

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley Price, Circuit Court Judge

Case No. 2023-001598

Karen Oliver

Appellant,

v.

Charleston County Housing and
Redevelopment Authority

Respondent,

Initial Brief

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Statement of Issues on Appeal

1. Did the Circuit Court Judge, Bentley Price, violate the Appellant's constitutional rights to an appeal (one appeal) that is guaranteed by the Fourteenth and Fifth Amendments that every person has a right to due process?
2. Did Judge Price violate the Appellant's constitutional rights by refusing to allow the Respondent or their attorney to present their motion to dismiss the appeal and turning it into an actual appeal hearing without notice, contrary to the summons to appear provided by the court?
3. At the magistrate level, Judge Laura Waring, admittedly claimed to not know the guidelines and the policies and procedures governing the hearing process that is guaranteed by the agreement between the Public Housing Authority (hereinafter, PHA) and the Housing and Urban Development (hereinafter, HUD) to ensure that the tenant's rights are not being violated along with the PHA's rights; The Appellant as a beneficiary has a constitutional right to due process regardless of the lack of knowledge at the magistrate court level to an equitable process. The judge would not allow the then Defendant to question any witness for testimony that had personal knowledge of the hearing process, the CEO instructions concerning the hearing, their role in not adhering to policy/procedures, and possibly perjury, etc. All of which helped with a constructive illegal eviction. SCRCF, Rule 13 *Magistrates* was violated by the Judge which again violated the Defendant's right to due process in not allowing the questioning of the Code of Federal Regulations being violated in relations to its mandated regulation in the hearing process that is in place to prevent constructive illegal eviction like the one the judge helped to facilitate.

4. The refusal by Judge Laura Waring to allow the then, Defendant now Appellant to call the representatives present at the illegal eviction proceeding from the PHA to the stand as witnesses to be questioned by the then Defendant now Appellant about the hearing procedures/policy, the CEO's instructions concerning good faith operating practices? Did the magistrate judge, Laura Waring, violate the magistrate level SCRCRCP Rule 13 and the then Defendant now Appellant's right to due process with prejudice by not ensuring that the "Essential Services" (which is illegal not to have) were in place at the illegal eviction hearing and at the Bond to Stay after she was provided pictures of violations with the septic tank for one, and wastewater, its cleanup that has not been remedied to date 1.5 year later by time this reaches the justices?
5. Did the magistrate judge further violate the Appellant's right to due process by not allowing witness testimony/questioning who personally was involved in the matter to be question about the "no eviction" policy during the pandemic, the remedies set aside for tenants to prevent evictions (repayment plan, emergency rental relief) that were being withheld by the then Plaintiff in retaliation for the tenant going to HUD for repair of some "Essential Services" that were and some still are in violation of the state statutes. While in violation of magistrates' Rule 13 the judge would not allow a video that substantiates the claim that a "no eviction" policy during the pandemic was invoked by the PHA's chairman of their board to which they were still operating under. The judge imposed an extra criterion for the video that was contrary to SCRCRCP, Rule 1001. Notwithstanding the video met the extra condition and the judge still refused to view for relevancy.

6. Is the Respondent in violation of state statutes and federal regulations by fraudulently misrepresenting and offering a lease at almost double the cost on a residence that then CEO, Property Manager and Director of Maintenance concurred was not up to industry standards and to date still isn't up to code (but was fraudulently stated in the illegal motion to have been addressed appropriately) that is in violation of state statutes and the Code of Federal Regulations? Along with inciting fear, desperation through retaliatory means by not providing the complainant access to the same means of relief (repayment plan or access donated funds for the prevention of evictions) that HUD and the Charleston County Emergency Rental Assistance Program provided to assist tenants to avoid evictions through lack of dealing in Good Faith. Did the judge violate public policy by not addressing the denial of access to remedies set aside to prevent eviction that was not in good faith dealing when it was brought before her after the denial of witnesses for the Defendant to question?
7. Did the Respondent's illegal motion that violates 24 CFR § 966.4 (m) and 24 CFR §966.6 (g) and provides a fraudulent misrepresentation of the 9/7/22 magistrate hearing that were no errors in law or fact also cites more contradictory untruths that are also a violation of the good faith dealing of §27-40-220?

Statement of the Case

1. Tenant/Appellant turned in son's change to income (August 2021), no adjustments made to rent; Tenant tried to alert them of that change.
2. Tenant/Appellant did not have proof of her change until after the New Year (1/22).
But the tenant/Appellant held on the checks to return; no envelope except for one was opened to see what it was.
3. CCHRA demanded all retroactive rent at once March 2022.
4. Tenant/Appellant tried unsuccessfully to get a time to meet with CCHRA agent Stephanie Gladden. The offices were closed for person-to-person meetings (continued to operate covid protocol), Then, asked for contact information of the person for HUD covering CCHRA via text messages.
5. Tenant/Appellant received a Notice of Lease Termination April 2022.
6. Tenant/Appellant requested a hearing.
7. The tenant/Appellant was not provided with hearing procedures as rules prescribed.
8. Tenant/Appellant did not receive hearing date within 10 business days as indicated it was policy by Bryant Sanders. Tenant complained; Stephanie Gladden did not meet resident as arranged to correct the matter (before leaving to go to training); Mr. Green a then, staff member was directed to tamper with the tenant's mailbox by Bryant Sanders after coming unannounced to the residence. Bryant Sanders (who is no longer there) started raising his voice after being told that you are telling your staff to commit a federal offense; they were already trespassing; Bryant Sanders was rude and abrasive again to the tenant/Appellant; Stephanie Gladden ended up apologizing for

not showing up as planned so the tenant/Appellant could secure a hearing date. But still no hearing procedures were provided as policy states.

