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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Alan D. Clemmons, Master in Equity

Appellate Case No. 2026-001570

Shaftesbury Green Property Owners Association, Inc.,……..

Respondent,

Cedric Javus Browne, Michelle Eblen, Nationstar Mortgage, LLC, American Express National Bank, Bank of America NA, TD Bank USA, N.A., and Portfolio Recovery Associates, LLC,

Defendants.

of which Cedric Javus Browne is

the…….. Appellant.

APPELLANT'S REPLY TO RESPONDENT'S RETURN TO WRIT OF SUPERSEDEAS

I. INTRODUCTION

Appellant Cedric Javus Browne, appearing pro se, respectfully submits this Reply to the Return to Writ of Supersedeas filed by Respondent Shaftesbury Green Property Owners Association, Inc. ("the Association") on July 21, 2026. This Reply is timely filed within the time allowed by the Court's July 17, 2026, letter.

Appellant does not dispute that South Carolina law requires a written undertaking under S.C. Code Ann. § 18-9-170 to stay the sale of real property directed by a judgment satisfying a mortgage or other lien, and that Carsten v. Wilson, 241 S.C. 516, 129 S.E.2d 431 (1963), and the line of cases it cites — Muckenfuss v. Fishburne, 68 S.C. 41, 46 S.E. 537 (1904); Gerald v. Gerald, 30 S.C. 348, 9 S.E. 274 (1889); and Ex parte Andrews (Camp Fornance Development Co. v. Palmetto Building & Loan Ass'n), 152 S.C. 325, 150 S.E. 313 (1929) — hold that a notice of appeal alone does not stay such a sale absent that undertaking. Respondent's Return is correct on this point, and Appellant does not ask the Court to disregard it.

What Respondent's Return does not address is the amount of any undertaking, or the manner in which it may be satisfied — both of which are governed by statute and both of which favor a minimal, easily-satisfied figure on the facts of this case. Respondent's Return also does not address several independent defects in the proceedings below, which Appellant preserves here.

II. ANY UNDERTAKING SHOULD BE FIXED IN A NOMINAL AMOUNT AND MAY BE SATISFIED BY CASH DEPOSIT

Section 18-9-170 provides that where a judgment "directs the sale of land to satisfy a mortgage thereon or other lien," the undertaking's rental-value component applies only "in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt

and costs," and even then is capped "not exceeding the amount of such deficiency." The statute does not require a large or open-ended bond; it requires a figure tied to the actual risk of a shortfall between the sale price and the judgment being appealed.

That risk is minimal here for two independent reasons already in this record. First, the Master's own Report and Order of Foreclosure states: "As I was notified at the hearing of this matter that a personal or deficiency judgment has been waived, bidding at the sale shall be final at the fall of the gavel." The Association has already represented to the trial court that it is not pursuing a deficiency judgment. Second, the judgment on appeal is $10,026.58, against real property that secured an original mortgage of $191,369.00 according to the record below. A sale price shortfall below $10,026.58 for a property of this character is not a realistic prospect.

Appellant respectfully requests that any undertaking required as a condition of supersedeas be fixed in a nominal amount reflecting this negligible deficiency risk, and that Appellant be permitted to satisfy that undertaking by cash deposit with the Clerk in lieu of two personal sureties, as expressly permitted by S.C. Code Ann. § 15-1-250 and contemplated by S.C. Code Ann. § 18-9-180.

III. ADDITIONAL GROUNDS NOT ADDRESSED BY RESPONDENT'S RETURN

Respondent's Return addresses only the undertaking requirement. It does not address the following matters, each already part of the record below, which Appellant raises here to preserve for the Court's consideration and for the merits of the underlying appeal.

A. Contradictory findings on default status.

The Master's Report and Order of Foreclosure, Finding of Fact ¶ 4, states that Appellant's default was set aside "based upon lack of actual service," and that he was "permitted to

participate in the hearing and offer any defenses." The subsequent Order entered June 26, 2026, denying Appellant's post-trial motions, twice states that Appellant "is in default by failing to file a timely answer." These findings, by the same tribunal in the same case, cannot both be correct.

