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SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM YORK COUNTY
Circuit Court of Common Pleas**

William A. McKinnon, #2761 Circuit Court Judge

Appellate Court Case No. 2024-000279

Ashley Williamson,

vs.

Appellant

Rock Point II,

Respondent.

INITIAL BRIEF OF RESPONDENT

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TABLE OF AUTHORITIES

TABLE OF CONTENTS

CASES

TABLE OF AUTHORITIES.....	ii
COUNTER STATEMENT OF ISSUES ON APPEAL.....	1
COUNTER STATEMENT OF THE CASE.....	1
STANDARD OF REVIEW.....	2
STATEMENT OF FACTS	2
ARGUMENT	3
I. Appellant Failed to Prove Her Claim at Magistrate Hearing for New Trial	3
II. Appellant Failed to Identify any Errors in the Court Below or Provide Supported Arguments in Favor of Her Appeal.....	4
CONCLUSION	5

TABLE OF AUTHORITIES

CASES

Page(s)

Bowers v. Thomas, 373 S.C. 240, 244; 644 S.E.2d 751, 753 (Ct. App. 2007) 2

Union Cnty. Sheriff’s Off. v. Henderson, 395 S.C. 516, 519; 719 S.E.2d 665, 666 (2011)..... 2

Town of Summerville v. City of North Charleston, 378 S.C. 107, 110; 662 S.E.2d 40, 41 (2008) 2

Mathis v. South Carolina State Highway Dep’t, 260 S.C. 344, 346; 195 S.E.2d 713, 715 (1973)..... 4

First Sav. Bank v. McLean, 314 S.C. 361, 363; 444 S.E.2d 513, 514 (1994)..... 4

STATUTES

S.C. Code Ann §18-7-170 (2014) 2

S.C. Code Ann §27-37-10 (2014) 3

COUNTER-STATEMENT OF ISSUES ON APPEAL

- I. DID THE MAGISTRATE COURT JUDGE ERR IN DENYING APPELLANT A NEW TRIAL AND AFFIRMING THE WRIT OF EJECTMENT (EVICTION)?
- II. DID THE CIRCUIT COURT JUDGE ERR IN AFFIRMING THE MAGISTRATE COURT JUDGE'S RULING DENYING APPELLANT A NEW TRIAL AND AFFIRMING THE WRIT OF EJECTMENT (EVICTION)?

COUNTER-STATEMENT OF THE CASE

Respondent, Rock Point II, filed an Application for Ejectment (Eviction) in the Magistrate Court for York County on or about January 3, 2024. The York County Magistrate issued a Rule to Vacate or Show Cause (Eviction) on or about January 3, 2024 which was served upon the Appellant on or about January 4, 2024. A hearing was held before the York County Magistrate and the Judge issued a Writ of Ejectment on January 17, 2024 which was personally served upon the Appellant on January 19, 2024. The Appellant sought the assistance of South Carolina Legal Services and attorney Bronte M. Anelli filed a Certification of Representation Pursuant to Rule 3(b)(2), South Carolina Rules of Civil Procedure along with a Motion for a New Trial supported by an affidavit of the Appellant. A hearing was held on January 22, 2024 on Appellant's Motion for a New Trial and the Honorable Jennifer S. Colton denied Appellant's Motion and Appellant filed a Notice of Appeal to the York County Court of Common Pleas on January 26, 2024. On January 29, 2024, the Honorable Jennifer S. Colton, York County Magistrate issued a Return of Civil Appeal that was filed on January 30, 2024 by the Magistrate Clerk of Court and filed with the York County Clerk of Court on February 1, 2024. A hearing was held on February 15, 2024 before the Honorable William A. McKinnon, Circuit Judge for York County Court of Common Pleas wherein the Appellant appeared Pro Se and the Respondent did not appear. The Honorable

William A. McKinnon issued a Form 4 Order dated February 15, 2024 finding that “No evidence was presented to any legal error made by the magistrate court in denying the motion for reconsideration or a new trial.” On March 1, 2024, the Appellant filed a Notice of Appeal along with Proof of Service upon Respondent in the Court of Appeals for South Carolina.

STANDARD OF REVIEW

The Standard of Review to be applied by a Circuit Court to an appeal of a magistrate’s judgment is prescribed by Section 18-7-170 of the South Carolina Code of Laws:

Upon hearing the appeal, the appellate court shall give judgment to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact.

S.C. Code Ann. § 18-7-170 (2014); see also *Bowers v. Thomas*, 373 S.C. 240, 244; 644 S.E.2d 751, 753 (Ct. App. 2007)

“The magistrate’s factual findings, confirmed by the circuit court, must be upheld by the appellate court if supported by any evidence.” See *Union Cnty. Sheriff’s Off. v. Henderson*, 395 S.C. 516, 519; 719 S.E.2d 665, 666 (2011). Questions of law are reviewed *de novo*, *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 110; 662 S.E.2d 40, 41 (2008).

