

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

November 17, 2014

Case No. 2014-001656

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SC Court of Appeals

BANK OF AMERICA, N.A.
SUCCESSOR BY MORTGAGE
TO BAC HOME LOANS SERVICING,LP

Respondent

v.

KERMIT G. WHITE, JR. pro se

APPELLANT'S ANSWER TO RESPONDANT'S MOTION TO DISMISS
CONSOLADATED APPEALS AND APPELLANT'S REQUEST FOR AN
EMERGENCY HEARING ON THE ISSUES BELOW

Appellant Again Amends His Answer To Respondent's Motion to Dismiss Consolidated
Appeals

- A). Respondent claimed in the Status Conference Hearing on September 26, 2014 that Appellant attempted to rent his 2nd and 3rd floors just before or right after Respondent filed his deed (from the transcript (page 8 lines 5-14 attached).
- B). Appellant asserts that these statements were false and that the lease agreement with his tenants was signed July 21, 2014 (lease attached).
- C). Appellant asserts that these false statements may have influenced Judge Strickland's understanding of the situation.

- D). From the lower Court's docket that during the proceedings of Appellant's foreclosure he made an Amended Motion to Dismiss and Memorandum in Support on September 26, 2012 (attached).
- E). From the lower Court's docket that on March 19, 2013 Judge Strickland, without a hearing, issued an Order Denying Defendant's Motion To Dismiss (attached).
- F). From the lower Court's docket that Bank of America on August 26, 2013 filed a Motion For Summary Judgment (attached).
- G). From the lower Court's docket that on September 9, 2013 Appellant filed an answer to Plaintiff's Motion For Summary Judgment (attached).
- H). From the lower Court's docket that on December 12, 2013 Bank of America filed an Amended Motion For Summary Judgment (attached).
- I). That on February 26, 2014 a hearing was held by Judge Strickland with Appellant and Bank of America in attendance at which Appellant informed Judge Strickland that he had already signed an Order denying Appellant's Motion to Dismiss without holding a hearing(from the transcripts attached).
- J). That this Hearing was never entered on the lower Court's docket even though the transcript shows that a Hearing was held (attached).
- K). That Judge Strickland's denying Appellant's Motion To Dismiss on March 19, 2013 without a Hearing denied Appellant's right to a Hearing on the issues.
- L). That Judge Strickland did not resend his previous Order Denying Defendant's Motion To Dismiss and issue another Order that reflects the actual date of the Hearing held on February 26, 2014.
- M). Appellant asserts that the lower Court record is incorrect and Judge Strickland's

Order Denying Appellant's Motion To Dismiss on March 19, 2013 should be removed from the record because it denied Appellant's right to a Hearing on the issues.

N). Appellant asserts that Judge Strickland never corrected the record therefore his Foreclosure should be set aside and the sale of his property be rescinded and Respondent removed from his deed.

Due to the controversies surrounding the Court Record, Appellant asks this Court to:

- 1). Dismiss or set aside Respondent's Motion To Dismiss Consolidated Appeals.
- 2). That his Foreclosure should be set aside due to errors in the lower Court record.
- 3). That the sale of his property be rescinded and Respondent removed from his deed.
- 4). That the Court Stay his eviction from his home until his Appeal can be heard.
- 5). That the Court allow Appellant time to gather and submit his evidence concerning the allegations in his previously submitted Notes.
- 6). That the Court recognize Appellant's due diligence in his attempt to cooperate with Respondent for a bond agreement. (See CHAPTER 1.

GENERAL PROVISIONS SECTION 15-1-230. Bonds in judicial proceedings.

In all judicial proceedings, whenever it may become necessary for any party thereto to give a bond for any purpose, the bond of such party having as surety thereon any surety company authorized to do business in this State may be accepted by any officer or court whose duty is to approve such bond, without other surety. The provisions of this section shall apply to bonds given in connection with any appellate proceeding for the purpose of obtaining supersedeas or for any other purpose. And in all actions or proceedings the party entitled to recover costs may include therein such reasonable sum as may have been paid such company executing or guaranteeing any bond or undertaking therein. No person having the approval of any such bond shall exact that it be furnished by a guaranty company or any particular guaranty company.

Kermit G White, Jr.

Kermit G. White, Jr.

