

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

James E. Chellis, Master in Equity

Appellate Case No. 2024-000122

U.S. Bank Trust NA, as Trustee for Waterfall Victoria Grantor Trust II, Series G, Respondent,

v.

Jamie Singleton and Indigo Pointe Homeowners' Association, Defendants,

of which Jamie Singleton is the Petitioner.

RETURN OF U.S. BANK TRUST NA, AS TRUSTEE FOR WATERFALL VICTORIA
GRANTOR TRUST II, SERIES G, TO JAMIE SINGLETON'S
PETITION FOR WRIT OF CERTIORARI

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S.C. SUPREME COURT

TABLE OF CONTENTS

Table of Cases, Statutes, and Other Authorities	3
Questions Presented	4
Statement of the Case	5
Arguments	6
Conclusion	10

Table of Cases, Statutes, and Other Authorities

Cases

<i>Heins v. Heins</i> , 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 2001)	9, 10
<i>In re Estate of Timmerman</i> , 331, S.C. 455, 502 S.E.2d 920 (Ct. App. 1998).	10
<i>Lindsay v. Lindsay</i> , 328 S.C. 329, 491 S.E.2d 583 (Ct. App. 1997)	4, 5
<i>Ness v. Eckerd Corp.</i> , 350 S.C. 399, 566 S.E.2d 193 (Ct. App. 2002)	9, 10

QUESTIONS PRESENTED

- I. DID THE COURT OF APPEALS ERR IN REVERSING THE TRIAL COURT'S ORDER DENIAL OF FORECLOSURE IN THE TRIAL ORDER?
- II. DID THE COURT OF APPEALS ERR IN THE REVIEW OF THE EVIDENCE OF THE CASE REGARDING THE PAYMENT HISTORY AND WATERFALL'S ALLEGED LACK OF CREDIBILITY?
- III. DID THE COURT OF APPEALS ERR IN VACATING THE FORM 4 ORDER BASED ON THE MASTER-IN-EQUITY'S LACK OF SUBJECT MATTER JURISDICTION?

STATEMENT OF THE CASE

This is an action for mortgage foreclosure in which the appellant, U.S. Bank NA, as Trustee for Waterfall Victoria Grantor Trust II, Series G (“Waterfall”), is the plaintiff in the trial court, and the petitioner/respondent, Jamie Singleton (“Singleton”), is the defendant in the trial court. The foreclosure action was referred to the master-in-equity, and after a hearing on October 12, 2022, the master-in-equity issued an eighteen-page order (“Summary Judgment Order”) on November 21, 2022, that granted Waterfall’s motion for summary judgment. (R.pp. 121-38). The Summary Judgment Order addressed and denied the defenses and counterclaims raised by Singleton. (R.pp. 126-31). Although the Summary Judgment Order granted summary judgment to Waterfall, the Summary Judgment Order denied Waterfall the escrow charges and corporate advances requested by Waterfall because the master-in-equity determined that Waterfall had failed to “establish the reasonableness” of these items. (R.pp. 132-33). In the Summary Judgment Order, the master-in-equity exercised the court’s equitable power of setoff to deny Waterfall any accrued interest or attorney’s fees and costs even though Singleton had not raised this argument at the hearing on the motion for summary judgment. (R.pp. 132-33, 1555-1620).

On December 1, 2022, Waterfall filed a Rule 59(e) motion as to the Summary Judgment Order denying Waterfall the escrow charges, corporate advances, interest, and attorney’s fees and costs. (R.pp. 1098-1108). Singleton did not file any Rule 59(e) motion as to the Summary Judgment Order. After a hearing on January 26, 2023, on Waterfall’s 59(e) motion, the master-in-equity issued a Form 4 order (“Form 4 Order”) on March 28, 2023, that “set aside,” in its entirety, the Summary Judgment Order and stated that since the Summary Judgment Order was set aside, Waterfall’s 59(e) motion was moot. (R.pp. 206-08).

A three-day trial occurred in the case from June 12, 2023, through June 14, 2023. (R.p. 1699). On December 12, 2023, the master-in-equity issued a fifty-four page order (“Trial Order”) that held Waterfall was the holder of the note but not the mortgage that secured the note. (R.pp. 186-89). The Trial Order granted Waterfall the principal amount owed on the note but denied Waterfall any interest, attorney’s fees, costs, or reimbursement for any escrow charges or corporate advances. (R.pp. 188-93). Waterfall filed a Rule 59(e) motion on December 22, 2023, on the Trial Order’s denial of interest, attorney’s fees and costs. (R.p. 1237). Singleton did not file a Rule 59(e) motion as to the Trial Order. On December 29, 2023 (“December 29, 2023, Order”) the master-in-equity issued an order granting Waterfall’s 59(e) motion as to attorney’s fees and costs, but the December 29, 2023, Order did not mention Waterfall’s 59(e) motion as to interest on the note. (R.pp. 198-202).

