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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

The Honorable J. Camden West
Master-in-Equity

Appellate Case Number 2026-001562

Linda Gregg,

Appellant,

v.

St. Stephen Family Dentistry, LLC

Respondent.

APPELLANT'S INITIAL BRIEF

HOPKINS LAW FIRM, LLC

J. Clay Hopkins (SC Bar No. 102053)
William E. Hopkins, Jr. (SC Bar No. 66474)
12019 Ocean Highway
Post Office Box 1885
Pawleys Island, South Carolina 29585
(843) 314-4202 – Telephone
(843) 314-9365 – Facsimile
clay@hopkinsfirm.com
bill@hopkinsfirm.com

Attorneys for Appellant

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STATEMENT OF ISSUES ON APPEAL

I. Whether the Master erred as a matter of law by denying Appellant's statutory homestead exemption after expressly finding that Appellant "used the Property as her residence," "appears to have resided at the Property," and "considered the Property as her residence."

II. Whether the Master erred by applying unclean hands to create a forfeiture not contained in S.C. Code Ann. § 15-41-30(A)(1)(a), where Respondent also failed to trace any alleged misconduct to the exempt interest.

III. Whether Respondent failed to prove that Appellant abandoned the Property as her residence and acquired a new domicile elsewhere with the intent to make it her permanent home.

IV. Whether, at minimum, the Order should be vacated because its factual findings establish the statutory predicate for the exemption while its judgment awards all exempt proceeds to Respondent on a nonstatutory ground.

STATEMENT OF THE CASE

This appeal concerns $67,100 held by the Berkeley County Sheriff's Office from the sheriff's sale of Appellant Linda Gregg's (hereinafter "Gregg") home and real property at 3142 North Highway 52 (125 Armadillo Court), St. Stephen, South Carolina ("Property"). The funds were retained pending adjudication of Gregg's claim under South Carolina's homestead-exemption statute. (Order at 1–3, 6–7).

Respondent objected on two grounds: that the Property was not Gregg's residence and, alternatively, that unclean hands barred the exemption. (Tr. 7:4–15; Pl.'s Suppl. Mem. Supp. Mot. Objecting to Homestead Exemption at 2–3). Gregg answered that residence turns principally on intent, that incarceration and temporary absence do not establish abandonment, that Respondent offered no evidence she acquired a new permanent domicile, and that equity could not create a disqualification omitted from the exemption statute. (Def.'s Mem. Opp'n Mot. Objecting to Homestead Exemption at 2–6; Tr. 89:1–93:2).

After an evidentiary hearing on January 13, 2026, the Master entered an Order on June 16, 2026. The Master expressly found that Gregg "used the Property as her residence," "appears to have resided at the Property," and "considered the Property as her residence." (Order at 6). The Order further found that testimony and utility evidence "supports a finding that Gregg resided at the Property." (Order at 4–5).

The Master nevertheless denied the exemption. Rather than identify an unmet statutory requirement, the Master held that Gregg "lost entitlement" because of her prior conduct, applied unclean hands, and awarded Respondent all funds held by the Sheriff. (Order at 6–7). This appeal followed.

STATEMENT OF FACTS

Gregg takes no issue with the background facts stated in the Procedural History section of the Master's Order. Gregg's connection to the Property long predates the debt underlying Respondent's judgment. The home was built in 1997 on family land her mother gave Gregg and her former husband. (Tr. 17:2–8, 41:16–25). Gregg testified that the Property was her home, that she had no other home when she was paroled, and that she intended to return there. (Tr. 43:1–24).

When Gregg was granted parole and released from prison, tenants occupied the Property, so she temporarily stayed with her mother, who lives next door to the Property and owns the driveway providing primary access to it, while seeking and securing employment. After finding work, Gregg asked the tenants to leave and she moved back into the home. (Tr. 23:10–25, 42:8–25, 43:13–24). Gregg remained there until March 2017, when she left because she understood the Property was about to be sold at a sheriff's sale pursuant to a notice placed on the door by the Sheriff's Department. (Tr. 24:5–11, 43:22–44:14). Five (5) days before the scheduled May 1, 2017 sale, Respondent requested that the sale be delayed. (Tr. 44:20–45:14). Gregg testified that she continued making mortgage payments from 2017 through 2023 and did nothing to delay the sale. (Tr. 45:15–46:22).

