

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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DEC 29 2015

S.C. Supreme Court

Appeal from Chester County  
Court of Common Pleas  
Brian M. Gibbons, Circuit Court Judge

Supreme Court Case No. 2015-002318

Court of Appeals Case No. 2015-001036

Circuit Court Case No. 2015-CP-12-0179

Robert H. Breakfield, as attorney in fact for John D. Hinson,  
John C. Hinson, Jerry Hinson, Kathy Huffstickle, Robert H. Hinson,  
Darrell W. Hinson, Lois Hinson, Tina Jones, George Stanford  
as Personal Representative of the Estate of Linda Stanford,  
William L. Hinson, Elaine H. Hensley, and  
William C. Hinson, Jr. . . . . Respondent,

v.

Mell Woods . . . . . Petitioner.

Respondent's Motion to Dismiss Petitioner's Petition for Writ of Certiorari/Appeal and to Stay  
Normal Appeal Process; and

Respondent's Motion for Sanctions

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Attorneys for Respondent

### Motion to Dismiss Petition/Appeal

By Order dated June 25, 2015, the Court of Appeals dismissed Petitioner's's frivolous appeal because the order purportedly being appealed was not a final order. (App. p. 3). Petitioner then filed a frivolous Petition for Rehearing. (App. p. 4-15). Respondent filed a Return to the Petition for Rehearing and an accompanying Motion for Sanctions in an effort to bring Petitioner's long-running abusive litigation to an end. (App. p. 16-83). Petitioner filed and served a Return to the Motion for Sanctions on July 30, 2015. (App. p. 148-155) and a Reply to the Motion for Sanctions (App. p. 156-159). By Order dated October 15, 2015, the Court of Appeals denied the Petition for Rehearing and denied Respondent's Motion for Sanctions. (App. p. 1). After receiving an extension, Petitioner served his Petition for Writ of Certiorari on December 1, 2015. As described below, Petitioner's pursuit of certiorari under the circumstances presented is further confirmation of his harassing litigiousness; a demonstration of his bad faith; and evidence that the court should not allow further pro se filings. (see Motion for Sanctions below).

Respondent moves the Court to expeditiously dismiss Appellant's Petition/appeal, commenced by the filing and service of a Notice of Appeal, dated and served April 15, 2015 (appeal to the circuit court), and an Amended Notice of Appeal dated May 1, 2015 (incorporating the circuit court's May 1, 2015 Order into the pending appeal). (App. p. 144- 147). The ground for the motion is that the Circuit Court Order that is the subject of the appeal (App. p. 147) is not a final order, and unless a recognized exception exists permitting the immediate appeal of an interlocutory order, only a final order is appealable. Jean Hoefler Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 85 (2d ed.2002), citing S.C. Code Ann. § 14-3-330. The Court of Appeals dismissed the appeal on this ground (App. p. 3), and was correct to do so.

Motion to Stay Appeal Process Pending Decision on Motion to Dismiss

Pursuant to Rules 263(b) and 240(b), SCACR, Respondent further moves the Court to stay the normal process and filing deadlines for the Petitioner's Petition for Writ of Certiorari until the motions made herein are decided.

Respondent's Motion for Sanctions Against Petitioner

Respondent Breakfield moves the court to impose sanctions on the Petitioner in the form of:

- an award of litigation costs, including attorney fees, and an appropriate monetary sanction, and/or
- an order restricting Petitioner's access to the courts with respect to proceedings having any relationship with ownership of the subject real property ( known as 1537 Hinton Road, Great Falls, SC), and/or
- an order that all court clerks decline to accept any filing from the litigant in any pending case or new case unless a judge of the Court has specifically authorized the filing after a hearing and confirmed that all appellate costs heretofore awarded against Petitioner have been paid in full, including any monetary sanction awarded herein, and
- an order prohibiting the Petitioner from filing any further legal actions or proceedings involving either the Reba Hinson estate or the Levie Hinson estate, or any other pleadings or submissions, unless Petitioner's pleadings and/or filings are signed by a licensed South Carolina attorney and a bond is posted in the amount of \$15,000 to cover litigation costs and reasonable attorney fees incurred in defending against the action. The grounds for the motion are as follows:

Petitioner is a serial litigant who has used the courts, including this court, to extend his occupancy and use of real property that he does not own. The Respondent's principals identified in the above caption are the owners of the property. These facts have been established in prior legal actions, but Petitioner refuses to acknowledge the prior decisions of the courts; files every possible motion, petition and appeal to delay the day of reckoning; repeatedly tries to re-litigate those decisions in subsequent proceedings, thereby triggering a new round of appeals; and has in bad faith mis-used the courts' process and rules to extend his use and occupancy of the land he does not own.