9. Once a hearing officer (Ginean Mazyck who is no longer there) made contact the tenant/Appellant had to tell her that she must provide the hearing procedures; 6/15/22 the procedures were finally obtained, the tenant/Appellant requested on 6/14/22 specific documentation (i.e., policy/procedure with HUD that allows for units that are under industry standards to be rented as if they weren't and why it was not being indicated in the leases; policy/procedure for repayment plan on retroactive rent that HUD announced would take place, flat rate rent being increased on units in violation of the safety codes, etc.); The hearing officer scheduled two different meeting dates, but did not provide any of the other documentation that were requested or access to them. She relied on 5.0 of the hearing procedure that the PHA or tenant cannot use it if it is not provided. Yet, that is not for the termination of the lease. They must produce the documentation.
10. Tenant requested a phone conference with the then CEO Franklin Scott (no longer there) on May 19, 2022, due to the stress and toll it was taking of trying to get them to do their jobs properly; to report the intimidation and telling of staff to trespass and commit a federal offense all while trying to recover from the drunk driver hitting the tenant/Appellant; The tenant asked to be a part of the Board of Commissioner's meeting to gain a resolution and for an investigation of the staff being directed to trespass and commit a federal offense at the tenant's residence. The CEO informed the tenant/Appellant that she **would never** talk to the board chairman. He told Bryant Sanders and Stephanie Gladden that they must have the hearing... they were present

for the call; the CEO acknowledge that there were many units not up to industry standards but everyone had to be patient; tenant explained how mold/mildew was in the home affecting their health; it has been ongoing; having to stop taking classes on-line; how the rent was nearly doubled (over a thousand dollars) for a place with a leaking roof, ceiling falling down in all but one room (bathroom), animals coming in the walls, mold/mildew etc. and a more recent incident hazard (that still has not been addressed);

11. Chairman of Board sent email May 20, 2022, stating board members not allowed to get involved in operational affairs; Contradicting 7.0 of the hearing procedures; residents never made aware of this change in rules; Contradicts video message interview about open door policy of his.
12. HUD was contacted on May 31, 2021. Inquired who do residents go to if property manager, Supervisor over them and maintenance doesn't answer, CEO doesn't respond properly and B.O.C. members won't talk to tenants or address issues? HUD stepped in by request.
13. Bryant Sanders sent an email on June 3, 2022, informing/alerting about the delivery of supplies for the roof; the roof was leaking at that precise time throughout the house and in the room where I was sitting when I got the email.
14. The hearing officer provided one hearing date during the time when HUD initiated work began. She never produced any documentation; the tenant also made the requests to include Bryant Sanders and the property manager/agent Stephanie Gladden in an effort to have the hearing. Still no documentation; (dates of requests made June 3, June 14, June 21)

15. July 5, 2022, inside work began on the ceiling via HUD; still nothing from the hearing officer or the others.
16. August 2022 septic system began to act up, gurgling sounds; a Writ for Ejectment came; Tenant/Appellant contacted the magistrate for a hearing date.
17. August 11, 2022, CCHRA filed a Writ of Ejectment
18. September 5, 2022, septic system began to overflow in immediate back yard; Reported to Stephanie Gladden again at court office closed for holiday making sure she listened to message left while she prepared for court.
19. September 7, 2022, hearing at Magistrates court; magistrate refused to allow witnesses who have personal knowledge to be questioned and for rebuttal contrary to magistrate's rules nor the video (showing no ejectment) was allowed; magistrate ruled for eviction Stephanie Gladden refused to allow the tenant/Appellant for participation in CCHRA's repayment plan before the magistrate; She also reported the hearing officer made a final decision unbeknownst to the tenant. The magistrate told the tenant she could have appealed the hearing officer's decision. The Magistrate was mistaken because the 5-20-22 email from the B.O.C. contradicts that. The magistrate previously claimed to not know the hearing policy.
20. Defendant/tenant appealed the magistrate's decision to the circuit court 9/8/22. Tenant/Appellant asked the involved staff at CCHRA to repent along with a Cease and Desist. Most of the staff involved are now gone.
21. Bond to Stay hearing held 9/21/22; magistrate held that if she charged me the rent that has not been agreed upon, she (tenant) would just appeal. The attorney for the Plaintiff was present; After the hearing tenant/Appellant spoke with C. Bowers asking

- him to not let this snowball and that they (CCHRA) were not being honest with him; he would not engage in further conversation.
22. Magistrate said their office was not set up to take payments and the payments must be made directly to landlord; Tenant had magistrate to do a supplemental order to adjust how it was written to reflect this deviation from the already signed documentation on 9/27/22.
 23. Tenant/Appellant notified PHA about continued issue with wastewater overflow; apologized to neighbors for the nuisance.
 24. Tenant/Appellant was advised to contact DHEC; DHEC gave CCHRA notice on 11-2-22 for the Unpermitted/Unapproved Domestic Wastewater and time limit to resolve it.
 25. Sandino Moses, chairman of Board of Commissioners introduce measure to prevent board members from discussing any CCHRA business with tenants one on one.
 26. Summons to Appear for Motion to Dismiss Appeal, but no copy of motion was ever received from their attorney.
 27. Hearing for the motion to dismiss the appeal not held as stated on the summons to appear, but on 5/31/23; appeal dismissed
 28. Order dated August 7, 2023; Appeal denied.
 29. Amend a Judgement sent to circuit judge August 17, 2023,
 30. Order dated September 7, 2023, for denial.
 31. Notice of Intent to Appeal sent to opposing party's attorneys October 24, 2023.

