

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

Appellant Case # 2013-002311

RECEIVED

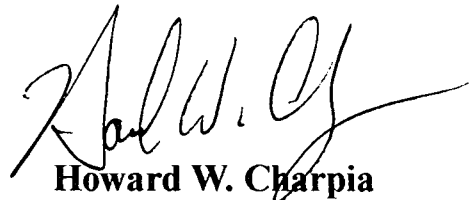
NOV 07 2013

South of Appeals

MOTION / REQUEST TO REINSTATE

I, Howard W. Charpia, pursuant to Rule 231, hereby request the
Court reinstate this Appeal, upon good cause shown. (see attached)

Date mailed 11-5, 2013



Howard W. Charpia
1450 Jahnz Ave.
Summerville, SC 29485

cc: Attorney Frank M. Cisa
For Respondent

MARCO TO CISA
11-5-13
HWC

To: South Carolina Court of Appeals 11-5-13
1015 Sumter Street
Columbia, SC 29201

From: Howard W. Charpia
Appellant

Re: Appellant Case # 2013-002311
Case # 2009-CP-18-2200

Court,

Pursuant to Rule 231 , motion to reinstate upon good cause shown.

STATEMENT OF MOTION / REQUEST

This is an acillary matter in case # 2009-CP-18-2200 . Howard W. Charpia , Appellant ; had a hearing in Dorchester County on July 30 , 2012 , Judge Dickson presided. The Appellant *was not* properly notified pertaining to “subject matter” for this hearing . (exhibit 1 & 2) Charpia challenged said “subject matter” at this hearing with the Court and Judge Dickson . (exhibit 3) The Court and Judge Dickson “abused it’s discretion” on many objections by the Appellant , Charpia. Judge Dickson ruled on a matter not before the Court .

Webster v. Clanton , 259 SC 387, 391 (1972) The Supreme Court held:

It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in Court , or opportunity to be heard , and *that without due notice* and opportunity to be heard a Court has no jurisdiction to adjudicate such personal rights.

Moore v. Moore , 376 SC 467 , 657 S.E. 2d 743 (2008)

Procedural due process requires (1) *adequate notice* ; (2) adequate opportunity for a hearing ; (3) right to introduce evidence ; and (4) the right to confront witnesses.

If a Judge permits an *ex parte* attachment , i.e. seizure of real estate without giving you notice of a hearing in a State Court proceeding , this is a deprivation of property without “due process” , violating the 5th and 14th Amendment.

This hearing was held on July 30 , 2012 and Charpia received the signed Order from Judge Dickson on November 30 , 2012 (4 months)

Charpia ordered / requested the transcript for this hearing on four (4) occasions from the Court reporter Harry Dot Walker . (exhibit 4)

Charpia wanted this transcript for his Motion to Reconsider .

Charpia recived this transcript on September 27 , 2013 ; thirteen (13) months after first request. Charpia was in contact with Desiree Allen, SC Court of Admin. on several occasions pertaining to *retired* reporter, Harry Dot Walker. Charpia’s efforts with Ms. Allen were futile .

On January 10 , 2013 , Appellant Charpia received an E-mail from the respondents Attorney , Frank M. Cisa (exhibit 5) ; apprising Charpia of a hearing that was held on January 9 , 2013 . Charpia immediately contacted the Dorchester County Clerk’s office pertaining to said hearing. (exhibit 6)

The “due process clause” demands notice reasonably calculated under all circumstances , to apprise interested parties of the pendency of an action and afford them an opportunity to present their objections. (Webster v. Clanton , 259 S.C. 387 1972)

Procedural due process requires that a litigant be placed on notice of the issues which the Court is to consider .

(Cameron & Barkley Co. v. SC Procurement Review Panel , 317 S.C. 437 S.E. 2d 892 1995)

It is fundamental that no judgment or order affecting the rights of Aaparty to the cause shall be made or rendered without notice to the party whose rights are to be affected.