The Petitioner has commenced five actions in either the Chester County Probate Court or Circuit Court, all having to do with his dispute with the Hinson family over the administration of the Estate of Reba Hinson and his [Petitioner's] claim that he is entitled to a deed for a lot or parcel of land he originally leased from the decedent Reba Hinson. All five cases resulted in trial court Orders and/or appeal orders/opinions favorable to the above-captioned Respondents and to Robert Breakfield in his capacity as Personal Representative of the Reba Hinson Estate, usually by trial court summary judgments and unpublished per curiam opinions from appellate courts.<sup>1</sup> They are:

1. 2010-CP-12-0168 (Petitioner's claims against the Reba Hinson estate removed to circuit court from probate court)
2. 2010-CP-12-0201 (Petitioner's appeal from probate court regarding estate administration)

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<sup>1</sup> All of the facts relevant to this history are established in the myriad filings in prior trial court and appellate court proceedings, and are subject to judicial notice in this proceeding. Courts may take judicial notice of matters of public record, Norfolk Southern Ry. Co. v. Shulimson Bros. Co., 1 F. Supp. 2d 553 (W.D.N.C. 1998); prior judicial proceedings, Briggs v. Newberry County School Dist., 838 F. Supp. 232 (D.C.S.C. 1992), affirmed 989 F.2d 491 (4<sup>th</sup> Cir. 1993); decisions of other courts, Southern Cross Overseas Agencies, Inc. v. Wah Kwong Shipping Group, Ltd., 181 F.3d 410 (3d Cir. 1999); and reliable sources found on the Worldwide Web. In re Yahoo Mail Litigation, 7 F.Supp. 3d 1016,1024 (N.D.Cal. 2014), and Rule 201, SCRE.

3. 2011-CP-12-0323 (Petitioner's quiet title action filed in circuit court)
4. 2011-CP-12-0595 (Petitioner's tort claim against the Reba Hinson estate and the Hinson family filed in circuit court)
5. A Rule 60 "independent action" in the Chester County Probate Court, in the Estate of Levie Hinson, 1986-ES-12-0188, asking that the Chester County Probate Court's October 15, 2007 Order in the Levie Hinson estate be vacated because of alleged fraudulent conduct on the part of Respondent Breakfield, which was expressly denied, in the administration of the Reba Hinson estate some 15 months after entry of the October 15, 2007 Order.

In case no. 1, Petitioner filed claims against the Reba Hinson estate. The claims proceeding was removed to circuit court. After slogging through many procedural delays, Respondent Breakfield, as Personal Representative, was granted summary judgment by the circuit court. Petitioner appealed to the Court of Appeals which affirmed the circuit court in a per curiam unpublished opinion. (2013-UP-0257). Petitioner's petition for writ of certiorari to the South Carolina Supreme Court was denied. (all documents are available on the South Carolina Judicial Department website.) Appeal costs were awarded to the Respondents.

In case no. 2, Petitioner Woods tried to insert himself into matters of probate estate administration in the estate of Reba Hinson. Petitioner sought to have Breakfield removed as personal representative because, among other things, he was probating the wrong will. The probate court found the Petitioner to be a stranger to the Reba Hinson estate and denied Petitioner's various efforts to interfere in estate administration. Petitioner appealed to circuit court where the probate court orders were affirmed. Petitioner appealed to the Court of Appeals where the circuit court and the probate court were affirmed in a per curiam unpublished opinion. (2013-UP-0256). Petitioner's

petition for certiorari to the South Carolina Supreme Court was denied. (all documents are available on the South Carolina Judicial Department website.) Appeal costs were awarded to the Respondents.

In case no. 3, Petitioner described his action as one to quiet title to the land at issue by having the last will of Reba Hinson's husband, Levie Hinson, construed to have devised a fee interest in the land to Reba Hinson rather than having devised a life estate. Petitioner is not a member of the Hinson family; he was neither a devisee in Levie Hinson's last will nor an heir of Levie Hinson. Nevertheless, Petitioner had his day in court, and the circuit court granted summary judgment in favor of the Hinson family. Petitioner appealed to the Court of Appeals which affirmed the circuit court in a per curiam unpublished opinion. (2014-UP-010). Petitioner's petition for writ of certiorari to the South Carolina Supreme Court was dismissed. (all documents are available on the South Carolina Judicial Department website.) Appeal costs were awarded to the Respondents. THIS CASE DECIDED THE QUESTION OF PETITIONER'S CLAIM TO AN OWNERSHIP INTEREST IN THE SUBJECT REAL PROPERTY.

