

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG)

C.A. No.: 2025-CP-38-00212

Teal Holdings, LLC,)

Plaintiff,)

**ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDER AND
MOTION TO VACATE**

vs.)

Eddie Rutland a/k/a Edward O. Rutland, Jr.)

a/k/a Edward Rutland,)

Defendant.)

RECEIVED**Sep 17 2026****SC Court of Appeals**

This matter came before the Court on June 16, 2026, for consideration of the Defendant's Motion to Reconsider the Court's order entered April 14, 2026 and Defendant's Motion to Vacate Judgment (under the Case No. 2016-CP-38-01074). For the reasons set forth herein, Defendant's Motions are DENIED.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." *U.S. ex rel. Becker v. Washington Savannah River Co.*, 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).¹ Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." *Dash v. Mayweather*, C/A No. 3:10-1036-

¹ Rule 59 is substantially the same as the Federal Rule. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (*quoting Exxon Shipping Co. v. Baker*, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); *Patterson v. Reid*, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” *In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig.*, 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also Lyons v. Fid. Nat’l Title Ins. Co.*, 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

Under South Carolina law, the decision to grant or deny a motion for relief from a final judgment, order, or proceeding under Rule 60(b), SCRCP, rests within the sound discretion of the trial judge. *BB&T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d 501, 502 (2006). The party moving for relief under Rule 60(b) bears the burden of presenting evidence to prove the essential facts that entitle them to relief. *Rouvet v. Rouvet*, 388 S.C. 301, 309, 696 S.E.2d 204, 208 (2010).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

First, it is without question that Defendant is in default under the underlying note and mortgage. This fact is not contested by Defendant. To grant Defendant’s motions would result in a re-starting of the foreclosure process under the original note and mortgage; it would not somehow alleviate Defendant’s obligations under these debt instruments. Regardless, Defendant fails to meet the requirements for granting of either motion.

The Rule 60 Motion Was Not Timely

When alleging that a judgment is void, the motion must be made within a reasonable time after the judgment, order, or proceeding was entered or taken. *Sanders v. Smith*, 431 S.C. 605,

607, 848 S.E.2d 604, 612 (Ct. App. 2020). *See also Houston v. Boone*, No. 2019-001676, 2023 WL 2156727, at *2 (Ct. App. Feb. 22, 2023).

In *Sanders*, the court allowed a motion to vacate six years after a divorce decree based on the wife's notice not occurring until 2014 and further notice regarding the judgment not occurring until an attorney was hired in 2016. *Id.* at 607, 613. Taking into consideration the wife was dealing with her own illness and providing care to another ailing family member, the court understood the need for the six-year delay. *Id.* However, in *Houston*, a partition was ordered in 2013 and the motion to reconsider was filed in 2018. The *Houston* court found that the motion was not filed within a reasonable time after four years had passed since the original order. *Houston*, 2023 WL 2156727, at *3.

Whether or not a party made his Rule 60 motion within a reasonable time is a matter addressed to the trial judge's sound discretion, and an appellate court will not disturb that determination absent abuse of discretion. *Coleman v. Dunlap*, 306 S.C. 491, 494, 413 S.E.2d 15, 17 (1992). In *McDaniel v. United States Fid. & Guar. Co.*, 324 S.C. 639 (1996), the special referee determined that the Rule 60 motion was untimely after nearly four years.

Here, the judgment against Rutland was entered in 2017. Rutland did not file the Rule 60(b)(4) motion to reconsider until 2026, nine years after the original judgment was entered. He certainly knew or should have known that the underlying property subject to the mortgage had not been sold, as he continued to pay real property taxes on said property. Both the *Sanders* and *Houston* courts determined what constituted "reasonable time" by considering the notice each movant had in relation to the underlying reason for the motion. Rutland had sufficient notice of the original action filed in 2016 under Case No. 2016-CP-38-01074. Rutland failed to respond to the Complaint, resulting in the entry of default and subsequent default judgment in 2017. Rutland

also had time available from the service of the subject lawsuit to file such a motion, starting with service upon him in February of 2025, but he failed to file his Motion to Vacate until May 2026. In Rutland's Motion to Vacate, Rutland admits to receiving notice of the 2016 action and default judgment. Nine years have transpired since such notice, leaving sufficient time for a motion to reconsider to be filed within a truly reasonable time. Nine years with sufficient notice far exceeds what is reasonable.

