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SC Court of Appeals

## Designation Of The Matter

Documents And Court Materials And Citation that Appellant shall use to support that said facts prove that said claim to all that entitlement to, "Title To Adverse Possession," is the Appellants herein. Herein find two cases that are separate though the latter compellingly hinges "Imprudent facts."

- 1 (1) Justia - In Fender V. Herrs At Law Smashums wherein The SC Court of Appeals, "Reversed And Remanded," back to The SC Circuit Ct. 2003-04, 05 due Improvident Order Judgment
- \* (2) Justia - The focus on this judge like the one in the Fender V. Smashum Case ignored the "Standard of Review as," genuine issues as to material fact. Judge M. Scarborough scheduled a hearing to hear an atty's Counter Claim, "Quiet Title," a meritless Case. He heard only one side at the fraudulent hearing. (2<sup>b</sup>) The late arrival Transcript per Judge Pope,
- \* (3) Sheets of Docs' that reveal the illegal handing of said "ghost" hearing. Documents proving Judge Scar's hearing 9/2022
- 4 Exhibit of "Imprudently," granting of my property in by Order judgment to an estranged relative with no standing, "Abandonment" + none "Assertion" as to ownership.
- 5 Portions of Justia which focuses on, "Abandonment," and, "none Assertion," of interest or ownership as a Co-tenant. (5<sup>b</sup>) The substitute "Draft" by Conspiracy, "Intent."
- 6 Justia + pages that define those ie all heirs/cotenants that by vigilance and diligence knew and should have known that I held the subject property, "Averse To Possession of all other

J.B.

Heirs/Coleman's and to any <sup>Right</sup> profits hence no sale of subject  
 (Property that is a "Legacy" to our most worthy parents)  
 Fred W. Tolbert, Creative (builder) Builder in the Ches, SC area, lived  
 104 yrs Cited by Pres Clinton. He was an outstanding musician and  
 recipient of an Award for producing the "Best Youth Choir" City  
 Wise from the Historic Morris St. Baptist Church) (Mrs. H.G.  
 Tolbert was award "Guidance Counselor of The year For The  
 State of SC, the recipient of more than twenty plaques  
 for outstanding performance in Capacities. I, Appellant  
 have vested interest herein.

- 7. Exhibit, Doc' - Why Would I need A, "Quiet Title," Law Suit
- 8. "Deed of Distribution" Tampering <sup>b</sup> Opposers Struggle to give  
 merit to their "meritless" Case, "Quiet Title," "Defeated by the sound  
 Comprehensive, Strong, initial Deed ie Five (5) Children 209  
 each. <sup>2021</sup> Heirs herein hostilely ignored my offer to buy their interest
- 9. "The Last Will And Testament" of Mrs. H.G. Tolbert which  
 other "Heirs," kicked to the curb having no vested interest herein.
- 10. The non-Contributing Respondents' judge and lawyers agreed  
 \* to, "Sabotage" the hearing by enjoining <sup>with</sup> judge Scarborough  
 Exhibit in signed consent to keep judge Scarborough on the case  
 for the duration 10. Heirs substituted my offer, "Quiet Title"
- 11. I shall Exhibit docs' of so called conferences  
 \* held July and Aug. (2022) 2022 and scheduled @ "dumb"  
 "hearing" though said judge and his co-conspirators had  
 \* "drafted," a substitute claim behind <sup>(my)</sup> back so  
 they scrapped/dropped Mrs' "Counterclaim," <sup>the Plaintiff's</sup> 9/21/22  
 hiding the "substituted" <sup>2022</sup> claim resulting in the SCAMONET

(1) Appellant will prove that I satisfy all six elements required to claim Title To Adverse Possession. Justia makes this clear. I, Appellant easily prove by case law after case law upon case law the validity of my claim for the title I claim.

Exhibit (B) Interrogatories of other heirs/cotenants show no contribution from any of them. The "Bible" says, "you don't work, you don't eat." That is the case herein by God. This for abandonment.

M. The six elements mentioned above, supporting my claim herein are: Please give great consideration herein. They Bashed the

pg 2  
Justice

(1) "Order" has been hostile proven by the "Quiet Title," "Will" meritorious Law Suit pursued lawlessly with grave "Motives" causing conspiracy with intent (a felony) executed in the ghost hearing wherein the judge, judge Scarborough denied me, "Due Process!" Ashley Andrews admitted that they judiciary led to higher Ct's. We gave rooms formerly afforded Respondents we assigned to others with keys to the property. No Respondent, heir/cotenant ever had access

(2) "Actual" - Appellant lived 18 yrs exclusively and before the worthless Quiet Title was filed. Now I, Appellant has lived here twenty plus yrs. So when SC Courts allowed judge Scarborough to deny me an owner the Constitutional Right to "Due Process," leaving here our family and ma's atty. saying nothing all of us dangling, this judge

