

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

C Holmes

Plaintiff,

v.

Haynesworth Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker,

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) CIVIL ACTION NO: 2007-CP-10-01444

) ORDER DENYING EMERGENCY
) MOTION FOR EXPEDITED ORDER OF
) EXECUTION

RECEIVED

Feb 27 2025

SC Court of Appeals

This May 14, 2020 Emergency Motion for Expediated Order of Execution came before me on January 13, 2025, having been assigned to me on December 30, 2024, by Order of Judge Jennifer McCoy, Chief Administrative Judge of Charleston County. At issue is the Defendant/Petitioner’s petition for sale of Plaintiff/Respondent’s property to satisfy a judgment entered on November 18, 2009, that is now over 15 (fifteen) years old.

The motion is a result of an Unpublished Court of Appeals decision (*Holmes v Haynesworth Sinkler & Boyd, et al*, No. 2024-UP-125, S.C. Ct. App. (April 17, 2024)) (hereinafter “Unpublished Opinion”) reversing¹ Judge McCoy’s ruling in which she, in an Order (on the same motion heard by this Court) filed June 11th, 2020, declined to extend the ten-year execution period² and execute on the Respondent’s property.

¹ Of note: The Court of Appeals specified “Reversed” rather than “Reversed and Remanded”.

² Found in S.C. Code Ann. 15-39-30 (Supp 2003) and confirmed by the Supreme Court in *Gordon v Lancaster*, 425 S.C. 386 (2018)

The Unpublished Opinion, citing federal preemption of the ten-year statute, extends the ten-year period under a specific set of facts related to the automatic Bankruptcy stay under Title 11, Section 362(a)(2) of the United States Code.³ The extension is limited to the period of the automatic stay plus 30 (thirty) days. This calculation (stated in the Unpublished Opinion) yields an adjusted date of June 11th, 2020 (rather than November 18th, 2019) as the final date of active energy in this judgment.

Petitioner seeks to have this Court add additional time to the judgment based on equitable theories associated with delay and improper conduct. Although the Court of Appeals agreed with Defendant's contention that Plaintiff has "hindered its efforts through baseless filings and disregard for the court's orders" (Unpublished Opinion, at p4), there is no caselaw or statute which would allow a further extension beyond that additional time granted by the Court of Appeals in the Unpublished Opinion.

The judgment is expired and is extinguished; therefore the motion is respectfully denied.

So Ordered.

s/ _____
Marvin H Dukes III
Circuit Judge, 14th Circuit

Beaufort, SC
January 15th, 2025

³ The Respondent had sought protection under the Bankruptcy Code in March of 2019



Charleston Common Pleas

Case Caption: C Holmes , plaintiff, et al VS Haynesworth Sinkler & Boyd P A As
Successor Etc , defendant, et al
Case Number: 2007CP1001444
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So Ordered

s/Marvin H. Dukes III #2785