(Tyron Fed. Savings v. Phelps , 307 S.C. 361 1992)

The Dorchester County Clerk's office never responded back to me as promised in its E-mail of January 10 , 2013 . That afternoon , 1-10-13 , Judge Dickson's office E-mailed me , apologizing for their "lack of notice" to the Appellant Charpia. (exhibit 7)

In one breath , the Court states that "it feels it no longer has the jurisdiction " to hear motions in the case AND then states the Court wishes to make a ruling on Mr. Charpia's two motions without any further argument. (exhibit 7) DENIED.

The Court reversed a decision where it found substantial prejudice from lack of notice. Where a party receives inadequate notice , he must demonstrate prejudice resulting from the insufficient notice.

(Ballenger v. SC Dep't of Health and Env'tl. Control , 331 S.C.)

Since beginning this journey in 2002 , Pro Se litigant Charpia has never been afforded his "equal" rights thru this judicial system . Charpia began this journey with an Attorney in 2002 and was then forced to proceed Pro Se.

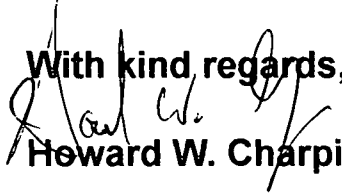
The proceedings and treatment that Charpia has been a party too and has witnessed are shameful. I know that on the lower Court level there really is no one in charge , they make up the rules as they see fit to it's advantage.

CONCLUSION

Appellant Charpia did serve the "Notice of Appeal" on the respondent pursuant to the rules of the Court . Charpia discovered that their was a hearing held on January 9 , 2013 and ordered a transcript of that hearing October 2013 . Charpia received a copy of this transcript on 10-16-13. (exhibit 8)

Charpia believed that this transcript was relevant and material to his cause for Appeal. After receiving the transcript on 10-16-13 , Charpia mailed his notice of Appeal to the Court on October 17 , 2013.

Since opposing Counsel and the lower Court were notified in the timely manner required and Charpia's above argument to reinstate , Appellant Charpia has "shown a good cause". Charpia prays to this Court that they reinstate the Appellant's Appeal.

With kind regards,

Howard W. Charpia

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

Appellant Case # 2013-002311

PROOF OF SERVICE

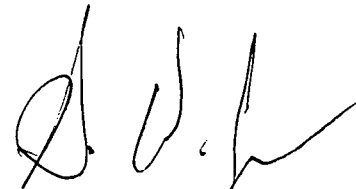
RECEIVED

NOV 07 2013

SC Court of Appeals

I, Howard W. Charpia, hereby certify that I mailed the "Motion /
Request to Reinstate" to Attorney Frank M. Cisa and the South
Carolina Court of Appeals:

Date mailed 11-5, 2013



Howard W. Charpia
1450 Jahnz Ave.
Summerville, SC 29485

cc: Attorney Frank M. Cisa
For Respondent

NOTICE OF CASE SCHEDULING

EXHIBIT # 1

May 23, 2012



Case 2009CP1802200 - Rene Mcmasters VS H Wayne Charpia ,
defendant, et al has been added to the following Court Roster:

Roster ID: 117 - Non Jury Trial Roster, July 30, 2012 Hon . Edgar
Dickson, Presiding

This case has been assigned as priority 2 of 19 cases scheduled for the court period of
7/30/2012 through 7/30/2012

Attorneys: Non Jury Roster Meeting July 30, 2012 10:00 a.m. trials will begin immediately
after roster meeting. Roster can be found at www.sccourts.org . Hon. Edgar Dickson
Presiding, Dorchester County Courthouse 5200 East Jim Bilton Blvd., St. George, S.C. 29477
if your case has settled please notify cayer@dorchestercounty.net

Thank you,
s/Diane S. Goodstein, Chief Adm. Judge
Carolyn Ayer
Civil Court Coordinator
Dorchester County
843-823-0108

2012 MAY 24 AM 11:38
CERTIFIED
CLERK OF COURT
DORCHESTER COUNTY

NO SUBJECT MATTER MENTIONED

Mail Notice To
H Wayne Charpia 1450 Jahnz Ave. Summerville, SC 29485

Court Info
Common Pleas 5200 E. Jim Bilton Blvd. St. George, SC 29477-9477

If you have any questions regarding the scheduling of this case, please contact the courts at:
1-843-563-0108