Standard of Review

De Novo Review

Due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses. In re Vora, 354 S.C. 590, 595, 582 S.E.2d 413, 416 (2003).

Not allowing the cross-examination of witnesses doesn't provide meaningful opportunity to be heard. Clear Channel Outdoor v. City of Myrtle Beach, 372 S.C. 230, 235, 642 S.E.2d 565, 567 (2007).

Argument

- 1. Did the Circuit Court Judge, Bentley Price, violate the Appellant's constitutional rights to an appeal (one appeal) that is guaranteed by the Fourteenth and Fifth Amendments that every person has a right to due process?**

Circuit Court Judge Bentley Price violated the Appellant's constitutional rights as prescribed in the Fourteenth and Fifth Amendments of the U.S. Constitution that everyone has a right to due process which includes one (1) appeal. The clause in Section One of the Fourteenth Amendment to the United States Constitution provides...*nor shall any State deprive any person of life, liberty, or property, without due process of law.*

Judge Bentley Price through the commission of legal error denied the Appellant's right to have the appeal heard which resulted in prejudice to the defendant. The Fifth Amendment fourth section is commonly referred to as the "due process" clause. *No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.* Judge Bentley Price further violated public policy within the South Carolina Code of Laws Rule 72, *Judgments and Orders Subject To Appeal: Appeal may be taken, as provided by law, from any final judgment or appealable order.* Within authority 42 U.S.C. 1437d and 3535(d): 24 Code of Federal Regulations Subpart A §966.6 (g) (2017) *Prohibited lease provisions. Waiver of right to appeal judicial error in legal proceedings: Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.* HUD distinctly prohibits section/part (g) to even be placed in a lease current or new. It is a violation of a person's constitutional right. Therefore, it is reasonable expectation that tenants can rely

on it not being used to violate their constitutional rights at any proceedings involving the PHA to which an appeal can't be carried out in court. The Respondent's attorneys are in violation of filing an illegal/prohibited motion, and Judge Bentley Price committed a legal error by not allowing the motion to dismiss the appeal to be presented and defended against. The summons to appear did not state it would be for the actual appeal itself. It was for the motion to dismiss the appeal. The Appellant argues that Judge Price refusal to allow the Respondent or Respondent's attorney to present their matter before the court for the Appellant to defend but the judge turned it into an appeal hearing violated the Appellant's right to due process. The summons to appear did not say for an appeal to be heard, but a motion to dismiss the appeal. Judge Price abused his discretion and committed legal error by turning the hearing into an appeal without adequate notice, adequate opportunity for the hearing, the right to bring forth evidence.

1. U.S. Const. amend, V, § 4.
2. U.S. Const. amend, XIV, § 1.
3. 24 CFR § 966.6 (g) (2017)
4. *In re Vora*, 354 S.C. 590, 595; 582 S.E.2d 413, 416 (2003).

2. **Did Judge Price violate the Appellant's constitutional rights by refusing to allow the Respondent or their attorney to present their motion to dismiss the appeal and turning it into an actual appeal hearing without notice, contrary to the summons to appear provided by the court?**

Judge Bentley Price refused to allow the Respondent's attorney to orally present their case for the illegal motion to the court. What judge does that? When the Appellant asked the judge, "Shouldn't he go first since he brought the motion," the judge refused. *The Transcript* p. 1 lines 9-14 of the proceeding will show the only words that the Respondent's attorney, Carlton Bowers, spoke. He never spoke on the contents or merit of the motion and why the Appellant's constitutional rights should be violated while the Respondents were already in violation of the Code of Federal Regulations and state statutes that govern them. That is not how any of the cases prior to the Appellant's took place on the docket of May 31, 2023. Every other person bringing their matter before the court prior to the Respondent's appearance was provided time to present (Plaintiff) and the other party time to respond (Defendant) and defend. Judge Price claimed to have read the motion, but still had to inquire who was bringing it before the court. *Transcript* p. 1 lines 2-4. He didn't claim to have already read the matters of the other parties in their matter after a two-hour delay with the ninth solicitor's case. Since jurisdiction was already established the right to defend was upended by the judge's refusal to allow the motioning party to speak any further. If the judge was not going to hear the Motion to Dismiss the Appeal and just wanted to hear the Appellant's appeal, it should have been indicated in the Summons to Appear. Through prejudice against the Respondent's Motion to Dismiss the Appeal was heard without any of them speaking about it. Unconscionable