3321 Prentice Ave.
Columbia, SC 29205

Certificate of Service:

I hereby certify that a true and correct copy of the foregoing has been furnished to Damon C. Wlodarczyk, Esquire 2838 Devine St. Columbia, SC 29205 by regular mail this 17th day of November 2014

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Switch View					
Bank Of America N A , plaintiff, et al vs Kermit G White , defendant, et al					
Case Number:	2011CP4007826	Court Agency:	Richland County Master In Equity	Filed Date:	12/06/2013
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Disposed	Assigned Judge:	Strickland, Joseph M.		
Disposition:	Ended by Non Jury	Disposition Date:	07/25/2014	Disposition Judge:	Strickland, Joseph M.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties	Judgments	Tax Map Information	Associated Cases	Actions	Financials	
Name	Description	Type	Not on Roster	Begin Date	Completion Date	Documents
White, Kermit G	Petition For Supersedeas Bond	Filing		11/07/2014-14:02		
Bank Of America N A	Master's Report on Sale and Disbursements and Order Of Confi	Order		10/09/2014-13:14		
Bank Of America N A	Writ Of Assistance/Judge Strickland	Order		09/30/2014-14:22		
Bank Of America N A	Summons and Order Of Appointment/Judge Strickland	Order		09/19/2014-14:54		
Bank Of America N A	Status Conference	Motion		09/19/2014-10:16		
White, Kermit G	Request to Have Sale Nullified and Buyers Name Removed	Filing		09/10/2014-09:53		
State Street Holdings	Master/Balance of Bid on Sale Due	Action		09/05/2014-11:00	08/26/2014-11:00	
Bank Of America N A	Petition	Filing		09/02/2014-14:25		
Bank Of America N A	Rule To Show Cause and Writ Of Assistance/Judge Strickland	Order		09/02/2014-14:24		
Bank Of America N A	Order/Order Filing Fee	Filing		09/02/2014-12:06		

Bank Of America N A	Motion & Mandatory Order of Reference/Jeanette W. McBride	Order		07/27/2012-12:07	07/15/2014-12:07
Bank Of America N A	Order/Order Filing Fee	Filing		07/24/2012-12:08	07/15/2014-12:08
Bank Of America N A	Notice of Case Roster Publication Sent	Action		07/17/2012-10:56	07/15/2014-10:56
Bank Of America N A	Memorandum Of Law in Opposition to Defendant Kermit G. White	Filing		06/27/2012-15:37	07/15/2014-15:37
Bank Of America N A	Form Order Motion for Continuance DENIED.	Order		06/22/2012-12:18	07/15/2014-12:18
Bank Of America N A	Request for Continuance	Filing		06/20/2012-12:18	07/15/2014-12:18
Bank Of America N A	Motion/Motion Filing Fee	Filing		06/20/2012-10:19	07/15/2014-10:19
Bank Of America N A	Notice of Hearing on June 27, 2012	Filing		06/15/2012-15:33	07/15/2014-15:33
Bank Of America N A	Notice of Motions Roster Publication Sent	Action		06/07/2012-11:26	07/15/2014-11:26
Bank Of America N A	Service/Affidavit Of Service on Kermit G. White	Filing		03/19/2012-11:15	07/15/2014-11:15
Bank Of America N A	Motion/Motion Filing Fee	Filing		03/08/2012-15:56	07/15/2014-15:56
Bank Of America N A	Motion to Dismiss and Memorandum In Support	Motion		03/08/2012-10:20	03/08/2012-10:20
Bank Of America N A	Certificate of Exemption from Administrative Order	Filing		03/05/2012-15:48	07/15/2014-15:48
Bank Of America N A	Service/Affidavit Of Service on Kermit G. White	Filing		02/21/2012-11:04	07/15/2014-11:04
Bank Of America N A	Service/Affidavit of Non Service on Kermit White	Filing		02/06/2012-15:20	07/15/2014-15:20
Bank Of America N A	Service/Affidavit Of Service on City of Columbia	Filing		12/19/2011-11:58	07/15/2014-11:58
Bank Of America N A	Service/Affidavit of Non Service on Kermit G. White	Filing		12/19/2011-11:58	07/15/2014-11:58
Bank Of America N A	Stipulation Of Dismissal as to defendant City of Columbia	Filing		12/06/2011-11:04	07/15/2014-11:04
Bank Of America N A	Service/Affidavit Of Service on First National Bank of Omaha	Filing		11/23/2011-11:37	07/15/2014-11:37
Bank Of America N A	Verification/Verified	Filing		11/22/2011-08:53	07/15/2014-08:53
Bank Of America N A	Certificate/Certificate of Exemption from ADR	Filing		11/16/2011-14:52	07/15/2014-14:52
Bank Of America N A	Certificate/Certificate of Exemption from ADR	Filing		11/16/2011-14:51	07/15/2014-14:51
Bank Of America N A	Lis Pendens Filed	Filing		11/16/2011-13:31	07/15/2014-13:31
Bank Of America N A	Summons & Complaint	Filing		11/16/2011-13:08	07/15/2014-13:08

