

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

7716

Joseph M. Strickland, Master in Equity for Richland County

Case No. 2014-000140

Bank of America, N.A. .... Respondent,


v.

Willie Zimmerman ..... Appellant.

RESPONDENT'S MOTION TO STRIKE APPELLANT'S INITIAL BRIEF

Respondent now moves to strike Appellant's Initial Brief for failure to timely file a notice of appeal.

March 27, 2014



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Pro Se Appellant

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MAR 27 2014  
SC Court of Appeals

THE RESPONDENT HEREBY MOVES TO STRIKE APPELLANT'S BRIEF FOR FAILURE TO TIMELY FILE NOTICE OF APPEAL PURSUANT TO RULE 203(b)(5), SCACR:

1. Respondent filed its Summons and Complaint, 2011-CP-40-08074, seeking foreclosure on November 23, 2011.

2. Judge Joe M. Strickland, Richland County Master in Equity, issued a Master's Order and Judgment of Foreclosure and Sale on September 20, 2012.

3. Foreclosure sale occurred on April 1, 2013 and Appellant was the successful bidder.

4. At hearing on June 21, 2013 Judge Strickland ruled that the April 1, 2013 foreclosure sale should be vacated for Appellant's failure to provide the bid, minus the 5% deposit, within twenty (20) days of sale and issued a formal order on July 30, 2013.

5. Appellant appeared pro se at hearing on June 21, 2013.

6. The foreclosure sale was rescheduled to September 3, 2013 and Appellant was the successful bidder.

7. At a Status Conference on November 21, 2013 Judge Strickland ruled the September 3, 2013 foreclosure sale be vacated for Appellant's failure to provide the bid, minus the 5% deposit, within thirty (30) days and executed a formal order on December 17, 2013.

8. Beth Bernstein, Esq. appeared on behalf of Appellant on November 21, 2013.

9. Appellant filed a Notice of Appeal in the Court of Appeals on January 6, 2014 expressing the intent to appeal Judge Strickland's December 16 [sic], 2013 Order Vacating the Sale.

10. Appellant acknowledges receipt of the December 16 [sic], 2013 order on December 16 [sic], 2013.

11. On February 25, 2014 Appellant filed an Initial Brief of Appellant seeking to appeal Judge Strickland's Order Vacating Sale executed on July 30, 2013.

12. Appellant does not reference the date of receipt of Judge Strickland's July 30, 2013 order in Appellant's Initial Brief.

13. Rule 203(b)(5) provides, "[t]he notice of appeal from an order . . . issued by a master . . . shall be served in the same manner as provided by Rule 203(b)(1). Rule 203(b)(5), SCACR. Rule 203(b)(1) provides, "[a] notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order . . . ." Rule 203(b)(1), SCACR.

14. Appellant's Initial Brief improperly seeks to submit for appellate review issues regarding an order executed approximately five months before the filing of the Notice of Appeal on January 6, 2014.

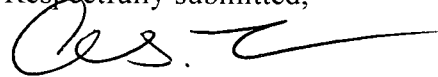
15. Appellant's Brief fails to allege any facts or issues relevant to Judge Strickland's December 17, 2013 Order Vacating Sale.

16. Appellant failed to file a Notice of Appeal within 30 days of Judge Strickland's July 30, 2013 Order Vacating Sale.

For the reasons stated, Respondent respectfully requests that this Court STRIKE Appellant's Initial Brief where it seeks appellate review of an order executed 5 months prior to the December 17, 2013 Order Vacating Sale and the filing of the Notice of Appeal on January 6, 2014. Rule 203(b)(5), SCACR.

March 27, 2014

Respectfully submitted,



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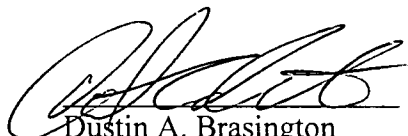
Willie Zimmerman ..... Appellant.

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PROOF OF SERVICE

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I certify that I have served Respondent's Motion to Strike Appellant's Initial Brief on Willie Zimmerman by depositing a copy of it in the United States Mail, postage prepaid, on March 27, 2014 addressed to Appellant Willie Zimmerman at P.O. Box 2013, Irmo, South Carolina, 29063 by depositing a copy of it in the United States Mail.



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