STATEMENT OF FACTS

On January 3, 2024, the Respondent filed an Application for Ejectment against the Appellant alleging grounds for eviction that the term of tenancy had ended. The Appellant was the Lessee of Respondent renting property at 2351 Ridge Rock Lane, Apt. B107, Rock Hill, South Carolina in York County. The Magistrate Court issued a Rule to Vacate or Show

Cause on January 3, 2024 ordering the Defendant to vacate the premises pursuant to S.C. Code Ann. §27-37-10 or contact the Magistrate within ten (10) days of receiving the notice in order to schedule a hearing to show cause as to why the Appellant should not be evicted from the premises. The Rule to Vacate or Show Cause was returned to the Magistrate Court with a sworn affirmation that the Appellant was personally served on January 4, 2024. Appellant did not file an answer requesting a show cause hearing. On January 19, 2024, a Writ of Ejectment was issued by the Magistrate Court. On January 19, 2024, Appellant filed through her attorney, a Motion for a New Trial. The Magistrate Court denied Appellant's Motion for a New Trial. The Magistrate Court found that the failure of the Appellant to request a hearing resulted in default judgment for eviction against the Appellant finding that the Appellant failed to show credible cause to vacate the judgment of the Magistrate's Court. The Appellant filed an Appeal to the Circuit Court in York County and a hearing was held before the Honorable William A. McKinnon on February 15, 2024. The Circuit Judge held that "no evidence was presented as to any legal error made by the magistrate court in denying the motion for reconsideration or a new trial." The Appellant filed a Notice of Appeal of the Circuit Court findings and this Appeal followed.

ARGUMENT

I. Appellant Failed to Prove Her Claim at Magistrate Hearing for New Trial

The Appellant failed to provide credible evidence to the Magistrate Court for a New Trial or a Motion to Reconsider and, further, the Appellant failed to provide any evidence of legal errors made by the Magistrate Judge to the Circuit Court Appellate Judge. The Appellate Judge found no evidence was presented as to any legal error made by the magistrate court

in denying the motion for reconsideration or a new trial. The Appellant failed to provide sufficient evidence to the Circuit Court that any legal errors were made. The Appellant's arguments at the lower court failed to meet the standard to overturn the Magistrate's Judgment. In fact, failing to provide any credible evidence to the Circuit Court renders the appeal to this Honorable Court moot. The South Carolina Supreme Court has long recognized that "[a] case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for review court to grant effectual relief." *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973).

II. The Appellant Failed to Identify any Errors in the Court Below or Provide Supported Arguments in Favor of her Appeal

The Appellant has the responsibility of presenting an adequate record to this Court and providing argument, with supporting authority, in support of her position on appeal. Appellant has failed to do either. This Court should disregard Appellant's Brief in its entirety. Appellant has effectively abandoned her appeal by failing to make an argument or to support any argument with relevant authority. Indeed, Appellant's Brief is the definition of unsubstantiated allegations of unfairness, bias, and legal errors that no evidence has been provided and no authority given and no argument made. *See First Sav. Bank v. McLean* 314 S.C. 361, 363; 444 S.E.2d 513, 514 (1994) (finding an appellant was deemed to have abandoned issue for which he failed to provide any argument or supporting authority). Appellant has simply made allegations of bias and unfairness by the Magistrate Court, the Circuit Court, and the Respondent and provides statements without proof to allege that "the Circuit Court as the Appellate Court failed to correct procedural and legal errors, justifying

reversal and remand for a fair hearing.” However, Appellant failed to provide any such “procedural and legal errors” and/or any unfairness by either the Magistrate Court or the Circuit Court and has failed to provide any argument or authority for this Appellate Court to remand to the lower court for a “fair hearing.” Appellant’s brief does not provide the Court with any rationale for her position nor how the Courts below erred. In the absence of any argument on any issues that appear to have been raised on appeal, Appellant should be deemed to have abandoned her entire appeal. This Honorable Court should summarily affirm the Lower Court’s findings.

CONCLUSION

All parties, including those who choose to represent themselves as Pro Se participants, should have complete and open access to the courts to vindicate their rights. Equal entitlement to court access is no guarantee of success on the merits nor should access to the courts be unlimited. Appellant had the opportunity to have her case heard in the Magistrate Court and in a separate Appeal to the Circuit Court and has been provided with every opportunity to present the facts of her case. The problem, however, is that there is no proof of her allegations and she seemingly cannot come to grips with that fact. In the absence of evidence, argument, or authority provided to this Honorable Court that would warrant reversal or remand, this Honorable Court should AFFIRM.

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