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SC Court of Appeals

Form 1

Notice Of Appeal In A Civil Matter) CASE
The State of South Carolina
In The Court Of Appeals

Appeal From Charleston County
Court of Common Pleas

Courtney Clyburn Pope, Circuit Court
Judge

CASE NO. 2025 000893

William Kalivas Ashley Andrews, Judge M. Scarborough
Representative Heirs/Cotenants, also M. Dinwoodie,
of The Estate of Helen G. Tolbert Judge C.C. Pope
Betty Jean T. Jones, Sara Jo T. Latten,
Keith Tolbert, Charles Tolbert Respondent,

v.

Ave Smith

Appellant

Notice of Appeal Amendment

Ave Smith,

Final Brief

Ave Smith

338 Fifth Ave. + 2nd 1/2th St

Mt. Pleasant, SC 29464

1-843-216-6960

Pro Se

0

complete

Appellant Ave Smith
 CASE No. 2025 000 893
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add to the Brief of Appellant, Ave Smith
 x Final Brief Form 7
 follows

Table of Authorities And Citations

1. The South Carolina Court of Appeals Justia - Fedor Vs. Heirs Atlaw Smashum - Reversed And Remanded to a SC Circuit Ct "Quiet Title", Defeated by the "Deed of Distribution", and by the judges, "Neglect," to be governed by the "Standard of Review"
2. The Document, "Why Do I Need A Quiet Title Lawsuit?" There was never a need for said lawsuit, "Dead in the Water" in CASE NO. 2021CP100458
3. Justia - The six (6) elements to be satisfied to claim, "Title To Adverse Possession" satisfied by me, Carolyn Talbert Smith - see pages _____ in Justia
4. Fleming v. Rose, 350 S.C. 488, 493, 567 S.E. 2d 857, 820 (2002) = Per mis-use of Summons Judgment
5. Faile v. SC Dept of Juvenile Justice, 350 S.C. 315, 324 566 S.E. 2d 536, 540 (2002) Per, if triable issues exist those issues must be submitted to the jury (I was barred)
6. Young v. SC Dept of Correction
7. Hall v. Fedor 349 S.C. 169, 173-74, 561 S.E. 2d 654, 656 (Ct. App. 2002). Re: Summary Judgment (Judge McScarborough obstructed Justice by starting with Summary Judgment and refusing to hear my counterclaim of "Title To Adverse Possession") "He blocked my argument by shutting down the hearing after hearing only one side, leaving my "genuine issues as to material fact" arguments "NOR" presented to the
 * took it upon himself to take my place and claim the "lie" that I had *
 * No, "genuine issues as to material fact" - *
 * none

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1.

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Table Of Authorities And Citations CASE NO.

Appellate, Are Smith

- Fleming v. Rose, 350 S.C. 488, 498, 567 S.E. 2d 857, 860 (2002). = Per mis-use of Summary Judgment
- Faile v. S.C. Dept. of Juvenile Justice, 350 S.C. 315, 324, 566 S.E. 2d 536, 540 (2002) Per if triable issues exist, those issues must be submitted to the jury (denied me, Appellant, Are Smith by the Circuit Ct (re: my hearing before Judge Popel)).
- Young v. S.C. Dept. of Corrections, 333 S.C. 714, 718, 511 S.E. 2d 413. (Ct. App. 1999). Hall
- V. Fedor, 349 S.C. 169, 173-74, 561 S.E. 2d 654, 656. (Ct. App. 2002). Re: Summary Judgment - Even where no dispute as to evidentiary facts exists, but only as to the exclusions or inferences to be drawn from them.
- Lanham v. Blue Cross & Blue Shield of S.C., 349 S.C. 356, 363, 563 S.E. 2d 331, 334. (2002). Per: 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. In the prior case, the Backdrop to CASE 2025000893 it is a sad "Pity," the Judge Scarborough avoided viewing and following this standard! ^{MOO X} the claim of Quiet Title Lis Pendens be set aside overturned

copy 3
cont
2

See
Reverse
for
Statement of
Issues as
Appeal

Table of Authorities And Citations Continued

Grant v. Grant, 288 S.C. 86, 340 S.E. 2d 791 (Ct. App. 1986) Per Ouster "Actual Turning Out" Per All Respondent except Carolyn never had a key to subject property; never lived at the resident; contributed anything to the property. They lost possession of their family's formerly designated private rooms given by the Smith family to our extended families. Former co-owners, heirs evinced and dis-sieged by vigilance and diligence evinced that I, Appellant had exclusive possession after ten (10) yrs part of 18 yrs and now after twenty (20) yrs. Woods v. Bivens, 292 S.C. 76, 354 S.E. 2d 909 (1987). Brevard v. Fortune, 221 S.C. 117, 69 S.E. 2d 355 (1952). The act described above in "Ouster" in this case suppressed in the prior case, Backdrop for the present case, mine 2025 000 893 Per, "Ouster" unequivocal in nature and Motive of Attorney Kalivas + Andrews aided and supported by the Chas. Co., SC Master-In-Equity This very false lawsuit "Quiet Title" against me and my family proves distinct hostility on the part of Respondents

Ref

2

3) cont'

Table Of Authorities And Citations

- 1) Ouster unmistakable, Felder, 278 ^{S.C.} at 330,
- 2) 295, S.E. 2d at 642. In rare extreme cases ouster ~~is~~ by one co-tenant of other co-tenants will be implied from exclusive possession and dealings with the property such as collection of rents improvement of the property. *Id.*, 278 S.C. at 331, 295 S.E. 2d at 642. Our Improvement, (new HVAC-system, new roof, ground build up, exterior painting of the dwelling, upkeep of yard, lawn and garden regularly, taxes pd to preserve our ownership i.e. for all who asserted his co-ownership. None did! Only my brother, mother and I
- 3) Ouster is presumed from possession only, if it is continued for a period of twenty yrs. Title by 10 yrs (ten) Adverse Possession by a co-tenant against another may be acquired only after actual Ouster of which the latter has notice (latter references the co-tenant ousted) or should have in the exercise of a reasonable diligence and vigilance. *Walson v. Little*, 224 S.C. 359, 364, 79 S.E. 2d 384, 387 (1958).

See ^{please} the list of improvements

Please see evidence of Justice Henderson vs. Smackum

6.3b

8. "Standard of Review," Same even if, where no dispute as to evidentiary facts exist but only as to the exclusions or inferences to be drawn from them, Summary judgment a drastic remedy should be used "precautiously" to insure no person is deprived of a trial of disputed factual issues - Lanham v. Blue Cross Blue Shield of SC, 349 S.C. 356, 363, 563, S.E. 2d 331, 334 (2002).

9. Grant v. Grant, 288 S.C. 86, 340, S.E. 2d 791 (Ct. App. 1982) per "Duster," clearly accomplished by me, Carolyn but never heard suppressed by Judge M. Scarborough

10. Woods v. Bivens, 292 S.C. 76, 354, S.E. 2d 909 (1987),

11. Brerard v. Fortune, 221 S.C. 117, 69, S.E. 2d 353, (1952), "Duster," in my, Carolyn case unequivocal!

12. Felder, 278, S.C. at 330, 295, S.E. 2d at 642,

Watson v. Little, 224 S.C. 359, 364, 79 S.E. 2d 384, 387 (1958) Lusk v. Callahan, 287 S.C. 459,

460, 339, S.E. 2d 156, 157, (Ct. App. (1986)).

