

Standard of Review (skipped by judge)

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 sup 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. S. 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. Smashums" proved that a "Deed of Distribution," is a legal product that "Defeats" "Quiet Title" such "Deeds" plus a circuit Ct judge's neglect to follow the "Standard of Review," as did judge Scarborough in CASE NO. 2021CP1004058 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, "Instant," 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;

2

robbed the "Other side" or opponent their "Due Process,"
an illegal action as to a citizen's Constitution "Right"
As judges, justices and others examine the, "Prosecutor's)
mis-Conduct," blatant "Mis-Carriage of Justice," obstru-
tion of Justice," and "Travesty of Justice" the duration of CASE
2021 CP10 04058 which I must battle now I'm entrusting
All the information to you justices + judges and before the
Tri-Une God, my need 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. + 06th St., Mt. Pleasant, SC 29464, will prove
my ownership referencing the "Six(6) requirements
already satisfied especially "Ouster" and all other as to
my "Title To Adverse Possession." My "Motion" for Jury Trial is

Conclusion

Before the "Seat of Justice" The Tri-Une God I cast my case,
Saying Justly Judge Scarborough's granting of my property "Improvidently" by
egregiously ignoring the ^{critical Standard of Review} "Barring counties to
claim argument by the 2 primary owner, Carolyn and due to judge Scarborough's
Prosecutorial - Mis Conduct and Mis-Carriage of Justice in Carolyn's Case →

+00000

See "Justia"
Fender v. Conspirecy With Intent (Crime)
Henz of Sabotage Barring Carolyn
Smash m. "Due Process"

The "Draft" Orchestrated By Judge Scarborough

See this judge's sinister "Motives," To Stoop To Conquer!

This is the illegal, sinister and judge orchestrated, "Prosecutorial-mis-conduct" executed by Judge M. Scarborough. He scheduled a hearing with Carolyn's opportunity to Counterclaim "Quiet Title"... Sept 21, 2022. However it was later revealed/uncovered that his plan was agreed to by the following judiciary who gave their signed consent to "Sabotage," ~~was~~ just that is to "Sabotage," the scheduled hearing Sept 2022. The judge earlier in July and Aug 2022 convened in July and Aug 2022 what he called conferences where behind my back not making Carolyn privy of the substance of those meetings hence with no input from Carolyn they drew up said document that favored Carolyn's opposing Counsel and the Plaintiffs by law, legally had no right to possession of no right to any profits from subject property. Carolyn as of her eighteen yrs. of exclusive 2 consistent 3 actual, 4 open 5 notorious living having 5 trusted Cotenants who all abandoned said property claimed with hostility by Carolyn whose claim on the ten @ yr legal claim declared that in ten yrs. and in 18 yrs. at the time that Keith Tolbert file the false "Quiet Title law Suit" Carolyn had held said property adversely no rights to any others who never asserted possession end result = judge here has stolen Ave + warranty property

session

Copy Top
I now know how Judge
Judge Scarborough deceived
ed the SC District Ct. that a Counter-
claim took place it's this
Go py to Katie Karrin. Copy 2 on
also Post and Courier

STATE OF SOUTH CAROLINA "DRAFT"
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

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Keith L. Tolbert, Draft that I had
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A Fraud! My families
nor I ever heard my
CASE NO.: 2021-CP-10-04058
Counterclaim
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for those who were
losing to me! I

Now we see why he scheduled the SCAM
fraudulent v. → hearing with no op-
portunity given at hearing for my factual
Carolyn Tolbert-Smith; Charles Tolbert;
lawful Betty Jean Tolbert Jones; Sara Jo Tolbert
Latten; and Estate of Charla Tolbert
win- McMillan,
ring Counterclaim * I'm just understand-
ing how that Defendant(s) repugnant
judge deceived every court that saw and read this

Bogus! This is bogus. I
was not made privy of this
that they decided in the dark be-
hind closed doors! The judge or-
chestrated this conspired change of
DRAFT → Bogus Counter-
claim!

