

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Benjamin C.P. Sapp, Special Referee, Circuit Court

Case No. 2023-001394

Deutsche Bank National Trust Company as
Trustee for NovaStar Mortgage Funding Trust,
Series 2006-5 NovaStar Home Equity Loan
Asset-BackedCertificates, Series 2006-5

Respondent,

v.

Terry Lennette Grant

Appellant.

**Request to Sur-Reply to Respondent's Return to Appellant's Motion to Reinstate
Sur-Reply to Respondent's Return**

Appeal No:2023-001394

Honorable Letitia H. Verdin

Sur-Reply to Respondent's Return

As Pro Se, Appellant in the above action and appeal that's before your court since
September 5, 2023, I submit this Request to Sur-Reply to Respondent's Return to my Motion to
Reinstate.

Respondent submitted opposition to my Motion to Reinstate my appeal stating the same

reason from prior filings. Respondent again accused Appellant of repeatedly ignoring the South Carolina Appellate Court Rules (“SCACR”). Respondent stated that Appellant disregards for the SCACR resulted in a March 28, 2024 order dismissing the appeal.

Appellant denies ignoring or disregarding the SCACR. To the contrary, Appellant has done everything in her power to assure that she is following the rules to the best of her ability as a Pro Se litigant. Respondent has once again misrepresented the facts in regards to the March 28, 2024 order dismissing the appeal.

There was apparently an oversight in application of calculations when it comes to filing court documents. Appellant sought the court's second look at its application and that led the court to reinstate her appeal by the following language. “After a careful review”, the court decided to reinstate Appellant’s appeal.

On July 9, 2024, the Court granted Appellant’s request to reinstate my appeal, thereby ruling that Appellant was in compliance with the SCACR. In that same letter/order, the Court requested that Respondent submits its initial brief within 30 days of the date July 9, 2024 letter/order. However, once again, instead of submitting their initial brief, Respondent ask for clarity as to who should be submitting their initial brief.

Respondent has ignored the fact that a reply brief is well overdue from them. Appellant submitted the initial brief and designation of matter on February 26, 2024. Respondent challenged the timeliness of the filing of said brief and the Court once again ruled in Appellant’s favor. As we look further back into this case, we will notice every trickery in the book that

Respondent is using not to address the facts and evidence in this case.

It was the same issue in November 2023 when Respondent challenged the timeliness of Appellant's filing and following Courts Order/Rules. Each time Appellant prevailed whereby the Court ruled in Appellant's favor and allowed this case to move forward as it should.

On July 12, 2024 Respondent requested this so-called clarity. The Court stated that it inadvertently applied this to Respondent when it was supposed to apply to me. Issuing instructions to have an amended initial brief filed within 30 days from the July 15, 2024 letter. August 19, 2024 the Court dismissed this appeal stating that it was not filed according to the letter of July 15, 2024 and SCACR.

ARGUMENT AND CITATION OF AUTHORITY

The dismissal of this appeal was improper based upon the Court's previous practices when it computed the calculation of time to file documents in this case. Appellant has never pointed fingers at anyone; however, she knows that the COurt has ruled in her favor on this issue of filing on numerous occasions throughout this case. Is the Respondent stating that the Court is repeatedly making bad decisions. I think not. The Court stated, After a careful review, it decided to reinstate my appeal.

The Respondent cites *Former 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. Using the same premise, the Judge carefully reviewed the prior dismissal and then reinstated my Appeal.

On or around November 16, 2023 Defendant filed her Initial Brief and Designation of Matter. According to SCRCPP, Respondent were due to file their Reply Brief within a specified time frame. Respondent failed to file their Reply Brief. Instead, Respondent filed a Motion to Dismiss on December 11, 2023.

On December 18, 2023 Appellant filed a Return to Respondent's Motion to Dismiss. Appellant filed a Motion to Stay on December 29, 2023 and Motion to Dismiss. Respondent claims that Appellant failed to submit Initial Brief within time required by SCRCPP and was not in accord with the Rules.

On or around January 5, 2024 Respondent filed a Return to Appellant's Motion to Stay. Appellant replied to the Return on January 11, 2024.

