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Aug 18 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 RETURN TO APPELLANT'S MOTION TO FILE A NEWLY FORMATED
AMENDED RECORD ON APPEAL

Chad W. Burgess, Esq.
(S.C. Bar No.: 72520)
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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 motion to amend the record on appeal filed by Terry Lennette Grant (“Appellant” or “Grant”) on July 7, 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. Respondent has filed multiple motions to dismiss this appeal based upon Appellant’s failure to abide by the SCACR and this Court’s explicit instruction at essentially every step of the appellate process.

The latest deficiencies are related to the record on appeal. Appellant initially submitted a deficient record on appeal on November 22, 2024, and a corrected record on appeal on November 25, 2024. Respondent filed a motion to dismiss the appeal on December 10, 2024, on the grounds that Appellant failed to include items designated by Respondent’s to be included in the record on appeal. In its motion, the Respondent listed each item Appellant omitted from the record on appeal.

This Court denied Respondent’s motion to dismiss the appeal on February 5, 2025. 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. In response, Respondent filed a renewed motion to dismiss on March 12, 2025. 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 14, 2025, Appellant filed a petition for a writ of mandamus. The Respondent opposed both motions.

On May 29, 2025, this Court denied the parties’ respective motions and ordered that, “[w]ithin 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 June 9, 2025, Appellant submitted an amended record on appeal which consisted of four volumes (1,104 pages). Just like her previous record, Appellant’s amended record was deficient, resulting in a deficiency letter filed June 10, 2025. On June 20, 2025, Appellant submitted a second amended record on appeal that apparently condensed the record down from four volumes to three with the index still showing 1,104 pages. On June 25, 2025, this Court issued a deficiency letter regarding the June 20, 2025, second amended record on appeal. In response, on June 26, 2025, Appellant submitted an email and attachments requesting that the Court “accept the Amended Record on Appeal as it was corrected.”

Because Appellant’s amended records on appeal continued to omit certain items designated by Respondent to be included in the record on appeal, Respondent filed a motion to supplement the record on appeal on June 27, 2025, together with a proposed index and documents. Respondent numbered its proposed supplemental documents beginning with page 1,105 because Appellant’s previous attempts at providing the record consistently ended with page 1,104. Respondent’s proposed supplement to the record on appeal ends with page 1,339. Respondent’s motion also requested an extension of time to file its final brief until twenty days after a record on appeal that complies with the SCACR has been filed. Appellant’s motion to file her “newly formatted amended record on appeal” was submitted on July 7, 2025.

While Appellant asserts she is proceeding in good faith, her ability to follow the rules is seriously in doubt. Respondent appreciates that Appellant appears willing to include its proposed supplement in the final record on appeal; however, Appellant has had at least three attempts to submit a record on appeal that complies with the SCACR and, nearly nine months after her initial attempt to submit a record on appeal, no record on appeal that complies with the SCACR has filed. Respondent remains ready, willing, and able to submit its final brief once a record on appeal that complies with the SCACR has been filed.

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.”).

As Respondent has argued previously, Appellant’s failure to abide by the SCACR should result in dismissal of her appeal. *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).

After having been given at least three opportunities to submit a SCACR compliant record on appeal, Appellant seeks yet another bite at the apple. It is unlikely that Appellant will submit a SCACR compliant record on appeal if her motion is granted.

CONCLUSION

Appellant has failed to abide by the SCACR at nearly every turn, though she’s graciously been given countless chances to do so. Appellant has had nearly nine months and three failed

attempts to submit a SCACR compliant record on appeal, and it is highly unlikely that further leave will result in compliance with the Rules. Therefore, Appellant's motion should be denied. Respondent requests such further relief as this Court deems appropriate.

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
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Dated: August 18, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on AUGUST 18, 2025, she served a copy of Respondent's Return to Appellant's motion to file a newly formatted amended record on appeal, 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