When no sale occurred, Gregg returned to the Property in October 2022. Berkeley Electric confirmed electrical service in her name at the Property from October 2022 through September 2023. (Tr. 47:9–48:22). Gregg testified that she lived there during that period. (Tr. 48:15–22). Her nephew, David Wadford, testified that he and his fiancée also lived with her on the Property for several months. (Tr. 27:10–18; Order at 4).

At the hearing, Respondent focused on the Property's low electrical consumption. The Master acknowledged that the evidence concerning utility usage was conflicting but expressly found the amount of utility use "not determinative." (Order at 4–5). The Master instead found that the testimony and utility evidence "supports a finding that Gregg resided at the Property." (Order at 5). Thus, the Master resolved the statutory residence issue in Gregg's favor.

The Master then turned to Gregg's prior misconduct. The Master found that Gregg had used wrongfully obtained funds "to live on," credited Dr. Tristan Cordray's testimony that some checks made payable to Bank of America were applied to Gregg's mortgage, and relied on Gregg's prior conveyance of the Property to Douglas Kaufman. (Order at 5–7; Tr. 17:25–18:5, 72:9–19). That conveyance had already been set aside, restoring the Property to Gregg's ownership and permitting Respondent to levy and execute against it subject to any exemption available under South Carolina law. (Order at 1–3).

The evidence did not establish that Gregg acquired the Property with Respondent's funds.[1] Gregg built and occupied the home beginning in 1997, years before the events underlying

[1] Respondent's statement contained in its Motion Objecting to Homestead Exemption Sought By [Appellant] Linda Gregg, Motion for Injunction and Memorandum in Support that "Linda Gregg

Respondent's judgment. (Tr. 12:11–19, 17:2–8, 41:16–25). Nor did Respondent quantify the allegedly wrongful mortgage payments, establish when they were made, determine how much principal they reduced, or trace any resulting increase in equity to the $67,100 claimed as exempt.

Respondent did not introduce the Bank of America mortgage records at the hearing. At closing, Gregg argued that without those records, the evidence did not establish when the allegedly wrongful payments were made, how much they reduced the mortgage principal, or whether they created any portion of the exempt equity. (Tr. 92:5–22). The Order made no findings supplying those missing amounts or tracing any particular payment to the exempt interest.

Despite expressly finding that Gregg used and considered the Property as her residence, the Master concluded that she "lost entitlement" to the exemption because of her prior conduct. (Order at 6–7). The Master applied the unclean hands doctrine and awarded Respondent all funds held by the Berkeley County Sheriff's Office, without identifying a statutory disqualification or limiting the award to any amount shown to be attributable to the allegedly wrongful mortgage payments. (Order at 6–7).

STANDARD OF REVIEW

This appeal presents principally questions of law. The Master expressly found that Gregg "used the Property as her residence," "appears to have resided at the Property," and "considered the Property as her residence." (Order at 6). The dispositive question is therefore whether a court may invoke unclean hands to forfeit a statutory homestead exemption after finding the statute's residence requirement satisfied. Statutory interpretation and the determination of whether the

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used the money she stole to purchase and improve property located at 3186 N. Highway 52, Saint Stephen, SC 29479 (Property)" is patently false and no evidence was tendered to support it.

Master applied the correct legal standard are questions of law reviewed de novo. See *Hodges v. Rainey*, 341 S.C. 79, 85–87, 533 S.E.2d 578, 581–83 (2000).

If this proceeding is treated as equitable, this Court may find facts according to its own view of the preponderance of the evidence, while giving due regard to the Master's opportunity to assess witness credibility. *Townes Associates, Ltd. v. City of Greenville*, 266 S.C. 81, 85–86, 221 S.E.2d 773, 775–76 (1976). Whether the evidence satisfies the legal requirements for unclean hands—including whether the alleged misconduct bears the required nexus to the matter in controversy—is likewise reviewed under the governing equitable standard. See *Ingram v. Kasey's Associates*, 340 S.C. 98, 105–07 & n.2, 531 S.E.2d 287, 291–92 & n.2 (2000).

