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SC Court of Appeals

FORM 13
BRIEF OF APPELLANT*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
In The Court of
Common pleas

APPEAL FROM SPARTANBURG
COUNTY
Court of Common Pleas Shannon M. Phillips, Circuit Court Judge

Case No. 2019-CP-42-03758

Greenwich Revolving Trust
by Wilmington Savings Fund
Society, FBS, not its
individual capacity , but solely
as Owner Trustee

Respondent,

v.

Clinton B. Justus,

Appellant.

[CBJ] BRIEF OF APPELLANT

Clinton Justus
970 Turning Leaf Lane
Mill Spring, South Carolina 28756
(828) 447-8563
Appellant

* Under Rule 267(e), SCACR, the cover of the final briefs should be the following colors: brief of appellant - blue; brief of respondent - red; reply brief - gray; and amicus curiae or intervenor - green.

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3. PROCEEDING WITH DEFAULT, JUDGEMENT AND SALE OF PROPERTY
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STATEMENT OF ISSUES ON APPEAL

1. DID THE COURT FIND THIS COURT TO HAVE ABUSE OF PROCESS
2. DID THE COURT FIND IMPROPER AND ULTERIOR PURPOSE FOR WITH DEFAULT, FORECLOSURE AND SALE WITH KNOWLEDGE THAT SERVICE ON DEFENDANT CLINTON JUSTUS WAS IMPROPER

STATEMENT OF THE CASE

Plaintiff filed Complaint seeking foreclosure owned by Defendants Clinton Justus and Brandy L. Justus at 720 Halls Bridge Road, Campobello, SC 29322 in the Court of Common Pleas in Spartanburg County on October 24, 2019.

Those documents were never delivered to Clinton Justus at his known address of 970 Turning Leaf Lane, Mill Springs, NC 28756 but delivered by a substitute service leaving a copy with a non resident of 720 Halls Bridge Road, Campobello, SC 29322

So without the knowledge of the paperwork and property in foreclosure the property was sold by the Master in Equity on November 2, 2020 to Brenda k. Skates. On, January 4, 2021 an individual called Clinton Justus informing him of the sale. Clinton then retained a lawyer immediately. On January 26, 2021 Honor J. Mark Hayes grated relief from the judgement of foreclosure against Clinton Justus and the sale to Brenda K. Skates was null and void.

STANDARD OF REVIEW

[Set forth appropriate standard of review with citation(s) to authority if all issues are governed by the same standard of review; otherwise include a separate section with a heading of "Standard of Review" at the start of the argument on each issue.]

FACTS

[Counsel may wish to set out the facts relevant to the arguments at this point in the brief. This, however, is optional, and the relevant facts may be included in the discussion of each argument. In either case, the brief must contain references to where the salient facts can be found in the Record on Appeal. In Initial Briefs, these references shall be made in the manner specified by Rule 208(b)(4), SCACR. In the Final Briefs, these references shall be to the page and line number of the Record on Appeal (i.e., R.p. 37, lines 7-8). Rules 211(b)(1), SCACR.]

ARGUMENTS

1. ABUSE OF PROCESS
2. PLANTIFF HAD AN ULTERIOR PURPOSE IN PROCEEDING WITH DEFAULT, FORECLOSURE AND SALE WITH KNOWLEDGE THAT SERVICE ON DEFENDANT CLINTON JUSTUS WAS IMPROPER
3. PROCEEDING WITH DEFAULT, JUDGEMENT AND SALE OF PROPERTY WITH KNOLEDGE THAT SERVICE ON CLINTON JUSTUS WAS INEFFECTIVE IS A WILLFUL ACT THAT WAS NOT PROPER IN THE CONDUCT OF THE PROCEEDING

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

August, 1st 2024

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