

RECEIVED

Dec 10 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Case No. 2023-001394-000678

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

Respondent,

v.

Terry Lennette Grant,

Defendants,

Of whom, Terry Lennette Grant is the Appellant.

RENEWED MOTION TO DISMISS APPEAL AND MEMORANDUM IN SUPPORT

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

NOW COMES Respondent Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 NovaStar Home Equity Loan Asset-Backed Certificates, Series 2006-5 (“Deutsche Bank” or “Respondent”), by and through its undersigned attorney, and pursuant to Rule 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order dismissing the instant appeal filed by Terry Lennette Grant (“Appellant”), averring as follows:

BRIEF PROCEDURAL HISTORY

This appeal has twice been dismissed due to Appellant’s willful failure to abide by the SCACR. Following each dismissal, this Court has graciously reinstated the Appeal and given Appellant multiple opportunities to cure the defects in her filings. Appellant has yet again ignored the plain language of the SCACR in her purported final brief and record on appeal. Appellant initially submitted these documents on November 20, 2024. On November 25, 2024, this Court issued a deficiency letter noting various deficiencies contained in Appellant’s final brief and record on appeal. On November 26, 2024, Appellant submitted a new purported record on appeal along with proof of service for the same which does not reflect the date this new filing was served upon counsel for Respondent.

This memorandum will reflect that Appellant’s final brief and record on appeal do not comply with the SCACR. Therefore, this Court should dismiss the appeal.

ARGUMENT AND CITATION OF AUTHORITY

“[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.”).

Despite being given multiple opportunities comply with the SCACR, Appellant has yet again ignored the SCACR and her appeal should be dismissed. *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).

Appellant’s purported record on appeal is deficient in numerous aspects. Initially, the record does not include an index as required by Rule 210(e), SCACR. Further, upon reviewing the entirety of the document, the record fails to include “all matter” designated to be included by

any party” as required by Rule 210 (c), SCACR. (Emphasis added). Noticeably absent are the following matter designated by Respondent:

1. June 12, 2013, Second Amended Complaint
6. Appellant’s October 28, 2016, Answer
8. June 22, 2017, Motion for Summary Judgment, Memorandum in Support, & exhibits - ***Missing exhibit 4 and exhibits out of order.***
9. July 21, 2017, Appellant’s First Motion to Amend Answer & exhibits
10. October 10, 2017, Respondent’s Motion to Amend Complaint
12. November 7, 2017, Motion to Reconsider
14. December 7, 2017, Answer to Amended Complaint
15. February 15, 2018, Appellant’s Second Motion to Amend Answer & exhibits
18. August 15, 2018, Supplemental Memorandum & exhibits
21. May 5, 2020, Motion to Restore & exhibits
23. April 2, 2021, Affidavit in Support of Judgment & exhibits
24. July 15, 2021, Second Motion for Summary Judgment, Memorandum in Support, & exhibits
30. August 25, 2022, Affidavit of Amount Due
31. August 29, 2022, Remittitur
33. October 11, 2022, Appellant’s Motion and Order to Relieve Counsel
34. October 13, 2022, Order Relieving Counsel
36. October 26, 2022, Respondent’s Memorandum in Opposition to Appellant’s Motion for Summary Judgment. - ***Missing Exhibit 6 & exhibits not in order***
37. October 27, 2022, Appellant’s Responses to Respondent’s Requests for Admissions dated April 10, 2017.
42. January 13, 2023, Transcript of Testimony, Deposition of William H. Sloan, Jr. & exhibits - ***Missing all exhibits***

43. February 21, 2023, Order of Reference & Certificates of Service (P. 94-96) missing certificate of service
45. March 15, 2023, Respondent's Memorandum in Opposition to Appellant's March 9, 2023, filing & exhibits
46. April 3, 2023, Affidavit of Amount Due
47. April 21, 2023, Notice of Motion Hearing – Appellant includes the certificate of service but failed to include the Notice of Hearing

Appellant's blatant disregard for the SCAR in putting together the record makes it impossible for Respondent to submit its final brief. Therefore, this appeal should be dismissed.

Appellant's final brief is also deficient. The brief does not reference the record but rather the "ADOM" with "ADOM" presumably referring to Appellant's Designation of Matter. Appellant's failure to reference the record on appeal in her final brief does not comply with Rule 211(b)(1), SCACR. Furthermore, despite being allowed to do so by this Court, Appellant has failed to submit a single final reply brief which incorporates her requested supplements as provided in the Court's Order dated November 13, 2024.

Appellant has been given ample opportunity to abide by the SCACR and, despite this Court's extreme generosity, Appellant continues to ignore the SCACR.

CONCLUSION

For the foregoing reasons, Deutsche Bank respectfully requests that this court no longer allow Appellant to flout the SCACR and this appeal be dismissed. Respondent requests such other and further relief as this Court deems just and proper.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

BROCK AND SCOTT, PLLC



Chad W. Burgess, S.C. Bar No.: 72520
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
(803) 454-3540

*Attorney for Respondent Deutsche Bank
National Trust Company as Trustee for
NovaStar Mortgage Funding Trust, Series
2006-5 NovaStar Home Equity Loan Asset-
Backed Certificates, Series 2006-5*

Dated: December 10, 2024

RECEIVED

Dec 10 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Case No. 2023-001394-000678

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

Respondent,

v.

Terry Lennette Grant,

Defendants,

Of whom, Terry Lennette Grant is the Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 10th, 2024, she served a copy of Respondent's Renewed Motion to Dismiss Appeal and Memorandum in Support, and Certificate of Service by Mail upon the person below by depositing the same in the U.S. Mail with proper postage affixed and addressed as follows:

Terry Lennette Grant
PO Box 21936
Hilton Head Island, SC 29925

Terry Lennette Grant
226 Wild Horse Road
Hilton Head Island, SC 29926

A handwritten signature in blue ink, appearing to read "Anna Maya", is written over a horizontal line.

Anna Maya
BROCK & SCOTT, PLLC