Respectfully,

PO Box 234
29477

Carolyn Ayer
Civil Court Coordinator

CISA & DODDS, LLP
ATTORNEYS AND COUNSELORS AT LAW
858 Lowcountry Boulevard, Suite 101
Mt. Pleasant, South Carolina 29464
Telephone (843) 881-6530 Fax (843) 881-5433

Exhibit 2

FRANK M. CISA
JOHN J. DODDS, III
ROBERT S. DODDS

frank@cisadodds.com
john@cisadodds.com
robert@cisadodds.com

May 24, 2012

H. Wayne Charpia
1450 Jahnz Ave.
Summerville, SC 29485

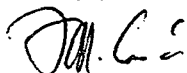
RE: Rene' McMasters. now known as Rene McMasters Ronaghan v. H. Wayne Charpia, et al
Case No.: 2009-CP-18-2200
Our file: 09-084

Dear Mr. Charpia:

The above case appears on the trial roster for a term commencing on Monday, July 30, 2012 in Dorchester County. This case is currently listed as case number #2 on the trial roster and therefore it will in all likelihood be reached on Monday, July 30, 2012. The docket meeting is scheduled to commence at 10:00a.m. You will need to be present for the trial of the above case.

With kindest regards, I am

Very truly yours,



Frank M. Cisa

FMC/alp

cc: Rene McMasters Ronaghan

NO SUBJECT

REC. 5-26-12

1 THE COURT: And I actually pulled the Administra-
2 tive Order just to be on the safe side, and it says
3 it is applicable to mortgage foreclosure actions.

4 MR. CISA: Yes, sir.

5 THE COURT: All right. Now, we are here to go
6 through with the foreclosure action.

7 Mr. Charpia, I think you have filed a number of
8 motions. Is that correct?

9 MR. CHARPIA: Yes, sir.

10 THE COURT: Okay, sir. Which motions do you have
11 so I can address them?

12 MR. CHARPIA: First off, I'm not here -- I don't
13 know why I'm here today because I haven't been notifi-
14 fied properly.

15 THE COURT: Okay.

16 MR. CHARPIA: Mr. Cisa sent me a letter of May
17 24, 2012, Case Number 2009 2200.

18 Dear Mr. Charpia, the above case appears on the
19 trial roster for a term commencing on July 30th, 2012,
20 in Dorchester County. This case is currently listed
21 as number two on the trial roster. It, therefore,
22 in all likelihood will be reached on Monday, July 30,
23 2012. The docket meeting is scheduled to commence at
24 ten o'clock A.M.

25 You will need to be present for the trial of the

EXHIBIT "3"

1 above case.

2 I wasn't properly notified through Mr. Cisa's
3 letter. It doesn't state exactly why we're here today.

4 I have a notice from the Clerk's Office the trials
5 will begin after the roster meeting.

6 It does not specifically say I'm here for a fore-
7 closure or am I here to hear my motions; am I here to
8 hear the motion to compel by the Clerk of Court's
9 scheduling on the Internet? Why am I here today?

10 THE COURT: You are here for the trial of the
11 foreclosure action.

12 MR. CHARPIA: Okay. I'm here for that.

13 THE COURT: We're going forward with it.

14 MR. CHARPIA: Is this a violation of my due pro-
15 cess . . .

16 THE COURT: No, sir, not at all. This case has
17 been going on since 2009.

18 MR. CHARPIA: Since 2002, sir.

19 THE COURT: That's even more reason.

20 MR. CHARPIA: Yes, sir.

21 THE COURT: Okay?

22 MR. CHARPIA: Now, number two, my attorney -- I'd
23 like to get a continuance until my attorney can come
24 up to active status and represent me in a proper way.

25 THE COURT: Who is your attorney?

EXHIBIT "4"

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS
EDGAR W. DICKSON , FIRST CIRCUIT JUDGE

CASE # 2009-CP-18-2200

RENE McMASTERS.....RESPONDENT
VS.

HOWARD W. CHARPIA and JODY E. CHARPIA.....APPELLANT

PROOF OF SERVICE

I, Howard W. Charpia , hereby certify that I Ordered the transcript from Mrs. Harry Dot Walker on 8-20-12 , 9-17-12 , 10-16-12 and on 12-31-12 pertaining to said hearing of July 30, 2012 ; Judge Edgar Dickson presiding.