Case no. 4 involved Petitioner's claim against the Reba Hinson estate for various and sundry frivolous causes of action. The claims were removed to circuit court. The circuit court granted summary judgment in favor of the Reba Hinson estate. Petitioner appealed to the Court of Appeals which affirmed the circuit court in a per curiam unpublished opinion. (2014-UP-0158). Petitioner's petition for writ of certiorari to the South Carolina Supreme Court was dismissed. . (all documents are available on the South Carolina Judicial Department website.) Appeal costs were awarded to the Respondents.

Case no. 5, Petitioner's Rule 60 independent action in the Levie Hinson estate, was commenced on March 4, 2015. This action involved the same issues and allegations that Petitioner

made in case no. 2 except that the allegations made in case no. 2 were made in proceedings in the Reba Hinson estate. In case no. 5, Petitioner sought to have probate court orders in the Levie Hinson estate vacated via Rule 60(b). Petitioner claimed that Breakfield was probating the wrong will and that he and others had committed a fraud on the court. He moved for Rule 60(b) relief in the form of vacating the Order appointing Breakfield as personal representative and vacating the order admitting Reba Hinson's June 23, 1998 last will to probate. Petitioner tried to relitigate the subject of Reba Hinson's title, and consequently the Petitioner's claim to title, by dressing it up as a Levie Hinson estate matter rather than a Reba Hinson estate matter. Respondents filed a motion to dismiss and a motion for sanctions. On the eve of the hearing, Petitioner took a voluntary dismissal of his complaint. (App. p. 80-81).

There are two other proceedings that were brought by the above-captioned Respondents against the Petitioner.

6. The Hinson family commenced an eviction action in magistrate's court to have Petitioner evicted as a hold-over tenant at will. Petitioner appealed a pretrial order to the Circuit Court, and to the Court of Appeals and to the Supreme Court. As with his other appeals, he was unsuccessful. (see Court of Appeals' unpublished opinion 2014-UP-076). His Petition for Writ of Certiorari was dismissed. Appeal costs were awarded to the Respondents.

7. In the course of his appeals, Petitioner asserted to the various courts that his interest in the subject land is as an owner and not as a tenant. Upon the tenant-eviction case (no. 6 above) returning to the magistrate's court, and based on Petitioner's express denial that he is a tenant, the Hinson family brought a new proceeding to have Petitioner put off the land as a trespasser.

(2014CV1210400037). (App. p. 43-47). The Chester County Magistrate's Court issued an Order dated and filed March 27, 2015, finding Petitioner to be a trespasser and announcing the intention of the court to issue a warrant of ejectment to the county sheriff to eject the Petitioner from the

subject premises. ( App. p. 25-37). On April 15, 2015, Petitioner herein, pro se, filed and served a Notice of Appeal to the circuit court (assigned case no. 2015-CP-12-0179). On April 24, 2015, Petitioner, pro se, served a Rule 59(e), SCRCPP, motion for reconsideration with respect to the March 27, 2015 Final Order and Judgment.

Pursuant to Holmes v. East Cooper Community Hospital, Inc., 408 S.C. 138, 758 S.E.2d 483 (2014)<sup>2</sup>, the undersigned notified the chief administrative judge, Judge Gibbons, that Petitioner filed a timely Rule 59(e) post-trial motion after his notice of appeal had been filed and served. (App. p. 109-111). By Order dated May 1, 2015, Judge Gibbons dismissed the appeal from magistrate's court, without prejudice. (App. p. 147). Petitioner appealed the May 1, 2015 Order to the Court of Appeals. By Order dated June 25, 2015, the Court of Appeals dismissed Petitioner's appeal (a frivolous, bad faith appeal in the eyes of the Respondents) because the order purportedly being appealed was not a final order. (App. p. 3). Petitioner then filed a frivolous Petition for Rehearing.

