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S.C. SUPREME COURT

**IN THE STATE OF SOUTH CAROLINA
THE SUPREME COURT**

**APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar W. Dickson**

Appellate Case No. 2023-001318


Rufus Rivers and Merle Rivers, pro se.....Respondents

VS.

James Smith, Jr.....Petitioner


**RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF
CERTIORARI**

AUGUST 19, 2024



Rufus Rivers, pro se

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Merle Rivers, pro se

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INTRODUCTION

Respondents Rufus Rivers respectfully request this court to deny writ of certiorari on the grounds that there is no conflict in the application of the statute and this matter not being the vehicle for resolving the issues raised by petitioner. This matter falls squarely under adverse possession since respondents have met the elements that are required. The magistrate adjudicated the matter as a summary proceeding when it was not a summary proceeding.

STATEMENT OF THE CASE

Around September 10, 2009, Rufus Rivers and Merle Rivers were granted physical possession of property located at 1429 Legrand Smoak Street, Cordova, South Carolina by Jessie Mae Smith, predecessor, now deceased, without consideration. The Rivers have resided at the property openly, continuously, hostile, exclusively and notorious since moving in. After Mrs. Smith's death, Mr. Smith sent the Rivers a 30-day notice to vacate. The Rivers were never formally notified of the the transfer of ownership to Mr. Smith. After receiving a 30-day notice, the Rivers learned that Mr. Smith had executed a power of attorney and used it to transfer the property to himself. The Rivers responded by sending Mr. Smith a cease and desist letter. Mr. Smith was advised by the Rivers to respond or they would seek legal action in the circuit court. Mr. Smith never responded. The Rivers prepared a summons and complaint and filed it with the circuit court on August 6, 2018 alleging fraudulent transfer of property. The Rivers texted the tracking number and case number to Mr. Smith before mailing him a copy by certified mail which he signed for on August 14, 2018. (See App A) On August 23, 2018 the Rivers were served a rule to show cause with application for ejectment by the sheriff. The documents served were dated by the magistrate's court August 20, 2018, which contradicts Smith's documents in the record. (APP B). In relation to the current matter the Rivers appealed the circuit Court's decision to the Court of Appeals by invoking lack of subject matter jurisdiction, along with no landlord-tenant relationship. The court of appeals determined that no landlord-tenant relationship

landlord-tenant relationship. The court of appeals determined that no landlord-tenant relationship existed between the parties, thereby reversing the lower court's decision holding that the lower court lacked jurisdiction. (See APP C).

ARGUMENT

This is not the vehicle for resolving the questions presented by petitioner. The questions are contrary to settled law and statutory law. The magistrate lacked subject matter jurisdiction as defined by South Carolina Code Of Laws 22-3-20. "No magistrate shall have cognizance..." The magistrate was provided with documentation that the title was being questioned, but she still adjudicated the matter as a summary proceeding. The URLTA only applies to landlord-tenant relationships. It was created to provide guidelines for landlords and tenant agreements. The Court of Appeals determined that there was no landlord-tenant relationship. Before the magistrate(summary court) can adjudicate a matter involving eviction, they must determine that a landlord-tenant relationship exist and if and what rent if any is due. (See APP E)

In this matter there was no landlord-tenant relationship. In the magistrate's return she stated there was a tenant-at-will agreement, which does not add up . Tenant-at-will is not a standalone provision under the URLTA act. First, you must be a tenant and the owner must accept rental payments to establish a tenancy-at-will.(See APP E). None of this exist in this case. Mr. Smith was there when Jessie Mae Smith granted the Rivers possession. Petitioner states that he allowed the respondents to stay there without any documentation to that assertion. The Rivers were allowed to stay there by Jessie Mae Smith. The petitioner never gave any indication that the property was transferred to him, he only sent a 30-day notice indicating he wanted to sell the property. Mr. Smith never indicated to the Rivers that he owned the property and that he intended to sell it. The 30-day notice was when the Rivers found out. At this point this matter falls squarely under adverse possession. The Rivers would have been premature in asserting an adverse possession claim at the beginning of these proceedings. The case is now ripe for consideration.

