

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Aug 14 2024

SC Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2023-001700

Ali Adebisi,

Defendants,

v.

Lakeview Loan Servicing, LLC,

Respondent,

Of whom, Ali Adebisi is the Appellant.

JOINT MOTION TO DISMISS APPEAL AND MEMORANDUM IN SUPPORT OF
RESPONDENTS LAKEVIEW LOAN SERVICING AND WILLIAM HAIGH PORTER

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
Lakeview Loan Servicing, LLC*

AND

D. Malloy McEachin, Jr.
(SC Bar No.: 3794)
180 North Irby Street, MSC-XX
Florence, SC 29501
(843) 665-0135
Malloy@Mceachinlawfirm.com
*Attorney for Respondent
William Haigh Porter*

NOW COMES Respondents, Lakeview Loan Servicing, LLC (“Lakeview”) and William Haigh Porter (“Judge Porter”) (collectively “Respondents”), by and through their respective undersigned attorneys, and pursuant to Rule 260 of the South Carolina Appellate Court Rules, hereby move this Court for an Order dismissing the instant appeal filed by Ali Adebisi (“Appellant”), averring as follows:

BRIEF PROCEDURAL HISTORY

Appellant initiated his appeal on October 30, 2023. Throughout this appeal, Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure¹. On February 15, 2024, Appellant submitted filings purporting to be his initial brief and designation of matter to be included in the record on appeal. Because those filings did not comply with the SCACR other than the case caption, Lakeview moved to dismiss this appeal on February 22, 2024. On March 21, 2024, this Court issued an order denying several motions filed by Appellant and also denying Lakeview’s motion to dismiss the appeal. The March 21, 2024 order found that Appellant’s February 15, 2024 brief and designation failed to comply with Rules 208(b)(1) and 209 of the SCACR. The order directed Appellant to file an initial brief and designation of matter that comply with the SCACR within twenty days from the date of the order, or the appeal would be dismissed.

Appellant filed a Chapter 7 Bankruptcy Petition in the US Bankruptcy Court for the District of South Carolina on March 20, 2024 (SC Bankruptcy Case Number 24-01019-eg). On April 2,

¹ Appellant was provided a first deficiency letter on November 2, 2023, regarding proof of service for his notice of appeal and filing fee. Appellant was provided a second deficiency letter on November 21, 2023, regarding proof of service for his motion to proceed in forma pauperis. Appellant was provided a third deficiency letter on January 18, 2024 regarding the filing fee for his motion for leave to file a SCRCR Rule 60 motion. Appellant also failed to timely submit his initial brief and designation of matter as is evidenced by this Court’s letter dated February 8, 2024. See also this Court’s March 21, 2024 order finding that Appellant’s initial brief and designation did not comply with the SCACR.

2024, this Court issued an order holding the appeal in abeyance during the pendency of Appellant's Chapter 7 Bankruptcy. Appellant received a Chapter 7 discharge in bankruptcy on July 8, 2024, and this Court issued a letter on July 24, 2024 directing Appellant to file his initial brief and designation of matter within twenty days from the date of the letter. On July 30, 2024 Appellant filed documents purporting to be his initial brief and designation of matter. Similar to many of Appellant's previous filings, Appellant's July 30, 2024 initial brief and designation do not comply with the SCACR. Therefore, this Court should dismiss the appeal.

ARGUMENT AND CITATION OF AUTHORITY

Because Appellant has ignored this Court's guidance and explicit instruction, the Court should dismiss his appeal.

"[T]he Appellate Court Rules 'are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.'" *Forner v. Butler*, 319 S.C. 275, 276 n.1, 460 S.E.2d 425, 426 n.1 (1995) (quoting *Henning v. Kaye*, 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992)). "Whenever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court." Rule 260(a), SCACR. 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) ("Appellant [who moved to be allowed to proceed pro se] acknowledged he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence.").

Through his repeated deficiencies at every step of the appellate process, Appellant has demonstrated that he is unable to adhere to the Rules of the Court. Appellant's latest filings, purporting to be his initial brief and designation of matter to be included in the record on appeal, fail in all respects to comply with the SCACR. Appellant's filings are so deficient that they can only be categorized as frivolous filings as they contain none of the content required by the SCACR for Appellant's initial brief and designation. Without these required contents, it is impossible for Respondents to frame its initial brief and designation of matter to be included in the record on appeal. The deficiencies in Appellant's brief also make it impossible for this Court to decipher what error(s) Appellant asserts were made by the trial court. The role of the appellate court is not to retry issues decided against a party in the lower court, but to examine the record and determine if the lower court committed error in its ruling(s). Appellant's brief wholly prevents the appellate court from carrying out this purpose.