Note: My atty, Metena Dunwoodie, Mis Repre-
sented me! She reneged on her agreed duty, Turned Coat! Consent-
ed Defendant Carolyn Tolbert-Smith ("Defendant"), (by and through her undersigned to go

NOT SO! counsel, hereby submits her Amended Answer and Counterclaim to Plaintiff's Complaint (the
"Complaint") filed on September 2, 2021. In support of her Amended Answer and
Counterclaim, Defendant states as follows: I stated nothing to any of
these lies never shared with me before my atty.

ANSWER

- 1. Each and every allegation of the Complaint not expressly admitted herein is denied, and Defendant demands strict proof thereof. where is proof? None! There is none!
- 2. As to Paragraphs 1 - 8 of the Complaint, upon information and belief, Defendant admits the allegations stated therein. Perhaps, I deny

ANSWER AND AFFIRMATIVE DEFENSE TO FIRST CAUSE OF ACTION
(Quiet Title)

3. The allegations of the preceding Paragraphs are realleged as if fully set forth
verbatim herein. re par. 1 and 2

Note, please: This whole case drips in
hidden pertinent information I should have been
a bodily part of! No judge decides a case with the
dark, despicable group of judiciary members, deciding my
Case for me. Such a shame. I feel so betrayed. I have no idea...

NOT MY
Counterclaim
Note: #1

The Counterclaim of my
Adversaries

Copy

See pg suit of 9

+10 ct +100

See "Justice"
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Select Page to copy
Two copies

11-1-2021

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AMENDED ANSWER AND
COUNTERCLAIM OF DEFENDANT

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a dark, despicable group of judiciary members deciding my
case for me, such as in the SC District Ct. where I had no input.

The Counterclaim of my
Adversaries isn't

Cont' from the last line below. My demise...

Case No. 2021CP1004058 all six elements



to claim, 'Title To Ad-verse Possession by Opposers' abandonment and failure to assert ownership. 'Sert' ownership. 'obvious, 'mis-carrige of justice'; Prosecutorial-mis-Conduct; Travesty of justice'; and my having in Sdmspr all six

My property appraised @ \$1,200,000,000 ie One point two million dollars these attorneys are now planning to sell my property

Fender v. Heirs of Smashum

pg 1, cover

I am 88 yrs old Carolyn Tolbert Smith of Mt. Pleasant, SC.

THE STATE OF SOUTH CAROLINA
THE STATE OF SOUTH CAROLINA
In The Court of Appeals

A well known judge, Judge Mikell Scarborough has set in progress a 'motion', a lethal (for me) Improvidently granted Order Summary Judgment in favor of Four (4) lawyers, Casian and an estranged relative,

Sherwood N. Fender, Respondent,

v. Charles Tolbert. This judge consided with those lawyers they agreed to having the judge refuse succenfully to not bear my argu-ment Heirs at Law of Roger Smashum, John Smashum and Arthur Smashum, if living or such heirs of them as may be living, Carolee H. Goodwine, Mae Olive Henderson, Audrey Polite at the Sawyer, Diana Cornish, Heirs of John Frasier, if living or such heirs of them as may be hearing schedul- ed for living, Bernadette Anderson, Eloise Gadson and all other persons unknown, having or claiming any right, title or estate or interest in or lien upon the real property described in my ar- gument the complaint herein, being designated collectively as John Doe and Sarah Roe, including then go ahead all minors, persons in the armed forces, insane persons and all other persons under any ahead other disability who might have or claim to have any right, title or interest in or lien upon the real property described in the complaint herein, Defendants, an render a decision, barring my argu- ment!

Of whom Henrietta Jones, Sarah Shepard and Lucy Smith, as heirs at law of John Smashum, and Queen Smashum, as grantee of Adam Smashum, heir at law of John Smashum, are Appellants.