\* took what belonged to three owners, "Improviently" with all judiciary to set the "Quiet Title" false Law Suit "Aside"

pg 2  
Justice

(3) \* Exhibit of the SC Supreme Ct, upholding judiciary whose deficiencies were numerous, that Ct. complained but allowed him time to correct. \* But this Spreme Ct rubber, stamping my "not telling of my Intent" to

Appeal, the "Prosecutor's misconduct," "Mis Carriage of Justice," "Obstruction of justice" and "Travesty of justice" a Pro Se Charge<sup>ed</sup>

- \* Doc' of proof the opposing Counsel's 'deceit' in documenting
- \* that my attorney's withdrawing, leaving me dangling, Pro Se, was a mutual event. Negative! they lied again.
- \* Docs wherein they gave Keith the "file" of "Quiet Title," gave him a form with the heading that the Court appointed Personal Representative relinquish her position to Keith Tolbert estranged nephew/grand/cousin. He nor Charles Tolbert neither has eligibility herein.

Justin P. 2

(4) Open-Third element of my exclusive was open known by all Mail men and women. My mail arrived at my home daily hundreds of pieces neighbor saw me walk some of our 16 pets daily. We greeted each other. In at my church and for an insurance agency, and studied at the College and now at MUSC.

(5) A Notorious - I changed membership, visiting other churches - I shopped Harris Tetter, especially Public Groceries + Pharmacy. I also took our 16 pets to vets and Vet hospitals Mt Pleasant Chas. Co, SC (5b) Docs' from SC Supreme Ct + The District Ct for SC.

Justin P. 2

(6) Exclusive - 2003 to present

(7) Hostile - They all abandoned parents, grand parents. I agreed to stay after D'An Ma' passed away. My eldest brother remained all year among the grands who answered the call to pull root and relocate at D'An Ma' and D'An Pa to assist with their loving fender care. We arrived in the late 90's - See

(8) Justin - Fender v. Smashum

Re: Six elements: Please see pgs. 7, 26

\* (16) \* Charles never produced info' about Charles Assets nor death.

## Preliminary Statement of References

Justin - (Fender) Fender v. Smashums - 2003-2005

Case Breakdown will follow

"Why Do I Need A 'Quiet Title,' Law Suit"

The six(6) Elements required and satisfied to claim Title to Possess.

Bloomberg Law Report(s) legal matter in all Courts

Carolyn entered in SC Circuit Ct up to The Dist' for SC

The Last Will And Testament of The Decedent

The Holy Bible

The Conference Call(s) - Plaintiffs And Defendant

The "Imagined" and real "Hearings", and Contents

AS TO CASE NO. CP 10 04058 (as to the judge therein

and fraud SCAM and "Conspiracy", "Sabotage"

as well as deliberate Omissions by the judge

federal = "Due Process", and Omission as to following

the "Standard Of Review", and neglect to "Notice,"

Defendant of Crucial Hearing Oct 30, 2024 and this

judge "Recusing" himself here when I started

to speak second time denying me, "Due Process" Content

and opposing Counsel only allowed to participate

Reference as to "Heirs" vs. "Tenants NOA". Defendants held

\* <sup>held</sup> Property "Subject herein" Adverse To The Rights to Possession and profits

Statement Of The Case and Facts And Issues

CASE No. 2025000893 Compels me, Appellant, to argue against a prior case to prove the unarguable reasons, "jury trial," must be ordered on my behalf. Or if this Court finds reason to put an end to the case upon which Appellant's Case hinges, upon that would give me, Appellant the just path to retrieving my property at 338 Fifth Ave. + 6<sup>th</sup> St. in Mt. Pleasant, SC 29464.

My opposers ie opposing Counsel desperate to illegally accept the judge's strictly, "Improviently" granted, "Order Summary Judgment," that gives my property to a Charles Tolbert for profit for, on behalf of all Respondents, Would have you, judges, justices believe that my case is CASE 2021CP 1004058 the prior case being challenged lawfully. The "motion," in that case ~~was~~ to Counter-claim "Quiet Title Lis Pendens," "Meritless," claim that My "Motion," is for, "Jury Trial" in the matter, to Retrieve my property stolen by judge Mitchell Scarborough and gifted to the Respondents via Charles Tolbert + Keith Tolbert. The latter filed the false claims. Other facts and issues are as follows: Prior case