Under either framework, the Master's legal conclusions receive no deference. Equity follows the law and cannot supply a forfeiture omitted from the governing statute. See *Quail Hill, LLC v. County of Richland*, 387 S.C. 223, 235–36, 692 S.E.2d 499, 505–06 (2010).

ARGUMENT

I. THE MASTER ERRED BY DENYING THE EXEMPTION AFTER EXPRESSLY FINDING THAT GREGG USED THE PROPERTY AS HER RESIDENCE.

Section 15-41-30(A)(1)(a) exempts a South Carolina debtor's aggregate interest, up to the statutory amount, in real or personal property "that the debtor or a dependent of the debtor uses as a residence." S.C. Code Ann. § 15-41-30(A)(1)(a) (Supp. 2025). The provision asks whether the debtor uses the property as a residence; it does not require uninterrupted physical occupancy, a minimum period of occupancy, or a judicial assessment of whether the debtor deserves the protection.

South Carolina courts construe the Homestead Act liberally in the debtor's favor so as not to frustrate its protective purpose. *Scholtec v. Estate of Reeves*, 327 S.C. 551, 561, 490 S.E.2d 603, 608 (Ct. App. 1997). The exemption protects a defined portion of a debtor's property from creditors and prevents citizens from becoming dependent on the State. *Holden v. Cribb*, 349 S.C. 132, 140, 561 S.E.2d 634, 639 (Ct. App. 2002); *Cerny v. Salter*, 311 S.C. 430, 432–33, 429 S.E.2d 809, 811 (1993).

Residence depends principally on act and intent, not duration. *Nagy v. Nagy-Horvath*, 273 S.C. 583, 586–87, 257 S.E.2d 757, 759 (1979). In the homestead context, *Holden* applied that rule to hold that involuntary incarceration does not defeat the exemption because it does not establish an intent to transfer one's residence to the place of confinement. 349 S.C. at 140–41, 561 S.E.2d at 639. *Holden* further explained that a change in domicile requires actual abandonment of the former domicile with intent not to return, together with actual residence elsewhere and intent to make the new place a permanent home. *Id.* at 141, 561 S.E.2d at 639.

The Master's findings satisfy those principles. The Order states:

> "I find that Gregg used the Property as her residence, consistent with the Findings of Fact above enumerated. Gregg appears to have resided at the Property and considered the Property as her residence."

(Order at 6).

The Order also found that, although the utility evidence was conflicting, the "particular extent" of electrical consumption was "not determinative" and the testimony and evidence "supports a finding that Gregg resided at the Property." (Order at 4–5). Those findings track the statutory text and resolve the contested predicate in Gregg's favor.

The hearing record independently supports the findings. Gregg testified that the Property was her home, that she intended to return after release, and that she had no other home. (Tr. 43:1–24). She moved back after the tenants left and remained until the anticipated 2017 sheriff's sale. (Tr. 43:13–44:14). She maintained the mortgage through the years Respondent postponed execution. (Tr. 45:15–46:22). When the sale did not occur, she returned in October 2022, placed electrical service in her name, and lived there through September 2023. (Tr. 47:9–48:22). Her nephew's corroborating testimony and the utility records supplied objective support. (Order at 4).

Once the Master found that Gregg used the Property as her residence, the statutory condition was met. The Order could deny the exemption only by identifying another statutory limitation. It identified none. The denial should therefore be reversed.

II. UNCLEAN HANDS CANNOT CREATE A NONSTATUTORY FORFEITURE OF A HOMESTEAD EXEMPTION.

The Order did not deny the exemption because Gregg failed the statute. It denied the exemption because the Master concluded Gregg "lost entitlement" through prior misconduct and invoked unclean hands. (Order at 6–7). That was legal error for three (3) related reasons.

