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Mar 12 2025

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

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.

RESPONDENT'S AND RETURN TO APPELLANT'S MARCH 4, 2025, FILING

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 (“Respondent” or “Deutsche Bank”), by and through its undersigned attorney, and pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, hereby submits its Return to the “Statement of Irrefutable facts Before the South Carolina Court of Appeals” filed by Terry Lennette Grant (“Appellant” or “Grant”) on March 4, 2025, averring as follows:

BRIEF PROCEDURAL HISTORY

This matter is an action to foreclose a mortgage on real property in Beaufort County, South Carolina. This appeal has twice been dismissed due to Appellant’s willful failure to abide by the South Carolina Appellate Court Rules (“SCACR” or “Rules”). Following each dismissal, this Court graciously reinstated the Appeal, giving Appellant multiple opportunities to cure the defects in her filings. On December 10, 2024, Respondent filed a renewed motion to dismiss based upon failures in, inter alia, Appellant’s filing of the Record on Appeal and her final brief. Appellant filed a return to Respondent’s renewed motion to dismiss on December 10, 2024. Respondent filed a reply to Appellant’s return on December 16, 2024. On that same date, Appellant filed a request to file a sur-reply together with a proposed sur-reply. On February 5, 2025, this Court issued an order granting Appellant’s request to file a sur-reply and denying Respondent’s motion to dismiss. The order struck Appellant’s corrected final brief filed November 22, 2024, the corrected record on appeal filed on November 25, 2024, and the index for the record on appeal filed by Appellant on December 10, 2024. The order specifically directed that, “[w]ithin thirty days of the date of this order, Appellant shall serve and file an amended record on appeal that complies with Rule 210 of the South Carolina Appellate Court Rules” and further indicated that

“[f]ailure to comply will result in a dismissal”. Instead of filing an amended record on appeal as specifically directed, Appellant filed a document titled “STATEMENT OF IRREFUTABLE FACTS BEFORE THE SOUTH CAROLINA COURT OF APPEALS” on March 4, 2025. To the extent the document is treated as a motion to dismiss the foreclosure action, such a request is improper and should be denied as a matter of law. Respondent is contemporaneously filing a motion to dismiss this appeal based upon Appellant’s continued disregard of the SCACR and this Court’s explicit instruction.

ARGUMENT AND CITATION OF AUTHORITY

“Rule 12(b) requires a defendant to set forth every defense he has in his answer, except those defenses which may be raised by pre-answer motion”. *Glenn v. School Dist. No. Five of Anderson County*, 294 S.C. 530, 534, 366 S.E.2d 47, 49 (Ct. App. 1988). Here, Appellant made no motion to dismiss before the trial court in a pre-answer motion or in her answers submitted before the trial court below. While Appellant’s March 4, 2025, filing includes a request that Respondent’s foreclosure action be dismissed, the legal basis for making such a request is far from clear. The current appeal involves the Special Referee’s granting of Respondent’s motion for summary judgment and denial of Appellant’s competing motion for summary judgment in an order entered June 28, 2023, and the Special Referee’s subsequent denial of Appellant’s motion to reconsider in an order filed September 21, 2023. Despite this Court’s efforts to liberally construe the rules for the benefit of a pro se litigant, Respondent is unsure how a motion to dismiss could be appropriate given the procedural posture of the case. Appellant’s filing provides no clarity as to how her request for dismissal of the foreclosure action would be appropriate at this point in the case.

One issue discussed in Appellant's March 4, 2025, filing is the issue of standing. This issue has been raised, ruled upon, and initially briefed in this appeal. *See* Special Referee's June 28, 2023, order, Pp. 7-9 and the parties' respective initial briefs. Because it is an issue on appeal, standing cannot form the basis for a motion to dismiss.

The remainder of Appellant's March 4, 2025, filing appear to be frivolous sovereign-citizen assertions. For the purposes of this return, the term sovereign citizen is used to refer to individuals who are members of—or involved with—one of several loosely associated and diverse groups with varying belief systems that are generally anti-government and anti-authority. Sovereign-citizen filings are commonly interposed for the illegitimate purposes of delaying or denying the institution of justice in criminal and civil matters. Such filings are often voluminous and contain no cognizable legal theory in presenting their argument. Here, Appellant's reference to herself as Terry Lennette Grant, Sui Juris beneficiary of **TERRY LENNETTE GRANT**, Appellant is a strong indication of the sovereign-citizen nature of her filing. Any assertion that Respondent should have included Terry Lennette Grant as the beneficiary for the TERRY LENNETTE Trust account is absurd and frivolous on its face and cannot form the basis for a request to dismiss Respondent's foreclosure action. Appellant's reference to the doctrine of "lura novit curia" is equally absurd and frivolous as Appellant provides absolutely no context as to how this Court of the Court below failed to apply the law correctly or how this doctrine would apply to form the basis for requesting that the foreclosure be dismissed had such a request been made at an appropriate time and in an appropriate manner. This Court should appropriately disregard Appellant's sovereign-citizen assertions and deny her request to dismiss the foreclosure action in its entirety.

CONCLUSION

Based upon the foregoing, Respondent respectfully requests that, to the extent Appellant's March 4, 2025 "STATEMENT OF IRREFUTABLE FACTS BEFORE THE SOUTH CAROLINA COURT OF APPEALS" be construed as a motion to dismiss Respondent's foreclosure action, that such request be denied in its entirety. Respondent requests such further relief as this Court deems appropriate.

Respectfully submitted,

BROCK AND SCOTT, PLLC

s/Chad W. Burgess

Chad W. Burgess, S.C. Bar No.: 72520

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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: March 12, 2025

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Of whom, Terry Lennette Grant is the Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 12, 2025, she served a copy of Respondent's Return to Appellant's March 4, 2025, Filing, and Certificate of Service 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



Lauren Browder
BROCK & SCOTT, PLLC