

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas

Case Number 2011-CP-12-0291

Robert H. Breakfield, as attorney-in-fact,
Respondent,

v.

Mell Woods Appellant.

PETITION FOR REHEARING

Court of Appeals Number: 2012-212318

RECEIVED

MAR 20 2014

SC Court of Appeals

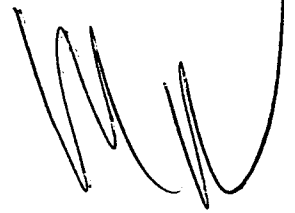
Mell Woods
P.O. Box 2603
Lancaster, SC 29721

11/10/13

Respondent and petitioner Mell Woods hereby petitions for a rehearing of the Court's recent decision in the above entitled case.

The grounds for the asking for the rehearing are listed in the following Memorandum and marked as paragraphs 1-5.

The decision petitioner is asking to be reviewed is marked as Unpublished Opinion No. 2014-UP-076.



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1. As to what may have been overlooked by the Court of Appeals in Unpublished Opinion No. 2014-UP-076 in which Metropolitan Life Ins. Co, v. Stuckey, 194 S.C. 469, 10 S.E.2d 3, (1940), shortened to "Metro. Life" in the unpublished opinion, was cited for the proposition that a "tenant" will never be able to oust the magistrate of jurisdiction [in summary ejectment proceedings] by "merely" denying the landlord's title; if the unknown author of the opinion in this case had looked just a little more closely she, or he would have come across the more relevant case of Carlisle v. Prior, 48 S.C. 183, 26 S.E. 244, (1897), where the South Carolina Supreme Court ruled that if one is a defendant in possession of property *under a contract to purchase*, such a defendant cannot be ejected in a summary proceeding. And to be more particular, Carlisle v. Prior is cited in the Metropolitan Life Ins. Co. case relied on by the author of the unpublished opinion for the present case being appealed.

2. Petitioner shows by the following citations to the the Record, the pleadings, the Briefs, and the records maintained by the State of South Carolina, that petitioner is not a tenant but in fact is a purchaser under a contract to purchase land:

(a) The contract itself, maintained by the South Carolina Secretary of State Office, which ironically is stored in the same building where the Court of Appeals presently sits, and is shown in the Record, R.pp. 362-367, R.pp. 614-619, with the South Carolina File ID# 111229-1557344 R.p. 363.

(b) The sworn denial by petitioner that petitioner (defendant below) is a "tenant," R.p. 603, and R.p. 603-C, with the verification on R.p. 609, along with the required cost bond and related documents, R.pp. 610-611.

(c) The circuit court transcript R.pp 719-750.

(d) Appellant Brief in the present case, pages 1-9, and page one of the Reply Brief.

3. Metropolitan Life Ins. Co. cited by the Court of Appeals in its decision in the present case just does not square Carlisle v. Prior which was cited in Metropolitan Life to differentiate between sharecropping contracts and the year to year tenancies usual with sharecropping; instead of other types of contracts, including land sales agreements where a defendant is in possession under a mortgage type of agreement with the ultimate end of purchase instead of a year to year contract between a land owner and someone who agreed to be his sharecropper.

4. Summary eviction is a tool invented for sharecropping, Metropolitan Life was a sharecropping case; in the facts recited in Metropolitan the defendant in Metropolitan admitted the delivery of the landowner's "share" of the cotton produced on the farm during year 1939 -- this constitutes "sharecropping" but summary eviction for buyers of land has never been the law in South Carolina, and has certainly not been so since the issue was clarified by the Supreme Court in Carlisle v. Prior, 48 S.C. 183, 26 S.E. 244, (1897).

5. Appellant and petitioner has used conventional South Carolina court cases and statutes to show that the decision rendered in the present case is probably incorrect. In addition appellant continues to appeal on the constitutional grounds addressed by the Court of Appeals, and marked as "2." and "3." by the Court of Appeals. The constitutional issues were documented in the Briefs, and the transcripts where the circuit court did rule on the issue and the parts that were not clear were addressed in the Rule 59(e) motion which the trial court ignored. All parts of the Record, the Briefs, all papers filed in the Court of Appeals concerning the present case are hereby incorporated into this Petition for Rehearing.

Conclusion

Petitioner asks that the Court of Appeals reconsider the decision in Case Number 2014-UP-076.

Respectfully submitted,

This 19 day of March, 2014.



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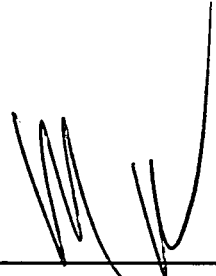
CERTIFICATE OF SERVICE

I hereby certify that I have served the respondent(s) by serving the Counsel of Record for respondent(s) to wit:

B. Michael Brackett
Moses Koon & Brackett
P.O. Box 100261
Columbia, SC 29202

by placing copies of the within and foregoing Petition for Rehearing in the U.S. Mail with sufficient postage addressed to Mr. Brackett using the above address.

This 19 day of March, 2014.



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SC Court of Appeals

March 19, 2014

Re: Breakfield v. Woods

✓ Court of Appeals case Number: 2012-212318

Attached is an original, and six copies of a Petition for Rehearing in the above case, with one set of copies being un-bound. And the twenty-five dollar fee. Please file with the other papers in the above case.

Thanks,



Mell Woods

Copy of this note to Mr. Mike Brackett

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