* Freeman v. Freeman 323 S.C. 95, 99-100, 473 S.E. 2d 467 (Ct. App. 1996) "Duster is presumed from possession only if it is continued for a period of twenty yrs (Never, ever the case) the CASE No. 2021 CP 1004058 was always

and only for ten yrs) (Judge Scarborough deceived the SC District Ct. For the District of SC, documenting that I did not prevail, I Carolyn, because I had not resided at the resi-

dent exclusively for 20 yrs. Clearly another Casual Compromis of the

"Truth," by opposing judiciary. Nevertheless Freeman follows super

14. "Title," by ten yrs, may be acquired only after actual

3C

cont Table of Authorities

3C

4. Ouster of which the latter has notice or should have in the exercise of a reasonable diligence.

⁵ *Watson v. Little*, 224 S.C. 359, 364, 79 S.E.2d 384, 387 (1953).

The Case law cited herein ~~are~~ relied on to prevail in the Subject "Motion" To Dismiss said case with Prejudice and fix this, "Mis-hearing of Justice," all the "Obstruction of Justice,"⁶ The "Prosecutorial-Mis Conduct," attached to the conspiracy with the result executed in Sabotage of judge Scarborough's scheduled hearing to hear and to have heard my argument for my entitlement to have been granted at that hearing where said judge omitted hearing my side of issue. He ignored the "Standard of Review

(4) Final portion of ...
Cont'

Cont' 4 9

Table of Authorities And Citations

4) ~~One~~ Claiming "title" to land by adverse possession has the burden of proving

adverse possession by clear and convincing evidence. Lusk v. Callahan,

287 S.C. 459, 460, 339 S.E. 2d 156, 157. (Ct. App. 1986).

- This is accomplished by Ave Smith, Appellant more than once

eg. 2003-20 at the false filing

of Keith L. Tolbert re, Quiet Title Listeners and

by the ten (10) yr. "Title To Adverse Possession" and secondly now in my case by twenty (20) yrs

- of exclusive possession and legal right
- To prevail as an extremely rare case, having re-

Sided & held Subject property as my residence exclusively of and adverse to the right of

possession of all other Co-tenants who did not assert ownership in the subject

property and cannot satisfy the six (6) elements required along with "Exclusive Pos-

session. Only I, Appellant qualify as do the Corporal W. Leroy Smith family as to this present

case NO. 2025 000 893

"Quiet Title" Reversed And Remanded, [6]

I, Ave Smith Cite p. 7 of Justin-Fender v. Heirs of Smashum

merit one

merit one

Please see attachment regarding all six elements I've satisfied

2003-2018

10
01/05/2024

To: Judiciary, legal personnel and Off the record in the South Carolina Court of Appeals

From: Carolyn Tolbert Smith

Re: Two separate cases that is and they are Case

no. 2025000893, Ave's Case now in the S.C. Court of Appeals and Case no. 2021 CP 10 04058, Carolyn T. Smith's Case

Best understood that opposing counsel, William Kalivas, Esquire, Andrew Asbley, Esquire and other Respondents insist and would have justices believe that the two, separate cases are one and the same. Obviously the cases are ^{not} and reflect two different matters. The Case No. 2021, embroiled in "Conspiracy," "Sabotage," "Obstruction of justice," "Prosecutorial mis-conduct" and more. The judge, "Improperly granted," "Order Summary Judgment," gifting my ^{family's} property to an estranged grand nephew/cousin and related respondents. Hence Ave is competent to refer to proceedings (all), hearings everything in the prior, 2021 Case (false case) that impacts adversely her 2025000893 case as she battles to retrieve her property donated to the most unworthy, Charles Tolbert, I, Carolyn's case, not like Ave's case is not for jury trial. Ave's is. I have a different appeal as to my case.

Respectfully,

Mme. CTS
Carolyn Tolbert Smith

Complete
Copy 1
Needs
3/2

1a

Statement of Issues On Appeal

Judge C.C. Pope's denying me jury trials warranted

- 1) The, "Improviently," granting of my property at 338 Fifth Ave. + O'6th St. in Mt. Pleasant, SC 29464 and Judge C. Chyburn's Denial of my Motion for "Jury Trial!"
- 2) Neglect and deliberate refusal of the Master In Equity who is Judge Mikell Scarborough, to allow the argument "Counterclaiming" the "frivolous," "meritless" Law suit i.e., "Quiet Title Lis Pendens," "Dead-In-The-Water," already by the SC Court of Appeals in an appeal found in *Justia - Fender vs. Heirs of Amashum* in 2003 Reversed And Remanded, "Q.T."
- 3) ^{to} Uncover the TRUTH, with Judge Scarborough's false, untrue claim that he considered and adhered to the, "Standard of Review," wherein he blocked all argument per' the "Counterclaim," i.e. argument for Defendant's claim for a lawful, Law Suit with merit i.e. Defendant's, right to "Title to Adverse Possession," after having resided on the property exclusively for eighteen yrs. and having satisfied easily all six (6) elements required for, "Title To Adverse Possess. This judge
- 4) The Defendant takes issue with this judge's having persecuted and caused me ^{with} oppression for five, long, stressful yrs. he and his co-conspirators who on a duressment consented to keep this judge on this case the duration of the case; to sabo

1a

Sabotage

Take the S.G.A.M., Fraudulent, ghost hearing where-
 by the judge would and did sit before Defen-
 dants and Plaintiffs; started upside down, hear-
 ing, only, Summary judgment argued by the
 judges favored lawyers. He ignored the
 opposer ~~the~~ opposed to the unlawful treat-
 ment this judge afforded Carolyn, the oppo-
 ser ^{whom} this judge did not want to prevail. So he pro-
 ceeded to shut down the hearing, leaving one party,
 Carolyn, and her family dangling, bewildered, distraught
 5. Carolyn takes issue with ~~her~~ ^{my} attorney's hav-
 ing tossed, kicked aside her fiduciary rela-
 tion with me without allowing ~~her~~ input (into),
 her "throwing me under the bus" as it were and
 after ~~me~~ had paid her upwards of \$15,000.00.
 I take issue (w) her refusing to appeal the ^m "Im-
 providently" granting of my only home that I've
 preserved, improved, maintained as a legacy
 to our parents and open to all family, after now,
 new needed repairs existing are accomplished.

6. I take issue with the judge and his co-con-
 spirators for any and all Oral arguments in
 support of their "Sabotage" conspiring against
 me; their blocking my winning argument; the neglect
 of the Supreme of SC and the Discipline Council's
 decision to let these, their colleagues go free ~~also~~
 although guilty as sin of an egregious crime, a felony →

Issues

7 (j) Those, "Conferences" were the Conspiracy meetings of this judge, or-
x chestrated with Intent, a felony crime. (k) They executed the
"Intent," by appearing at the hearing this judge scheduled for
my argument, Sept. 21, 2022 after he, "threw a wrench," as it
were into the now, "S.G.A.M.", "fraudulent," "Ghost hearing"
8 as to my argument. (L) He opened the hearing with "Sum-
mary judgment," without recognizing my atty nor
me to counter the meritless "G" "J" Lawsuit. Here
this judge ended the S.G.A.M. hearing, refu-
sing to follow the "Standard of Review," herein.

9 (m) He succeeded in barring my scheduled
10 argument. (N) He "Replaced" my "argument,"
with the conspired, "Draft," "Concocted,"
by himself, M. Scarborough and his co-
conspirators, William Kalivas, Ashley An-
drews and Charles Tolbert and atty, M. Dinwoadie.