- \* 1. Judge Scarborough Dochestrated a conspiracy
- \* 2. He setup or Convened two meetings he called Conference,
- \* 3. He invited Oppasing Counsel and even enjoined my Counsel.
- 4. He had all Counsel present Sign a document consent- ing to allowing him to stay on CASE NO 2021 CP 10040 58 the duration of the matter.
- 5. Defendant's Carolyn Joh

cont

2

(5) Bert Smith was omitted from said conferences

\* 6. These co-conspirators sat together; drew up a subst-

\* tute "Drafts" plan; not permitting C.T. Smith privy of the plan"

7. This judge still scheduled a hearing to hear "Counterclaim,"

to "Quiet Title," already "Reversed And Remanded," to another SC

Circuit Ct, in and about 2003, '04, '05, defeated by a "Decree of

\* Distribution," and by that Circuit Ct judge's neglect to adhere

to the "Standard of Review," and, "genuine issues as to

material" just as did judge Mikeell Scarborough who com-

promised, "Truth," here and practiced; "Deceit," in his report -

\* ing to judges or justices in the SC District Ct. For the

District of SC

8 He reported to said ct, that Carolyn could not prevail

in her "Counterclaim," because she had not lived.

\* twenty (20) yrs. exclusively in my home where I lived ex-

clusively eighteen yrs and for that reason only claim the

ten (10) yr. claim. Herein see the judge's "Cover up," for

obstructing justice once again

(9) This judge's Conspiracy with, "Intent," is a felony. In

addition, he executed the "Intent," ie as they all judi-

cary agreed to, in their meetings ie to "Sabotage" the hear-

ing (10) This judge started the hearing upside down and "Un-

constitutionally heard only one side in a dispute be-

tween two parties! Why? The conspirators agreed toge-

ther to have the judge hear "ONLY," SUMMARY JUDGE

and shut said hearing down. (11) He left my family up

from FL 1,200 Miles dumb founded? No explanation!

12) Now I, Appellant, feared she and all qualified owners would lose their/our home where we had lived eighteen 18 yrs or better like Coroly

13) Carolyn's atty sternly refused to appeal; tried to convince Carolyn to accept the new play "a pig in a blanket," never shared (w) Carolyn and refused by Carolyn.

14) The Opposers mis-represented this attorney's withdrawal from CASE NO. CP 1004258 as "Mutual," another compromise

15) of "TRUTH," of which there were numerous! Carolyn needed to honor her fiduciary relation therein. She did not offer argument to counterclaim, "Quiet Title," Ashley Andrews Esq. fir-

16) \* rally, in another hearing, softly admitted that she, the judge et al.

17) never heard any "Counterclaim to Quiet Title," yet they continue to, in desperation, race toward finalizing an "Order Summary Judgment," "Im providently" "Gifted" to Charles Tolbert under the "guise" of a correct, legal judgment though it has to be Squashed to make way for "justice," and, "TRUTH"

18) The conspirators too easily were granted, by the SC Court of Appeals, A "Dismissal of Carolyn's legitimate case against the conspirators," "Im providently," granted Order Summary judgment Dismissed (w) Prejudice

19) Opposing Counsel and Respondents are eager, desperate to have this my CASE NO 2025 000 893 out of the hands of members of the SC Court of Appeals. They need to keep covered their sinister, clandestine behaviors spelled out in my new case cited above.

20) What judiciary has done to me herein is reprehensible and must be ended by jury trial or by other means that will give back my property to me; Ave Smith

under claim of title and that there has been such continued occupation and possession of the premises for over ten (10) years.

Queen Smashum answered on behalf of herself and the heirs of Thomas Smashum in May 2000, and counterclaimed to quiet title to the property in the name of the Heirs. The Heirs claimed Queen Smashum, Henrietta Jones, Sarah Shepard, and Lucy Smith each owned an undivided one-eighth interest in the property.

In June 2001, Fender made a motion for summary judgment. The circuit court conducted a hearing on Fender's motion the following month. In its order issued in August 2000, the court granted summary judgment to Fender. This appeal follows.

### STANDARD OF REVIEW

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). When determining whether any triable issue of fact exists, the evidence and all inferences, which can reasonably be drawn from it, must be viewed in the light most favorable to the nonmoving party. *Faile v. S.C. Dep't of Juvenile Justice*, 350 S.C. 315, 324, 566 S.E.2d 536, 540 (2002). If triable issues exist, those issues must be submitted to the jury. *Young v. S.C. Dep't of Corrections*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). Even where no dispute as to evidentiary facts exists, but only as to the conclusions or inferences to be drawn from them, summary judgment should not be granted. *Hall v. Fedor*, 349 S.C. 169, 173-74, 561 S.E.2d 654, 656 (Ct. App. 2002). Moreover, summary judgment is a drastic remedy that should be cautiously invoked to ensure no person is improperly deprived of a trial of disputed factual issues. *Lanham v. Blue Cross & Blue Shield of S.C.*, 349 S.C. 356, 363, 563 S.E.2d 331, 334 (2002).

