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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Joe M. Crosby, Master-In-Equity Judge

Civil Action No.: 2023-CP-22-00531
Appellate Case No.: 2025-000850

W.C. Jennings Company, Inc., Plaintiff,

v.

Joseph Failla, Renee Failla, and Anderson Brothers Bank, Defendants,

AND

Anderson Brothers Bank, CounterClaim/Cross-Claim Plaintiff,

v.

W.C. Jennings Company, Inc., Counterclaim Defendant,

Joseph Failla and Renee Failla a/k/a Renee F. Failla, Cross-Claim Defendants,

of which W.C. Jennings Company, Inc., and Anderson Brothers Bank are the Respondents, and
Joseph Failla and Renee Failla are the Appellants.

INITIAL BRIEF OF RESPONDENT W.C. JENNINGS COMPANY, INC.

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October 24, 2025

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ISSUE PRESENTED

The master-in-equity established a date certain for the trial of this case for March 24, 2025 at 11:00 a.m. before the Honorable Joe M. Crosby, Master-in-Equity for Georgetown County, South Carolina, at the Georgetown County Courthouse located at 401 Cleland Street, Courtroom 2-C, Georgetown, South Carolina 29442. On March 13, 2025 Appellants filed a Motion for Continuance to obtain legal counsel and to take care of his elderly mother. On December 23, 2024 the Appellants filed a Motion for Continuance to obtain legal counsel also alleging that notice of the hearing was sent to the wrong address. The case was called for trial on March 24, 2025, with the Respondents, W.C. Jennings Company, Inc., and Anderson Brothers Bank, present, along with their respective attorneys. The Appellants did not appear but were properly noticed of the hearing. The motion for continuance was considered by the Master-in-Equity and was denied. The Respondents presented their cases, and appropriate relief was granted. Did Judge Crosby abuse his discretion by failing to grant the Appellants a continuance?

STATEMENT OF THE CASE

This case involves two separate actions filed by the Respondents. First, the Respondent W.C. Jennings Company, Inc. filed a breach of contract and mechanics lien foreclosure against the Appellants for unpaid materials and labor for the construction of a residence on real property owned by the Appellants on July 7, 2023. (R. p. ___, Complaint) After this action was filed, the Appellants filed a pro se answer to Respondent W.C. Jennings Company, Inc., denying the relief requested on August 7, 2023. (R. p. ___, Answer) Respondent, Anderson Brothers Bank, filed an action for mortgage foreclosure due to non-payment of a promissory note executed by the Appellants in favor of the Respondent, Anderson Brothers Bank. (R. p. ___, Counterclaim and Crossclaim)

A mediation was scheduled on February 21, 2024 with a duly qualified mediator, Charles Nation. (R. p. ___ Notice of Mediation) The Appellants failed to appear and participate in this mediation even though the Respondent, W.C. Jennings, Co., attended along with its counsel. (R. p. ___, Mediation Results Report February 21, 2024) The Respondent W.C. Jennings Company, Inc. filed a motion for the matter to be referred to the Master-in-Equity for Georgetown County on January 4, 2024. (R.p. ___, Motion for Reference) The Motion for the referral to the Master-in-Equity was to be heard on February 23, 2024. On February 12, 2024, the Appellants filed a Motion for Continuance to obtain legal counsel. (R.p. ___, Motion for Continuance) On February 22, 2024, the Court continued the motion for referral to the next available court term to allow the Appellants to obtain legal counsel. (R. p. ___, Form 4 Order February 22, 2024) The Appellants again filed a Motion for Continuance for the purpose of obtaining legal counsel on April 15, 2024. (R.p. ___, Motion for Continuance) The Court granted this Motion for continuance on April 17, 2024. On May 23, 2024, the court finally heard the Motion to Refer, which was granted by order from the Honorable Joyce Newman. (R. p. ___, Form 4 Order April 17, 2024) The matter was initially scheduled for a final hearing before the Honorable Joe M. Crosby on January 13, 2025. The Appellants again filed a Motion for Continuance to obtain legal counsel on December 23, 2024. (R.p. ___, Motion for Continuance) The Respondents postponed yet another hearing and rescheduled the final hearing to March 24, 2025. The Appellants filed another Motion for Continuance for the March 24, 2025 hearing on March 12, 2025. (R.p. ___, Motion for Continuance) This motion was filed twelve (12) days before the hearing. The matter was called for trial on March 24, 2025, with the Respondent W.C. Jennings Company, Inc., and its attorney in attendance, as well as the Respondent Anderson Brothers Bank and its attorney. The Appellants failed to appear for the final hearing. The Court entertained the Appellants' Motion for Continuance but denied it. The Court noted that the

Appellants had notice of the final hearing, as evidenced by filing the Motion for Continuance on March 12, 2025.

The court then heard testimony from a representative of the Respondent Anderson Brothers Bank and from the Respondent W.C. Jennings Company, Inc.. As a result of the testimony from the Respondents as well as the exhibits filed with the Court, the Honorable Joe M. Crosby issued a final order. (R.p. ___, Order dated April 16, 2024) The Respondent, W.C. Jennings Company Inc., subsequently filed, with leave from this Court, a Motion to Alter or Amend the final order. This matter was heard by the Honorable Joe M. Crosby. The motion was granted and an Amended Order was issued on October 20, 2025.(R.p. ___, Order dated April 16, 2024)

STANDARD OF REVIEW

Whether to grant a continuance of trial is committed to a trial court's sound discretion. *See Jackson v. Speed*, 326 S.C. 289, 309, 486 S.E.2d 750, 760 (1997) (“A motion for continuance is within the sound discretion of the trial court and the ruling will not be reversed without a clear showing of abuse.”)

