



The South Carolina Court of Appeals

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November 23, 2015

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: Bank of America v. Cornell L. Williams
Lower Court Case No. 2010CP1007992
Appellate Case No. 2014-001113

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: Dean Anthony Hayes, Esquire
Steven L. Smith, Esquire

**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**

Bank of America f/k/a Countrywide Home Loans, d/b/a
America's Wholesale Lending, Respondent,

v.

Cornell L. Williams, Deborah P. Williams, George
Rodney Derrick and Mary Scarborough, as Delinquent
Tax Collector for Charleston County,

of whom George Rodney Derrick is the Appellant.

Appellate Case No. 2014-001113

Appeal From Charleston County
Mikell R. Scarborough, Master-in-Equity

Unpublished Opinion No. 2015-UP-507
Submitted September 1, 2015 – Filed November 4, 2015

AFFIRMED

Steven L. Smith, of Smith Closser, of Charleston, for
Appellant.

Dean Anthony Hayes, of Hayes Law, LLC, of Columbia,
for Respondent.

PER CURIAM: George Rodney Derrick appeals the master-in-equity's order denying his motion for reconsideration. On appeal, Derrick argues the master-in-equity erred in (1) finding he was properly served by publication and (2) not holding a hearing on his motion for reconsideration. We affirm.

1. Derrick's argument that the affidavit supporting the petition for publication contained material misrepresentations is not preserved. Although Derrick asserted in his May 5, 2014 and May 8, 2014 motions that he was not properly served, he did not allege fraud, assert Bank of America did not comply with the statute for service by publication, or assert the affidavit of publication was not filed. *See Caldwell v. Wiquist*, 402 S.C. 565, 577, 741 S.E.2d 583, 589-90 (Ct. App. 2013) (finding the issue of whether the order of publication was obtained by fraud was not preserved when the appellant never raised that argument to the trial court).

2. Derrick's argument that the master-in-equity violated his due process rights by not holding a hearing is not preserved. *See Caldwell*, 402 S.C. at 576, 741 S.E.2d at 589 ("Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court."); *id.* ("Constitutional arguments are no exception to the preservation rules.").

AFFIRMED.¹

HUFF, WILLIAMS, and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



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November 4, 2015

Mr. Dean Anthony Hayes, Esquire
PO Box 50405
Columbia SC 29250-0405

Mr. Steven L. Smith, Esquire
PO Box 40578
Charleston SC 29423-0578

Re: Bank of America v. Cornell L. Williams
Appellate Case No. 2014-001113

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

Handwritten signature of Jenny Abbott Kitchings in black ink.

CLERK