11 (O) This partial, zealous judge herein ti-
ed my atty's hands. She was no longer at
liberty to Appeal my Case on my behalf. She
had enjoined them as she consented to, "Sabotage," the S.G.A.M., Ghost hearing that was
to happen for me, Carolyn but was scrapped
by judge M. Scarborough. As to said beha-
vior this judge is guilty of, "Prosecutorial-
mis-conduct," a "Mis-Carriage of Justice," Ob-
struction of Justice, A Travesty of Justice and
of, "Improviently" granting Order Summary

4C

cont

conts #11-0

Issues

page 14

Summary judgment barring me deliberately from counterclaiming the false claim of "Quiet Title Litig Pondering" knowing, yes, he knew that Carolyn would prevail. That man garbed in a black robe the suggests how neatly dishonored the robe. In so doing, he is and made him a serious issue in the unnecessary saga of what occasioned the prior case and my now present case

2025000893 resulting from Judge Popers have denied me the lawful trial by jury (jury trial) to have returned to me my lawfully owned property at 338 Fifth Ave & 5th St in Mt Pleasant, SC 29464 where I've been a legal resident exclusive of the decedent, my darling grand^d mother for 20 plus years. Moreover my brothers and I, Ane are the only grand children who cared enough to leave

our FL residences to leave and devote time to both our grandparents between 1995 and 2003 when grand- Ma - D'Ann Ma died. Said resident

Issue

is a legacy to our worth grandpa- rents, Fred + Helen Tolber. Issue - It must not be for sale. No Respondent has right(s) herein

4C

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Item #4A2

Statement of Issues On Appeal

4A2 15

6. My property, Judge Scarborough, jeopardizes my legal ownership by first pursuing the frivolous Law suit, "Quiet Title Lis Pendens." I cite a document, "Why Do I Need to a Quiet Title Law Suit." One reviews the possible need for such a suit, The subject property does not qualify therein.
7. Further the SC Court of Appeals in and about 2003-2005 reviewed a similar case written in Justia - Fender V Heirs of Smashum. Fender filed for Quiet Title and prevailed in a SC Circuit Court but lost in the SC Court of Appeals when Smashum provided a "Deed of Dist" and heirs claimed a percentage share of the property.
8. Neither was Fender able to satisfy the six crucial elements necessary to claim "Title to Adverse Possession"
9. I witnessed Carolyn swindled out of my property even having satisfied the 6 elements required to claim "Title to Adverse Possess."
10. I lived exclusively on said property 18 yrs and held subject property Adverse to the rights of possession and/or profit by any other based on the ten yrs. and NOT the twenty 20yr rule. Keith filed said frivolous, needless, false lawsuit in 2021. I began my exclusive continued living and residency in 2003. Now it's been 20 plus yrs. (10) This judge covered his Travesty of Justice by Writing the SC Dist Ct. that Carolyn lost a claim for 20 yrs. Ludicrous! My atty. did no such thing. This judge recused him self after conspiring (w) the opposing counsel to sabotage the hearing where
Note! They enjoined, stole Carolyn's Atty. Left her Prose

X where he scheduled Carolyn's Counterclaim to "Quiet Title"

Page 2
Item #24

11. when he conspired with William Kalivas, Esquire, Andrews, Ashley, Esquire, my former atty, Melena Dinwoodie and others whom he had ^{them} to sign their consent to just keep him on the case for the duration, they sat behind closed doors and drafted some plain plan behind my back never making Carolyn privy of same plan.

12. This judge, judge Scarborough held the schedule hearing Sept 21, 2022. Some of my children traveled 640 miles to Mt. Pleasant and Chas. to witness said hearing. Ma, my brother and I attended. But the unprecedented happened

That judge had his chosen be seated in front of himself, began not hearing Carolyn's atty, started with summary judgment with nothing to summarize he immediately ended the hearing never allowing for "Due Process" he shut the Bogue, SCAM hearing down, scrapping the "Standard of Review" Nov. 2022. her audaciously gifted to Charles Leon McWilliam, III on behalf of Kurt Tubert and all Respondents my property to them and all judiciary the judge et al. to sell having contributed nothing

14. After creating the repugnant, felonious legal gross obstructions of justice, the scream, "yes, Carolyn, are holding us up!" Everything has gone awry only so far, not for them yet (15) Charles was allowed to attempt to bump my normal tax payments and failed. They tampered with the deed of trust, giving Charles the non-give a greater % than Carolyn, the primary owner.

Statement of Issues cont on Appeal

- (6) This matter is ^{compelling} liable as to my Appeal of the judgment of judge C. Chybun Popeje Dinwoodie's failure ^{fiduciarily} "Order Summary judgment" with "nothing to summarize!"
- (7) Judge Mr. Kell Scarborough's "Improviently" granting of "Quiet Title" the fraudulent case of no merit ⁽ⁱⁿ⁾ having already been pronounced "Dead-In-The Water" by the SC Appeals or Ct. of Appeals in and about 2003-2005 in Fender V. Heirs of Smashum,
- (8) Documents of this judge Scarborough's scheduling a hearing to hear precisely the attorney in the "prior case" Counterclaim to "Quiet Title" the fraudulent case of no merit ⁽ⁱⁿ⁾ having already been pronounced "Dead-In-The Water" by the SC Appeals or Ct. of Appeals in and about 2003-2005 in Fender V. Heirs of Smashum, ^{"Omitted"}
- (9) The "Standard of Review" in Fender V. Heirs of Smashum, ^{"Omitted"} to show that judge Scarborough had to have deliberately ^{again} compromised "TRUTH," saying he observed and adhered to said "Standard of Review." He decides for the opposers ~~that~~ that I was to lose.
- (10) As the other SC Circuit Ct. received their judgment Reversed and Justia Remanded back to their Ct, utilizing said "Standard of Review" omitted I'll show that in the prior case wherein Atty Mr. Dinwoodie was not heard as to her argument Pro, "Title To Adverse Possession, I and Carolyn and one other eligible owner would have, as I will prove, that I satisfied then and now, as did Carolyn, blocked "Improviently" by judge Mr. Scarborough and his co-conspirators, all "six (6)" elements required to claim "I satisfy" "Title To Adverse Possession." This facts and all the facts in the prior case made Carolyn the partie/person who prevailed on the prior * case thereby protecting ^{to} my interest as to my existing ownership of the property abandoned for eighteen plus years in 2021 at the filing of "Quiet Title" defeated ^{to} Tax Reports by the "Deed of Dist"
- (11) Any and all Ct matters i.e Circuit Ct; Court of Appeals, SC; The SC Supreme

3 C³ pag 9.

Issues Continued not heirs property - S An Issue Heirs? 18 C³ pag 9

6. The case is also about the subject property not being heirs property abandoned by heirs in deed that the intention dissolved by all heirs was that Carolyn, Warry and Ave' and ^{the W. Percy Smith} family intended to live on said property indefinitely, See fact per' in "Justia"

7. Carolyn offered cotenants/heirs fifty-thousand dollars each to agree to her adverse possession. without further negotiation they agreed to Keith and

* Charles' hostile filing of the meritless lawsuit Defeated by the existing perfect, "Deed of Distri-

8 bution that cause them attempts to execute other "Deeds of Dist." It stymied Keith & Charles. They returned to reality and returned to the initial sound, comprehensive "Deed of Dist."