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<sup>2</sup> . . . this Court has held that the filing of a notice of appeal does not deprive the circuit court of jurisdiction to consider a timely post-trial motion. See, e.g., Hudson v. Hudson, 290 S.C. 215, 215, 349 S.E.2d 341, 341 (1986). For example, in Hudson, the order appealed was filed on March 18, 1986, and a notice of appeal was filed on March 24, 1986. *Id.* On March 27, 1986, timely post-trial motions were made pursuant to Rule 59(e), SCRCPP. *Id.* at 215–16, 349 S.E.2d at 341. Holding “that the service and filing of a Notice of Appeal before the filing of timely post-trial motions under Rule 59 by any party does not deprive the lower court of jurisdiction to consider the motions,” *id.* at 216, 349 S.E.2d at 341, the Court ordered the notice of appeal to be dismissed without prejudice as prematurely filed, *id.* at 216, 349 S.E.2d at 341–42 (“[I]n the event timely post-trial motions are filed under Rule 59, simultaneously with or subsequent to the filing of a Notice of Appeal, **the appellant shall notify the Clerk of this Court in writing. Upon receipt of such notice, the appeal shall be dismissed without prejudice. Any party can appeal within ten (10) days after the order disposing of the post-trial motions.** A second filing fee will not be collected from a party who previously appealed.” (footnote omitted)). This way, all ancillary matters can be timely heard, and appealed, if necessary, in an efficient and wholesale manner, and not, as Appellant suggests, in a piecemeal fashion.

Holmes v. E. Cooper Cmty. Hosp., Inc., 408 S.C. 138, 758 S.E.2d 483 (2014). (emphasis added).

It was also denied. (App. p. 1-2). This brings us to the Petition for Writ of Certiorari now before this Court. Pursuant to Rule 11, SCRCP; S.C. Code Ann. §15-36-10; and Holmes v. East Cooper Community Hospital, Inc., 408 S.C. 138, 758 S.E.2d 483 (2014); and the Courts' inherent power to sanction parties for certain bad faith conduct and to preserve the sound and orderly administration of justice; Respondents move the court to sanction the Petitioner for his past bad faith actions and his ongoing bad faith actions in the form of continuing to pursue legal actions and appeals and to make arguments that prior court rulings have found to have no merit. Respondents ask the Court to take judicial notice of filings on record in this Court and in the Court of Appeals in case nos. 1, 2, 3, 4, 6 and 7 identified hereinabove.

- 1. 2010-CP-12-0168  
Court of Appeals no. 2011-191876  
Supreme Court no. 2013-001947
- 2. 2010-CP-12-0201  
Court of Appeals no. 2011-201066  
Supreme Court no. 2013-001946
- 3. 2011-CP-12-0323  
Court of Appeals no. 2012-212330  
Supreme Court no. 2014-000660
- 4. 2011-CP-12-0595  
Court of Appeals no. 2012-212429  
Supreme Court no. 2014-001246
- 6. 2011-CP-12-0291  
Court of Appeals no. 2012-212318  
Supreme Court no. 2014-001039
- 7. The Appendix herein.
- With respect to case no. 5, the probate proceeding brought by Petitioner and dismissed on the eve of the hearing on Respondents' motion to dismiss and for sanctions, there was no

appeal. Accordingly, the Petitioner's petition dated February 12, 2015 is attached hereto as **Exhibit A**. The allegations are merely a rehash of the various issues already decided adversely to Petitioner in his other cases.

The particular grounds for the sanctions motion are as follows:

1. **Appeal costs have been awarded to the Respondents in each of the aforementioned appeals, but Petitioner has not paid a penny on any award. Nevertheless, his drumbeat of litigation marches on.**
2. Rule 11 sanctions. Rule 11(a), SCRCF, imposes a duty on parties and attorneys representing parties by construing a signature on pleadings as a certificate that (s)he has read the pleading and "that to the best of his knowledge, information and belief there is good ground to support it . . ." The history of the proceedings between the captioned parties belie any suggestion that this appeal from a clearly non-final order was filed in good faith. Petitioner has pursued repeated and vexatious litigation, with the captioned appeal being only the latest installment.
3. S.C. Code Ann. §15-36-10. The South Carolina Frivolous Civil Proceedings Sanctions Act.

Section 15-36-10(C) provides that

(C)

(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

- (a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
- (b) a reasonable attorney in the same circumstances would believe that his

procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based. (emphasis added.)

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

4. Bringing and/or continuing a lawsuit based on allegations that prior court rulings have found to have no merit can be the basis for awarding sanctions, Holmes v. East Cooper Community Hospital, Inc., 408 S.C. 138, 758 S.E.2d 483 (2014), including ordering the Plaintiff to pay the Defendant's attorney fees and other related litigation costs, and enjoining the Plaintiff from filing any future legal proceedings in the probate court against the Defendants without first posting bond. Id. The plaintiff may also be sanctioned and enjoined from filing any future legal proceedings against the Defendants without representation on the pleadings by a licensed attorney. Id., fn. 18.

