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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. 2023-001394-000678

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 (“Respondent” or “Deutsche Bank”), 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” or “Grant”), 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. Because Appellant has yet again failed to comply with the SCACR and this Court’s explicit instruction, her appeal should be dismissed.

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.”).

This Court’s February 5, 2025, order could not have been clearer. Appellant was directed to file an amended record on appeal that complies with Rule 210, SCACR and instructed that failure to comply would result in dismissal. In two separate footnotes to the order, Appellant was cautioned to thoroughly review the SCACR to ensure compliance. Rather than file an amended record on appeal as instructed, Appellant filed her “STATEMENT OF IRREFUTABLE FACTS BEFORE THE SOUTH CAROLINA COURT OF APPEALS” on March 4, 2025, effectively thumbing her nose at this Court’s extreme generosity and begging this Court to dismiss her appeal. Because Appellant has yet again ignored the SCACR and this Court’s explicit instructions, 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).

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this appeal be dismissed. Respondent requests such other and further relief as this Court deems just and proper.

Respectfully submitted,

BROCK AND SCOTT, PLLC

s/Chad W. Burgess

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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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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on march 12, 2025, 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



Lauren Browder
BROCK & SCOTT, PLLC