9. * So issues are @ The false, frivolous lawsuit, "Quiet Title," which they still pursue due to the sinister obstructions of justice by judge M. Scarborough and subsequent judiciary that, "Rubber Stamp," their colleagues' "Prosecutorial Misconduct." May others see and admit what is totally unjust in this matter which compels me to fight against the injustices that are egregious in this whole matter. I, Ave' must be granted jury trial to, "Right," an egregious wrong ie judge Scarborough's

Improvidently ordered "Summary judgment for an estranged nephew who abandoned the property and the decedent. The only grand eligible to own subject property is I, Ave'. I held this property & Ad-

Veredy 20 plus yrs

Cont' Statement of ISSUES ^{on Appeal} ^{pg 9 cont'}

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19

9. ^{Start} yes Ma' 88 yrs of age needs to stay put in her present home, Mt Bell Scarborough has (did). Improvidently granted, a gift to a claimant, - Respondent, ^{and} changed relative. All Respondents herein abandoned the subject property, became hostile upon knowledge that Carolyn T. Smith, the only sibling of ⁴ family living ones was the only one to pull up roots from her job as dept head of the Foreign Dept of an outstanding private school in Coral Gables, Miami Dade County, FL to become primary caregiver for both the decedent and her father in 1995 while working full time, and using paid help to assist her until she had to interrupt two of her children's ^{College} education to join her in the care of their grand-parents. It was a telling sacrifice which they made unhesitatingly and most lovingly. They arrived in 1998.

I, AUC and one of my brothers lived on at the residence to present. We still maintain the property. With the earned well earned granting of the physical Title to our home here at 338 Fifth Ave. + ⁶ 1/2th St., in Mt. Pleasant, SC 29464, a dwelling on one part of the double lot and a structure and parts to daddy's gazebo destroyed by hurricane. on the other part ^{is} a play ground for the grands that have and still live here. Our sixteen dogs once enjoyed the yard. Please see No. 9 above.

4b
Mines

Statement of Issues on Appeal

4b1

20

cont. → Judge Scarborough shut me down again robbing me of "Due Process" jumped up, said he was turning the case back over to the circuit ct.; recused himself and left the court

* (18) Judge Rode's hearing - Heirs property *

ON ISSUE - Heirs "Kicked out" when the Law Suit without merit was filed causing obstruction of justice Prosecutorial misconduct and ultimately Judge M. Scarborough's gifting of Appellants' property a double lot at 338 Fifth Ave and 016th St. to Charles Talbert. I attended the Judge Rode's hearing

(19) All Ct. filings 2021-2025

(20) All objections to "Motions" denied in "CASE NO. 2025" and as compelled to be revealed as to Connection per the injustice(s) stemming from the prior case cited and impacting case NO. 2025 000 893 is the present case

(21) Typical Court error in the courts' attempt to spear or avoid having Judge T. Rode's Order judgment be focused on the "One" "motion" before him to end, "Dismiss with Prejudice" "CASE 2021 CP 10 04050." Their "error" impacts my case NO. 2025 000 893 adversely.

(22) = below as 4b-1+2

4b1

Statement of Issues on Appeal

her → Judge Scarborough shut me down again robbing me of "Due Process"
cont... jumped up, said he was turning the case back over to the circuit ct.; recused himself and left the court

* (18) Judge Rode's hearing - Heirs property *

Issue - Heirs "kicked out" when the Law Suit without merit was filed causing obstruction of justice Prosecutorial misconduct and ultimately Judge M. Scarborough's gifting of Appellants' property a double lot at 338 Fifth Ave and 0'6" St. to Charles Talbott. I attended the Judge Rode's hearing

(19) All Ct. filings 2021-2025

(20) All Objections to Motions denied in CASE NO. 2025 and as compelled to be revealed as to Connection per the injustice(s) stemming from the prior case cited and impacting case NO. 2025 000 893 is the parent case

(21) Typical Court error in the courts' attempt to spear or avoid having Judge T. Rode's Order judgment be focused on the "One" motion" before him to end, "Dismiss with Prejudice" Case ASE 2021 CP 10 04050. Their "error" impacts my case NO. 2025 000 893 adversely."

(22) Issue - Heirs forfeited; switched themselves out of the status of heirs. Further by their own decision to abandon the subject property; assert non-possession; file the "Quiet Title" law suit for selfish & impossible gain; disavow that Carolyn and family's claim was that of legal ownership of said property. See Justice Fender v The Heirs at Law "Smashum".
Quiet Title Lost 4/6 172

Copy

Designation Of The Matter

Documents And Court Materials And Citations 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 "Improvidently".

① Justice - In Fender V. Herrs At Law Smashum wherein The SC Court of Appeals, "Reversed And Remanded," back to The SC Circuit Ct. 2003-04, 05 due Improvident Order Judgment

* ② Justice - 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 meritorious case. He heard only one side at the fraudulent hearing. (2b) 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 "Improvidently," granting of my property by Order Judgment to an estranged relative with no standing by "Abandonment" & "none assertion" as to ownership.

④ Portions of Justice which focuses on "Abandonment," and "none assertion," of interest or ownership as a co-tenant. (5b) The substitute "Draft" by Conspiracy, "Intent,"

⑤ Justice + pages that define those is 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 I.B. right to

Heirs/Cotenants and to any ^{Right} 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 awarded "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 a vested interest herein.

- 7. Exhibit, Doc' - "Why would I need A, "Quiet Title," Law Suit"
- 8 "Deed of Distribution" Tampering 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 \$80 Heirs herein hostilely ignored my offer to buy their interests 2021"
- 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 with 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 @ "Jumbo" "hearing" though said judge and his co-conspirators had * "drafted," a "Substitute," claim behind (MAY base \$50) they scrapped/dropped MA'S "Counterclaim", their Plaintiff's hiding the "substituted" J-B claim resulting in the SCAMONET 9/21/22

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

2) Interrogatories of other tenants/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.

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

pg 2 Justice

1) "Ouster" 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 Reg. to the property. No Respondent, their/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 her 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

4

Appeal, the "Prosecutor's misconduct, "Mis Carriage of Justice", "Obstruction of Justice" and "Travesty of Justice" a Pro Se Charge

- * Doc' of proof the opposing Counsel's 'deceit' in documenting
- * that my attorneys 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^{ed} her position to Keith Tolbert estranged nephew/grand/cousin. He nor Charles Tolbert neither has eligibility herein.
- * Open-Third element 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 or 16 pets daily. We greeted each other. I'm at my church and for an insurance agency, and studied at the College and now at MUSC.

Justin Pg 2

(5) Notorias - I changed membership, visiting other churches. I shopped Harris Teeter, especially Publix 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 Pg 2

- (6) Exclusive - 2003 to present
- (7) Hostile - They all abandoned parent, 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 tender care. We arrived in the late 90s - See

(8) Justin - Fender v. Smashum + All Obstructions of Justice - Re: Six elements: Please see pgs. 2, 26 by Judge Scarborough

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

Designation of The Matter

- * ① Justia - Fender V Heirs At Law Smartum
- * Justia as to a "need of distribution," defeating "Quiet Title" + total doc'
- * ② All Documents Associated with Judge Mitchell's Conferences - July and Aug. 2022 and those pertaining to the Alleged "Counter claim" argument as well as the hearing where Judge reported that the argument to the Counter-claims argument took place though it did not!
- * All judgments + findings (faulty) that support the "Imprudently" actions
- * ③ Affidavits from family members ^{who} witnessed the Judge's having "Scrapped" hearing my Carolyn's "Counter claim" to the meritless "Quiet Title" fraudulent hearing this judge scheduled, after abusing his power by deciding my case behind closed doors. Transcript must show Ashley Adams "Admits" His
- * ④ The "Draft" of what the Judge and CO-Conspirators decided, to "Substitute" for my "prevailing" argument of "Title To Adverse Possession"
- ⑤ Ct filings repeatedly because the subject case was not overturned by the District Ct for the Dist of SC. Ct personnel ^{they} wrote that "could overturn" this case but that they would not. They Dismiss it without prejudice. I observe.
- ⑥ Documents from the SC Supreme Court, the SC Court of Appeals and from the District Ct for the Dist of SC
- ⑦ Letter(s) to Atty. Melena Dinwoodie asking her to act on my behalf.