biased and contrary to public policy. The Appellant was not given the opportunity to address the wrongful claims made by the Respondent's attorney for the Motion to Dismiss via rebuttal. It can't be rebutted if it is not presented. *The purpose of a summons is to acquire jurisdiction of the defendant and give him notice of action and an opportunity to appear and defend.* WL5944276 (S.C. Ct. App 2023). Jurisdiction was already established, but if the Respondent isn't allowed to speak and present their matter to the judge so the opposing party can defend it is an abuse of discretion and committed legal error by the judge. The judge should not have turned it into an appeal as the summons was not for an appeal. The summons must indicate appeal if it was only for an appeal and not a motion to dismiss the appeal. *Transcript p.1 lines 12-14* The Respondent's attorney informed the court, *"It was a motion and denial of her appeal, so it was all in one. I thought we were here today to argue against her appeal."* Somehow Judge Price was on a different page or case and refused to allow the Respondent or their attorney to speak any further. *Transcript p.1 lines 15-17.* Judge Price: *"That's correct. So it's your appeal, ma'am. Be happy to hear from you."* That should have been said to the Respondent not the Appellant. The Appellant never got a copy of the motion served contrary to the Certificate of Service. Customarily, motion court allows 8 minutes for the merits of the motion and 8 pieces of exhibits/evidence for the person presenting the motion. It took over two months to get the signed Order August 7, 2023, which supported this illegal motion, and illegal eviction by denying the Appellant's constitutional right to an appeal and falsely claimed it was only about the admissibility of evidence. However, with it being an illegal motion that violated public policy and the Respondent's attorney not having to speak a word before the court shows the prejudice and lack of commitment

to the integrity of the judicial process on behalf of Judge Bentley Price, an extreme legal error. *Transcript p. 9* lines 11-22. Judge Price indicates that he is only to hear matters of law. Again, if he was there only to hear matters of law for a motion to dismiss the appeal, shouldn't he have allowed the Petitioner, the Respondent's attorney, to speak? Notice of this change should have been provided and the court also notified. Concluding with no other words spoken by the motion's submitter except p.1 lines 9-14.

1. WL 5944276 (S.C. Ct. App 2023).
2. *Transcript* p. 1 lines 2-4, 9-14, and 15-17
3. *Transcript* p. 9 lines 11-22.

3. At the magistrate level, Judge Laura Waring, admittedly claimed to not know the guidelines and the policies and procedures governing the hearing process that is guaranteed by the agreement between the Public Housing Authority (hereinafter, PHA) and the Housing and Urban Development (hereinafter, HUD) to ensure that the tenant's rights are not being violated along with the PHA's rights; The Appellant as a beneficiary has a constitutional right to due process regardless of the lack of knowledge at the magistrate court level to an equitable process. The judge would not allow the then Defendant to question any witness for testimony that had personal knowledge of the hearing process, the CEO instruction concerning the hearing, their role in not adhering to policy/procedures, and possible perjury, etc. All of which helped with a constructive illegal eviction. SCRCF, Rule 13 *Magistrates* was violated by the Judge which again violated the Defendant's right to due process in not allowing the questioning of the Code of Federal Regulations being violated in relations to its mandated regulation in the hearing process that is in place to prevent constructive illegal eviction like the one the judge helped to facilitate.

The magistrate judge claimed not to know the guidelines and refused to allow any witness testimony with personal knowledge from the PHA's agents that were present in court who were intentionally incorrectly implementing the policy/procedure while agent, Stephanie Gladden providing fraudulent information to the court that correct procedure was followed in the hearing process . They would have had to commit perjury to not have it kicked out of court. On May 19, 2022, CEO, Franklin Scott informed Bryant Sanders,

then head of maintenance and Stephanie Gladden, property manager, that they must have the hearing to meet the guidelines. The governing procedures: 24 CFR §966.51 (2001)

Applicability 2 (i) The term due process determination means a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in § 966.53(c)) before eviction from the dwelling unit. If HUD has issued a due process determination, a PHA may exclude from the PHA administrative grievance procedure under this subpart any grievance concerning a termination of tenancy or eviction that involves:

24 CFR § 966.52 (d) (e) (2016) *Requirements (d) The PHA shall furnish a copy of the grievance procedure to each tenant and to resident organizations. (e) The PHA must not only meet the minimal procedural due process requirements contained in this subpart but also satisfy any additional requirements required by local, state, or federal law.*

24 CFR §966.53 (a) (b) (c) (e) (2016) *(a) Grievance shall mean any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.*

(b) Complainant shall mean any tenant whose grievance is presented to the PHA or at the project management office.

(c) Elements of due process shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:

(1) Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;

(2) Right of the tenant to be represented by counsel;

(3) Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;

(4) A decision on the merits.

*(e) **Hearing officer** means an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by § 966.4, changes to which are subject to a 30-day comment period as described in § 966.3.*

§ 966.54 Informal settlement of grievance.

Any grievance shall be personally presented, either orally or in writing, to the PHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

§ 966.56 Procedures governing the hearing.

(a) The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer. A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official.

(b) The complainant shall be afforded a fair hearing, which shall include:

(1) The opportunity to examine before the grievance hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. (For a grievance hearing concerning a termination of tenancy or eviction, see also § 966.4(m).) The tenant shall be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

(2) The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf;

(3) The right to a private hearing unless the complainant requests a public hearing;

(4) The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies; and

(5) A decision based solely and exclusively upon the facts presented at the hearing.

****§ 966.4(m) Eviction: Right to examine PHA documents before hearing or trial. The PHA shall provide the tenant a reasonable opportunity to examine, at the tenant's request, before a PHA grievance hearing or court trial concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of the PHA, and which are directly relevant to the termination of tenancy or eviction. The tenant shall be allowed to copy any such document at the tenant's expense. A notice of lease termination pursuant to § 966.4(l) (3) shall inform the tenant of the tenant's right to examine PHA documents concerning the termination of tenancy or eviction. If the PHA does not make documents available for examination upon request by the tenant (in accordance with this § 966.4(m)), the PHA may not proceed with the eviction.** The Respondent committed an illegal eviction aided by the magistrate and circuit level judges. The hearing officer never made available any of the documentation that the Appellant/tenant requested other than PHA guidelines for hearings which should have been provided when the hearing was requested. An email to this effect was sent by the then hearing officer. Additional emails trying to obtain documentation were also sent to the hearing officer, Bryant Sanders and Stephanie Gladden and none of them responded, but went forth with an illegal, constructive eviction of the magistrate.

