter in compliance with this Court's explicit instruction in the February 9, 2024 Order. Respondent filed a renewed motion to dismiss on February 22, 2024.

On February 26, 2024, Appellant filed an amended initial brief, amended designation of matter, and return to Respondent's renewed motion to dismiss. With that in mind the law stated the following as it relates to the counting of time."One final issue raised by rule 6(e) concerns

the method of computing the total time available for response under rule 6(a). Rule 6(a) provides:Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated the period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such a holiday…."

In line with this fact of law, Appellant filed her amended initial brief within the 10-day required by the February 9, 2024's Order. In addition, S.C. Code Regs. § 103-817.1 clearly supports Appellant's timeliness of her filing via electronic media (email) S.C. Code Regs. § 103-817.1 ("Timeliness. A document transmitted and received by the E-Filing System on or before 11:59:59 p.m., Eastern Standard Time, shall be considered filed with the Court on that date, provided it is subsequently accepted by the Court")

Based upon information and belief that the Respondent's continued blatant disregard for Appellant' right to be free of false accusations, this Court should dismiss the Respondent's motion to dismiss appeal.and issue an Order for sanctions for filing false, meritless and frivolous[1] motions in this case.

[1] Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require. This Rule does not apply to any

ARGUMENT AND CITATION OF AUTHORITY

In Appellant's return to the renewed motion to dismiss, Appellant asserts that she never ignored the guidance and explicit instruction of the Court and that "Respondent is merely pointing out minor technicalities to circumvent replying to facts and evidence that clearly supports Appellant, position that's on appeal.

It is not hard to fathom how Appellant asserted that she complied with the Court's explicit instructions because her amended initial brief and amended designation of matter was filed on February 26, 2024 before 11:59:59 pm in compliance with SC Rule and code as described above. Deadline was not ignored as the Respondent asserted. Appellant have complied with this Court's February 9, 2024 As far as the deficiencies in her original initial brief, it is the words of the Respondent that claimed there were deficiencies in the original and designation of matter as outlined in the Respondent's first motion to dismiss. The Court had the discretion to dismiss the case if the Appellant disregarded the Rules. The Court did not mention or inform the Appellant of any deficiencies in the Appellant's initial brief.

The Respondent stated in their motion to dismiss, in the alternative, allow Appellant to re-submit an amended initial brief and designation of matter. Appellant agreed with the alternative in lieu of dismissing her appeal.

Respondent asserted the Appellant asserts that, "since pro se litigants often are unable to

---

matters where counsel is required by law to pursue an appeal or petition for writ of certiorari even though the matter may be frivolous. Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date

comply with procedural rules, exceptions are carved out in practice" this is not only in the New York article Respondent mentioned. It is in the Chicago, California, and various other state and federal statute, "Established case law tells us that *pro se* litigants are held to the same standard as represented parties, but that is not always the case in a judge's eyes and should not always be the case from a practical standpoint. *Pro se* parties should be treated with the same respect we extend to colleagues and adversary attorneys, but with more patience and a lot more caution.

The maxim "a person representing himself in court will be held to the same standard as a lawyer" still appears in appellate case law in almost every state[2] even though it is not an accurate summary of appellate decisions[3], and, if applied literally, would produce manifest injustice[4].

Appellant did not ignore that this law review article is non-binding; however, Respondent fails to recognize that South Carolina jurisprudence regarding complying with the SCACR and explicit instructions of this Court mimics Federal and other State statutes. Appellant never ignored that this Court has been extremely gracious with her in granting

---

[2] The 2011 Supreme Court decision in Turner v. Rogers provides the basis for articulating a right to "informational justice" for self-represented parties

[3] For the most part, appellate courts have simply recognized a trial court's wide discretion to vary court processes to meet the needs of a person appearing without counsel. California's intermediate court of appeal has gone the farthest in holding that the failure to exercise discretion constitutes an abuse of discretion.

[4] trial court standards, in 2007 the ABA amended the Model Code, adding the following commentary to Rule 2.2 on impartiality: To ensure impartiality and fairness to all parties, a judge must be objective and open-minded . . . . It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard

Appellant opportunities to cure her deficiencies, which she cured within the Court time requirement. In this instance, Appellant has done the same by filing and serving her amended initial brief as the Order of February 9, 2024 required. The point upon which Respondent has again falsely and frivolously accused Appellant of blatantly disregarding or ignoring the Court instruction has been reached and Respondent should be held to account for their false accusation and filing motion to dismiss based on unfounded and false information.

Respondent in using, the SCACR and this Court's orders as and for " technicalities" or to negate mundane details to circumvent this court from examining all the facts and evidence submitted in this case, that would support Appellant's truth and position. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review; however, Appellant upon information and belief agree that counsel and pro se defendant shall provide more that materials that complies with the Rules, but facts, truth and evidence also must be provided and allowed to be examine by the court to assist in getting to the truth of the matters on appeal.."

This Courts could grant self-represented litigants leeway in both form and content of the documents they file. This standard is universally observed. Courts can inform the parties of the correct legal characterization of the relief being sought if the moving party has used incorrect legal terminology.

Respondent's motion to dismiss should be dismissed due to the lack of merits claimed

against Appellant. Despite being given ample opportunity to reply to initial brief, Respondent has made up reasons to try to support his motion to dismiss. Respondent stated that Appellant failed to satisfy the burden of presenting an adequate record on appeal. This argument does not fit because the record on appeal has not been submitted. We are at the designation of matter on appeal. The submission of the record will not happen until the Respondent replies to the initial brief which has not been done and they are trying to avoid.