JAA 3

Carolyn

"Designation of The Matter"

b²⁷

(17) The "Transcripts" and Comments written and many lies by opposing counsel refuted and challenged.

(18) Bloomberg's Report as to exception per AIA and AWA, exceptions, "One", of them which made me eligible the SC Dist Ct. For The Dist of SC, said Court denied me ie "Judge Scarborough denying me my constitution Right to, "Due Process,"

(19) Said Ct. For The Dist of SC wrote that they could overturn CASE NO 2021cp1004058 but that they would not

(20) My motion ie Carolyn's Motion to Dismiss the Case her named should be so dismissed and Carolyn be granted her earned and due Title to Adverse Possession, because of her yrs. of persecution by Judge Scarborough. Subsequent judges and acting Courts could be guilty of "looking the other way," as to knowing, after thorough examination of actions and merit, integrity

b¹

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.

Preliminary Statement of References

Justice - (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 ^{Possess.}

Bloomberg Law Report(s) legal matter in all Courts

Carolyn entered in SC Circa Ct up to the DisA For SC

The Last Will And Testament of The Decedent

The Holy Bible

The Conference Call(s) - Plaintiffs And Defendant

Arrangement ->

The blatant lies, deceit, Conspiracy & Sabotage cited

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

judges "Recusing" himself here when I started to

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

and opposing Counsel only allowed to participate

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

* 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 the court finds reason to put an end to the case upon which Appellant's case hinges, upon that it would give me, Appellant the just path to retrieving my property at 338 Fifth Ave. + 6⁰³th 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 104058 the prior case being challenged lawfully. The "motion," in that case was to Counter-claim "Quiet Title Lis Pendens, "A Meritless," Claim. 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 Decheatred a conspiracy
- * 2. He setup or Convened two meetings he called Conference,
- * 3. He invited Opposing 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 104058 the duration of the matter.
- 5. Defendant's Counsel for

cont

(5) Bert Smith was omitted from said conferences.

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

* tute "Draft" 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 S.C. 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 Mikell Scarborough, who compromised, "Truth," here and practiced; "Deceits," in his report -

* ing to judges or justices in the S.C. District Ct. for the District of S.C.

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 exclusively 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 judiciary agreed to in their meetings ie to "sabotage" the hearing.

(10) This judge started the hearing upside down and "un-constitutionally" heard only one side in a dispute between two parties! Why? The conspirators agreed together to have the judge hear "ONLY," SUMMARY JUDGE and shut said hearing down.

(11) He left my sanity up from FL 1,200 Miles Aumb 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 Carolyn

13) Carolyn's atty sternly refused to appeal; tried to convince Carolyn to accept the new play (a pig in a blanket) "new share (w) Carolyn and refused by Carolyn.

14) The Opposers mis-represented this Attorneys withdrawal from CASE NO. cp 1004058 as "Mutual," another compromise

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

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" "Busted" 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 my AUC Smith

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

(B) (5)

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 Lopez 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, agent/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 "Justice" - Fender v. Smashum proved that a "Need of Distribution," is a legal product that "Defeats" "Quiet Title" such "Deeds" plus a circuit Ct judge 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 zealous 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;

robbed the "Other side," ie 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," "obstruc-
tion of justice," and "Trausaty 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 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 these especially those sworn to
uphold the law to do so unhesitatingly

Argument

To Appellant Ave having adversely held the Right
to possession and all profits as to My property at 338
Fifth Ave. + 6th St, Mt Pleasant, SC 29464, will prove
my ownership referencing the "Sud(b)" requirements
already satisfied especially "Justo" and all other as to
my "Title To Adverse Possession." My "Motion" for Jury Trial's

Conclusion

Before the "Seat of Justice" the Tri-une God. I lost my case,
Saying Justly Judge Scarborough's granting of my property "Improvudently" by
egregiously ignoring the "Crucial Standard of Review" "Barring counties to
claim argument by the 2 primary owners, Carolyn and due to judge Scarborough's
Prosecutorial - Mis Conduct and Mis-Carriage of justice in Carolyn's Case"

40 Ct. 100

See "Justia"

Fender v
Henz of
Smetham m²

Conspiracy With Intent (Crime)
Sabotage Barring Carolyn
"Due Process"

38

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 26, 2022. However it was later revealed/uncovered that his plans agreed to by the following judiciary who gave their signed consent to "Sabotage" ~~was~~ just that i.e. to "Sabotage," the scheduled hearing Sept 2022. The judge earlier i.e. July and Aug 2022 covered 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 ²consisten³ actual, ⁴open ⁵notorious living having ⁵trusted Cotenants/Heirs 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 pos

Session

end result = judge here has stolen Ave + warranty property

copy stop
Select page to copy
Two copies

I now know how Judge
judge Scarborough deceiv- ed the SC District Ct. that a Counter-claim took place it's this
Go py to Katie Karim. also Post and Courier

copy 2
on
32

STATE OF SOUTH CAROLINA "DRAFT"
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

what?! → this is their
Keith L. Tolbert, Draft that I had
now way of knowing
Plaintiff, something about this

A Fraud! My family
nor I ever heard my
Counterclaim Bogus! Con-
spirer by an
CASE NO.: 2021-CP-10-04058
oullaw judge
who could not win
for those who were

AMENDED ANSWER AND
COUNTERCLAIM OF DEFENDANT

CAROLYN TOLBERT-SMITH

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;
Betty Jean Tolbert Jones; Sara Jo Tolbert
Latten; and Estate of Charla Tolbert
McMillan, I'm just understand-

Bogus! This is bogus!
was not made privy of this
that they decided in the dark be-
hind closed doors! The judge of-
festrated this conspired change of
read this

MisRepre-DRAFT Bogus Coun-
terclaim

ing how that Defendant(s) re-pugnant
judge deceived every court that saw and
Note: My atty, Detena Dunwoodie,
sented me! She reneged on her agreed duty

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

- 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!
- 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

NOT MY
Counterclaim

The Counterclaim of me

copy

Note, please: This whole case drips in
hidden pertinent information I should have been
a bodily part of! No judge decides a case with
dark, despicable group of judiciary members deciding my
case for me. I will do it myself. I will do it in a court. I will do it in a court.

AMENDED ANSWER AND COUNTERCLAIM OF CAROLYN TOLBERT-SMITH

42. Upon information and belief, in light of these equitable factors and accounting, Defendant is entitled to a partition by allotment, with the Subject Properties to be solely titled in her name in fee-simple, to the exclusion of the other parties to this action.