B. Insufficiency of the affidavit supporting service by publication.

Appellant's Answer, Affirmative Defenses, and Motion to Dismiss, filed March 18, 2026, raised insufficient service of process, failure to exercise due diligence, and improper service by publication as the First through Sixth Defenses, together with a Motion to Dismiss under Rule 12(b)(2), (4), and (5), SCRCP. The affidavit supporting service by publication reflects four attempts within a single week, three within a narrow early-afternoon window, with no variation in method or approach. In Caldwell v. Wiquist, 402 S.C. 565, 741 S.E.2d 583 (Ct. App. 2013), this Court held that "the affidavit must include some factual basis upon which the court issuing the order of service by publication can find that the defendant cannot, after due diligence, be found within the state," reversing a default judgment where the supporting affidavit was conclusory. See also Riker v. Vaughan, 23 S.C. 187 (1885); Du Bose v. Du Bose, 90 S.C. 87, 72 S.E. 645 (1911); Ray v. Pilot Fire Ins. Co., 128 S.C. 323, 121 S.E. 779 (1924) (requiring strict compliance with the publication statute). Defective service implicates the trial court's personal jurisdiction. Langley v. Graham, 472 S.E.2d 259 (S.C. Ct. App. 1996) ("[i]n the absence of proper proof of service… the trial court was without personal jurisdiction to enter judgment").

C. Certificate of Service predating the event it certifies.

The Certificate of Service by Mail filed May 4, 2026, states under oath that the Master's Report and Order of Foreclosure and Sale was mailed to Appellant "this 22nd day of April, 2026," while the accompanying notary jurat states the affiant swore to this fact "this 26th day of March, 2026"

— nearly one month before the mailing it purports to certify. As executed, this document cannot constitute valid sworn proof of the mailing it describes.

D. Fines imposed without the notice and hearing required by the Association's own governing documents.

Section 14.3 of the Association's By-Laws provides that, except for failure to pay assessments, "the Board shall not impose a fine… unless and until" a written cease-and-desist notice with a minimum ten-day cure period is given, followed by written notice of a hearing before the Board and an actual hearing affording the owner an opportunity to be heard. The July 14, 2021, letter imposing a $50-per-day fine on Appellant states the fine begins "today," with no cure period, and no hearing was ever noticed or held before this or subsequent fines were posted to Appellant's account, in direct contravention of this procedure.

E. Unexplained reduction in the amount claimed for assessments, late fees, and fines.

Paragraph 8 of the Complaint, filed January 21, 2025, alleged $16,865.71 due for assessments, late fees, administrative fees, and attorney's fees, and stated that this amount "continue[s] to accrue." Of that figure, $209.50 is attributable to fees billed by Attorney Richard M. Lovelace, Jr. prior to the filing of this action, leaving $16,656.21 attributable to assessments, late fees, fines, and administrative charges. The evidence actually presented in that same category at the April 8, 2026, hearing, per the Master's Report's Findings of Fact, totaled $5,051.68 — comprising $1,490.00 in assessments, $61.68 in trash fees, $3,200.00 in late fees, and $300.00 in fines, the last of which the Master declined to award for lack of corroborating evidence. The record does not explain the resulting $11,604.53 difference, a reduction of nearly seventy percent in the assessment-related charges originally claimed under oath. This is separate from, and

should not be conflated with, the $4,089.34 in attorney's fees and $976.06 in costs reflected in the final judgment, which were added for litigation work performed after the Complaint was filed and represent continuing legal expense rather than any correction to the assessment charges originally claimed.

IV. CONCLUSION

For the foregoing reasons, Appellant respectfully renews his request that this Court issue a writ of supersedeas staying the August 3, 2026 foreclosure sale (or any rescheduled date) and all enforcement of the Master's Report and Order of Foreclosure and Sale pending final resolution of this appeal. In connection with that writ or any order regarding the automatic stay, Appellant further requests that this Court fix any required undertaking in a nominal amount reflecting the negligible risk of deficiency in this matter, permit satisfaction of that undertaking by cash deposit under S.C. Code Ann. § 15-1-250, and grant such other and further relief as this Court deems just and proper.

July 23, 2026 Cedric Javus Browne

Cedric Javus Browne

Cedric Javus Browne, Appellant, Pro Se

633 Notting Hill Court

Conway, South Carolina 29526

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CERTIFICATE OF SERVICE

I certify that I have served this Reply upon Respondent by depositing a copy in the United States Mail, postage prepaid, and by electronic mail, addressed to Mark A. Nappier, Esq., Joye,

Nappier, Risher & Hardin, LLC, 3575 Highway 17 Business, Murrells Inlet, South Carolina 29576.

July 23, 2026

Cedric Javus Browne

Cedric Javus Browne