

RECEIVED

May 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

The Honorable Dale E. Van Slambrook, Master-in-Equity

Common Pleas Case No.: 2014-CP-08-00321
Appellate Case No.: 2024-000658

Edgefield Holdings, LLC,

Respondent,

v.

Christian E. Hamlin,

Appellant.

APPELLANT'S FINAL REPLY BRIEF

May 20, 2025

/s/ Paul B. Ferrara, III
Paul B. Ferrara, III
S.C. Bar No. 70511
8887 Old University Blvd.
North Charleston, SC 29406
(843) 569-5511
Attorney for Appellant

TABLE OF CONTENTS

TABLE OF CONTENTS 1

TABLE OF AUTHORITIES 2

STATEMENT OF ISSUES 3

INTRODUCTION 4

ARGUMENT 4

I. A COURT ORDER FILED WITHIN THE TEN-YEAR STATUTORY PERIOD DOES NOT PRESERVE A JUDGMENT ABSENT ACTUAL EXECUTION OR ATTACHMENT CONCLUDING THE JUDGMENT WITHIN THE TEN-YEAR STATUTORY PERIOD. 4

II. RESPONDENT’S POLICY ARGUMENTS ARE IRRELEVANT TO THE STATUTORY MANDATE..... 6

III. THE APPEAL IS NOT MOOT BECAUSE THE ORDERS BELOW REMAIN LEGALLY EFFECTIVE AND COLLATERALLY IMPACTFUL. 7

CONCLUSION..... 8

TABLE OF AUTHORITIES

CASES

Curtis v. State, 345 S.C. 557, 549 S.E.2d 591 (2001)7
Gordon v. Lancaster, 425 S.C. 386, 823 S.E.2d 173 (2018).....4, 5, 7
Linda Mc, 390 S.C. 543, 703 S.E.2d 499 (2010).....7
United States Rubber Co. v. McManus, 211 S.C. 342, 45 S.E.2d 335 (1947)5, 6
United States v. Southern Growth Indus., Inc., 251 S.C. 404, 162 S.E.2d 849 (1968)5

STATUTES

S.C. Code Ann. § 15-39-1004, 5
S.C. Code Ann. § 15-39-304

STATEMENT OF ISSUES

- I. A COURT ORDER FILED WITHIN THE TEN-YEAR STATUTORY PERIOD DOES NOT PRESERVE A JUDGMENT ABSENT ACTUAL EXECUTION OR ATTACHMENT CONCLUDING THE JUDGMENT WITHIN THE TEN-YEAR STATUTORY PERIOD.
- II. RESPONDENT'S POLICY ARGUMENTS ARE IRRELEVANT TO THE STATUTORY MANDATE.
- III. THE APPEAL IS NOT MOOT BECAUSE THE ORDERS BELOW REMAIN LEGALLY EFFECTIVE AND COLLATERALLY IMPACTFUL.

INTRODUCTION

Respondent's position misstates the controlling law under South Carolina's execution statutes. The argument that a judgment creditor may execute a judgment after its ten-year statutory expiration has ran merely because an order was entered within the ten-year period conflicts with the plain language of S.C. Code Ann. § 15-39-30 and S.C. Code Ann. § 15-39-100, and the clear holding of *Gordon v. Lancaster*, 425 S.C. 386, 823 S.E.2d 173 (2018).

A judgment that reaches the end of its statutory life without execution to conclusion is void. Orders issued after that date, even if styled as clarifying or procedural, are unenforceable. Respondent's reliance on equitable arguments and policy considerations is misplaced. The General Assembly has prescribed a bright-line rule, and the judiciary is not authorized to alter it.

ARGUMENT

I. A COURT ORDER FILED WITHIN THE TEN-YEAR STATUTORY PERIOD DOES NOT PRESERVE A JUDGMENT ABSENT ACTUAL EXECUTION OR ATTACHMENT CONCLUDING THE JUDGMENT WITHIN THE TEN-YEAR STATUTORY PERIOD.

