

TABLE OF AUTHORITIES\*

CASES

1. Aldridge v. Rutledge, 269 S.C. 475, 238 S.E. 2d 165 (Supreme Ct. 1977)
  - A) Advertised, levied and sold in the name of the true owner's *father*.
2. Corbin v. Carlin, 366 S.C. 187, 620 S.E. 2d 745 (Ct. of Appeals 2005)
  - A) "Tract B as described in the tax deed to Peterson did not exist."
  - B) Tract 1 included tract B so taxes were paid.
3. Dibble v. Bryant, 205 S.E. 2d 673, 274 S.C. 481 (S.C. 1980)
  - A) If the defaulting tax payer remains in possession, the two year statute does not begin to run.
  - B) "Constructive Notice provided by the levy, advertisement and sale in the owner's name is deemed sufficient" even if written notice was not sent to owner of record.
  - C) Bryant was never ousted from possession.
  - D) See also Clymph v. Smith, 180 S.C. 382, 384 , 185 S.E. 2d 911, 914 (1986).
4. Donohue v. Ward, 298 S.C. 75, 378 S.E. 2d 261, 1989 Court of Appeals
  - A) Execution, levy, advertisement and sale of property not in the name of the owner is a jurisdictional error so the bar of the Statute of Limitations does not apply.
5. Federal Financial Co. v. Hartley, 380 S.C. 65, 618 S.E. 2d 410 (SC Sup Ct 2008)
  - A) "Tax sale not a cloud on the property's title after 2 years."
  - B) see Wilson v. Mosley.
6. Good v. Kennedy, 291 S.C. 204, 352 S.E. 2d 708
  - A) Sent to wrong address - not a posting case.
  - B) "Due care" standard for public offices violated.
7. Hawkins v. Bruno Yacht Sales, 353 S.C.31, 577 S.E. 2d 202 (Sup. Ct. 2002)
  - A) Boat / personal property case no posting required.
  - B) Only certified mail. Not sent "restricted delivery."
8. Johnson v. Arbabi, (S.C. 2003)
  - A) Joint owners with the same address - "§ 12-51-120 does not require separate redemptive notices."
  - B) §12-51-120 the return of the certified mail "undeliverable" is not grounds for a tax title to be withheld or found defective and ordered set aside or cancelled of record.
  - C) "Notice is constructive rather than actual."
9. King v. James, 388 S.C. 16, 694 S.E. 2d 35 (Ct of Appeals 2009)

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**SC Court of Appeals**

- A) As in Dibble, the tax payer remained in possession at all times
- B) No proof of posting
- C) King remained in possession at all times
- D) "Neither of the appellants appealed the Masters findings that the tax sale was not conducted in strict compliance with statutory requirements"

10. Leysath v. Leysath, 209 S.C. 342, 40 S.E. 2d 233 (SC Sup Ct 1946)

A) "The sudden activity of the Plaintiff (Appellant) was not until after the Defendants (Respondents) had improved the land by their work, good management and industry, and values of real estate increased generally." - Upholding the two year statute.

B) 2 year Statute of Repose

C) Tax Sale upheld.

D) Irregularities which would have voided the sale if a proceeding had been timely brought.

E) "We may, therefore, concede the tax sale was invalid and that in a preceding timely brought, Appellant would have the tax sale declared void and set aside."

11. Osborne v. Vallentine, 196 S.C. 90, 12 S.E. 2d 856

A) "Substantial compliance" standard.

B) "The Statute contemplates some sort of notice."

C) "Burden on the tax payer / homeowner to prove that the levy, advertisement and sale were not in the names of the true owners."

12. Reeping v. JEBBCO, 402 S.C. 195, 740 S.E. 2d 504 Court of Appeals 2013

A) Mailed to wrong address, not a posting case.

13. Rives v. Balsa, 478 S.E. 2d 878, 325 S.C. 287 (S.C. App. 1996)

A) Notice not sent in the name of two true owners of record nor their addresses. The property was not advertised, levied upon or sold in the true owners' names. Tax deed set aside.

B) Relies on Donohue v. Ward, Good v. Kennedy

14. Wilson v. Dove, 118 S.C. 256, 110 S.E. 39, Supreme Court of South Carolina 1922.

A) Sherry did not take possession of the lot until day of sale - tax sale upheld.

B) "It is clear that to permit an action such as the one at the bar, after the lapse of more than 3 years, the purchaser in the mean time in possession, would be to practically annul the limitation provided therein."

## STATUTES

S.C. Code Ann. § 12-51-40.....	2
S.C. Code Ann. § 12-51-91.....	2
S.C. Code Ann. § 12-51-120.....	2

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May 23, 2014

South Carolina Court of Appeals  
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**In Re: Appeal**  
**Robert Schivera, Respondent**  
**Versus**  
**C. Russell Keep, III, Appellant**  
**Civil Action Case No. 2012-CP-27-00760**  
**Court of Appeals Case No. 2014-000823**

Dear Amelia,

May an Appellant list briefly the facts of cases under the Table of Authorities (attachment)? Thank you.

Sincerely,

C. RUSSELL KEEP, III

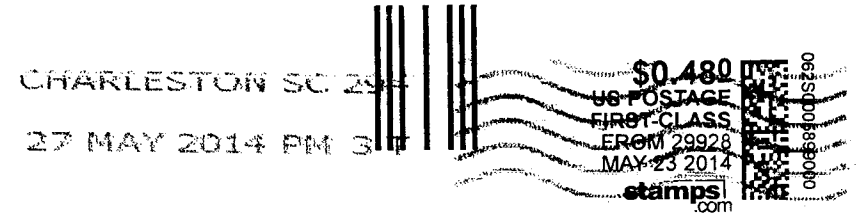
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**SC Court of Appeals**

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