Respondents feel it necessary to point out that Appellant has submitted similar filings in multiple State and Federal actions including those outlined below:

1. *Lakeview Loan Servicing, LLC v. Charles Ray Thomas, II a/k/a Chrles Ray Thomas* (2021CP2102234). This was a foreclosure action brought against Appellant in the South Carolina Court of Common Pleas in Florence County. Despite Appellant's sovereign citizen filings, judgment was entered in favor of Lakeview on May 24, 2022. Appellant improperly attempted to remove the foreclosure action to the United States District Court on July 11, 2022. The United States District Court remanded the case to the South Carolina Court of Common Pleas on September 2, 2022. The property was sold at a judicial sale on April 4, 2023.
2. *Charles Ray Thomas II v. Lakeview Loan Care, LLC, Santander Consumer, BBVA, USA* (4:20-cv-04252). This was a civil action filed by Appellant in the United States District Court for the Distract of South Carolina against numerous creditors. Multiple defendants' motions to dismiss were granted on January 6, 2022.

3. *Charles Ray Thomas II v. Fairway Independent Mortgage* (4:19-cv-02799). This was a civil action filed by Appellant in the United States District Court for the District of South Carolina against a creditor. The Defendant's motion to dismiss was granted on May 29, 2020.
4. *Charles Ray Thomas, II v. Craig Brown and William Haigh Porter et al.* (4:22-cv-00963). This was a civil action filed by Appellant in the United States District Court for the District of South Carolina against several defendants related to the foreclosure action. This action was summarily dismissed with prejudice and without issuance of a summons on September 26, 2023, based upon Appellant's failure to respond to a Proper Form Order.
5. *Charles Ray Thomas, II v. William Haigh Porter, et al.* (4:23-cv-1711). This was a civil action filed by Appellant in the United States District Court for the District of South Carolina against sitting South Carolina judges, including Judge Porter, related to the foreclosure action. This action was summarily dismissed with prejudice and without issuance of a summons on September 26, 2023, based upon its frivolous nature.
6. *Ali Adebisi v. William Haigh Porter, et al.* (2023CP2102160). This was a civil action filed by Appellant in the South Carolina Court of Common Pleas in Florence County. The matter was dismissed with prejudice on October 24, 2023, with sanctions granted against Appellant.

Based upon the foregoing, this Court should dismiss the Appeal. *Harkins v. Greenville Cnty.*, 340 S.C. 606, 616, 533 S.E.2d 886, 891 (2000) (affirming trial court decision where appellant failed to satisfy burden of presenting an adequate record on appeal); *Milton v. Richland Cnty.*, No. 2015-MO-046, 2015 S.C. Unpub. LEXIS 45, at 6, 2015 WL 4642832 (S.C. Aug. 5, 2015) (dismissing appeal “[b]ecause [p]etitioner failed to submit a sufficient record, th[e] case present[ed] nothing more than a dispute of a hypothetical character”); *Epps v. Epps*, No. 2012-UP-146, 2012 S.C. App. Unpub. LEXIS 207, at *1 (S.C. Ct. App. Mar. 7, 2012) (dismissing an appeal because procedural defects precluded meaningful review of the appeal). Furthermore, based upon the extraordinary deficiencies in Appellant's initial brief and designation of matter to be included in the record on appeal, and upon Appellant's established history of frivolous filings, Appellant

should not be granted leave to file an amended initial brief or designation of matter to be included in the record on appeal.

CONCLUSION

For the foregoing reasons, Respondents, Lakeview Loan Servicing, LLC and William Haigh Porter, respectfully request that this appeal be dismissed and request such other relief this Court deems just and proper.

Respectfully submitted,

s/Chad W. Burgess
Chad W. Burgess, S.C. Bar No.: 72520
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
(803) 454-3540
Chad.Burgess@BrockandScott.com
Attorney for Respondent
Lakeview Loan Servicing, LLC

AND

s/D. Malloy McEachin, Jr.
D. Malloy McEachin, Jr., SC Bar No.: 3794
180 North Irby Street, MSC-XX
Florence, SC 29501
(843) 665-0135
Malloy@Mceachinlawfirm.com
Attorney for Respondent
William Haigh Porter

Dated: August 14, 2024