

The South Carolina Court of Appeals

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, Appellant.

Appellate Case No. 2023-001394

ORDER

On March 4, 2025, Appellant filed a document titled "Statement of Irrefutable Facts," in which she requested this court "dismiss the entire foreclosure action" and sanction Respondent. Respondent filed a return opposing Appellant's requests. After careful consideration, we deny Appellant's motion. This court will decide the merits of the appeal after receiving full briefing and the record on appeal.

On March 12, 2025, Respondent filed a renewed motion to dismiss the appeal because Appellant failed to comply with this court's February 5, 2025 order to file an amended record on appeal that complies with Rule 210 of the South Carolina Appellate Court Rules within thirty days of the order. Appellant filed a return, arguing that because she filed the document titled "Statement of Irrefutable Facts," in which she requested the dismissal of the underlying foreclosure action one day prior to the due date of the amended record on appeal, the time limits for the appeal were held in abeyance. Appellant requested this court sanction Respondent for its frivolous filings. Respondent filed a reply, arguing Appellant's motion did not stay the time limits because she did not file a motion to dismiss the appeal. Respondent also opposed Appellant's request for sanctions. After careful consideration, we deny Respondent's renewed motion to dismiss the appeal. This court may have inadvertently held the appeal in abeyance by treating Appellant's "Statement" as a motion to dismiss the underlying foreclosure action. *See* Rule 240, SCACR ("[T]he time limits imposed by these Rules shall not be stayed by the filing of a

motion or petition. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided."). Within ten 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. Failure to comply will result in dismissal of this appeal. No further motions will stay this deadline unless ordered by the court.

On April 1, 2025, Appellant filed a motion to file out of time to compel a full accounting of all trust transactions and for lawful sanctions for noncompliance. On April 10, 2025, Respondent filed a return, opposing Grant's motion. On April 14, 2025, Appellant filed a supplement to her motion, which we have construed as a reply to Respondent's return. After careful consideration, we deny Appellant's motion.

On April 14, 2025, Appellant also filed a petition for a writ of mandamus to compel the appropriate authorities to perform their ministerial duties of investigating and addressing misconduct allegedly committed by Respondent's counsel. After careful consideration, we deny Appellant's motion. *See Wilson v. Preston*, 378 S.C. 348, 354, 662 S.E.2d 580, 582 (2008) ("The primary purpose of a writ of mandamus is to enforce an established right and to enforce a corresponding imperative duty created or imposed by law."); *id.* at 354, 662 S.E.2d at 583 ("To obtain a writ of mandamus requiring the performance of an act, the petitioner must show: (1) a duty of respondent to perform the act; (2) the ministerial nature of the act; (3) the petitioner's specific legal right for which discharge of the duty is necessary; and (4) a lack of any other legal remedy."); *id.* ("Mandamus is based on the theory that an officer charged with a purely ministerial duty can be compelled to perform that duty in case of refusal."); *id.* ("The duty is ministerial when . . . it is defined by law with such precision as to leave nothing to the exercise of discretion."); *id.* ("In contrast, a quasi-judicial duty requires the exercise of reason in the adaptation of means to an end, and discretion in determining how or whether the act shall be done or the course pursued."); *City of Rock Hill v. Thompson*, 349 S.C. 197, 200, 563 S.E.2d 101, 103 (2002) ("Issuance of a particular decision by a judge is typically a matter of discretion and, therefore, not proper for mandamus."); *Strickland v. Richland Co. Legis. Delegation*, 440 S.C. 438, 446, 892 S.E.2d 288, 292 (2023) (explaining that "[w]hen the legal right is doubtful, or the performance of duty rests in discretion, or when there is another adequate remedy,' a court must not issue a writ of mandamus" (quoting *City of Rock Hill*, 349 S.C. at 199-200, 563 S.E.2d at 102)).



FOR THE COURT

Columbia, South Carolina

FILED
May 29 2025

cc:

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