Appeal From Beaufort County
Perry M. Buckner, Circuit Court Judge

Opinion No. 3639
Heard March 11, 2003 - Filed May 5, 2003

REVERSED and REMANDED

I humble ask that

Common Cause connect me, Carolyn Tolbert Smith, with a litigating attorney to dig into the case. a lit-

cut Ct. judge is driving Improvi- dently to a potential, lethal end and get away with it to the my grave loss and the possible demise of me!

Carolyn To Smith, Rev...

Cont' above

Please see above

01/10/2026

Esquie Andrews, Esquire
finally admitted that she lied
as to Carolyn's counterclaim
having taken place. She did
so before Judge Thomas Rode
in a hearing.

Copy 5 more

Cont.

Form 7

Proof of Service Certified + Email

1. Betty J. Jones
1311 Delaware Ave. S.W.
Apt. South 843
Washington, D.C. 20024

x 2. William Kalivas - Wil@SmithLaw
Carolinas.com

x 3. Ashley Andrews info@lafondlaw.com

x 4. Alwyn Silver - Taylor@SilverLawLawfirm
LLC.com, Judge C. C. Pope

5. South Carolina Ct. of Appeals

Attention: Court Authority and Clerk of Ct.
1220 Senate St. Columbia SC 29201

- 6. Judge C. Clyburn Pope - Judicial Cntr.
100 Broad St. Chas. SC 29401

- 7. M. Dinwoodie Co The Finkel Law Firm is

Omit x 8. Judge T. Rode - rode s/ @ SCCourts.org Omit

- 9. Judge M. Scarborough - Judicial Cntr. 100 Broad St, Chas. SC
29401

cc; President Barack Obama Ave Smith

cc; Justice Amy Coney Barrett 338 Fifth Ave + 6th St

cc; Chief Justice Roberts Mt. Pleasant, SC 29464

Acting Secretary, 1-843-216-6960

Acting Paralegal, Pro Se

Justices of the U.S. Supreme Ct of the U.S.A.

Copy 5 more

Cont.

Form 7

Proof of Service Certified + E-mail

1. Betty J. Jones
1311 Delaware Ave. S.W.
Apt. South 843
Washington, D.C. 20024

X 2. William Kalivas - Wil@SmithLaw
Carolinas.com

X 3. Ashley Andrews info@lafordlaw.com

X 4. Alwyn Silver - Taylor@SilverLawLawfirm
LLC.com, Judge C. C. Pope

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1220 Senate St. Columbia SC 29201

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100 Broad St. Chas. SC 29401

7. M. Dinwoodie c/o The Finkel Law Firm ie

Omit X 8. Judge T. Rode - rode sj @ sc courts . org Omit

9. Judge M. Scarborough - Judicial Cntr. 100 Broad St, Chas, SC
29401

cc; President Barack Obama Ave Smith

cc; Justice Amy Coney Barrett 338 Fifth Ave + 6th St

cc; Chief Justice Roberts Mt. Pleasant, SC 29464

Acting Secretary, 1-843-216-6960

Acting Paralegal, Pro Se

Justices of the U.S. Supreme Ct of the U.S.A.

Case No. 2025-000893
Appellant, Ave Smith

Proof of Service
This is to certify and give "Proof" that, I,

Ave Smith, informed via U.S. Postal Service
the foregoing to all Respondents herein
Cited. I plead my case objecting to Judge
C.C. Pope's denying me my well warranted plea
for jury trial. Further I am compelled herein
to place in relief the prior case which ad-
versely impacts my plea.

Date 01/10/2026

Form 7 The State of SC

In The Ct. of Appeals

Appeal From A Chas. County

Ct. of Common Pleas

Courtney Clyburn Pope Circuit

Ct. Judge

CASE No. 2025000893

William Kalwa

Ashley Andrews Personal Representative, heirs

Estate of Helen H. Talbert Charles Tolbert, Kerth
Tolbert, Betty & T. Jones, Sara J.T. Latten, Carolyn Smith

Please see 2nd sheet
for more