Waterfall filed a notice of appeal on December 29, 2024, as to the Summary Judgment Order, the Form 4 Order, the Trial Order and the December 29, 2023, Order. (R.pp. 1359-1441). On August 12, 2026, the Court of Appeals issued an opinion that reversed and remanded the master-in-equity’s orders. Singleton filed a motion for rehearing with the Court of Appeals on August 21, 2026, which the Court of Appeals denied on September 2, 2026.

ARGUMENTS

A. THE COURT OF APPEALS DID NOT ERR IN REVERSING THE TRIAL COURT’S ORDER DENIAL OF FORECLOSURE IN THE TRIAL ORDER

In Singleton’s petition for a writ of certiorari, his first argument is regarding the Trial Order that was issued after the three-day trial. (Singleton’s Petition for Writ of Certiorari, p.. 4). Singleton focuses on the Trial Order’s finding that Waterfall had unclean hands. (Singleton’s Petition for Writ of Certiorari, p. 4). In the Trial Order, the master-in-equity goes to great lengths to discuss the evidence in the case, and almost every factual finding in the case is

construed against Waterfall. (R.pp. pp. 144-203). First, Waterfall disputes almost all the findings and conclusions in the Trial Order and believes the Trial Order may have been influenced by a partiality toward Singleton.¹ Second, and more importantly, the Summary Judgment Order had already determined that there was no evidence to support Singleton's unclean hands defense and that Waterfall was entitled to summary judgment. (R.pp. 129-30, 133). Singleton did not file a Rule 59(e) motion as to the Summary Judgment Order, so the findings, conclusions and orders of the Summary Judgment Order are binding as to Singleton. *See Lindsay v. Lindsay*, 328 S.C. 329, 339, 491 S.E.2d 583, 588 (Ct. App. 1997) ("It is a fundamental rule of law that an appellate court will affirm a ruling by a lower court if the offended party does not challenge that ruling.") (citing *Biales v. Young*, 315 S.C. 166,, 432 S.E.2d 482 (1993)). "The unchallenged ruling, 'right or wrong, is the law of the case and requires affirmance.'" *Id.* (quoting *Buckner v. Preferred Mut. Ins. Co.*, 255 S.C. 159, 161, 177 S.E.2d 544, 544 (1970)). Although the master-in-equity, *sua sponte*, later "set aside" the Summary Judgment Order by issuing the Form 4 Order, as discussed in response below to Singleton's third argument, the master-in-equity lacked subject matter jurisdiction to issue the Form 4 Order.

B. THE COURT OF APPEALS DID NOT ERR IN THE REVIEW OF THE EVIDENCE OF THE CASE REGARDING THE PAYMENT HISTORY AND WATERFALL'S ALLEGED LACK OF CREDIBILITY

In his second argument, like his first, Singleton focuses on the findings and conclusions in the Trial Order. As discussed in the first argument above, the Summary Judgment Order had already determined that Waterfall was the holder of the note and mortgage and was entitled to

¹ In the hearing on October 12, 2022, on Waterfall's motion for summary judgment, the master-in-equity stated the following: "Uniform codes that are adopted throughout the nation nearly always favor what I'll refer to as the 'big guy.' The small people of the world, such as Singleton, aren't really at the table, in my opinion, on legislation that adopts uniform codes." (R.pp. 1611-12).

foreclose. (R.pp. 133-34). The Summary Judgment Order had also found that Singleton owed Waterfall the amount of \$552,705.56, but the master-in-equity exercised the court's equitable power to set off accrued interest of \$278,102.34. (R.p 132). Although Waterfall filed a Rule 59(e) motion as to the Summary Judgment Order's denial of accrued interest, attorney's fees, costs and reimbursement for escrow charges and corporate advances, Singleton did not file a Rule 59(e) motion as to the Summary Judgment Order, so the findings, conclusions and orders in the Summary Judgment Order are binding as to Singleton. *See Lindsay*, 328 S.C. at 339, 491 S.E.2d at 588. ("The unchallenged ruling, 'right or wrong, is the law of the case and requires affirmance.'") (citation omitted). Again, as discussed more fully in the third argument below, although the master-in-equity, *sua sponte*, issued the Form 4 Order that set aside the Summary Judgment Order, the master-in-equity lacked subject matter jurisdiction to issue the Form 4 Order.