**THIRD COUNTERCLAIM
(Attorney's Fees and Costs)**

Evil Draft
Add to Partition

43. The allegations of the preceding Paragraphs are realleged as if fully set forth verbatim herein.

44. Pursuant to S.C. Code § 15-61-100, Defendant requests that the Court award Defendant reasonable attorney's fees and costs for this action.

Fowl!

WHEREFORE, having fully answered the Complaint, Defendant respectfully prays that this Honorable Court award the following relief:

A. Issuance of an order accounting for the common expenses related to the Subject Properties; *Plus Sweat Equity? My part in the appreciation*

B. Issuance of an order determining of the Parties' respective interest in the Subject Properties in light of the accounting and appropriate equitable factors;

NO! No partitioning! Counterclaim to Quiet Title claim of 2021 by Plaintiff Keith
C. Issuance of an order partitioning by allotment the Subject Properties in favor of Defendant and to the exclusion of the other Parties to this action;

To me Pro Se Postal service certified mailings 2022, 23, 24, 3 + 1/2 cts
D. Award of reasonable attorney's fees and costs incurred for defending this action; *and tampered (with) by Chynetta that stole I've been harassed irreparable warning of the daunting actions - now burning*

E. Any further relief as this Court deems just and equitable.

① Bitterated

Note: The newly and illegally executed Deed of Distribution must be abolished and that the initial Deed of Distribution be restored as feature on page 5 of 9 in this Draft packet

[SIGNATURE PAGE FOLLOWS]

health impair digestion problems, stress that kills sleep deprived

will out

copy

Principal Matter = "Conspiracy", "Sabotage" Lies
and "Deception"

30

Exhibit

01/10/2026

Index
Exhibit

update

Esquire Andrews, Esquire

Finally admitted that she lied

as to Carolyn's "Counterclaim"

having taken place. She did

so before Judge Thomas Rude

in a hearing Oct 8, 2025

Every documented form from

Judge M.S. appears with legal

manipulation lies and deception

from the Chas Coy Court of Com-

mon Pleas.

(1) He writes to the District Ct. of SC

Cont'

CP1004058

that Carolyn did not prevail in Case No. 2021

because she did not reside on the property

twenty yrs. No! The truth is that Carolyn's case as

Judge M.S. knew and still knows, was based on the rule

of "10 yrs. residency" and upon satisfying the six (6) elements

required by SC, to be satisfied which Carolyn satisfied

from 2003 after her mother died to 2013. Judge M.S.

granted "Motive" then was to "Stop" Carolyn from prevailing

as a Pro Se black unlicensed "Widow" from prevailing

leaving this judge's close buddies "Defeated." (2nd Ser-

condly Carolyn did not prevail because Judge M.S.

"Sabotaged" his upside down one sided hearing. He started

with summary judgment to hear his buddy buddy all caucasian

lawyers then "SHUT" the hearing down excluding Carolyn's beginning

"Counterclaim". He just left my family and me standing baffled!

his behavior despicable, and criminal.

Transcript

Principal Matter

Judge CC Popels Decision

that is/was governed by Es-
 quines especially Kalivas had nothing to argue that
 made sense. See, please see the incoherence of Atty. Ka-
 livas. On page 12 he expresses himself freely.
 He however brought a single erroneous complaint. He
 accuses me, and the only cotenant, granddaughter of and
 among all grands' with devout interest in my pro-
 perty subject in my case, "Title To Adverse Possession"
 neither Charles Tolbert nor Keith Tolbert, burning
 to sell said property have absolutely "0" zero in-
 terest in said property, obviously! Do find another
 argument, you can't find one. It gets worse! Exam-
 ple you prove complete unawareness as to Adverse Pos-
 session. You sound like noise, clanging symbols
 in your attempt herein. And as to the tor (a) yr rule
 and Adverse Possession, after 10 yrs remaining in this
 home of here seeing that former heirs @Vince and
 disavowed that the Smiths were at home here indefi-
 nitely as mother lovingly permitted, I, Ave, held
 said property Adverse to the Right to Ownership
 or profits herein. Atty. Kalivas and Atty. Andrews
 I, Ave am the only cotenant with "standing" after ex-
 clusive residency as far as cotenants living here ever.
 No others who abandoned and never asserted ownership

has/have "standings" Let's skip page 13 in this transcript. It's "numbo jumbo" alone 1-25. Pg. 14 Transcript shows the same "lacks," on the part of the opposing Counsel. Pg. 14, lines 1-6 - line 6 - we agree mutually. You, Atty. Kalivas must collect yourself and prepare differently. Pg. 14, line 8-15, see lines 10-15, see line 13-12, 11 = lines jumbled from from the "Standard of Review" - "light most favorable to the moving party." Lines 9, 10 are needed. Atty. Kalivas needs help getting his facts in order to present them so that they are clear to him and to his audience. I, Ave, pray that those who review the subject case shall be ever reminded that I, Appellant have only the prior case to which I am compelled to reference from beginning to the end of the ordeal created by the "Conspiracy," in which W. Kalivas, Esquire and Ashley Andrews, Esquire dived into head first by their signed consent to "sabotage" the "Hearing," judge Scarborough scheduled for Carolyn to "counterclaim," "Quiet Title," for Carolyn's clear entitlement. Now, then I, Ave's right to retrieve her property is cleared and is lawful as in case law utilized by the SC Court of Appeals in Fender v. Heirs of Smarhum, "Quiet Title," brought by Fender Reversed and Remanded March 2003-2005. Fender, like Charles Tolbert, made a motion in June 2021 for Summary Judgment.

Index Principal Matter:

Summary Order Judgment

ment

It appears that Judge Pope's judgment reflected none of the facts that I presented * in my Testimony based on, "Justin Fender v. Heirs of Smashum. Her consequent decision appears to focus on * the false, made up and, "Irrelevant," Complaints lacking any basis herein. Example - I, Ave' Am like Fender, a * 3 Fanchise Cotenant hence an Owner presently and my "ownership," began "exclusively and consistently after the death of my grandmother. Ten yrs thereafter, 2012-13 I held the "Subject property," Adverse to all other Cotenants ie Charles Tolbert, Keith Tolbert (et al) et al. except we, the cotenants who came to care for their grandparents, Torrance Smith, Warry Smith, Carolyn Smith and I. Not like Fender, * we measure up to all the six (6) elements needed to claim Title To Adverse Possession. W. Kalivas knows this judge Mikell knows this. All judiciary on cases associated with CASE 2021 CP1004058 Circuit Ct, judge Scarborough presider who Recused himself after calling or scheduling a "hearing," to hear Carolyn's "Counterclaim," to "Quiet Title," a frivolous law suit supported by judge Scarborough but refused to hear her "Counterclaim". He then reported that he heard the "Counterclaim," hearing which he actually blocked, blocking & barring Carolyn from "Due Process" He just started with Summary judgment, termed the "Hearing," a "Merit," something wherein Carolyn nor her attorney nor anybody but said judge shut down the "Hear-

cont Transcript Order Judgment

ings, left us who opposed, "Quiet Title," brought a
 gainst ~~me~~, left us ignored word dangling, dumb-
 founded. The judges agenda was to and did, "ob-
 struct justice," and he did. Thereafter came a battery
 of his, "Covers up by deceptions. Example - This judge
 reported to the SC District Ct For SC that Carolyn
 did not prevail because she had not dwelled in the
 home twenty, 20 yrs. Lies! My attyp argument for,
 "Title To Adverse Possession," "Unmistakably based on
 the Ten 10 yr. rule. We had lived here eighteen yrs at
 the time of Keith's Sept 21, 2021 or Sept 18, 2021 filing
 * So Cotenants and the "Only," cotenants who ever re-
 sided on the property Actual Exclusively of all other
 cotenants, Notoriously, ²Open, hostile as you see by
 the ³hostile, ⁴drastic ⁵frivolous Lawsuit Ouster was and
 is a true turning out. It's been plus twenty, 20 yrs.
 A person skilled in probate, Real Estate or no law
 it seems, by a review of the, "Consp'racny" with "Intent,"
 Executed by judge Scarborough, at the Sept 21, 2022
 Hearing where this judge and co conspirators Schemed
 and executed the, "unprecedented," ie a one sided
 Hearing of Charles Talber's blocking Carolyn's Counterclaim
 Counterclaim to "Quiet Title" amounted to, "sabo-
 tage," of said "Hearing," a S.C.A.M., Fraud, Farce. In
 Fender v Smashum Quiet Title was defeated
 then and NOW. I build my case on the followin CASE LAW

