

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

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SC Court of Appeals

RENE McMASTERS.....RESPONDENT

VS.

JODY E. CHARPIA.....APPELLANT

HOWARD W. CHARPIA.....Defendant

INITIAL BRIEF

“Order of Foreclosure and Sale”

Jody E. Charpia
1450 Jahnz Ave.
Summerville, SC 29485

cc: Attorney Frank M. Cisa

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TABLE OF AUTHORITIES

***Webster v. Clanton* , 259 S.C. 387 , 391 (1972) , Supreme Court**

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

Grannis v. Ordean , 234 S.C. (1914)

Cameron & Barkley Co. v. SC Procurement Panel , SC 317)

Tyron Fed. V. Phelps , 307 S.C. (1992)

Holden , 319 S.C.

Brown v. SC State Board of Education , 301 S.C.

STATEMENT OF ISSUES

1. Did the Court violate the 14th Amendment rights of the Appellant ?
2. Did the Court follow the rules of the State and legislature ?

STATEMENT OF THE CASE

Appellant Jody E. Charpia is the Defendant (s) in Case # 2009-CP-18-2200 . This Appeal pertains to a hearing held on July 30 , 2012 in Dorchester County ; Judge Edgar Dickson presided. Said hearing was a “Motion of Foreclosure and Sale” on a piece of property in which Jody E. Charpia holds one- half interest in the property. This action was for the purpose of foreclosing a “judgment lien” rendered against Howard W. Charpia in 2004 .

Jody E. Charpia is not and has never been a “debtor” of this judgment.

(Affidavit attached) *This action is not a mortgage .*

Jody E. Charpia *was not notified* of this hearing on July 30 , 2012 by the Clerk’s office , by opposing Counsel (Cisa) nor by the presiding Judge .

That the “due process clause” demands notice reasonably calculated under all circumstances , to apprise all interested parties of the pendency of of the action and afford them an opportunity to present their objections.

(Webster v. Clanton , 259 S.C. 387 1972)

FACTS

Jody E. Charpia does not have a “judgment lien” against her in this action nor any action in the Court system. Jody E. Charpia is a Defendant in this case . Jody E. Charpia was never notified of any Court proceedings pertaining to this action. In the Court’s previous Order of Reference , Judge Dickson had no “jurisdiction” to rule ; he was pass his time limit to rule . (pursuant to Section 4, Article V , SC Constitution)

IT IS SO ORDERED that no reference to a Master or Referee *shall* be made after a case has been filed for more than six (6) months. Case was filed in August 2009 , Judge signed Order in April 2010.

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 & 14th Amendment.

Judge Dickson ordered said property to be sold by the Clerk’s Office to satisfy a judgment rendered against Howard W. Charpia in 2004.

CONCLUSION

Jody E. Charpia was not properly notified of any proceedings and/or actions by the Court nor the Clerk's office.

The requirements of "due process" not only include notice , but also include an opportunity to be heard in a meaningful way and judicial review. (Grannis v. Ordean , 234 S.C. 1914)

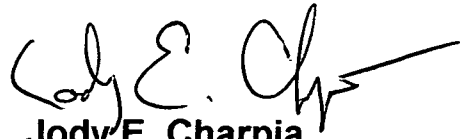
Procedural "due process" requires notice and the opportunity to be heard. (Cameron & Barkley Co. v. SC Procurement Panel , SC 317)

Due process requires the opportunity to be heard at a meaningful time and in a meaningful manner. (Holden , 319 S.C.)

It is fundamental that no judgment or Order affecting the rights of a party to the cause shall be made or rendered without notice to the party whose rights are to be affected. (Tyron Fed. V. Phelps , 307 S.C. 1992)

Failing to inform parties of necessary appointments or requirements is fraud upon the Court . And "fraud upon the Court" voids all proceedings by the Court.

WHEREFORE , due to the actions by the Court not informing Jody E. Charpia , she has been prejudiced in her cause to maintain property that is in her possession . This violating her constitutional rights to be heard in a meaningful way and a judicial review. Jody E. Charpia prays that this Court reverse the Order signed by Judge Dickson to sell her property to satisfy a judgment rendered against Howard W. Charpia.

A handwritten signature in black ink, appearing to read "Jody E. Charpia", with a long horizontal flourish extending to the right.

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