Bank Of America N A	RTSC Writ of Assistance	Motion		09/02/2014-11:43	
Bank Of America N A	Master/Writ of Assistance	Action		08/28/2014-14:17	
State Street Holdings	Master/Sale Amount Paid in Full	Action		08/26/2014-15:09	
Bank Of America N A	Verification/Verified	Filing		08/11/2014-09:12	
Bank Of America N A	Affidavit/Publication	Filing		08/07/2014-15:59	
State Street Holdings	Master/Bid by Third Party	Action		08/04/2014-11:00	08/26/2014-11:00
Bank Of America N A	Certificate Of Sales Décre	Filing		07/28/2014-15:40	
City of Columbia	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
BAC Home Loans Servicing L P	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
First National Bank of Omaha	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
BAC Home Loans Servicing L P	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
White, Kermit G	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
BAC Home Loans Servicing L P	Judgment/Foreclosure	Judgment		07/21/2014-14:43	
City of Columbia	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
Bank Of America N A	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
Bank Of America N A	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
First National Bank of Omaha	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
White, Kermit G	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
Bank Of America N A	Judgment/Foreclosure	Judgment		07/21/2014-14:42	
Bank Of America N A	TMS# 13801-05-10	Filing		07/21/2014-14:41	
Bank Of America N A	3321 Prentice Avenue Columbia SC 29205	Filing		07/21/2014-14:40	
Bank Of America N A	Master In Equity's Order and Judgment of Foreclosure and Sal	Order		07/21/2014-14:40	
Bank Of America N A	Record Of Hearing	Filing		06/18/2014-13:18	07/15/2014-13:18
Bank Of America N A	Certificate Of Counsel	Filing		06/18/2014-13:18	07/15/2014-13:18
Bank Of America N A	Notice of Hearing and Certificate Of Mailing	Filing		06/13/2014-13:23	07/15/2014-13:23
Bank Of America N A	Amended Notice Of Hearing/Certificate Of Service	Filing		01/27/2014-13:28	07/15/2014-13:28
Kelchner, John Brian	Notice of Motions Roster Publication Sent	Action		01/15/2014-13:11	07/15/2014-13:11
White, Kermit G	Notice of Motions Roster Publication Sent	Action		01/15/2014-13:11	07/15/2014-13:11
White, Kermit	Notice of Motions	Action		01/15/2014-	07/15/2014-