Respondent states, that "even had they been timely served and filed, Appellant's amended initial brief and amended designation of matter do not comply with the SCACR.. While the amended brief removed the improper table of exhibits, the brief still references exhibits throughout the body of the document". Appellant does not see any Rule prohibiting making reference to the exhibits in the body of the document. Appellant's amended initial brief still includes authorities which are binding and/or persuasive. Appellant cited cases that supports her position. Appellant did not find any Rule prohibiting citing case laws that supports her position.

The Respondent states, "A more fundamental problem with Appellant's amended initial brief is Appellant's continued engagement in mudslinging and spurious allegations of fraud and misrepresentation against Respondent's counsel". Appellant has not engaged in any mudslinging or spurious allegations of fraud and misrepresentation against Respondent's counsel. Appellant has introduced all facts and evidence to support her allegations. However, the lower court has ignored those facts and evidence submitted during Appellant's motion for

summary judgments, opposition of Respondent's Motion for Summary and all other relevant filings throughout these proceedings and is included in the records on appeal.

Appellant's assertions in this reply, it suffices to state that there have been numerous fraudulent filings or misrepresentations made on behalf of the Respondent. Appellant made these same assertions in her filings throughout these proceedings over the years; however, Respondent has acknowledged that "no judge has ever agreed" with her on these points, even though Appellant Grant has submitted numerous documents and evidence to support her allegations.. Appellant states upon information and belief that, because the Special Referee ruled against her, because he ignored the rules of law, ignored Appellant's evidence that proved the fraud and misrepresentation, and just signed the documents prepared by Chad W. Burgess, as evidenced by each Order Special Referee signed which was identified by the Brock & Scott PLLC in-house file reference number located at the end of each document he signed.

Appellant raised affirmative defenses, such as res judicata, when she filed her motion for summary judgment, opposition to Respondent's Motion for summary judgment, motion to reconsider, and supplement filing she submitted, Special Referee just ignored her defenses and erred by granting Respondent foreclosure judgment. This is one of the reasons Appellant filed her appeal. Ironically, the Special Referee ignored the Order dated January 14, 2016 vacating and dismissing foreclosure judgment, which also vacated and dismissed any supplementary judgments which included the reformation judgment dated February 12, 2014. Another reason

Appellant filed this appeal.

Respondent here admits that their prior foreclosure was explicitly dismissed pursuant to SCRCP Rule 60(b); however, Respondent failed to inform the court that the dismissal of the foreclosure under SCRCP 60(b) was because they deem it "no longer equitable". This same Order deemed this case vacated and dismissed pertaining to the cause of action for the foreclosure Mortgage and ANY Supplemental Judgment Orders" is vacated and dismissed.

Respondent claim that the Appellant's amended initial brief falls far short of reciting an appellate issue that the Respondent could be expected to brief. Appellant states, upon information and belief, that Respondent is trying not to address issues on appeal because Appellant has concrete evidence to support her appeal and position. Respondent claim that Appellant's amended designation of matter to be included in the record on appeal also fails to comply with Rule 209(b) and (c), SCACR.

According to Rule 209 (b) **Content.** The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.Appellant does not see anything she has submitted that is not in compliance with Rule 209(b)

According to Rule 209 **(c) Certification.** The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the appeal.Appellant included her certification statement within the designation of matter. Again, Respondent failed to support his motion to dismiss with actual facts to support his allegation of non-compliance. As such, this motion to dismiss should be denied.

Respondent claim that Appellant's amended designation is wholly confusing as it continues to refer to documents as exhibits with specific numbers which do not correspond to any numbered exhibit submitted in the case below. Appellant's exhibits with specific numbers correspond with exhibits as mentioned in the Appellant brief. It reflects which exhibits the court should look at as they read that particular section, paragraph or sentence. All exhibits identified are relevant to this case and record on appeal.

Respondent claim that the amended designation includes items that are impertinent to this appeal such as proposed orders which were never entered. Appellant begs to differ, the proposed orders were entered into the record on appeal when Appellant filed her motion to reconsider. The amended designation also includes commentary to identify why Appellant is using exhibits for records on appeal. Rules ask to clarify the significance of designation of matter on appeal. Appellant stands by her amended initial brief and designation of matter, because it does comply with Rule 209 (b) and (c).

CONCLUSION

For the foregoing reasons, Deutsche Bank's motion to dismiss, once again should be denied. Appellant respectfully requests that this court compel Respondent to submit their reply brief within specified time frame and requests such other relief this Court deems just and proper. .

Respectfully submitted,

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

March 5, 2024

CONCLUSION

For the foregoing reasons, Deutsche Bank's motion to dismiss, once again should be denied. Appellant respectfully requests that this court compel Respondent to submit their reply brief within specified time frame and requests such other relief this Court deems just and proper. .

Respectfully submitted,

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

March 5, 2024

PROOF OF SERVICE

This is to certify that I, Terry Lennette Grant sent true copies of Appellant's Return to Respondent's Reply to Appellant's 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

March 5, 2024

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

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's Return to Respondent's Reply to Appellant's 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

PROOF OF SERVICE

This is to certify that I, Terry Lennette Grant sent true copies of Appellant's Return to Respondent's Reply to Appellant's 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

March 5, 2024

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