1. 24 CFR § 966.51 (2001)
2. 24 CFR § 966.52 (2016)
3. 24 CFR § 966.53 (2016)
4. 24 CFR § 966.54 (2016)
5. 24 CFR § 966.56 (2016)
6. 24 CFR § 966.4(m) (2023)

4. The refusal by Judge Laura Waring to allow the then, Defendant now Appellant to call the representatives present at the illegal eviction proceeding from the PHA to the stand as witnesses to be questioned by the then Defendant now Appellant about the hearing procedures/policy, the CEO's instructions concerning the hearing, the no eviction during the pandemic policy, good faith operating practices, intimidation tactics used, instructing a staff member to commit a federal crime, the legality of the eviction, and the providing of essential services that to date is still not being met. Did the magistrate judge, Laura Waring, violate the magistrate level rules for S.C. Courts and the then Defendant now Appellant's right to due process without prejudice and abuse of discretion to allow an illegal eviction coupled with not ensuring that the "Essential Services" were in place at the eviction hearing and at the Bond to Stay?

The magistrate judge failed to apply the laws of the state of South Carolina that Judge Laura Waring swore to uphold. The magistrate refused to allow the then Defendant now Appellant to question any of the representatives present for the illegal eviction hearing as witnesses. Bryant Sanders, then head of the maintenance department, was present. Bryant Sanders nor any other representatives present for the PHA was not allowed to be questioned as a witness by the magistrate judge. Contrary to Magistrate Court's SCRCPC, *Rule 13 In the trial of a civil action, in which one or both parties are unrepresented by legal counsel, the court shall question the parties and witnesses in order to assure that all claims and defenses are fully presented.* Judge Laura Waring violated this rule by not allowing the witness to be called for questions by the then Defendant, now Appellant.

Bryant Sanders personally knew the information on the video. He was culpable in many

ways. By not allowing the then Defendant to call the witnesses who were present to be questioned, the magistrate judge not only violated the rules of civil procedure, but the then Defendant's constitutional right to due process. S.C Courts provided in great detail that both the Defendant and the Plaintiff can be called to be questioned as witness. Per: Microsoft Word - Frequently Asked Questions Magistrate (sccourts.org). It was a collusive effort to render the Appellant homeless. Judge Laura Waring was provided the submission of the pictures of the septic wastewater overflow surfacing in the immediate backyard of the then Defendant, now Appellant. She did not find the cesspool that was allowed to expand for two months to be an "Essential Service" that to date has not been fully resolved. DHEC had to be called to facilitate a drain line being put in to resolve the unsanitary conditions. To date cleanup and soil testing has not taken place at the residence. Over a year and a half (over 1.5 years) has passed since it was first reported 9/5/22. We are now approaching March 2024. DHEC gave the Respondents a time limit to correct the problem. *DHEC notice to PHA*. It was two months before the drain line was put in November 2022. The situation made the Appellant have to go to her neighbors to explain the awful smell from the wastewater that happened even when showering it covered the immediate backyard. It was a *nuisance* for the tenants and the Appellant tried to quell it from becoming one for the neighbors whom the Appellant loves. The Appellant even had to contact the elected representatives for assistance. Even though the board voted to not have individual communication with the tenants (since the Appellant asked the chairman of the Board to keep his word that there will be no evictions during the pandemic), the Appellant left a message on a Commissioner's home line about the severity of the situation that was into a second month. The Respondent continues to

gaslight the Appellant when the property manager was incompetent in her actions to provide resolution after then CEO, Franklin Scott claimed to have investigated the matter. If the magistrate judge would have not violated the Appellant's right to question the witness in court as prescribed by the rules of court the Appellant would not have had to experience intentional infliction of emotional distress that has hindered the Appellant's recovery from injuries suffered from a drunk driver on January 1, 2022. Again, the collusive effort at the magistrate level to deny a fair and unbiased proceeding as prescribed by the Rules of Civil Proceedings was clearly on display. The Respondents became even more brazen and continued to violate S.C. Code Ann. §§ 27-40-720, 27-40-630, and 27-40-440.

1. **Rule 13, SCRPC *Magistrates***
2. <http://www.sccourts.org/selfhelp/faqmagistrate.pdf>
3. **S.C. Code Ann. § 27-40-720.**
4. **§ 27-40-630.**
5. **§ 27-40-440.**

5. ***Did the magistrate judge further violate the Appellant's right to due by not allowing witness testimony/questioning who personally was involved in the matter under magistrates' Rule 13 along with not allowing a video even after it met the extra conditions imposed by the judge that were contrary to Rule 1001 that governs videos?***