A. The homestead exemption is a statutory right, not discretionary equitable relief.

Homestead rights "depend[] entirely upon constitutional and statutory provisions." *Scholtec*, 327 S.C. at 554, 490 S.E.2d at 604. When qualifying property is involved, the Act blocks creditor process against that property. *Id.* at 554–55, 490 S.E.2d at 604–05. Gregg was not asking the Master to fashion specific performance, rescission, or another discretionary equitable remedy. She invoked an express statutory protection against attachment, levy, and sale.

That distinction matters. *Ingram v. Kasey's Associates* applied unclean hands because the plaintiff sought specific performance—an equitable remedy—and had acted unfairly in the very transaction he asked equity to enforce. 340 S.C. 98, 105–07, 531 S.E.2d 287, 291–92 (2000). Here, by contrast, the remedy and its conditions are fixed by statute. The mere fact that a Master-in-Equity adjudicated the dispute does not transform a statutory exemption into equitable grace.

South Carolina's controlling maxim is that equity follows the law. *Quail Hill*, 387 S.C. at 235–36, 692 S.E.2d at 505–06. Equity therefore cannot accomplish what the statute does not authorize: forfeiture of an exemption after the statutory conditions are met.

B. The General Assembly included specific limitations but did not create the forfeiture imposed here.

When statutory language is plain, courts may not rewrite it or inject conditions the General Assembly omitted. *Hodges*, 341 S.C. at 85–87, 533 S.E.2d at 581–83. The enumeration of exclusions indicates that unlisted exclusions were not intended. *Id.* at 86, 533 S.E.2d at 582.

The Homestead Act demonstrates that the General Assembly knew how to impose fraud-related limitations when it wished to do so. See S.C. Code Ann. § 15-41-30(A)(13) (addressing certain individual retirement accounts and plans, including transfers made with intent to defraud creditors). Yet subsection (A)(1)(a), governing the residential homestead, contains no unclean-hands, fraudulent-conveyance, or general misconduct forfeiture.

Scholtec applied this same structural method to the Homestead Act. The court held that where the General Assembly extended some exemptions to dependents but limited others to the debtor, the omission was significant and courts were confined to the statutory language—even where that reading might frustrate the statute's protective purpose in a particular case. 327 S.C. at 561–63, 490 S.E.2d at 608–09. The same discipline applies here. Courts may not add a forfeiture the General Assembly did not enact.

Published appellate decisions applying analogous homestead statutes reinforce that conclusion. In *Rogone v. Correia*, the Arizona Court of Appeals affirmed findings that the debtor had transferred property with actual intent to hinder, delay, or defraud creditors, but reversed the denial of her homestead exemption. 236 Ariz. 43, 45–48, ¶¶ 1–8, 16–20, 335 P.3d 1122, 1124–27 (Ct. App. 2014). Because Arizona's statute specified the qualifications and exceptions governing the exemption—and did not include discretionary equitable considerations—the court held that "equitable considerations cannot defeat the applicability of the exemption." *Id.* at 48, ¶ 20, 335 P.3d at 1127. The creditor could avoid the fraudulent transfers and pursue other remedies, but could not obtain an additional, nonstatutory forfeiture of the homestead. *Id.* at 45–48, ¶¶ 4–6, 16–20, 335 P.3d at 1124–27.

The Florida Supreme Court reached the same statutory-construction conclusion in *Havoco of America, Ltd. v. Hill*, holding that a court could not add a fraud exception omitted from the enumerated homestead exceptions, even where nonexempt assets were converted into a homestead with actual intent to hinder, delay, or defraud creditors. 790 So. 2d 1018, 1020–28 (Fla. 2001). Likewise, the New Hampshire Supreme Court rejected unjust-enrichment, unclean-hands, and *in pari delicto* theories because the statutory homestead protection prevailed absent proof bringing the creditor's claim within a recognized exception. *Deyeso v. Cavadi*, 165 N.H. 76, 80–86, 66 A.3d 1236, 1240–44 (2013). These authorities are persuasive because their reasoning mirrors South Carolina's own rules that equity follows the law, *Quail Hill*, 387 S.C. at 235–36, 692 S.E.2d at 505–06, and that courts may not inject omitted limitations into an unambiguous statute, *Hodges*, 341 S.C. at 85–87, 533 S.E.2d at 581–83.

