

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Appellate Case No. 2025-002111

BOKF, N.A.,

Respondent,

v.

Joshua Ovalle,

Appellant,

RESPONDENT'S FINAL BRIEF

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COUNTERSTATEMENT OF ISSUES ON APPEAL

1. DID THE SPECIAL REFEREE ERR IN CONDUCTING THE SEPTEMBER 2, 2025, HEARING AND GRANTING JUDGMENT IN FAVOR OF RESPONDENT?

STATEMENT OF THE CASE AND FACTS

This matter is a straightforward foreclosure of a mortgage on real property in Lancaster County, South Carolina. Joshua Ovalle (“Appellant” or “Ovalle”) executed and delivered to Thrive Mortgage, LLC a Fixed Rate Note dated December 29, 2020 (the “Note”), by which he promised to repay the principal sum of \$261,250.00, with interest at 2.25% per annum on the unpaid balance. [R. pp. 115-118]. Thrive Mortgage, LLC indorsed the Note to Respondent, and the Note was later indorsed in blank. [R. p.118].

To secure payment of the Note, Ovalle executed and delivered to Mortgage Electronic Registration Systems, Inc., as mortgagee and nominee for Thrive Mortgage, LLC, its successors and assigns, a mortgage dated December 29, 2020 (the “Mortgage”). The Mortgage encumbered the following real property and improvements located in Lancaster County, South Carolina (the “Property”):

All that certain piece, parcel or lot of land lying, being and situate in the State of South Carolina, County of Lancaster, being designated as Lot 2, containing 1.642 acres, more or less, as shown on a Plat of Property of M.R. Ross by J.C. Crumpler dated September 9, 1996, and recorded as Plat #96-234 in the Office of the Clerk of Court for Lancaster County, South Carolina, to which plat reference is made for a more particular description as to metes and bounds.

This being the same property conveyed to Joshua Ovalle by deed of Nancy R. Harrell, Trustee of the Nancy R. Harrell Revocable Living Trust, dated December 29, 2020, and recorded December 30, 2020, in Book 1395 at Page 210 in the Office

of the Register of Deeds for Lancaster County, South Carolina.

Parcel Number: 0011-00-015.00

Property Address: 8866 Ross Hill Road, Fort Mill, SC 29707

The Mortgage was recorded in the Lancaster County Registry on December 30, 2020, in Book 4248 at Page 253. [R. pp. 119-135]. The Mortgage was later assigned to Respondent by assignment recorded in the Lancaster County Registry on June 17, 2025, in Book 5362 at Page 283. [R. p. 139]. The Mortgage secures repayment of the funds advanced to, or on behalf of, Ovalle and constitutes a purchase-money first lien on the Property. The collateral also included a 1997 Horton mobile/manufactured home, serial number H135604GLR (the “Manufactured Home”), which was permanently affixed to the Property. [R. pp. 130-138]. The title to the Manufactured Home was properly de-titled or cancelled to real estate in the records and database of the South Carolina Department of Motor Vehicles. [R. pp. 130-138].

Ovalle failed to make the payments due on and after September 1, 2024, placing him in default under the terms of the Note and Mortgage. Despite demand for payment, Ovalle failed to cure the default. Respondent filed this foreclosure action on June 23, 2025. [R. pp. 23-30]. Ovalle was personally served with Respondent’s Complaint on June 30, 2025. [R. p. 140].

The case was referred to the Honorable William C. Tindal, Special Referee for Lancaster County, on July 8, 2025. [R. pp. 4-5]. On July 28, 2025, Ovalle filed a document titled “Plea in Abatement, Notice of Liability and Praecipe,” which was a sovereign-citizen filing rather than an answer or other legally cognizable response to Respondent’s Complaint. [R. pp. 95-101]. Respondent therefore filed an affidavit of default on August 13, 2025. [R. p. 143]. On August 27, 2025, Ovalle filed another document titled “Notice of Special Visitation, Notice of Equitable

Subrogation and Substitution.” [R. pp. 108-111]. Like his prior filing, this document advanced sovereign-citizen theories and asserted no cognizable legal defense.

A foreclosure hearing was held on September 2, 2025, with Ovalle and Respondent’s counsel in attendance. [R. pp. 141-142; 31-62]. On September 17, 2025, the Special Referee entered an order awarding Respondent judgment of foreclosure. [R. pp. 6-16]. A judicial sale was scheduled for November 3, 2025. [R. pp. 144-145]. This appeal followed.