*the  
5  
elements*

### LAW/ANALYSIS

The Heirs argue the circuit court erred in finding Fender acquired title to the subject property through adverse possession. We agree.

As an initial matter, the Heirs assert the circuit court erred in failing to find that they are co-tenants in the subject property with Fender. The Heirs cite 86 C.J.S. Tenancy In Common § 8 (1997) for the proposition that upon the intestate death of John Smashum and his wife, his two surviving children, Arthur Smashum and Thomas Smashum owned the property as tenants in common. They further argue that any grantees of Arthur necessarily owned a proportional interest in the property as tenants in common with them as heirs of Thomas Smashum. While acknowledging that Arthur and Thomas were

## Summary of Argument

I, Appellant, Avel Smith ~~am~~ herein setting before you, the honorable judges and justices of the South Carolina Court of Appeals, my appeal of Judge C. Chyburn Pope's of the Court of Common Pleas of Chas. Co. wherein she denied of my "Motion" for "Jury Trial," in the critical matter of the "Imprudently," granting Charles Talbert, an estranged gran/nephew/cousin my property mentioned herein. Because the very case, "Quiet Title Lis Pendens" is without "merit" for at least two reasons first the case similar to mine cited in "Justin-Fender v. Smashum" proved that a "Deed of Distribution," is a legal product that "Defeats" "Quiet Title." Such "Deeds," plus a circuit Ct judges neglect to follow the "Standard of Review," as did judge Scarborough in CASE NO. 20 21CP1004058 the case that adversely impacts my new case compelling me to refer constantly to that case because of those deficiencies, "Quiet Title" judgment was "Reversed and Remanded" back down to SC Circuit Ct. in and about, "2003-2005" Secondly this judge in his attempt and jealous desire to have his preferred lawyers prevail, orchestrated a conspiracy with "Intent," a "Crime," "Sabotaged," the scheduled "hearing," for the Defendants, "Counterclaim," which was to be argued before him. He deliberately heard from opposing counsel with "Summary judgment only/and first," ignored the "Defendants" this was a fraudulent, "S.C.A.M."s act of a Ghost hearing that I witnessed. He blocked opposing argument;

robbed the "Other Side", or Opponent their "Due Process,"  
an illegal action as to a citizens Constitution "Right"

As judges, justices and others examine the, "Prosecutor's)  
mis-Conduct," "blatant Mis-Carriage of Justice," "obstrat-  
ion of Justice," and "Travesty of Justice" the duration of case  
2021 CPD 04058 which I must battle now I'm entrusting  
All the information to you justices + judges and before the  
Tri-Une God, my need <sup>is</sup> for all of that seen as wrong be  
made right; bad made good, injustices made into Justice at  
last

I am a middle aged Respiratory Therapist I'm  
dealing with sadness, disappointment, care for those  
in sorrow after losses always of babies children. Like  
you I too depend on those especially those sworn to  
uphold the law to do so unhesitatingly

### Argument

I, Appellant Ave having adversely held the Right  
to Possession and all profits as to My property at 338  
Fifth Ave. + 6<sup>th</sup> St., Mt. Pleasant, SC 29464, will prove  
my ownership referencing the "Six(6) Requirements  
already satisfied especially "Ouster" and all others as to  
my Title To Adverse Possession

### Conclusion

Before the "Seat of Justice" The Tri-Une God I set my case

*Parables invited listeners to lean in, reflect, and wrestle with what Jesus was really saying. For those with open hearts, these simple stories revealed deep spiritual truths. But for those who resisted, the meaning remained hidden.*

**Explore the Ultimate Parable Guide.**

## Where Is the Parable of the Persistent Widow in Scripture?

The Parable of the Persistent Widow appears in Luke 18:1-8.

## A Parable of the Persistent Widow Summary

Jesus told His disciples this story:

- There was a judge who showed no concern for God or people.
- A widow kept coming to him, asking for justice against someone who had taken advantage of her.
- The judge ignored her requests and refused to help.
- The widow didn't give up and kept coming back.
- Eventually, the judge gave in because he was tired of being bothered.
- He granted her justice not because he cared, but just to get her to stop.

## Who's Who in the Parable?

*Every parable contains people, objects, or animals to which Jesus gives spiritual meaning. This parable is no different. So before we explore what this parable means, we need to find out who and what each thing in this parable represents.*

- **The uncaring judge represents injustice.** Despite his given authority to help anyone seeking justice, he doesn't use his position to readily help. Instead he represents what it feels like to be ignored or disregarded.
- **The persistent widow represents tenacity.** Despite her lowly position and the judge's uninterested response, she never stops asking for justice. She