Dated mailed 12-31 , 2012

Rule 207

Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville, SC 29485

Attorney Frank M. Cisa , for respondent
858 Lowcountry Blvd. Suite 101
Mt. Pleasant, SC 29464

SC Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Masters to Court of Appeals 12-31-12

Exhibit '5'

**RE: FW: FW: New Civil Action
Case # 2009-CP-18-2200**

Thursday, January 10, 2013 9:26 AM

From:

"Frank Cisa" <Frank@cisadodds.com> Add sender to Contacts

To:

"HWayne CHARPIA" <charpia13@bellsouth.net>

Buzzy, It appears to me that you are not interested in resolving this matter. Neither you or Jody appeared in Court yesterday for your post trial motions. If I don't receive confirmation from you by 5:00 PM today that you intend to pay the \$50K in exchange for a satisfaction of the judgment, I will move the sale forward. I feel like I've been duped.

"Motion to Reconsider"

Frank

Frank M. Cisa
Cisa & Dodds, LLP
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464

Exhibit "6"

RE: FW: FW: New Civil Action

Thursday, January 10, 2013 2:38 PM

From:

"Carolyn Ayer" <CAyer@dorchestercounty.net> [Add sender to Contacts](#)

To:

"HWayne CHARPIA" charpia13@bellsouth.net

Cc: frank@cisadodds.com, "Becky Stevens" <BStevens@dorchestercounty.net>

Wayne,

After checking, it seems we had a technical error your email was entered under your name instead of your name as pro se, and that seems to be why you didn't get notice after checking with IT Dept. . I will talk to Judge Dickson and get back to you.

Carolyn Ayer
Deputy/Civil Court Coordinator
Dorchester County
5200 East Jim Bilton Blvd.
St. George, S.C. 29477

cayer@dorchestercounty.net

Exhibit ~ 7"

Master v. Charpia, 2009-CP-18-2200, Motion to Reconsider/Motion to Set Aside Judgment

Thursday, January 10, 2013 4:35 PM

From:

"Dickson, Edgar W. Law Clerk (Andrew C. Evans)" <edicksonlc@sccourts.org> [Add sender to Contacts](#)

To:

"charpia13@bellsouth.net" <charpia13@bellsouth.net>, "frank@cisadodds.com" <frank@cisadodds.com>

Cc:

"Dickson, Edgar W. Secretary (Peggy Smith)" <edicksonsc@sccourts.org>, "Becky Stevens (BStevens@dorchestercounty.net)" <BStevens@dorchestercounty.net>, "Ayer, Carolyn L." <cayer@dorchestercounty.net>

Gentlemen,

It has come to the Court's attention that Mr. Charpia contends that he was not notified of the hearing that took place yesterday, January 9, 2013 in Dorchester County.

The Court would like to apologize for this oversight:

It appearing that this matter is currently before the South Carolina Court of Appeals, the Court feels it no longer has the jurisdiction to hear Motions in the case. However, the Court wishes to make a ruling on Mr. Charpia's two Motions without any further argument.

The Court has taken both Motions under consideration and has consulted the Court file as well as arguments of the parties, written submissions, and its own notes from the prior hearing. The Court has found nothing therein raising grounds to alter or set aside the judgment. As such, both Motions are hereby denied.

Mr. Cisa, Judge Dickson asks that you prepare an Order and send a copy to Mr. Charpia. Please sent us a hard copy via US Mail with a self-addressed return envelope.

Thank you. Kind regards,

Drew Evans
Andrew C. Evans
Law Clerk, Hon. Edgar Warren Dickson
First Judicial Circuit
P. O. Box 1949
Orangeburg, S. C. 29116

Exhibit "8"

CERTIFICATE

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I, HARRIET P. BENNETT, Official Court Reporter for South Carolina Court Administration, hereby certify that the foregoing Transcript was prepared from the records of Harry Dot Walker to the best of my ability, having been heard in the Court of Common Pleas for Dorchester County on January 9, 2013.

FURTHER, I certify that I am neither of kin nor counsel to any party to this matter, nor do I have any interest in the same.

October 14, 2013

Harriet P Bennett

REC 10-16-13
RHC