STANDARD OF REVIEW

“A mortgage foreclosure is an action in equity.” *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 248, 489 S.E.2d 472, 475 (1997). When an action in equity is appealed, the appellate court “may find facts in accordance with its own view of the preponderance of the evidence.” *Lowcountry Open Land Trust v. Charleston S. Univ.*, 376 S.C. 399, 407, 656 S.E.2d 775, 779 (Ct. App. 2007). Nevertheless, “the appellant is not relieved of his burden of convincing the appellate court [that] the trial judge committed error in his findings.” *U.S. Bank Trust Nat’l Ass’n v. Bell*, 385 S.C. 364, 373, 684 S.E.2d 199, 204 (Ct. App. 2009) (quoting *Pinkney v. Warren*, 344 S.C. 382, 387–88, 544 S.E.2d 620, 623 (2001)). The Appellate Court may affirm the trial court’s ruling for any ground appearing in the record. Rule 220(c), SCRAP; *see also I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 420, 526 S.E.2d 716, 723 (2000).

ARGUMENT

- 1. THE SPECIAL REFEREE COMMITTED NO ERROR IN CONDUCTING THE FORECLOSURE HEARING AND GRANTING JUDGMENT IN FAVOR OF THE RESPONDENT.**

Without citing the hearing transcript or binding South Carolina authority, Ovalle asserts the Special Referee erred in granting judgment for Respondent. Ovalle contends the Special Referee failed to properly consider his evidence and defenses, erred in treating him as in default, and that the “proceeding did not reflect proper exercise of Equitable Discretion.” Each argument lacks merit.

Ovalle’s July 28, 2025 sovereign-citizen filing failed to comply with the basic pleading requirements of Rule 8, SCRCF because it did not admit, deny, or otherwise address any allegation in Respondent’s Complaint. [R. pp. 95-101]. Respondent therefore filed an affidavit of default under Rule 55, SCRCF on August 13, 2025. [R. pp. 143]. The affidavit was appropriate because a party’s failure to deny an averment constitutes an admission. Rule 8(d), SCRCF provides: “Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading.” Accordingly, the Special Referee did not err in finding Ovalle in default for failing to respond to Respondent’s Complaint.

Notwithstanding Ovalle’s default, the Special Referee allowed Ovalle to present arguments and information at the September 2, 2025 foreclosure hearing. [R. pp. 31-62]. Ovalle’s assertions, however, rested on sovereign-citizen theories and did not constitute a cognizable defense to Respondent’s foreclosure action. The term “sovereign citizen” generally refers to individuals affiliated with loosely associated groups whose beliefs are anti-government or anti-authority. *See, e.g., Presley v. Prodan*, C/A No. 3:12-03511, 2013 U.S. Dist. LEXIS 51150, at *3-5 (D.S.C. March 11, 2013) (describing the premise of sovereign-citizen theories as an individual’s denunciation of United States citizenship and self-declaration of an alternative citizenship). Courts routinely reject such filings because they rely on incoherent legal theories and legal-sounding jargon rather than

cognizable law or procedure. *See also Bank of Am. v. Baxter*, Civil Action No. 3:16-01231, at *2 (D.S.C. Aug. 3, 2016) (noting plaintiff's argument that sovereign-citizen pleadings are common in foreclosure actions and fail to offer any cognizable legal argument). Ovalle's purported defenses are nonsensical, grounded in sovereign-citizen theories, and provide no basis for appellate relief.

When Ovalle's sovereign-citizen presentation is measured against the law governing foreclosure, the Special Referee's ruling was correct. "Generally, the party seeking foreclosure has the burden of establishing the existence of the debt and the mortgagor's default on that debt. Once the debt and default have been established, the mortgagor has the burden of establishing a defense to foreclosure such as lack of consideration, payment, or accord and satisfaction. *See Bandy v. Bandy*, 187 S.C. 410, 413, 197 S.E. 396, 397 (1938) (holding the burden was on defendant in mortgage foreclosure suit to establish her defense that mortgage and note secured thereby were without valuable consideration by preponderance of evidence)." *U.S. Bank Trust Nat'l Ass'n v. Bell*, 385 S.C. 364, 373, 374–75, 684 S.E.2d 199, 204–05 (Ct. App. 2009).

Here, the Special Referee found that Respondent established the elements necessary for foreclosure, including Ovalle's execution of the Note and Mortgage, his default by failing to make required payments, and Respondent's resulting damages. Ovalle, by contrast, established no cognizable defense to foreclosure.

CONCLUSION

For the reasons stated above, this Court should affirm the judgment of the Special Referee.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that, on October 26, 2026, Respondent's Final Brief was served on Appellant by depositing a copy thereof in the United States Mail, first Class, postage prepaid, addressed to:

Joshua Ovalle
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Date: October 26, 2026

Served By:

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CERTIFICATE OF COMPLIANCE

Oct 26 2026

SC Court of Appeals

I hereby certify that the foregoing Respondent's Final Brief complies with the requirements of Rules 208(b), 211, and 267 of the SC Appellate Court Rules.

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