The magistrate refused to follow Magistrates Rule 13 and refused to allow the then Defendant now Appellant to question the staff present from CCHRA. The judge also refused to allow a video to be entered into evidence. Judge Laura Waring imposed a condition that the video have a transcript. When it was confirmed that it did, the judge refused to view the video. The judge allowed the then Plaintiff and Bryant Sanders to view the video to determine whether it was relevant to the case while the judge and her staff exited the courtroom. The judge concurred with the Plaintiff **without** viewing the video. The Respondents were still operating under pandemic rules and regulation at time of filing and their first appearance at the Magistrates Court office 9/7/22. Contrary to the Respondent's attorney submission in the Motion to Dismiss the Appeal filed in circuit court citing The video and ABHAN or ABIK (Assault and with Intent to Kill) were ruled not logically relevant in *State v Hamilton*, 344 S.C. 344, 357,543 S.E.2d 586, (Ct. App 2001). In this case the ruling judge viewed the video before making the decision and did not just rely on the anticipated objections from the State. Judge Laura Waring abused her discretion by not being present to view the video to allow her to make an informed and unbiased decision. Throughout the judge's actions you can infer the bias and prejudice of her blocking witnesses from being questioned, not viewing the video for relevancy, connectedness, and evidentiary quality. *A court's ruling on the admissibility of evidence*

will not be reversed by the court absent an abuse of discretion or the commission of legal error which results in prejudice to the defendant. State v. Mansfield, 343 S.C. 66, 538 S.E.2d 25 (2000). State v. Blassingame, 338 S.C. 240, 525 S.E.2d 535 (CT. App. 1999).

Exactly what the then Defendant was subjected to when the magistrate judge required a transcript of the video. Yet, when the Appellant informed the magistrate judge there was an onscreen transcript the magistrate judge then refused to view the video. Otherwise, it is fraud on behalf of the PHA with all of the elements met. Blatantly, the judge was showing prejudice to the then Defendant. The judge allowed the Acceptance to the verbal contract into evidence, but not the video that showed the oral offer making the contract. Both the Acceptance and the recording were logically connected through a causal relationship. To accept one without the other made no logical sense because they were hand in hand. The video had it been viewed properly the magistrate judge would have seen how logically the causal relational connectedness with the current issue it is. The policy/procedure change was highly relevant in the conducting of the Respondent's operation of business. *§ 27-40-520 Rules and Regulation.* The new policy/procedure was no evictions during the pandemic. Also, there was no confusion expressed by the CCHRA staff after viewing the video. They did not go against its content, just the fact they did not know he made it. If the judge had

not violated Rule 13, a need for an alternate means to accomplish delivery of this especially important point would not have been necessary via video. In doing so Judge Laura Waring violated the Appellant's right to due process. The then, Defendant now Appellant is to have a meaningful part in the proceeding as part of due process. If the judge is intentionally blocking it by abandoning the rules the Appellant's constitutional rights to due process were violated.

1. SCRCF, Rule 13 *Magistrates' Rules*
2. *State v Hamilton*, 344 S.C. 344, 357, 543 S.E.2d 586, (Ct. App 2001).
3. *State v. Mansfield*, 343 S.C. 66, 538 S.E.2d 25 (2000).
4. *State v. Blasingame*, 338 S.C. 240, 525 S.E.2d 535 (CT. App. 1999).
5. § 27-40-520 *Rules and Regulation*

6. Is the Respondent in violation of state statutes and federal regulations by fraudulently misrepresenting and offering a lease at almost double the cost on a residence that then CEO, Property Manager and Director of Maintenance concurred was not up to industry standards and to date still isn't up to code (but was fraudulently stated in the illegal motion to have been addressed appropriately) that is in violation of state statutes and Code of Federal Regulations? Refusing to provide documentation in relation to the PHA and HUD for the hearing. Along with inciting fear, desperation through retaliatory means by not providing a complainant access to the same means of relief (repayment plan or access donated funds for the prevention of evictions) that HUD and the Charleston County Rental Assistance Program provided to assist tenants to avoid evictions through lack of dealing in Good Faith.

On 3-23-22 at the Board of Commissioner's meeting the CEO, Franklin Scott, informed those in attendance of the following, "Right now, we are challenged with a number of property issues, to include single family houses and Brighton Place." The Appellant's residence was included in this assessment. This was during the time that the Appellant was given a now nearly double rent for a unit that was in violation the S.C. Code of Laws and the Code of Federal Regulations well before the pandemic and now in even worse condition, it was unconscionable. Also, a violation of § 27-40-230 *Unconscionability*. When the Appellant spoke up in limited capacity due to her injuries the property manager would not respond professionally until the tenant/Appellant texted a request to have a phone conference with the then CEO on May 19, 2022. During an over the phone

conversation where the then CEO, Franklin Scott, told them they must have the hearing. He did not deny that many of the places were under industry standards. It wasn't until the HUD representative intervened that I was notified about a shipment of material being delivered for the roof that any traction was made. *Email From Bryant Sanders Exhibit*

They were in violation of their obligations as follows and continue to be: *24 CFR § 966.4 (e) (2023) Id. 24 CFR § 966.4(m).*

According to the CEO at the 3-22-22 Board of Commissioner's meeting, "Over \$45,000.00 was donated by Charleston County Emergency Rental Assistance Program." Yet, it is not being used as intended. This is prior to the filing of the illegal eviction. As a result of the contents of the video (the magistrate denied entry to for evidence) 21 residents were on a payment plan as of 8-24-22 Board of Commissioner's Meeting. This after the filing of the illegal eviction on the Appellant. The payment plan was used to avoid eviction for the 21 residents. In conjunction with the no eviction during the pandemic rule/regulation. This is after the filing of the illegal eviction. Stephanie Gladden refused to provide the information about the repayment program promoted by HUD that some tenants were on and the Charleston County Emergency Rental Assistance Program funds that were donated and were being offered by the PHA for the tenants. A violation of §§ 27-40-520 *Rules and Regulation, 27-40-220 Obligation of Good Faith, and 27-40-910 Retaliatory Conduct Prohibited; Miscellaneous (a)* does protect the tenant from retaliation by the landlord if the tenant complains of a violation materially affecting health and safety to a government agency or complains to the landlord of a violation of the SCRLTA. All this as the Appellant is still trying to fully recover from the drunk driver hit on January 1, 2022. Stephanie Gladden retaliated against the Appellant for

going to HUD to have some of the “Essential Services” taken care of such as the roof that was leaking throughout the residence, removal of the molded sheetrock, repair to the ceilings falling down in every room except the bathroom, animals coming in the walls etc. It was in such disarray the Appellant had to stop taking her on-line classes. BUT GOD!!!