Rivers presented their reply to the court and Mr. Smith's counsel, Kathleen McDaniel pursuant to South Carolina Code of Laws 22-3-1110. Notwithstanding the Rivers' document, the magistrate ordered ejectment. The ruling was followed by several motions by the Rivers including invoking lack of subject matter jurisdiction and all were denied. The magistrate ordered bond to stay in the form of rental payments of \$700.00 per month which were to be held until the appeals process was concluded. This forced the Rivers to appeal to the circuit court whom affirmed the magistrate's order. The Rivers summons and complaint was being determined by the Master-in-equity simultaneously while appeal to the circuit court was pending. The appeal to the circuit court was continued until the master-in-equity's case was decided. The Master-in-equity dismissed the matter for failure to state a claim where relief could be sought. The circuit followed by affirming the magistrate's decision.

The petitioner cites *Faubel v. Pate* which is different in the context that the appellant was unable to provide sufficient record for the court to render a decision. This was a different interpretation. The petitioner also cites *Rivers v. Brumby* which unlike this case was a landlord-tenant relationship created by the execution of a lease option agreement. The petitioner cites *O'neal v. Fickling* where the court of appeals determined no landlord-tenant relationship existed while citing *Stewart-Jones Co. v. Shehan*, 127 S.C. 451, 121 S.E. 374 (S.C. 1924), settled law by which later a writ of prohibition was requested by O'neale and denied. In *Brumby*, the agreement was that Rivers deposit \$10,000 down payment towards an investment property which would be applied to the purchase price at closing. When Rivers provided Brumby with his broker's information, Brumby immediately began relentlessly calling the broker for updates until the broker declined to assist Rivers. Once Brumby was made aware of the broker's decision, he began attempting to collect rent from Rivers. Rivers sued to have Brumby apply funds to the arrearage or refund the down payment. Rivers was unsuccessful and Brumby regained possession of the property.

In relation to the current matter the Rivers appealed the circuit Court's decision to the Court of

Appeals by invoking lack of subject matter jurisdiction, along with no landlord-tenant relationship. The court of appeals determined that no landlord-tenant relationship existed between the parties, thereby reversing the lower court's decision holding that the lower court lacked jurisdiction. See(APP)

QUESTIONS PRESENTED

I. DID THE COURT OF APPEALS ERR IN HOLDING THAT AN EVICTION PROCEEDING IS A CIVIL MATTER WITHIN THE MEANING OF SOUTH CAROLINA CODE ANN. 22-3-20?

NO, the court of appeals did not err in holding that an eviction proceeding is a civil matter within the meaning of S.C. Code 22-3-20 because they did not rule on that specific issue. All evictions/ejectment proceedings are civil matters. Magistrate Law in Civil Actions explains. (See APP C)

II. DID THE COURT OF APPEALS ERR IN HOLDING THAT THE MAGISTRATE COURT LACKED JURISDICTION OVER THE EVICTION PROCEEDING WHEN THE RESPONDENT PRESENTED BASELESS ASSERTIONS QUESTIONING TITLE?


NO, The court of appeals did not err in holding that the magistrate lacked jurisdiction. The Court of Appeals did not rule on the specific question presented. Pursuant to South Carolina Code 22-3-1110, respondents were in lockstep with the statute. (See APP. D). The statute is mandatory authority and "cannot be waived or conferred by the parties or a higher court". The magistrate failed to follow what was required by statute. In this case limiting her jurisdiction and authority to adjudicate the matter as a summary proceeding. When the Rivers replied with questionable title, the magistrate knew or should have known what the Rivers were asking when they requested bond to insure that they would answer the plaintiff's complaint, if he was to file one, within the specified time frame.

CONCLUSION


Petitioner have not provided any cert-worthy reason for granting of review, instead, has attempted to delay the process by hampering judicial efficiency and alleging that the Court of Appeals has changed or misapplied a statute while asking this court to do the very same thing.(See Hodges vs. Rainey Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000) . Respondents ask this court to deny Writ of Certiorari for all of the foregoing reasons.

August 19, 2024

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