C. THE COURT OF APPEALS DID NOT ERR IN VACATING THE FORM 4 ORDER
BASED ON THE MASTER-IN-EQUITY'S LACK OF SUBJECT MATTER
JURISDICTION

The Summary Judgment Order was issued on November 21, 2022. (R.p. 121-38). On December 1, 2022, Waterfall timely filed a Rule 59(e) motion to alter or amend the Summary Judgment Order with regard to the master-in-equity's denial of the accrued interest, escrow charges, corporate advances, and attorney's fees and costs (collectively "expenses"). (R.pp. 1098-1108). Waterfall's motion argued that it was an abuse of discretion to deny these expenses because of alleged "bad faith" by Waterfall's predecessors transferring the note, especially when there was no finding that any transfer was done for the purposes of hindrance or delay or without any reasonable basis. (R.pp. 1100-08). The motion also argued that it was an abuse of discretion for the master-in-equity to, *sua sponte*, decide to disallow these charges. (R.pp. 1101-

08). Waterfall's motion also argued that when a contract is clear and unambiguous, like note and mortgage in this case, the court's role is to enforce the contract as written and not re-write the contract. (R.pp. 1104-05). As previously stated, Singleton did not file a Rule 59(e) motion as to the Summary Judgment Order.

After the hearing on January 26, 2023, the master-in-equity, instead of addressing the issues raised in Waterfall's 59(e) motion, issued the Form 4 Order on March 28, 2023, that stated:

This Court's Order granting Summary Judgment to the Plaintiff entered November 21, 2022, is set aside. After revisiting the facts arising from Plaintiff's Motion to Amend that Order, filed December 1, 2022, the Court revisited the original note, mortgage and initial assignment of the mortgage. The Court again recognized that a particular disconnect is apparent in the propriety of the initial recorded assignment of the note and mortgage. A peculiar question arises. The original Lender filed bankruptcy in March 2007. The initial Lender's nominee, Mortgage Electronic Registration Systems, purported to assign the note and mortgage to a third party in June 2008. Hence, this crucial oversight by this Court requires the Court to set aside its Order dated November 21, 2022. Since the Order is set aside, Plaintiff's Motion to Amend that Order is moot.

(R. pp.). Thus, in the Form 4 Order, the master-in-equity, *sua sponte*, "revisited the facts," vacated the Summary Judgment Order in full, and dismissed Waterfall's 59(e) motion as being moot. The master-in-equity erred in issuing the Form 4 Order, as the master-in-equity lacked subject matter jurisdiction to vacate the Summary Judgment Order in full. Instead, the master-in-equity was limited to addressing those issues raised in Waterfall's 59(e) motion.

In its opinion issued on August 12, 2026, in this case, the Court of Appeals properly relied on *Ness v. Eckerd Corp.*, 350 S.C. 399, 566 S.E.2d 193 (Ct. App. 2002) and *Heins v. Heins*, 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 1996), in holding that the master lacked subject matter jurisdiction to, *sua sponte*, issue the Form 4 Order that was issued more than ten days after the Summary Judgment Order and vacated the Summary Judgment Order in full when that relief had not been requested by any party. "Issues relating to subject matter jurisdiction may be raised at any

time . . . and should be taken notice of by this court on our own motion.” *Ness*, 350 S.C. at 402, 566 S.E.2d at 193 (quoting *Bunkum v. Manor Props.*, 321 S.C. 95, 99-100, 467 S.E.2d 758, 761 (Ct. App. 1996). In *Ness*, the Court of Appeals cited *Heins v. Heins*, 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 2001) in holding that “[a]though trial judges retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e) motion is filed, after ten days that jurisdiction is lost.” *Ness*, 350 S.C. at 402, 566 S.E.2d at 195. Therefore, Singleton’s argument that Waterfall failed to preserve its right to appeal the master’s, *sua sponte*, Form 4 Order fails.

In support of his argument on this issue, Singleton cites the case of *In re Estate of Timmerman*, 331, S.C. 455, 502 S.E.2d 920 (Ct. App. 1998). (Singleton’s Petition for Writ of Certiorari p. 7). In *Timmerman*, the Court of Appeals held that because the respondent failed to file a Rule 59(e) motion as to a probate court’s order regarding the appellant’s right to an elective share of the estate, the circuit court erred by addressing the argument on appeal; therefore, the Court of Appeals reversed the circuit court’s order. *Timmerman*, 331 S.C. at 459-461, 502 S.E.2d at 922. However, *Timmerman* did not deal with the issue of a trial judge, *sua sponte*, vacating an order more than ten days after the order was issued and on grounds that were not raised in a Rule 59(e) motion. Therefore, the holding in *Timmerman* is not relevant to the issue presented in the present case.

CONCLUSION

For all the above reasons, Singleton’s petition for a writ of certiorari to the Supreme Court should be denied.