Defendant Had Sufficient Due Process

Defendant failed to support his motion with any affidavit or sworn testimony. Based on this failure alone, Defendant has failed to meet his burden of proof required under Rule 60. While the motion fails on these grounds alone, the Court will also address the merits of Defendant's arguments.

Under Rule 60(b)(4), SCRCF, the definition of "void" is only applicable to judgments from courts that did not provide proper due process or lacked personal or subject matter jurisdiction. *McDaniel v. U.S. Fidelity and Guar. Co.*, 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996). *See also Garcia Fin. Group, Inc. v. V.A. Accelerators Corp.*, 3 Fed.Appx. 86, 86 (4th Cir. 2001) (stating that in order to show a judgment is void, it must be established that the court lacked subject matter jurisdiction, personal jurisdiction, or acted in a matter violating due process in rendering its decision). In an action for a mortgage foreclosure,

due process of law requires that a person shall have a reasonable opportunity to be heard before a legally appointed and qualified impartial tribunal before any binding decree, order, or judgment can be made affecting his rights to life, liberty, or property.

LaSalle Bank Nat'l Ass'n v. Davidson, 386 S.C. 276, 279, 688 S.E.2d 121, 122 (2009).

The debt to be collected must first be established through a judgment of the proper court. S.C. CODE ANN. § 29-3-630. Furthermore, Rule 71, SCRCF provides a procedural framework for

foreclosures. In the case at bar, First-Citizens Bank filed the lis pendens on the mortgaged property on August 4, 2016 contemporaneously with the complaint to initiate the 2016 foreclosure action. The proof of service upon Rutland was filed on October 3, 2016, providing notice to Rutland of the pending foreclosure action against him. Rutland was served in the 2016 action and failed to appear, waiving his opportunity to be heard. On April 4, 2017, this Court entered a money judgment in favor of First-Citizens Bank against Rutland which notice of such order was provided to Rutland on June 14, 2017. Rutland had ample notice of not only the mortgage foreclosure, but the judgment entered against him in the 2016 foreclosure action. Due process was given to Rutland in the action. Furthermore, this Court had personal jurisdiction over Rutland in 2016, as it continues to now, nine years later. Rutland held property within South Carolina and contracted in a mortgage in South Carolina, establishing in rem jurisdiction as well as minimum contacts within this state. There was no violation of due process, personal jurisdiction, nor subject matter jurisdiction. The 2017 Judgment should not be rendered “void” under Rule 60(b)(4).

The Language in the Complaint Waiving a Deficiency Was a Scrivener’s Error

Clerical or scrivener’s errors include mistakes or omissions in judgments or decrees that arise from oversight or omission, rather than judicial decision-making. *Dion v. Ravenel*, 316 S.C. 226, 449 S.ED.2d 251 (Ct. App. 1994). A “scrivener’s error” is generally defined as a clerical mistake in writing or copying, which is not the result of the exercise of judicial or discretionary functions. It typically refers to errors made by a clerk, counsel, judge, or printer in the drafting of a document. Such errors are unintentional and do not reflect the substantive intent of the parties or the drafter. The Summons and Complaint refer to a deficiency judgment in all capital letters two times. If the Defendant had concerns relating to any inconsistency in the

pleadings, he should have answered or otherwise appeared in the underlying action. He chose not to participate. In the modern age with use of computers, unintended errors can occur due to the use of forms for pleadings. The Court finds that Paragraph 17 of the Complaint was a scrivener's error.

THE MOTIONS ARE DENIED

Defendant's motions are denied for the reasons set forth above. To the extent any argument of Defendant has not been addressed, all such issues raised in Defendant's motions were all properly addressed in the Court's April 14, 2026 Order. To the extent such issues were previously raised and ruled upon, the motions are denied. The foreclosure sales shall proceed as set forth in the April 14, 2026 order.

AND IT IS SO ORDERED.



Orangeburg Common Pleas

Case Caption: Teal Holdings, Llc VS Eddie Rutland , defendant, et al
Case Number: 2025CP3800212
Type: Master/Order/Other

So Ordered

James B. Jackson, Jr. 3077 Master in Equity