1. 24 CFR § 966.4 (e) (2023).
2. § 27-40-910 *Retaliatory Conduct Prohibited; Miscellaneous*
3. § 27-40-230
4. § 27-40-520
5. § 27-40-220
6. § 27-40-910

7. Did the Respondent's illegal motion that violates 24 CFR § 966.4 (m) and 24 CFR §966.6 (g) and provides a fraudulent misrepresentation of the 9/7/22 magistrate hearing that were no errors in law or fact also cites more contradictory untruths that are also a violation of the good faith dealing of §27-40-220 and the Appellant's constitutional right to an appeal, and possibly lawyer conduct?

Page 3 of the illegal Motion to Dismiss starts with Mag. Ret 3... but no evidence was provided to validate CCHRA failed to provide essential services. *Exhibit The DHEC Notice Unpermitted/Unapproved Domestic Wastewater Discharge 11/2/22*. The Appellant provided Judge Laura Waring in her submission to the court pictures of the septic wastewater overflow surfacing in the immediate backyard of the then Defendant, now Appellant's residence. Pictures taken on 9/6/23 and emailed to self for record catalogue of what was prepared for the eviction hearing. Thanks be to GOD! *Exhibit Pictures of wastewater overflowing from septic tank to immediate backyard*. Since they are now claiming to not having been provided to the magistrate judge. *Exhibit Recording of magistrate proceeding*. She did not find the cesspool that was allowed to expand for two months to be an "Essential Service" that to date has not been fully resolved. DHEC had to be called to help facilitate a drain line being put in to resolve the unsanitary conditions. To date cleanup and soil testing has not taken place at the residence. Over a year and a half (over 1.5 years) has passed since it was first reported 9/5/22. We are now approaching March 2024. On page 3 lines 58-59 of the Motion to Dismiss Appeal states: *No errors of law or fact were committed at the Magistrate level hearing. Ms. Oliver fails to identify matters before the court that*

were an issue at the hearing (s) below. The Respondent's attorney is failing to provide truth in writing to the court. The Appellant did in fact bring the matters before the court. The magistrate judge chose to ignore the laws of the state of South Carolina that she swore to be upheld. The CEO, Franklin Scott was asked multiple times to investigate why full resolution has not taken place with the septic issues. He told the Appellant to contact DHEC again. *Exhibit Emails to and from Franklin Scott. This after DHEC had to come out to help facilitate CCHRA to do their part in getting the drain line for the septic tank done.* Franklin Scott tried to fraudulently place the cause of the septic tank overflow of wastewater on Hurricane Ian, but the issue was noticed in August 2022 through gurgling sounds thought to have been from elsewhere, but the wastewater was notice on 9/5/22 and was already reported to the agent and then to the magistrate judge. When CCHRA finally did act to provide an alternate place to shower until it was done it was right before the drain line was scheduled to be installed. The Appellant was suffering a great deal of discomfort from the injuries due to all of the aggravation from wastewater issue and the other unlawful acts by CCHRA. Leaving the house was not a good move due to the pain and discomfort being experienced, not just physically. A constructive eviction attempt was underway, and it took a toll on the tenants. BUT GOD. In accordance with the filing date of this brief 1.5 years have passed, and full resolution has not been achieved in this situation. Again, violating state law for *27-40-720 Non-Compliance Affecting Health and Safety*. He preferred to gaslight the Appellant. When incompetence is at hand for CCHRA. *27-40-630 Wrongful Failure to Provide Essential Services*. DHEC came on 11/2/22 and gave them 5 days to take care of the

matter. When the Appellant began to speak on this issue Judge Price had the Appellant to stop talking. *Transcript p.8 lines 20 -24, p. 9 lines 1-4*. Just maybe if he would have allowed the Appellant to finish speaking, closure with this issue that has been going on now for 1.5 years. Even while in the courts, which is the law 27-40-440 *Landlord to Maintain Premises*. Again, providing the tenants an unconscionable environment and non- application of the laws for the facilitation of a *constructive eviction*. 24 CFR § 966.4 (e) (2023) *The PHA's obligations. Id.* The lease shall set forth the PHA's obligations under the lease, which shall include the following:

(1) To maintain the dwelling unit and the project in decent, safe, and sanitary condition;

(5) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by the PHA;