ARGUMENTS AND AUTHORITIES

I. The Master-in-Equity did not abuse its discretion in denying the Appellants' motion to continue the trial.

The sole issue presented for the Court's review involves the Master-in-Equity's denial of the Appellants' last-minute request to continue the trial to another date. The Appellants' attack on the Master-in-Equity's authority to manage its own trial schedule is misguided, as the law is clear that the bar for reversing such a discretionary decision is extremely high. Nothing in the record suggests that Judge Crosby abused his discretion when he moved forward with the final hearing that was adequately noticed to the Appellants.

A. The Master-in-Equity rightfully ordered this matter to proceed because the Appellant had adequate notice of the trial date, numerous continuances were granted during the pendency of the matter to the Respondents to obtain counsel, the Respondent had failed to attend the properly noticed mediation of the claim, and the Respondents appeared to present their claims.

The Supreme Court recently reminded that “a continuance is not a matter of right, but of discretion,” and warned that parties “assume[] the risk” that their requests for a continuance may be denied. *Trotter v. Trane Coil Facility*, 393 S.C. 637, 649, 714 S.E.2d 289, 195 (2011). Moreover where a court denies a continuance request, an appellate court will make “[e]very reasonable presumption in favor of a proper exercise of the court’s discretion” to manage its docket. *Id.* at 650, 714 S.E.2d at 295 (quoting 17 C.J.S. *Continuances* § 5 (2011)). Accordingly, “reversals of continuance are about as rare as the proverbial hens’ teeth.” *State v. Lytchfield*, 230 S.C. 505, 209, 95 S.E.2d 857, 859 (1957).

Nothing in the record demonstrates that Judge Crosby abused his discretion in denying the Appellants' latest attempt to continue the trial from the date scheduled. The record shows that the Appellants had filed their first Motion for a Continuance to obtain legal counsel for this matter on February 12, 2024, on the Respondents' motion to refer the matter to the master-in-equity. The Appellants filed the second Motion for Continuance on April 15, 2024, on the same grounds. The Appellants filed the third Motion for Continuance on December 23, 2024, on the same grounds. The Appellants filed their fourth Motion for Continuance on March 13, 2025. The Appellants filed four separate Motions for Continuance for various proceedings in this matter, all based upon their request to obtain legal counsel to represent them in this matter. These motions spanned over thirteen (13) months during the litigation in this matter. Additionally, the Appellants failed to appear for the mediation scheduled and noticed adequately by the mediator Charles Nation on July 5, 2024.

Against this background, there cannot be any legitimate dispute that Judge Crosby was well within his discretion to deny the Appellants' continuance requests. The case was properly noticed for trial and was served on the Appellants. The Appellants' motion for continuance was filed twelve (12) days before the final hearing. The Appellants cannot argue that they did not have notice of the final hearing. His decision to move forward with the final hearing reflects sound stewardship of public resources, protection of the parties' expectancy interests, and the efficient, predictable administration of justice. This hardly amounts to an abuse of discretion, especially because of the Appellants' dilatory approach and constant motions for continuances filed in this case.

B. The Appellant did not “present any evidence of good and sufficient cause” for a continuance and the decision of the court should not be overturned on appeal absent a clear showing of abuse of discretion.

Not only does this case not meet the high “abuse of discretion” standard, the Appellants did not carry their burden of following the applicable rules when requesting a continuance.¹ Rule 40(i), SCRPC vests the court with discretion to grant a continuance for trial “for good and sufficient cause.” The Appellants failed to provide the court with any substantiated proof or showing of “good and sufficient cause” for a continuance. The latest motion for continuance simply requested the continuance to allow the Appellants to obtain legal counsel and for the first time indicated that he was leaving the state of South Carolina for two to three months to assist his cousin in the care for his ninety (96) year older grandmother. He further noted in his motion that once he obtained counsel, he would notify the court and attorneys involved in the case.

¹ Though the Appellant's failure to comply with Rule 40, SCRPC, was not cited as a basis for the master-in-equity's ruling, it is an additional basis for affirming the lower court's decision that appears in the record. Accordingly, the Court may properly consider this issue. *See* Rule 220(c), SCACR (“The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.”)

The failure to continue the case to allow the Appellants to obtain legal counsel does not demonstrate “good and sufficient cause” for a continuance. Furthermore, assisting a family member in caring for a grandparent for two to three months, however well-intended, does not give rise to good and sufficient cause for a continuance. The record demonstrates that the Appellants have filed on four occasions within a thirteen (13) month period the exact same requests for continuances to obtain legal counsel. The record clearly demonstrates that the Appellants had adequate time to secure legal representation in this matter, even though it is neither required or a right protected for the the Appellants. Additionally, the showing of “good and sufficient cause” should be made through affidavits, oral testimony, or other evidence in the record. None exists in this appeal.

CONCLUSION

Over one hundred years ago, the Supreme Court pontificated that “[o]ne of the strongest criticisms of the administration of law relates to many delays in the trial of cases. Parties in the criminal and civil Courts should be ready to try their cases promptly.” *Bond v. Corbin*, 68 S.C.294, 296, 47 S.E. at 374 (quoting *State v. Box*, 66 S.C. 402, 404, 44 S.E. 969, 970 (1903)). Judge Crosby satisfied his responsibilities to these long-established beliefs when he declined to let a defendant further delay trial in this two-year-old case after being put on notice of the trial date. Certainly, the Appellants had adequate time to secure legal counsel within this time period. The rulings were well within Judge Croby’s discretion, and they should be affirmed accordingly.

*****Signature Page to Follow*****

Respectfully submitted,

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