G	Roster Publication Sent			13:11	13:11
Kelchner, John Brian	Notice of Motions Roster Publication Sent	Action		01/15/2014-13:11	07/15/2014-13:11
Kelchner, John Brian	Notice of Motions Roster Publication Sent	Action		01/15/2014-13:08	07/15/2014-13:08
White, Kermit G	Notice of Motions Roster Publication Sent	Action		01/15/2014-13:08	07/15/2014-13:08
Bank Of America N A	Notice of Motions Roster Publication Sent (02-26-14@4:00pm)	Action		01/15/2014-09:34	07/15/2014-09:34
Kelchner, John Brian	Notice of Motions Roster Publication Sent	Action		12/12/2013-12:46	07/15/2014-12:46
White, Kermit G	Notice of Motions Roster Publication Sent	Action		12/12/2013-12:46	07/15/2014-12:46
Bank Of America N A	Amended Motion For Summary Judgment	Motion		12/12/2013-12:44	07/15/2014-12:44
Bank Of America N A	Notice of Motions Roster Publication Sent (02-17-14@3:30PM)	Action		12/12/2013-08:48	07/15/2014-08:48
Bank Of America N A	Notice of Motions Roster Publication Sent	Action		09/18/2013-09:43	07/15/2014-09:43
Bank Of America N A	Notice of Case Roster Publication Sent	Action		09/18/2013-09:38	07/15/2014-09:38
Bank Of America N A	Answer of Kermit G. White Jr. to Plaintiff's Motion For Summ	Filing		09/09/2013-16:56	07/15/2014-16:56
Bank Of America N A	Motion/Motion Filing Fee	Filing		08/26/2013-13:24	07/15/2014-13:24
Bank Of America N A	Affidavit of Debt	Filing		08/26/2013-09:52	07/15/2014-09:52
Bank Of America N A	Motion For Summary Judgment	Motion		08/26/2013-09:51	10/11/2013-09:51
Bank Of America N A	Certification Of Mortgagor Non-Compliance/Certificate Of Ser	Filing		08/22/2013-11:57	07/15/2014-11:57
Bank Of America N A	Order Denying Defendant's Motion to Dismiss/Judge Strickland	Order		03/19/2013-08:56	07/15/2014-08:56
Bank Of America N A	Order Staying Case Pursuant of Justice Toal's Administrative	Order		11/13/2012-12:04	07/15/2014-12:04
Bank Of America N A	Order/Order Filing Fee	Filing		11/09/2012-12:43	07/15/2014-12:43
Bank Of America N A	Affidavit Regarding Military Service	Filing		10/04/2012-15:03	07/15/2014-15:03
Bank Of America N A	Motion/Motion Filing Fee	Filing		09/26/2012-13:47	07/15/2014-13:47
Bank Of America N A	Amended Motion to Dismiss and Memorandum in Support	Motion		09/26/2012-15:27	09/26/2012-15:27
Bank Of America N A	Summons and Order of Appointment/Judge Strickland	Order		08/30/2012-15:32	07/15/2014-15:32
Bank Of America N A	Notice of Hearing	Filing		08/09/2012-12:12	07/15/2014-12:12
Bank Of America N A	Certificate Of Service	Filing		07/27/2012-12:09	07/15/2014-12:09
Bank Of America N A	Affidavit of Non Military Service	Filing		07/27/2012-12:09	07/15/2014-12:09
Bank Of America N A	Affidavit of Default	Filing		07/27/2012-12:09	07/15/2014-12:09

1 **MR. WHITE:** No.

2 **THE COURT:** Mr. Ruple, are y'all in a position to maybe
3 let him live there and pay rent or something like
4 that? Or have you talked to your ---

5 **MR. RUPLE:** Your Honor, it's my understanding -- and I
6 don't know completely, so please correct me if I'm
7 wrong. It's my understanding that Mr. White is
8 living downstairs in the home and has attempted to
9 rent the upstairs to other gentlemen. This happened
10 either right before the deed was filed or right
11 after the deed was filed, and he's, he's -- it was a
12 contentious -- as I understand it, it's a
13 contentious relationship between the two as to
14 whether rent's being paid and that sort of thing.
15 My client really has followed all the rules and
16 procedures; we'd like to move forward with the
17 eviction.

18 **MR. WHITE:** He brings up a good point.

19 **THE COURT:** Yes, sir.

20 **MR. WHITE:** That the second and third floor of my house
21 are rented out. These guys, instead of paying me
22 rent, which is about 70 percent of my monthly
23 income, paid this company.

24 **THE COURT:** Yes, sir. Yes. Yes.

25 **MR. RUPLE:** I don't believe that's true, sir. I don't

1 **THE COURT:** This is Civil Action Number 2011-CP-40-7826,
2 Bank of America against Kermit White. Our notes
3 indicate that this is a foreclosure, is that
4 correct?
5 **MR. TRULUCK:** Yes, Your Honor, a motion for summary
6 judgment.
7 **THE COURT:** Let me ask before we get started. Mr. White,
8 you had a motion to dismiss, is that correct?
9 **MR. WHITE:** That's correct.
10 **THE COURT:** Have I ever ruled on that motion?
11 **MR. WHITE:** It seems you did.
12 **THE COURT:** Okay. Okay. So that's -- the only motion
13 pending this at time is the plaintiff's motion for
14 summary judgment?
15 **MR. WHITE:** Actually, the motion you signed was the -- my
16 motion to dismiss was not completed.
17 **THE COURT:** Was not completed?
18 **MR. WHITE:** No, sir.
19 **THE COURT:** So I never ruled on it? Let's see what you
20 have. And please forgive me, I literally hear
21 thousands of cases a year, and I may need my memory
22 jogged at some point. Have you seen this, Mr.
23 Truluck? Do you have it in your file?
24 **MR. TRULUCK:** Your Honor, I have a copy of this.
25 **THE COURT:** Oh, okay.

