

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Ernest McKnight, Jr.,)
)
)
Appellant,)
)
vs.)
)
Home River Group,)
)
Respondent,)

IN THE COURT OF COMMON PLEAS
C/A No: 2024-CP-40-02696

Appeal from Magistrate's Case No.:
2024CV40210902025

**ORDER DENYING APPELLANT'S MOTION
FOR RECONSIDERATION OF OR RELIEF
FROM JUDGMENT
(Rules 52(b); 59; & 60, SCRPC)**

RECEIVED
JUL 29 2024
SC Court of Appeals

0062-23-0013

This matter comes before me upon Motion of the Appellant Ernest McKnight, Jr. pursuant to Rules 52(b); 59; and 60 of the South Carolina Rules of Civil Procedure, seeking an Order amending the Court's findings, granting a new trial, or relieving Appellant from judgment in the instant case. This matter involves an Application for Ejectment filed in Richland County, SC.

The hearing on Appellant's Motion was held before me on July 9, 2024 online via WebEx. Present and participating in the hearing was Jason M. Hunter of the law firm Crawford & von Keller, LLC for the Respondent. Appellant Ernest McKnight, Jr. was represented by attorney G. Robin Alley of Isaacs & Alley, LLC.

Based upon the proof made of the facts and circumstances alleged in the pleadings, through the uncontested affidavit in support of summary judgment, I find, conclude and order as follows:

STANDARD

Rule 52(b) of the South Carolina Rules of Civil Procedure states in relevant part: "[w]hen findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend them or a motion for judgment."

"Rule 59(e) of the South Carolina Rules of Civil Procedure provides, 'A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.'" Gobbi v. People's Fed. Bank, No. 2006-UP-245, 2006 S.C. App. Unpub. LEXIS 231, at *11 (Ct. App. May 16, 2006) (quoting Rule 59(e), SCRPC). Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).1 Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993).

Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, "[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not." Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does "[a] party's mere disagreement with the court's ruling . . . warrant a Rule 59(e) motion." In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); see also Lyons v. Fid. Nat'l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

The decision to grant or deny a motion made pursuant to Rule 60(b) is within the sound discretion of the trial judge. The appellate standard of review is limited to determining whether there was an abuse of discretion. An abuse of discretion occurs when the order of the court is controlled by an error of law or where the order is based on factual findings that are without evidentiary support. Gainey v. Gainey, 382 S.C. 414, 423, 675 S.E.2d 792, 797 (Ct. App. 2009) (Internal citations omitted).

FINDINGS OF FACT

- 1) An Application for Ejectment was filed by Respondent against Appellant in the Richland County Magistrate's Court on December 28, 2023. Said matter was assigned Magistrate's Case No.: 2023CV4010902025.
- 2) On or about March 6, 2024, Appellant, through his counsel filed an Answer and Counterclaim in Case No.: 2023CV4010902025.
- 3) A Consent Order was entered in Case No.: 2023CV4010902025 on April 5, 2024 in which Appellant agreed to vacate the subject premises on or before 5:00pm of Friday, April 19, 2024.
- 4) Appellant failed to vacate the subject premises the Richland County Magistrate's Court issued a Writ of Ejectment in Case No.: 2023CV4010902025 on or about April 24, 2024.
- 5) Prior to Appellant's removal from the subject premises, Appellant filed the instant appeal *pro se* on or about May 1, 2024. Said Appeal was assigned Case No. 2024-CP-40-02696.
- 6) On May 3, 2024, the Richland County Magistrate's Court issued a Bond to Stay Execution on Appeal in Case No. 2024-CP-40-02696.
- 7) Upon Appellant's failure to adhere to the terms of the Bond to Stay Execution on Appeal, the Magistrate's Court had the instant appeal dismissed by the filing of a Dismissal on Appeal submitted June 12, 2024.
- 8) The Writ of Ejectment was subsequently reissued, however, prior to the Appellant's removal from the subject premises Appellant, through his counsel, filed a Motion requesting an Order pursuant to Rules 52(b), 59, and 60, SCRCP.

CONCLUSIONS OF LAW

Due to the foregoing, it is therefore ORDERED, ADJUDGED, AND DECREED, that:

- a) Appellant's Motion requesting an Order pursuant to Rules 52(b), 59, and 60, SCRCP is DENIED.
- b) That Dismissal on Appeal filed on June 12, 2024 stands, and the Clerk of Court is hereby directed to have Case No. 2024-CP-40-02696 marked as DISMISSED in the Public Index.
- c) Though no automatic stay was instituted by Appellant's Motion, the Richland County Magistrate's Court has, in deference to this Court, delayed reissuance of the Writ of Ejectment as to Appellant. By this Order the Richland County Magistrate's Court is hereby empowered to reissue said Writ of Ejectment.

AND IT IS SO ORDERED!

JUDGE'S SIGNATURE PAGE TO FOLLOW

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO. 2024-CP-40-02696

RECEIVED
JUL 29 2024
SC Court of Appeals

ERNEST MCKNIGHT, JR.

APPELLANT

vs.
HOME RIVER GROUP

RESPONDENT

Submitted by: Crawford & von Keller, LLC Post Office Box 4216, Columbia, SC 29240	Attorney for Respondent
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other – _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; Bankruptcy; Binding Arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other – _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other – _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow); Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: Order Granting Summary Judgment

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
HOME RIVER GROUP	ERNEST MCKNIGHT, JR.	\$Possession Only
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

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Richland Common Pleas

Case Caption: Ernest Mcknight Jr VS Home River Group

Case Number: 2024CP4002696

Type: Order/Other

So Ordered

s/ Daniel Coble, 2774

Electronically signed on 2024-07-19 11:59:06 page 6 of 6