5. In Balcar v. Bell and Associates, LLC, 295 F.Supp.2d 635 (N.D.W.Va. 2003) the

Court wrote:

... courts may sanction for bad faith conduct via their inherent authority. "The case law is well-established that district courts have the inherent power to sanction parties for certain bad faith conduct, even where there is no particular procedural rule that affirmatively invests the court with the power to sanction." Strag v. Bd. of Tr., 55 F.3d 943, 955 (4th Cir. 1995). The Fourth Circuit has also held that Rule 11 and § 1927 do not displace the inherent authority of the court to impose sanctions for bad faith conduct as these other methods of sanctions "are not substitutes for the inherent power, for that power is both broader and narrower than other means of imposing sanctions." United States v. Shaffer Equip. Co., 11 F.3d 450, 458 (4th Cir. 1993)(quoting Chambers v. NASCO, Inc., 501 U.S. 32, 46, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991)).

Courts may impose monetary sanctions. Balcar, supra. However,

A court faced with a litigant engaged in a pattern of frivolous litigation has the authority to implement a remedy that may include restrictions on that litigant's access to the court. See generally In Re Urban, 768 F.2d 1497, 1500 (D.C.Cir.1985); Green v. Warden, U.S. Penitentiary, 699 F.2d 364 (7th Cir.1983). In fashioning such a remedy in Lysiak's case we act on our "obligation to protect and preserve the sound and orderly administration of justice," In Re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir.1984). At the same time we must take care to protect Lysiak's undeniable right of access to the court's processes, see In Re Green, 598 F.2d 1126, 1127 (8th Cir.1979) (en banc ).

Lysaiak v. C.I.R., 816 F.2d 311 (7<sup>th</sup> Cir. 1987). Courts may also impose sanctions to limit access to the courts by ordering that all court clerks decline to accept any filing from the litigant unless a judge of the Court has specifically authorized the filing. Vinson v. Heckmann, 940 F.2d 114 (5<sup>th</sup> Cir. 1991). In BKS Properties v. Shumate, 271 B.R. 794 (N.D. Tex. 2002) the Court imposed a hybrid sanction. If monetary sanctions are imposed, the Court can also require that until the monetary sanction is paid that

the clerk of the bankruptcy court not accept for filing any pleading or paper filed by Shumate. As a matter of comity and sound judicial administration, this court requested that all courts, state and federal, recognize and honor that order. As a further sanction, this court recommends that the district court enter a similar directive to the clerk of the district court, as well as to the clerks of all courts, not to accept any pleading or paper filed by Shumate until he pays the sanctions. . . [and] the order should further direct that if Shumate files either a paper or pleading in violation of this order, that a named defendant immediately remove the litigation to federal court, and that the federal court immediately sua sponte dismiss the matter with prejudice."

Additionally, the court may enter an injunction requiring the litigant to seek leave of court in order to file an appeal. Billman v. C.I.R., 847 F.2d 887 (D.C. Cir. 1988).

The Magistrate's Court's Order dated March 27, 2015 was not an appealable final order so long as Petitioner's timely Rule 59(e) motion was pending. Likewise, the Circuit Court's Order dated May 1, 2015, dismissing the appeal without prejudice to allow for the Rule 59(e) motion to

be decided, is not an appealable final order. Petitioner's petition herein is yet another effort to use his pro se status to stall, delay, and harass, by continuing to claim some ownership interest in the real property that Petitioner is occupying but which is owned by the Respondents. Reba Hinson died in 2007. Case no. 3 above, S.C. Court of Appeals unpublished opinion (2014-UP-010), cert. denied, established that (a) Reba Hinson's husband devised a life estate to Reba Hinson, including the lot of land occupied by Petitioner, (b) that the Respondents are the remaindermen to the life estate, (c) that Petitioner herein has no claim to the land via adverse possession. Notwithstanding these legal judgments, Petitioner continues to this day, nine years next month from the date of Reba Hinson's death, to occupy the land that the courts have ruled belongs to the Respondents. Petitioner is using the courts and the courts' procedural rules and the time consuming nature of those rules, to deny the Respondents' rightful possession of their land.