Transcript Conclusion

Based on the following "Case law," on which I, Ave' Smith based and do now base the "Testimony" I write in support of my "right," to "re-trieve," my property donated in error, & egregious error, by judge Mickell Scarborough, to an estranged relative, Charles Tolbert. This judge has allowed Charles Tolbert to hastily and in gross error, with no standing or abandonment from the property and from the grandparents he, Charles has never contributed to (them) nor to the property. He never asserted himself in any wise as to ownership. Please see "Justia" - Fender v. Herr of Smissum per, "Abandonment" pg 4, Paragraph 3, *1, lines-1, 2, 3 CASE Andrew v. Mc Dade, 201 S.C. 24, 28-29, 21 S.E. 2d 202, 204 (1942):

* Ouster - Respondents-Plaintiffs had spaces, rooms, designated to them and their family. They lost them as the Smiths and our new extended families were assigned to the spaces formerly Plaintiffs', Respondents' w/ the Smiths and other family took over. This was and is an unmistakable "Ouster." See pg 4, last paragraph Grant v Grant, 288 S.C. 86, 340 S.E. 2d 791 (CT App 1986) also Wood v. Bivens 292 S.C. 76, 354 S.E. 2d 909 (1987) also Brevard v. Fortune 221 S.C. 117, 69 S.E. 2d 355 (1952)

* "Ouster," so clear one, "Evinces," another's exclusive "rights."

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Decision

Transcript Conclusion Cont'

Judge's Error as to Judge C. C. Pope's Decision

* Judge Pope apparently knew little or perhaps nothing about Judge Scarborough's tendency to "Compromise Truth." He writes his reports deceptively in a manner to suggest that he has followed, obeyed the rules when he has not. Example - He skipped the crucial (S) "Standard of Review," which "stresses," the need to be particularly cautious as to the drastic remedy of "Summary judgment," so not to deprive anyone of a trial of dispute. The dispute was quite evident in "Title To Adverse Possession," v. "Quiet Title Lis Pendens," a major threat to one's losing his home he has preserved with loving care for yrs. Suddenly "stolen from him and gifted to a non-worthy one with no vested interest except Greed, an, "Only Equity Claimant" who does "No work," but "begs to Eat."

Had Judge Scarborough not committed, Prosecutorial Mis-Conduct in CASE No 20stcp1004058, To Ave' would not have been placed in the position of exposing conspirators with intent to, "Sabotage" the "hearing," where Carolyn would have prevailed; Atty's W. Katine, Ashley Andrews, Charles Tolbert Keith Tolbert et al. could avoid the "Paranoia" brought by their neglecting to uphold the law.

Index

Order Judgment

Principal Matter

Judge McKell Scarborough's Mis-Carriage of "5" the Order Summary Judgment Improvidently granting my property to Charles Tolbert a non-contributing, former heir/tenant who abandoned the subject property, who never asserted any ownership except to attempt to, "Bump," mine and Carolyn's payments of County taxes that we paid for nineteen yrs. Charles' attempted payment was returned to him.

No Respondent has contributed herein and each abandoned Baid property nor asserted ownership. Please see Justia - Fender v. Smashum in a "Quiet Title" matter reversed and Remanded to the Circuit Ct. 2003-2005 Please see attached - Justia - Fender v. Smashum, "Standard of Review" pg. 3, Paragraph 3, lines 1, 2 - "Genuine issues as to material facts" and lines 14, 12, 13. Judge Scarborough documents that he observed "THE" Standard of Review.

Only this Standard of Review is relevant which this judge ignored because he BARRED Carolyn from her argument that was scheduled for Sept 21, 2022 which he now pretends was a "meet" to decide "Meet" He must prove the "facts," utilized herein, giving Carolyn's input herein and those real facts no longer his, Judge McKell Scarborough's erroneous facts per

"Duster" Ashley Andrews Esquire, opposing Counsel
 a Co Conspirator and spokes person at the one-
 sided, "Hearing," where said Judge shamelessly heard
 only opposing Counsel; shut the Hearing down,
 robbing Carolyn of, "Due Process," and moving
 on to "Improvidently" granting order Summary
 judgment to Charles Tolbert et al non-contri-
 buting no longer heirs of cotenants. July and Aug.
 2022 he held status Conferences. The Committee of
 Carolyn, "Primary Owner" at the time. No Conspirator in-
 cluding Carolyn's atty made Carolyn privy of the
 "Draft" substitute the conspired hearing that Caro-
 lyn totally against their frivolous detrimentally
 "fake" law suit was agreed to in their conference
 please see the "infamous," "Pig in A Blanket," Caro-
 lyn's atty tried to convince to adopt with no input
 from nor by Carolyn, "Red Flags" for the octogenar-
 rian, educated, for sixty plus yrs. "Re: Abandon-
 ment, please see pg 4, of Justice - F.V.S., R.P lines 1-
 3 of Paragraph 3. Also see also pg 4, paragraph
 4, R.P Lines 1-7 and onto pg 5, R.P Lines 1-4.
 After eightear yrs of exclusive residency at the
 subject home, F, appellant, Ave, cotenant claimed,
 after the first ten yrs, Title To Adverse Posses-
 sion, Adverse to the ownership and profits
 of all heirs / former cotenants. My battle is to retrieve it.

55.

Transcript Matter Continued

IndexAdverse Testimony

Principal Matter...

is My clear, precise Testimony that, due to my property, at 338 Fifth Ave and 2nd St., Mt. Pleasant, SC 29464, having been, "Improvidently," granted, by Order Summary judgment to Charles Tolbert an estranged cousin/grand nephew with "no standing," as to his support of the, "frivolous," meritless, law suit of Quiet Title Lis Pendens." To this, "Testimony," Atty. Kalivas Chares that I show no cause for my "Motion," for "Title To Adverse Possession." Please see, "Transcript page 5, RP, lines 13-25, Pg. 6, RP page lines 3-6. I could now make it clear the six elements I satisfied as early as 2013 and 2018 and 2026 as to my claim for show and prove that I and no other grandchild is eligible to possess my home, subject herein

*Pg 6, RP line 17-23 First the case Kalivas cites as the very case that brings me or brought me before Judge C. C. Pope that day. Atty. Kalivas filed the "frivolous," "unnecessary" law suit of "Quiet Title." The SC Court of Appeals reviewed a case like the case this Enquire cites. It then affirms the

1.