South Carolina law imposes a strict ten-year limit on the enforcement of judgments. S.C. Code Ann. § 15-39-30 provides that executions, "may issue... at any time within ten years from the date of the original entry thereof." S.C. Code Ann. § 15-39-30. In *Gordon v. Lancaster*, the South Carolina Supreme Court reaffirmed that this statute imposes a bright-line rule; therefore, a judgment expires after ten years and cannot be revived or extended by judicial discretion. *Gordon*, 425 S.C. at 393.

In *Gordon*, the Supreme Court expressly overruled *Linda Mc Co. v. Shore*, rejecting the notion that taking action to enforce a judgment within the ten-year period, such as filing for supplemental proceedings or obtaining a court order, preserves the judgment's enforceability beyond its expiration after ten years. The South Carolina Supreme Court in *Gordon* explicitly held,

"We decline to judicially adopt an exception to the bright-line rule that a judgment expires after ten years from its enrollment." *Gordon*, 425 S.C. at 393.

Moreover, South Carolina law requires that execution be perfected through actual levy or attachment before expiration. *See* S.C. Code Ann. § 15-39-100; *see also United States v. Southern Growth Indus., Inc.*, 251 S.C. 404, 408, 162 S.E.2d 849 (1968). A judgment creditor must reduce the lien to possession, therefore concluding the debt via attachment, levy, and execution. An unexecuted order, even one entered within ten years, does not satisfy this requirement under *Gordon*.

This principle finds further support in *United States Rubber Co. v. McManus*, 211 S.C. 342, 45 S.E.2d 335 (1947), where the Supreme Court held that a judgment more than ten years old is no longer a vested right, and cannot be revived by judicial action alone. The Court emphasized that a judgment which has not been enforced becomes "dormant" and unenforceable absent full compliance with statutory requirements. *McManus* in furtherance of this principle states, "More than ten years having elapsed since the judgment in question was rendered, it had lost its effectiveness as a lien and had become dormant. No execution could have been issued upon it..." *Id.* at 348.

Here, no levy or attachment occurred before February 17, 2024. The February 9 order merely authorized relief and it did not bind property or effectuate execution. Therefore, the judgment expired by operation of law, and the March 28 order, relying on the expired judgment, is void.

The longstanding principles regarding a failure to act within the statutory period is reinforced by *United States Rubber Co. v. McManus*, where the South Carolina Supreme Court addressed the legal consequences of failing to act on a judgment. Although *McManus* predates the

current codification of S.C. Code Ann. § 15-39-30 and S.C. Code Ann. § 15-39-100, the reasoning therein aligns with the present bright-line rule reaffirmed in *Gordon*. In *McManus*, the Court held that a judgment more than ten years old, "had lost its effectiveness as a lien and had become dormant." *McManus*, 211 S.C. at 348.

The S.C. Supreme Court explained that such a judgment is not a vested right, but only an inchoate or potential cause of action, dependent on full compliance with statutory enforcement procedures. "Under the law, there was no vested right to sue until the statutory requirements had been complied with. The granting of leave constituted an essential element of the cause of action and without it no cause of action existed." *Id.*

The foundation in *McManus* supports the current statutory framework, under which a judgment must be executed and enforced through attachment or levy within ten years. Once that window closes, there is no right to enforce the judgment. Moreover, regarding the now repealed revival statutes at issue in *McManus*, today South Carolina law provides no mechanism to breathe life back into an expired judgment. The judgment in this case expired by operation of law, and the February 9 and March 28 orders, based solely on that expired judgment, are void and unenforceable.

II. RESPONDENT'S POLICY ARGUMENTS ARE IRRELEVANT TO THE STATUTORY MANDATE.

Respondent argues that Appellant should not benefit from alleged delay tactics and that courts should prevent debtors from frustrating enforcement through procedural maneuvering. These arguments, while rhetorically appealing, do not overcome controlling precedent.

In *Gordon*, the Court rejected similar equitable reasoning, emphasizing that the ten-year limitation is absolute and not subject to judicial modification: "While we appreciate the compelling

facts... the decision [in *Linda Mc*] has created confusion... Accordingly, we overrule it and return to the traditional bright-line rule." *Gordon*, 425 S.C. at 392.

