

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Appellate Case No. 2025-002111

BOKF, N.A.,

Respondent,

v.

Joshua Ovalle,

Appellant,

RESPONDENT'S MOTION TO DISMISSAL APPEAL

Chad W. Burgess, Esq.
(S.C. Bar No.: 72520)
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Attorney for Respondent

NOW COMES Respondent, BOKF, N.A. (“Respondent” or “BOKF”), by and through its undersigned attorney, and pursuant to Rule 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order dismissing the appeal of Joshua Ovalle (“Appellant” or “Ovalle”) averring as follows:

BRIEF PROCEDURAL HISTORY

This matter is an action to foreclose a mortgage on real property in Lancaster County, South Carolina. Appellant initiated his appeal on October 13, 2025.

On or about December 29, 2020, Appellant was loaned the sum of \$261,250.00 by Thrive Mortgage, LLC, which is evidenced by a promissory note (“Note”) secured by a mortgage on real property owned by Ovalle commonly known as 8866 Ross Hill Road, Fort Mill, SC 29707 (“Mortgage”). The Note and Mortgage were signed by Appellant on December 29, 2020 (the Note and Mortgage shall hereinafter be referred to collectively as the “Loan”). The Mortgage was recorded in the Lancaster County Registry on December 30, 2020, in Book 4248 at Page 253.

The Note and Mortgage were subsequently transferred to Respondent. The installments of principal and interest falling due from and after September 1, 2024, have not been paid, thereby placing Ovalle in default under the terms of the Loan. As a result of Ovalle’s default, Respondent filed the subject foreclosure action on June 23, 2025.

Ovalle was personally served with the foreclosure Summons and Complaint on June 30, 2025. The case was referred to William C. Tindal, as Special Referee for Lancaster County on July 8, 2025. On July 28, 2025, Ovalle filed a document titled “Plea in Abatement, Notice of Liability and Praecipe” which can only be described as a sovereign citizen filing. This filing did

not constitute an answer or other legally cognizable pleading responsive to Respondent's complaint. As a result, counsel for Respondent filed an affidavit of default on August 13, 2025.

A foreclosure hearing was held on September 2, 2025, attended by Ovalle and counsel for Respondent. On September 17, 2025, the Special Referee entered an order awarding Respondent judgment of foreclosure and setting a judicial sale for November 3, 2025. This appeal followed.

On January 13, 2026, this Court notified Ovalle that his initial brief and designation of matter were overdue. On January 22, 2026, Ovalle filed a request for a 60-day extension of time to submit his initial brief and designation of matter to which Respondent submitted a return in opposition. Respondent's opposition to Ovalle's request for an extension centered around the sovereign citizen nature of Ovalle's pleadings coupled with the Ovalle having effectively been given a 60-day extension beyond the time his initial brief and designation of matter were due. On March 4, 2026, this Court granted Ovalle's request for an extension and allowed Ovalle 30 days within which to file and serve his initial brief and designation of matter.

On April 6, 2026, Ovalle submitted his initial brief and designation of matter along with a notification that he had a pending Chapter 13 Bankruptcy action. Respondent acknowledges that Ovalle filed a Chapter 13 bankruptcy petition in the United States Bankruptcy Court for the District of South Carolina on March 2, 2026 (Bankruptcy Court Case Number 26-00925-jd). Ovalle's Bankruptcy case was dismissed by an order entered May 1, 2026 noting, "various deficiencies with his documents and failure to obtain pre-petition credit counseling". A copy of the order dismissing Ovalle's Bankruptcy case is attached hereto and incorporated herein as **Exhibit "1"**. The Respondent now moves to dismiss Ovalle's appeal based on Ovalle's failure to follow the South Carolina Rules of Appellate procedure.

ARGUMENT AND CITATION OF AUTHORITY

The order dismissing Ovalle's bankruptcy provides an excellent recitation of the sovereign citizen nature of Ovalle's filings in that forum. Ovalle's initial brief and designation of matter are consistent with filings and arguments he made in the Court below and before the Bankruptcy Court and they do not comply with the South Carolina Rules of Appellate Procedure.

The term sovereign citizen is used to refer to individuals who are members of or involved with one of a number of loosely associated and diverse groups with varying belief systems that are generally anti-government or anti-authority. *See, e.g., Presley v. Prodan*, C/A No. 3:12-3511, 2013 U.S. Dist. LEXIS 51150, at *6 (D.S.C. March 11, 2013) ("the basic premise of the various groups often identified as sovereign citizens involves an individual's denouncement of United States citizenship and self-declaration of created citizenship based on various theories"). Sovereign citizen filings – like those of the Defendants – are generally interposed for the illegitimate purposes of delaying or denying the institution of justice in both criminal and civil matters. Such pleadings are often voluminous and contain complex and incoherent legal theories that, while containing legal jargon or legitimate sounding phrases, are not based in any cognizable legal theory or procedure. In short, sovereign citizen pleadings are subset of shotgun pleadings used as blatant delay tactics so as to prevent a mortgage holder from exercising its rights. *See also Bank of Am. v. Baxter*, Civil Action No. 3:16-1231, at *2-*3 (D.S.C. Aug. 3, 2016) (restating plaintiff's argument that "'sovereign citizen' type pleadings, which are common in foreclosure actions ... [typically] fail to 'offer any justification or legal cognizant argument for jurisdiction of [the] case.'").

Though his initial brief is not lengthy, it bares tell-tale markings of sovereign citizen theory are present the same as with his Bankruptcy filings. For example, included in Ovalle's list of issues on appeal are:

2. Whether the Special Referee erred in entering judgment of foreclosure after Appellant tendered a special deposit and set-off intended to satisfy the alleged obligation.
3. Whether the foreclosure proceedings failed to reflect the equitable nature of such actions, including consideration of Appellant's efforts to address the alleged debt.

Put bluntly, these purported issues are nonsensical and revolve around Ovalle's sovereign citizen belief system and they shed no light on any possible issue for appellate review. Further, Ovalle's initial brief is devoid of any authority relied upon in support of his appeal and completely omits any reference to standard of review or citations to an eventual record on appeal. But for a few headings, Ovalle's initial brief fails entirely to comply with SCACR, Rule 208. Some of these deficiencies were noted in this Court's April 15, 2026 deficiency letter.

"[T]he Appellate Court Rules 'are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.'" *Forner v. Butler*, 319 S.C. 275, 276 n.1, 460 S.E.2d 425, 426 n.1 (1995) (quoting *Henning v. Kaye*, 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992)). "Whenever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court." Rule 260(a), SCACR. All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules of the Court. *See State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014) ("Appellant [who moved to be allowed to proceed pro se] acknowledged

he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence.”).

Because Appellant has failed to abide by the SCACR, and because allowing this appeal to remain open would only invite further sovereign citizen’s filings, this appeal should be dismissed.

CONCLUSION

Appellant’s initial brief and designation of matter do not comply with the SCACR and are marred with the same deficiencies as his now-dismissed Bankruptcy filings as outlined above. Based on those deficiencies, Respondent respectfully requests that Appellant’s appeal be dismissed and requests such other relief this Court deems just and proper.

Respectfully submitted,

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Dated: May 5, 2026

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SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned certifies that, on May 5, 2026, the Respondent's Motion to Dismiss Appeal was served on the below-listed parties by depositing a copy thereof in the United States Mail, first Class, postage prepaid, addressed to:

Joshua Ovalle
8866 Ross Hill Road
Fort Mill, SC 29707

Served By:

s/Chad W. Burgess
Chad W. Burgess, Esq.
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Date: May 5, 2026