In the trespass case, the Magistrate made the effort to set out the history of the Petitioner's litigation, including the trial court orders, the Court of Appeals' unpublished opinions, and this court's denials of certiorari. (App. p. 25-37). In his appeal to circuit court, the same appeal interrupted by the May 1, 2015 Order dismissing the appeal without prejudice because of the pending Rule 59(e) motions, the Petitioner's Grounds for Appeal nos. 1, 2, 4 and 5 make clear that he is again trying to re-litigate title to the land. (this document was not included in the Petitioner's Appendix, so it is attached hereto as **Exhibit B.**)

This must stop. Respondents ask that the Court:

1. expeditiously deny the Petition for Writ of Certiorari;
2. permit the Respondents to move for customary appellate costs in this proceeding;
3. award monetary sanctions against Petitioner;

4. enjoin the Petitioner from hereafter filing any pleadings, appeals, motions or submissions to any court involving in any way one or more of the Respondents, and/or the estates of Levie and Reba Hinson, and/or the subject of title to the real property now occupied by Petitioner but owned by the Respondents and known as 1537 Hinton Road, Great Falls, SC, unless the filings are signed by a licensed South Carolina attorney, and leave of court for the filings has been granted by the court;
5. Any other relief that the Court finds to be proper.

December 29, 2015



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STATE OF SOUTH CAROLINA  
Chester County

In the Probate Court  
Sixth Judicial Circuit

Number: 1986-ES-12-188

Mell Woods,

Plaintiff,

vs.

Robert H. Breakfield,  
plus three Unknown  
Parties whose true name  
is unknown,

Defendants.

2015 FEB 13 PM 11:49  
JAMES H. HARRIS  
CLERK OF PROBATE  
CHESTER COUNTY S.C.

[Amended]

Independent action for relief from the judgment, order,  
or proceeding obtained by the use of extrinsic fraud upon  
the Probate Court of Chester County, South Carolina.

*Type of Action*

This is a proceeding under Rule 60(b) SCRPC for relief from  
the order entered in Case No. 1986-ES-12-188, dated October  
15, 2007. Plaintiff now brings the herein stated

—/—



independent action in equity for fraud against Robert H. Breakfield, a licensed attorney and officer of the court who lied under oath in order to get a bogus will admitted to probate in the Probate Court of Chester County, South Carolina.

*PARTIES*

1. Defendant Robert Breakfield is the personal representative of the Estate of Reba P. Hinson.
  
2. Plaintiff Mell Woods is a party herein for the following reasons:
  - (a) plaintiff purchased land from Mrs. Reba Hinson;
  - (b) the land in question was owned by Mrs. Reba Hinson in fee simple;
  - [c] Mrs. Hinson left a valid Will which distributed the lands of Mrs. Hinson according to the wishes of Mrs. Hinson;

- (d) a South Carolina Attorney, Ned Gregory, II., represented a client during year 2007 who was not being granted the land that she wanted under Mrs. Hinson's Will;
- (e) instead of going by Mrs. Hinson's properly drawn and executed last Will, Ned Gregory, II., and his client Christine Jones, embarked upon a fraudulent scheme to commit fraud upon the probate court of Chester County South Carolina, and carried the scheme into action by concealing documents, hiding wills, committing perjury by drawing and publishing sworn-to documents which stated that there was not a Will left by Mrs. Hinson which devised land, and specifically manipulating the probate judge to the extent that an estate which had been closed for twenty years was re-opened and "re-probated" by the court to the detriment of plaintiff.

**FACTUAL BACKGROUND**

3. Plaintiff herein, Mell Woods, purchased land from Mrs. Hinson under a type of land contract which provided for periodic payments.

4. After Mrs. Reba Hinson died, and during the first half of year 2007, plaintiff made several visits to the Office of the Chester County Probate Court to inquire as to the status of Mrs. Hinson's Estate: when it was filed, was there a personal representative yet, when was it going to be advertised in the newspaper, which land plat was going to be used to split the land up, where should plaintiff make the remaining land payments on the land contract, and other questions, to no avail, the only answer plaintiff could get was that "Mrs. Hinson's Will had not been filed yet" after six months of non-answers plaintiff filed the attached letter [shown as Exhibit A]

with the probate judge asking that plaintiff be notified and shown all filings or other actions in regard to the estate of Mrs. Reba Hinson, instead, unknown to plaintiff at the time, was the secret proceeding being carried on during the same time period by Ned Gregory, II., an officer of the court, in the probate court of Chester County, designed to eviscerate Mrs. Hinson's Will through the use of a twisted interpretation of Mr. Hinson's Will which had been probated, and closed out twenty years earlier.