he, Esquire Kalivas cleverly, to deceive the judge
 and you who read his words ie the words of Atty.
 Kalivas before Judge Pope, deliberately neglects
 to tell the much needed, "TRUTH," that Carolyn's
 "Counterclaim," was NEVER allowed, "never heard"
 by neither judge Mikell Scarborough nor any o-
 ther judge. Atty. Kalivas and other conspirators
 like himself, the Orchestrator, judge Scarborough
 who behind Carolyn's back convened what he
 called, "conferences," and Kalivas termed some
 "Status to do," all lies! They all knew that Caro-
 lyn would have prevailed. In this case the in-
 famous, "DRAFT," a (substitute) substitute to
 replace Carolyn's winning, "Counterclaim," to Re-
 spondents', meritless, "lawsuit" "DEFEATED"
 by a sound, official, "Deed of Distribution"
 and by the ~~the~~ circuit court judges neglect to
 follow the "Standard of Review," that is rele-
 vant as to "Title To Adverse Possession." If
 Appellant have now lived at the property subject
 herein more than twenty years 20 yrs. plus and
 lawfully by the rules of SC based first on the
 10 yrs. rule = 2013 and now the rule of 20 yrs.
 Had judge Pope requested proof of the lele-
 ment's rules I would have produced it. She
 did not ask. It appears the deceitful words of Kalivas
 governed herein. 2

Transcript

Please See also pg. 6, R P line 25; Pg 7 R, P lines 1-7 R P line 7-9 observe carefully as to the reason for the hearing not for nor was it based on any, "Merit." If so spell out the merit, never, "NEVER," discussed. Explain why Carolyn was ignored and there at the hearing with her Atty, NEITHER ever given any opportunity to speak at the hearing you now attempt to smother SCREEN. The hearing was an unprecedented wherein judge Scarborough and counsel to which he was completely partial. It appears that the infamous, "DRAFT," you judiciary created behind my back was your prejudicially created so called "Merit," you, judge are needing Carolyn's input to make your mis-"Carriage of justice," "Prosecutor's mis-conduct" and "Travesty of justice," in Carolyn's case a tiny bit diluted.

The "Standard of Review" as to Carolyn's Case, "Title To Adverse Possession," strenuously disagrees with "Summary judgment," calling it a "DRASTIC Remedy," please see, "Justice," - Fender V. Smash-

→ ~~in~~ pg. 1-12 of The Standard of Review 1-12 W. Kalivas references Carolyn's CASE but criticizes my referencing it knowing my case is against Carolyn's case.

Index

Testimony

I, Ave's case is to retrieve my property "Imprudently," handed to someone Charles Tolbert who according to abandonment has no right to my property to which I have vested interests. None, no Respondent clamoring to sell the legacy property has any interest in my property. When Keith only an "Equity Only Claimant," had no right to the subject property. Judge M. Scarborough partial to judiciary his own kind he zealously battles to protect their status as Equine or ally against the black widow and/or a black fatherless you lady with the sole one with the legal right to her property. Charles and Keith non contributors, "Abandoners" non-assertive, Equity Claimants turned their back on the grand parents herein and on the subject property. Taxes, maintenance, improvements, upkeep, Court appeal, now awaiting a do over re Court appeal. This needless, "Saga" blocks that progress.

Note too, please that Atty. Ashley Andrews finally admitted that there was "NEVER" a Counterclaim was NEVER permitted by Judge Scarborough who tries desperately to undo the "mess," he with his co-conspirators who all agreed to, "Sabotage," the "Hearing," Calla me with

Index "Judgment"

Plaintiff knows nothing about most of the materials referenced in the Judgment

Final Brief + Updates
03/24/2024

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Argument

Principal Matter

First Cause is judge Mikell Scarborough's Prosecutorial mis-conduct. He approached the issues partial to Carolyn's Opposer, i.e. Atty' William Kalivas, Atty' Ashley Andrews and adverse to Carolyn, the sole Black Opponent with the "winning Case laws," for opposing, "Quiet Title" on Carolyn's Side An easy Counterclaim to Defeat "Quiet T."

In the beginning Judge Scarborough's Intention was to do what he did and now denies i.e. he felt that pursuing, "Quiet Title" is pendens, would give him the path to prevail, illegally. He orchestrated a despicable scheme to bar Carolyn's, "Counterclaim" to "Quiet Title" Carolyn's Atty. warned her of the judge's plan to start the "hearing" upside down, starting with "Summary Judgment" and ending there.

Statement of Issues On Appeal

he, Judge Scarborough shut me down again robbing me of "Due Process"
cont... jumped up, said he was turning the case back over to the circuit ct.; recused himself and left the court

* (18) Judge Rode's hearing - Heirs property *

Issue - Heirs "kicked out" when the Law Suit without merit was filed causing obstruction of justice Prosecutorial mis-

7 Conduct and ultimately Judge M. Scarborough's gifting of Appellants' property a double lot at 338 Fifth Ave and 0th St. to Charles Tolbert. I attended the Judge Rode's hearing

(19) All Ct. filings 2021-2025

(20) All objections to Motions denied in CASE NO. 2025 and as compelled to be revealed as to Connection per the injustice(s) stemming from the prior case cited and impacting case NO. 2025 000 893 is the present case

(21) Typical Court error in the courts' attempt to spear or avoid having Judge T. Rode's Order judgment be focused on the "One" motion before him to end, "Dismiss with Prejudice" Case ASE 2021 CP 10 04050. Their "error" impacts my case NO. 2025 000 893 adversely.

Copy

(22) Issue - Heirs forfeited; switched themselves out of the status of heirs. Further by their own decision to abandon the subject property; assert non-possession; file the "Quiet Title" law suit for selfish impossible gain; declare that Carolyn and family's claim was that of legal ownership of said property. See Justia - Fender v The Heirs at Law "Smashum".
Quiet Title lost 4/6th

The State Of South Carolina

In The Court Of Appeals

Appeal From Charleston Co., SC

Court of Common Pleas

Courtney Clyburn Pope, Circuit Ct Judge

CASE No. 2025000893

Coteneants of The Estate of Helen G.

Tolbert, decedent, William Kahway Alwyn

Silver, Guardian Ad Litem For Sara J. T. Latten,

Ashley Andrews, Judge Ms. Beth Scarborough,

Atty. Melena Dinwoodie, Judge C.C. Pope

Respondents,

Ave Smith

Appellant.

This is to certify that a copy of the "Initial Brief" of Appellant, Ave Smith is being Emailed or sent by U.S. Postal Service to the Respondents herein named. Said Brief was mailed to the SC Court of Appeals after Nov 14, 2025. The same Brief Correspondence with proof of service Dated Dec 25, 2025.

Ave Smith
 338 Fifth Ave. + ^{21st St.}
 Mt. Pleasant, SC 29464
 1-843-216-6960
 Pro Se

Copy 5 more

(Cont.)

Form 7

Proof of Service Certified E-mail

- 1. Betty J. Jones
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- x 2. William Kalivas - wil@smithlawcarolinas.com
- x 3. Ashley Andrews info@lafordlaw.com
- x 4. Alwyn Silver - Taylor@silverlawfirmllc.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. Mr. Dinwoodie c/o The Finkel Law Firm, PC

Omit x 8. Judge T. Rode - trode sjf @ 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.

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MT Pleasant SC 29464

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Proof

Expected delivery date specified for domestic use.
Domestic shipments include \$100 of insurance restrictions apply *

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Court Authority
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SKIVA