



# The South Carolina Court of Appeals

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July 31, 2015

The Honorable Melanie Huggins-Ward  
PO Box 677  
Conway SC 29528-0677

## REMITTITUR

Re: John Sherrill v. Gary Moore  
Lower Court Case No. 2008CP2607941  
Appellate Case No. 2013-001433

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Gene McCain Connell, Jr., Esquire  
Kimberley Elizabeth Campbell, Esquire  
Cheevin Ty Gardner, Esquire

The Supreme Court of South Carolina

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JUL 24 2015

SC Court of Appeals

John Sherrill and Estate of Gaye Marie Reynolds,  
Petitioners,

v.

Gary Moore and Robert Moore, Respondents.

Appellate Case No. 2015-000552  
Lower Court Case No. 2008-CP-26-7941

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ORDER

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Petitioners seek a writ of certiorari to review the Court of Appeals' decision in *Sherrill v. Moore*, Op. No. 2014-UP-466 (S.C. Ct. App. filed Dec. 17, 2014). We deny the petition.

 C.J.  
FOR THE COURT

John W. Kittredge, J., not participating

Columbia, South Carolina

July 23, 2015

cc:

The Honorable Jenny Abbott Kitchings  
Kimberley Elizabeth Campbell, Esquire  
Gene McCain Connell, Jr., Esquire  
The Honorable Melanie Huggins-Ward

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

John Sherrill and Estate of Gaye Marie Reynolds,  
Appellants,

v.

Gary Moore and Robert Moore, Respondents.

Appellate Case No. 2013-001433

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Appeal From Horry County  
Cynthia Graham Howe, Master-in-Equity

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Unpublished Opinion No. 2014-UP-466  
Submitted November 1, 2014 – Filed December 17, 2014

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**AFFIRMED**

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Gene McCain Connell, Jr., of Kelaher Connell &  
Connor, P.C., of Surfside Beach, for Appellants.

Cheevin Ty Gardner, of Gardner Law Office, of Myrtle  
Beach, for Respondent Robert Moore; and Kimberley  
Elizabeth Campbell, of Kimberley Campbell, LLC, of  
Murrells Inlet, for Respondent Gary Moore.

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**PER CURIAM:** John Sherrill, as personal representative of the estate of Gaye Marie Reynolds, appeals the Master-in-Equity's order finding the successful bidder at a judicial sale of Gary Moore's interest in real property must pay cash in an amount equal to the homestead exemption, as well as the Master-in-Equity's subsequent orders denying Sherrill's motion to reconsider. On appeal, Sherrill argues the Master-in-Equity erred in (1) holding he could not raise a new constitutional argument in his motion to reconsider, (2) applying *Holden v. Cribb*<sup>1</sup> to this case, (3) finding Moore's house was his residence for purposes of the homestead exemption, and (4) finding the successful bidder must pay cash in an amount equal to the homestead exemption. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether Sherrill could raise new arguments in his motion to reconsider: *Commercial Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 186, 512 S.E.2d 123, 129 (Ct. App. 1999) (holding, on appeal from supplementary proceedings before the Master-in-Equity, that an issue was unpreserved because it was raised for the first time in a motion for reconsideration).

2. As to whether the Master-in-Equity erred in applying *Holden* to this case, we find *Holden* is directly on point and any factual distinctions between *Holden* and this case are legally insignificant. We further find unpersuasive Sherrill's argument that it would be inequitable to apply *Holden* to this case because the homestead exemption statute excludes fraudulent conveyances. See *Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 582 (2000) (explaining "[t]he canon of construction *expressio unius est exclusio alterius* or *inclusio unius est exclusio alterius* holds that to express or include one thing implies the exclusion of another, or of the alternative" (internal quotation marks omitted)).

3. As to whether Moore's house was his residence for purposes of the homestead exemption: *Holden*, 349 S.C. at 140-41, 561 S.E.2d at 639 (ruling incarceration does not affect the status of one's residence for purposes of the homestead exemption).

4. As to whether the successful bidder must pay cash in an amount equal to the homestead exemption: *Holden*, 349 S.C. at 138-39, 561 S.E.2d at 638 (ruling a

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<sup>1</sup> 349 S.C. 132, 561 S.E.2d 634 (Ct. App. 2002).

cash payment is required to satisfy the homestead exemption at a judicial sale, even if the successful bidder is the judgment creditor).

**AFFIRMED.**<sup>2</sup>

**WILLIAMS, GEATHERS, and McDONALD, JJ., concur.**

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<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.