5. The Freedom of Information Request shown as Exhibit A should have revealed the Will(s) of Mrs. Reba Hinson already in the possession of the probate judge for Chester County, *but which were being concealed at the time, [June 28, 2007].* In addition to hand delivering the letter marked as Exhibit A to the probate judge, plaintiff asked if there was a Probate Form which would comply with SC § 62-3-204 (Notice of Filings) and the Probate Judge, Lois Roddey stated that there was not a form to fill out,

but that the Freedom of Information Act letter would suffice, since the letter contained plaintiff's name and address, and did state that plaintiff had an interest in the Estate of Mrs. Reba Hinson.

6. *For the Record* plaintiff was never notified of any of the ongoing proceedings concerning the probate of Mrs. Hinson's Will, or the "re-probate" of Mr. Hinson's Will. During the Fall of 2007 there appeared a legal notice in the newspaper which advertised the fact that Robert Breakfield had been appointed the personal representative of the Estate of Reba Hinson. By this time, the damage to plaintiff had already been done; plaintiff had been shut out of court by deceitful means and perjury by licensed officers of the court, a bogus former will of Mrs. Hinson had been admitted to probate, [in fact the will which was admitted even as much shows marks of obliteration placed on the revoked will] by Mrs. Hinson herself.

7. South Carolina Attorney Ned Gregory, II

committed fraud upon the Probate Court of Chester County by concealing documents, hiding wills, and committing perjury by drawing documents which stated that there was not a Will of Mrs. Hinson which devised land.

Ned Gregory, II., is the same Ned Gregory, II., in the South Carolina case: *IN THE MATTER OF NED GREGORY, II, RESPONDENT*, 306 S.C. 270, 411 S.E.2d 430, (1991), in which Gregory forged an accountant's name to a false federal income tax return, and then applied to a federally insured credit union for a loan using the falsified documents as verification of Gregory's income.

8. After drawing up the perjury papers about Mrs. Hinson's Will, Gregory, II had Robert Breakfield to sign a paper stating "there is no other will" and then having Robert Breakfield to file the paper with the sworn-to lie in the Chester Probate Court.

9. Plaintiff requested *all information* concerning Mrs. Hinson's probate case. Since there were behind the scenes proceedings to "re-probate" Mr. Hinson's Will from twenty years prior, plaintiff was entitled to notice about Mr. Hinson's case also. In fact plaintiff received nothing concerning either. Defendants were obligated to produce the documents so as not to perpetrate a fraud upon the Probate Court of Chester County and the public.

10. In *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238 (1944), TWELVE years after the judgment was obtained, the court found a fraud upon the court where Hartford's attorneys "deliberately planned and carefully executed a scheme to defraud." The same has happened in Mrs. Hinson's probate case.

11. The court order complained of herein dated October 15, 2007 was obtained by fraud.

12. The actions set forth above subverted the integrity of the Court itself. The recited actions were perpetrated by officers of the Court so that the judicial process could not function in a fair and impartial manner.

13. Tampering with the administration of justice in the manner shown herein involves more than injury to a single litigant -- it involves the public also.

14. Plaintiff herein asks for equitable relief against the fraudulent court order dated October 15, 2007, and in the underlying matters as recognized and allowed in SCRCF Rule 60(b) and the case law; plaintiff requests all equitable relief necessary to repair the injustice complained of, including but not limited to, setting aside the fraudulent court order, devitalizing and vacating the terms of the order complained of, and restraining the beneficiaries from taking any benefit under the fraudulent order complained of.

# EXHIBIT A

June 27, 2007

Mell Woods  
P.O. Box 2603  
Lancaster, SC 29721

The Honorable Lois Roddey  
Judge of Chester County Probate Court  
Chester County Courthouse  
Chester, South Carolina

PROBATE COURT  
CHESTER COUNTY S.C.

2007 JUN 28 P 1:46

LUIS H. RODDEY  
JUDGE OF PROBATE

Hand Delivered.

Dear Judge Roddey:

This is in regard to Mrs. Reba Hinson. Mrs. Hinson died late last year and there is nothing on file concerning her estate. Perhaps there is nothing to file, however I have an interest in knowing if the estate is going to be probated. I spoke to you about this several months ago and you checked and verified that nothing had been filed. And I am sure nothing was there on the day I talked to you about this. However since that time, some of the Hinson heirs have been talking about seeing certain papers that have been prepared for filing. If you have any informal letters, papers, documents, or anything that is not in the record yet, please furnish these to me under the South Carolina Freedom of Information Act.