The prior conveyance here had already been set aside. (Order at 1–3). That remedy restored the Property to Gregg's ownership and made it available for execution subject to exemptions created by law. It did not authorize a second, extra-statutory remedy eliminating the homestead protection itself.

C. Respondent did not trace any misconduct to the exempt interest or establish the nexus required by unclean hands.

Even if unclean hands could apply to a statutory exemption, the Order did not establish the close transactional nexus required by the doctrine. Under South Carolina law, unclean hands bars equitable recovery only when the claimant acted unfairly "in a matter that is the subject of the litigation" and thereby prejudiced the opposing party. *Ingram*, 340 S.C. at 107 n.2, 531 S.E.2d at 292 n.2.

The subject of this proceeding was Gregg's statutory right to retain a limited portion of sale proceeds attributable to a residence she had owned since 1997. (Tr. 17:2–8, 41:16–25). The Order found only that Gregg used wrongfully obtained funds "to live on" and that some checks to Bank of America were applied to mortgage payments. (Order at 5). It did not identify the amounts or dates of those payments, determine how much principal they reduced, calculate the resulting increase in equity, or connect any particular payment to the $67,100 claimed as exempt. Nor did the Order find that Gregg acquired the Property with Respondent's funds; the undisputed chronology forecloses that premise because she built the home in 1997.

In re Jones is instructive on this evidentiary failure. There, the United States Bankruptcy Court for the District of South Carolina considered 11 U.S.C. § 522(o), which expressly authorizes reduction of a homestead to the extent its value is attributable to nonexempt property disposed of with intent to hinder, delay, or defraud a creditor. 397 B.R. 765, 769–71 (Bankr. D.S.C. 2008). Even under that express federal forfeiture provision, the objecting party had to establish fraudulent intent and a causal relationship between the challenged disposition and the value of the exempt property. *Id.* The court held that pre-bankruptcy planning and conversion of nonexempt assets into exempt assets are not inherently fraudulent and relied on authority finding no fraudulent intent where a debtor used nonexempt cash to pay down a mortgage on a home owned for years. *Id.* at 770–71.

This case is not a bankruptcy proceeding, and South Carolina's residential exemption contains no analogue to § 522(o). That makes *Jones* persuasive here in two respects. First, if tracing and attribution are required under a statute expressly authorizing a fraud-based reduction, a court should not impose complete forfeiture under a state statute containing no such provision without at least the same causal proof. Second, *Jones* distinguishes between acquiring or creating an exemption through traceable fraudulent conduct and merely making mortgage payments on a home owned long before the alleged misconduct. Gregg's circumstances fall on the latter side of that distinction unless Respondent proves otherwise.

Other published appellate decisions draw the same line. *Havoco* refused to create a general fraud exception but recognized that a creditor may have a narrower equitable remedy where fraudulently obtained funds are specifically traced into the purchase or improvement of the homestead. 790 So. 2d at 1022–28. *Deyeso* likewise held that unclean hands and related equitable doctrines did not defeat the exemption absent proof of fraud, deception, or comparable misconduct in procuring the funds invested in the homestead. 165 N.H. at 83–86, 66 A.3d at 1242–44. And *Rogone* distinguished between misconduct involving the homestead itself and an underlying judgment arising from unrelated wrongdoing. 236 Ariz. at 47–48, ¶¶ 18–20, 335 P.3d at 1126–27.

At closing argument, Gregg identified precisely what Respondent failed to prove: Respondent had obtained Bank of America records but introduced no evidence quantifying mortgage reduction or showing that any challenged payment created the exempt equity. (Tr. 92:5–22). Without tracing, attribution, or quantification, the Order's generalized finding that funds were used for the "financial management" of the Property cannot support forfeiture of the entire exemption.

The fraudulent conveyance does not supply the missing nexus. It was voided, and Gregg's title was restored. (Order at 1–3). The exemption attaches because the restored Property was used as her residence—not because the conveyance succeeded. The Master therefore used unclean hands not to prevent equity from facilitating a fraud or to recover a traceable asset, but to impose an additional punishment beyond the judgment, and her incarceration, and avoid a remedy already obtained. Section 15-41-30(A)(1)(a) does not authorize that result.