On January 31, 2024 Appellant filed a Motion of Non-Return because Respondent did not file a Return in the five (5) days as required by SCRCPP (Motion to Dismiss).

On February 9, 2024 Court denied Respondent's Motion to Dismiss; however, gave Appellant ten (10) days to submit Amended Initial Brief.

On February 22, 2024 Respondent filed a Renewed Motion to Dismiss stating that Appellant failed to file Amended Initial Brief within Court's specified time within the February 9, 2024's Order.

On February 26, 2024 Appellant filed her Amended Initial Brief and Designation of

Matter which was within the specified time as required by SCRCF. Appellant also filed a Return to Respondent's Motion to Dismiss denying their misrepresentation of facts as to the date of filing Amended Initial Brief and Designation of Matter.

On March 1, 2024 Respondent filed a Reply to Appellant's Return of their Motion to Dismiss.

On March 5, 2024 Appellant submitted Surreply to Motion to Dismiss; however, Appellant had to file a Motion to File Sur-Reply, which was filed on March 8, 2024.

On March 28, 2024 the granted Respondent's Order stating that Appellant did not file within the required ten (10) day specified timeframe.

On April 1, 2024 Appellant filed a Motion to Reinstate appeal because the calculation of the time to file Amended Initial Brief was within the specified time. It was filed timely.

On July 9, 2024 Court of Appeals Order reinstated appellant Appeal, after a careful review, with further instructions for Respondent to file initial brief within 30 days from the date of the July 9, 2024 Order.

As previous filing will show evidence that Appellant filed within time frame given by this court each time. The filing of said documents are as a matter of law allowed to file within specified *time given by said court*. However, it does not include weekends (Saturday, Sunday) nor (Holidays). This court has followed that rule of law throughout this case. What has changed?

Furthermore, Appellant filed her initial brief and designation of matter on November 16, 2023. Appellant also filed her first amended initial brief and designation of matter on February 26, 2024 which was the thirtieth (30) days of this court deadline given by Order/Letter dated

February 9, 2024. Appellant will be filing her 2nd amended initial brief and designation of matter within the courts thirty (30) day deadline; however, in the meantime, the Appellant is THEREFORE stating that:

Here we have that same identical scenario and I am asking the Court to stand firm and consistent with its prior ruling in this case by issuing an Order

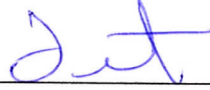
- a) Reinstating my appeal.
- b) Allow this appeal to move forward with me filing my final brief or
- c) Requesting that Respondent file its Reply Brief
- d) In the alternative, examine all documents, evidence and arguments submitted by Defendant and conclude that the lower court erred in granting Plaintiff foreclosure and sale of Defendant's property.

Upon information and belief, Appellant has not exhausted the 30 days as required by law for filing initial brief and designation of matter as evidence of the previous filings within this Case; However,

- 1) Respondent failed to file a Reply to the Motion to Reinstate;
- 2) Respondent failed to Reply to the Sur-Reply;
- 3) Respondent failed to submitted Reply Brief as required by SCRCPP 208(a)3,4;
- 4) Respondent also forfeited the opportunity to file a Reply Brief at this point (SCRCPP 208(b)2:If a respondent does not include his own statement of the case, they shall be bound by the matters stated or alleged in appellant's statement of the case.
- 5) Respondent have been given all kinds of opportunities to not address these matters within this case.

- 6) The Court never stated that the Appellant's amended initial brief and designation of matter filed on February 26, 2024 was insufficient.

Respectfully Submitted



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August 27, 2024

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SIGNATURE PAGE MOTION/SUR-REPLY

RECEIVED

Aug 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

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v.

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Appellant.

PROOF OF SERVICE

**Request to Sur-Reply to Respondent's Return to Appellant's Motion to Reinstate
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This is to certify that I, Terry Lennette Grant sent true copies of Motion/Sur-Reply to the attorney of record named below. A true copy was sent via email of record and/or U.S.Postal Service, with adequate postage prepaid for the following:

Chad W. Burgess, Esq.
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SIGNATURE PAGE MOTION/SUR-REPLY

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Respectfully Submitted



August 27, 2024

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