1 MR. TRULUCK: You executed on January 31st, 2013.
2 THE COURT: Okay. Just over a year ago, okay.
3 MR. WHITE: Uh-huh (affirmative response). Well, we had a
4 hearing, and the Korn Law Firm didn't have some
5 documents so they put in for a continuance.
6 THE COURT: Okay.
7 MR. WHITE: Now, between that, at some point the Korn Law
8 Firm sent a request for you to ---
9 THE COURT: Deny your motion to dismiss?
10 MR. WHITE: Yeah.
11 THE COURT: Okay.
12 MR. WHITE: And it wasn't, the hearing wasn't completed.
13 THE COURT: The hearing wasn't completed?
14 MR. WHITE: No, yes.
15 THE COURT: What was left out of the hearing?
16 MR. WHITE: The, I think it was Truluck, he requested an
17 extension because some of his paperwork wasn't
18 correct. And then they turn around and send you ---
19 THE COURT: A proposed order?
20 MR. WHITE: Yeah.
21 THE COURT: That I just signed and handed up?
22 MR. WHITE: Yeah.
23 THE COURT: So you want a re-hearing on your motion to
24 dismiss?
25 MR. WHITE: Yes, sir.

1 **THE COURT:** Mr. Truluck?

2 **MR. WHITE:** I feel ---

3 **MR. TRULUCK:** Your Honor, I can clarify everything. Some
4 of -- I agree with what -- some of what Mr. White's
5 saying, but I think he's leaving out the essential
6 elements, Your Honor. When we appeared before you
7 on Defendant's motion to dismiss, we realized that
8 our certificate of exemption was certified as non-
9 owner occupied because there was so much trouble in
10 serving Mr. White. We learned that it was his
11 residence, so we felt that we needed to amend that.
12 We did amend it, Your Honor, and we asked the Court
13 to continue his motion so that we could pursue loss
14 mitigation pursuant to the Administrative Order.

15 **THE COURT:** Okay.

16 **MR. WHITE:** Mr. White agreed, but immediately after Mr.
17 White agreed you decided to go ahead and ask him
18 about his motion. He made his arguments and you
19 ruled that you were not going to dismiss -- you were
20 not going to dismiss the case, you ruled against
21 him, and so we did send in the proposed order
22 pursuant to that. And in the meantime, Your Honor,
23 we solicited, pursuant to the Administrative Order,
24 loss mitigation for Mr. White, never received a
25 response and then so filed a certificate of non-

1 compliance and filed our motion for summary
2 judgment.

3 **THE COURT:** Okay. Mr. White?

4 **MR. TRULUCK:** So it's our position it was heard, Your
5 Honor.

6 **THE COURT:** Okay.

7 **MR. WHITE:** I'm still confused.

8 **THE COURT:** That's all right. I'll clarify everything.
9 What I'm going to do then is give Mr. White a
10 rehearing on the motion to dismiss, and in effect I
11 consider them as if they were cross-motions for
12 summary judgment because you made a motion for
13 summary judgment and he's made a motion to dismiss.
14 And I think you, I think we brought out at the last
15 hearing that he was considering things outside the
16 pleadings; does that sound accurate?

17 **MR. TRULUCK:** Yes, Your Honor. He made a, it's an
18 undetailed allegation regarding RESPA and TILA.

19 **THE COURT:** Okay.

20 **MR. TRULUCK:** Which I -- I don't think that applies in a
21 motion to dismiss.

22 **THE COURT:** Well, what I'll do is I'll give Mr. White a
23 rehearing, and I'll hear both motions basically at
24 that same time. I'll treat them as if they were
25 cross-motions for summary judgment. Does that