III. RESPONDENT DID NOT PROVE ABANDONMENT OR ACQUISITION OF A NEW DOMICILE.

Respondent's original residence theory independently fails. Temporary absence does not establish a change of residence. The proponent of a change must show actual abandonment of the first domicile, intent not to return, actual residence elsewhere, and intent to make the new location a permanent home. *Holden*, 349 S.C. at 140–41, 561 S.E.2d at 639; *Ferguson v. Employers Mutual Casualty Co.*, 254 S.C. 235, 239, 174 S.E.2d 768, 769 (1970).

Respondent did not make that showing. Gregg's departures were tied to incarceration, tenants' occupancy, and anticipated sheriff's sales—not an intent to establish a permanent home elsewhere. She testified that she never voluntarily abandoned the Property, always intended it to remain her home while she owned it, and left because of the sales. (Tr. 60:5–22). No witness identified another location Gregg acquired and intended to make her permanent home. Gregg's memorandum preserved this precise issue and cited her DMV history as objective evidence of continuing intent. (Def.'s Mem. Opp'n Mot. Objecting to Homestead Exemption at 3–5; Def.'s Ex. A).

The Order did not find abandonment or acquisition of a new domicile. It found the opposite: Gregg used the Property as her residence and the evidence supported that finding. (Order at 4–6). Low utility consumption cannot carry Respondent's burden because the Order itself held the extent of consumption was not determinative. (Order at 4–5).

The residence finding should be affirmed, and the legal consequence of that finding—the exemption—should be enforced.

IV. AT MINIMUM, THE ORDER MUST BE VACATED BECAUSE ITS FINDINGS AND JUDGMENT CANNOT BE RECONCILED UNDER THE STATUTE.

The Order contains a dispositive legal contradiction. It finds the fact required by subsection (A)(1)(a)—use of the Property as a residence—but denies the exemption without identifying a statutory disqualification. (Order at 5–7). Instead, it moves directly from residence to "lost entitlement" under unclean hands. (Order at 6).

A court abuses its discretion when controlled by an error of law or when its ruling rests on factual conclusions lacking evidentiary support. *Holden*, 349 S.C. at 136, 561 S.E.2d at 636. Here, the contradiction is legal, not merely semantic. If Gregg used the Property as a residence, subsection (A)(1)(a) applies. If some statutory exception defeated the exemption, the Order was required to identify and apply it. Because the Order did neither, meaningful affirmance would require this Court to add a statutory exception or supply findings the Master did not make.

The appropriate remedy is reversal with instructions to recognize the exemption. At minimum, the Court should vacate the Order and remand for application of the statutory text without the nonstatutory unclean-hands forfeiture.

CONCLUSION

The Master expressly found that Gregg used the Property as her residence. South Carolina's Homestead Act therefore exempts her interest up to the applicable statutory amount. Neither the text of S.C. Code Ann. § 15-41-30(A)(1)(a) nor binding South Carolina authority permits a court to extinguish that right through a free-standing equitable assessment of the debtor's past misconduct.

Appellant respectfully requests that this Court:

1. reverse the June 16, 2026 Order denying the homestead exemption;

2. hold that Gregg is entitled to the exemption under S.C. Code Ann. § 15-41-30(A)(1)(a);

3. remand with instructions to release the exempt funds and associated interest in accordance with Gregg's homestead claim; or

4. alternatively, vacate the Order and remand for further proceedings governed by the statutory text.

Respectfully submitted,

HOPKINS LAW FIRM, LLC

s/ J. Clay Hopkins
J. Clay Hopkins (SC Bar No. 102053)
William E. Hopkins, Jr. (SC Bar No. 66474)
12019 Ocean Highway
Post Office Box 1885
Pawleys Island, South Carolina 29585
(843) 314-4202 – Telephone
(843) 314-9365 – Facsimile
clay@hopkinsfirm.com
bill@hopkinsfirm.com

Attorneys for Appellant

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Pawleys Island, South Carolina