The General Assembly is the appropriate body to address perceived unfairness in the statutory framework. As the Court made clear, "policy concerns regarding this provision [are] to [be] left to the General Assembly." *Id.* Thus, the judiciary cannot carve out exceptions simply because a creditor encountered litigation delay.

No matter how aggressively a creditor pursues enforcement, the judgment must be fully executed, not merely pursued or requested, before the statutory deadline. Respondent's arguments urge this Court to reintroduce the very exception the Supreme Court has already rejected in *Gordon* and *McManus*.

III. THE APPEAL IS NOT MOOT BECAUSE THE ORDERS BELOW REMAIN LEGALLY EFFECTIVE AND COLLATERALLY IMPACTFUL.

The Respondent asserts this appeal is moot because it no longer seeks to enforce the February 9 or March 28 orders. However, the orders remain of record and, absent reversal, continue to impose legal consequences on Appellant and others similarly situated.

South Carolina courts have long held that an appeal is not moot where a decision may have collateral legal consequences. *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001); *Linda Mc*, 390 S.C. 543, 558, 703 S.E.2d 499, 506 (2010). An appellate ruling would clarify the scope of the judgment's expiration and prevent confusion in future litigation.

Moreover, this issue is capable of repetition but evading review. Judgment creditors routinely seek supplemental relief near the end of a judgment's lifespan, and lower courts need guidance on whether orders alone suffice. This Court's decision will impact enforcement practices across South Carolina.

CONCLUSION

For the foregoing reasons, the judgment expired on February 17, 2024, and no execution or attachment occurred before that date, the Orders below must be reversed. The law requires strict adherence to the ten-year limit, and Respondent's equitable arguments cannot override it.

Appellant respectfully requests that the Court reverse the February 9, 2024 and March 28, 2024 Orders.

FERRARA LAW FIRM, PLLC

/s/ Paul B. Ferrara, III
Paul B. Ferrara, III (SC Bar No. 70511)
8887 Old University Blvd.
North Charleston, SC 29406
(843) 569-5511/ (843) 569-5411 fax
paul@ferraralawfirm.net
Attorney for Appellant

North Charleston, SC
April 9, 2025

RECEIVED

May 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

The Honorable Dale E. Van Slambrook, Master-in-Equity

Common Pleas Case No.: 2014-CP-08-00321
Appellate Case No.: 2024-000658

Edgefield Holdings, LLC,

Respondent,

v.

Christian E. Hamlin,

Appellant.

PROOF OF SERVICE

I certify that I have served the Appellant's Final Reply Brief on Lawrence M. Hershon, Esq., via email to lawrence@hershonlawfirm.com, the Attorney for Respondent on May 20, 2025.

North Charleston, SC
May 20, 2025

/s/ Paul B. Ferrara, III
Paul B. Ferrara, III
S.C. Bar No. 70511
8887 Old University Blvd.
North Charleston, SC 29406
(843) 569-5511
Attorney for Appellant

Ferrara Law Firm, PLLC
8887 Old University Blvd.
North Charleston, SC 29406
(843) 569-5511 / Fax (843) 569-5411

*Paul B. Ferrara, III**
*Janel K. Ferrara**
**(also Admitted in N.C.)*

May 20, 2025

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Edgefield Holdings, LLC v. Christian E. Hamlin*
Common Pleas Case No.: 2014-CP-08-00321
Appellate Case No.: 2024-000658

Dear Ms. Kitchings:

Please find a bound copy of the Appellant's Reply Brief, along with proof of service regarding the same for filing

Sincerely,

FERRARA LAW FIRM, PLLC

/s/ Paul B. Ferrara, III

Paul B. Ferrara, III

Enclosures

cc: Lawrence M. Hershon, Esq.,
via email to lawrence@hershonlawfirm.com.
1565 Sam Rittenberg Blvd., Suite 103
Charleston, SC 29407
Attorney for Respondent