The Respondent's attorney provided in his illegal motion that no error of law or fact has taken place. The filing of this illegal motion is illegal. 24 CFR § 966.6 (g) (2017) *Prohibited lease provisions. Waiver of right to appeal judicial error in legal proceedings: Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.* HUD distinctly prohibits section/part (g) to even be placed in a lease current or new. Therefore, it is reasonable expectation that tenants can rely on it not being used to violate their constitutional rights at any proceedings involving the PHA to which an appeal can't be carried out in court. Secondly, the Respondent's

attorneys are in violation of filing an illegal/prohibited motion 24 CFR § 966.4 (m) (2023) due to CCHRA not providing the documentation requested for the hearing the regulation within specifies that if the documentation is not provided no eviction. A violation of both fact and law with this illegal motion. The motion also violates the tenant's right to due process guaranteed by the Fourteenth and Fifth Amendments. Everyone has a right to one appeal. An appeal that is announced, one can get prepared for unlike on 5-31-22 with Judge Price. The illegal motion wrongfully states the Appellant only asserts about the video. Appellant asserted more than about the video which too is important due to the magistrate denying the then Defendant the right to call the present staff for questioning as witnesses in violation of SCRCF, Rule 13 *Magistrates Rule*. I didn't have to bring my witnesses and evidence to court. They were coming and all I had to do was be allowed to call them for questioning as I did, but the judge denied my right to due process. A party has the right to cross-examine, testify or not. That is a part of the rules governing magistrate court, it is a right in due process guaranteed by the U.S. Constitution. Not us constitution. But U.S. Constitution. As is 24 CFR § 966.4 (m) is for Notice of Termination of Lease and eviction which is a part of the policy they chose not to put in the hearing guidelines for the CCHRA and it violates the law. *Exhibit CCHRA's Hearing Procedure. 5.0 and 7.0*. If the Board of Commissioners would not allow me to meet with them as an individual, then how can they meet criteria 7.0 for a fair hearing process meets all the elements of fraud along with the video. CCHRA has indeed violated the law through error and fact. While at the same time numerous tortious and non-tortious acts.

1. Exhibit DHEC Unapproved/Unauthorized Domestic Wastewater. §
2. Exhibit Pictures Early Onset of Septic Tank Reported and Provided to Magistrate Judge.
3. Recording of Proceeding From Magistrate.
4. Exhibit Emails to and From CEO Franklin Scott
5. Transcript p. 8 lines 20-24.
6. § 27-40-720
7. § 27-40-630
8. § 27-40-440
9. 24 CFR § 996.4 (e) (2023).
10. 24 CFR § 996.6 (g) (2017)
11. 24 CFR § 996.4 (m) (2023)
12. SCRCF, Rule 13 *Magistrates*
13. *Id.*
14. Hearing Procedure

Conclusion

In accordance with the state law and federal regulation the Appellant has proven by the preponderous of evidence that the undertaking of the eviction was illegal. The decision for an eviction granted by the magistrate judge too, was illegal. In the process the magistrate judge intentionally violated the right to due process of the Appellant by denying the then, Defendant the right to question witnesses. She denied the then, Defendant now Appellant the admission of the video preventing all reasonable means for obtaining a meaningful participation in the proceeding. The Appellant was in a hostile, biased environment even at the Bond to Stay with the magistrate judge. The Appellant seeks the reversal of Magistrate Judge Laura Waring's erroneous, biased decision by vacating her wrongful decision for eviction. The denial of the Appellant's constitutional rights to an appeal by the circuit judge is in violation of the U.S. Constitution. Circuit Court Judge Bentley Price did not provide a judicial proceeding consistent with the summons to appear and violated the Appellant's constitutional right to an (one) appeal. Any decision made to that effect to deny the would-be appeal should be vacated, too. Judge Bentley Price will no longer be on the bench as of June 2024 to continue to do such dastardly deeds and causing even more distrust in the judicial system. Look at GOD!!! The Appellant reaffirms all that was alleged in the Amend a Judgement and reasserts that which is alleged continue be incorporated within to be allowed for later judicial proceedings. THOU preparest a table before me in the presence of mine enemies. GOD IS FAITHFUL!!!

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley Price, Circuit Court Judge

Case No. 2023-001598

RECEIVED
MAR 06 2024
SC Court of Appeals

Karen Oliver

Appellant,

v.

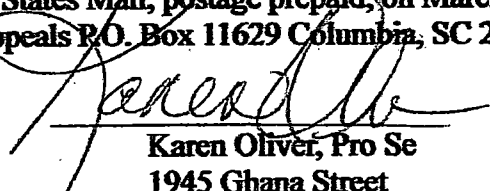
Charleston County Housing and
Redevelopment Authority

Respondent,

PROOF OF SERVICE

I certify that I have served the Initial Brief on the Clerk of Court for the S.C. Court of Appeals by depositing a copy of it in the United States Mail, postage prepaid, on March 1, 2024, addressed to the Clerk of Court S.C. Court of Appeals P.O. Box 11629 Columbia, SC 29211

March 1, 2024


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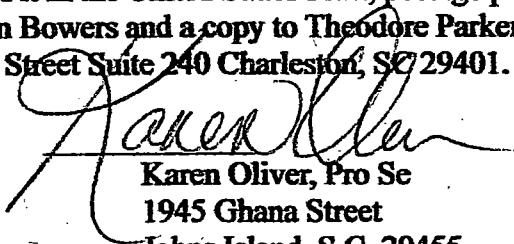
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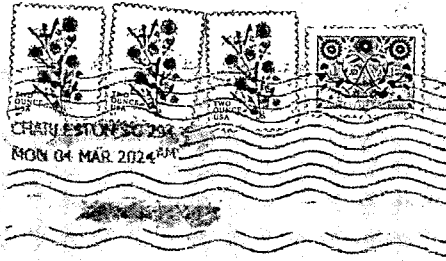
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