Request for Records Under the South Carolina Freedom of Information Act:

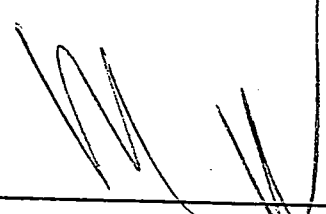
You are requested to release to the undersigned requestor, *All the papers, cards, tapes, photographs, maps, books, or other documentary material* retained by you in regard to Mrs. Reba Hinson; everything that is filed in the Court Record and is available for public inspection is not meant to be part of this request. Please note that this request is to view and inspect the actual records, but is not a request for copies [at the present time]. The listed records are public and subject to release under current South Carolina statutory and case law; and no record released will be used for a commercial purpose.

A TRUE COPY  
*Lois H. Roddey*  
JUDGE OF PROBATE  
CHESTER COUNTY, S.C.

Sincerely,

*Mell Woods*  
Mell Woods

WHEREFORE, plaintiff demands judgment against  
defendants and requests all equitable relief necessary  
to correct the particular injustice set forth herein.



---

Mell Woods

P.O. Box 2603  
Lancaster, SC 29721

Dated: February 12 2015.

-//-

State of South Carolina

In the Magistrate Court  
Rossville District

Chester County

Number: 2014CV1210400037

Robert H. Breakfield, for  
himself and others listed  
as "Applicant"

v.

Mell Woods,

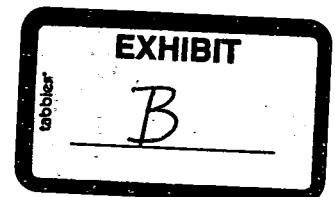
Respondent.

Notice of Appeal

Mell Woods hereby appeals the final order entered in the above case, and dated March 27, 2015. This appeal is to the Circuit Court, Chester County South Carolina, Sixth Judicial Circuit.

*Grounds for Appeal:*

1. This case involves title to land, and therefore a magistrate court is without jurisdiction to have heard the case, SC Statute § 22-3-20 (2), error is assigned on this point.



2. Defendant Mell Woods raised the defense of questionable title in the answer, SC Statute § 22-3-1110, and filed the written undertaking and the maximum cost bond, (\$100.00) required by SC Statute § 22-3-1120; SC Statute § 22-3-1130 requires that the action be discontinued upon the filing of the cost bond and undertaking, instead the magistrate carried on with the action, error is assigned on these points.

3. The magistrate refused to allow defendant to cross-examine Robert Breakfield, the person who brought these proceedings against defendant. Mr. Breakfield was present at the hearing and defendant has a right to cross-examine Mr. Breakfield, upon not being allowed to cross-examine witness Breakfield, defendant objected on the Record, error is assigned on this point.

4. *Reasons that these proceedings involve land:*  
Defendant Mell Woods is trying to pay a mortgage on the land in question. The mortgage is between Mell Woods, and Mrs. Reba Hinson. Robert Breakfield is the personal representative for Mrs. Hinson. Mr. Breakfield has gone to court and obtained a Ruling that Mrs. Hinson held only a "life" estate, where in fact Mrs. Hinson does have a fee simple estate. This probate matter is still being litigated in the probate court.

(4. continues) However, even if in the end, Mrs. Hinson has only a "life" estate, defendant does have the right to have the mortgage contract specifically performed and is entitled to a deed from the circuit court, or from Mr. Breakfield himself, this came up in the hearing in the magistrate court, but after stating that "the Hinsons' will not take the money" defendant was cut-off from further explanation by the magistrate judge -- here is the explanation:

South Carolina Supreme Court, Eller v. Motley, 99 S.C. 20, 82 S.E. 992

(1914) "If William Motley went into possession of the land as a purchaser with a contract to pay a specified sum for a specified amount he would be entitled to a decree for specific performance upon his fully carrying out the terms and conditions of the contract entered into, and would not have been required to have paid the price agreed upon in the lifetime of David Motley. He did not have to pay the purchase price and retain possession ten years after such payment to acquire title. If he purchased the land, went into possession of the same, put valuable improvements thereon, and carried out his contract as to payments, as soon as he fully performed all of his promises and agreements as contracted for between the parties as to the purchase, he would be entitled to a deed. And upon full performance on his part of the terms and conditions of the contract, whether the vendor was alive or dead, he would be entitled to a deed from the heirs at law of the vendor, or the Courts, upon proper showing, would declare him the owner of the land and require a deed to be made. There can be no question that the purchaser of the land upon the payment to the vendor, or his heirs, of the purchase price agreed upon between the parties at the time of contract of sale or any balance due of the purchase price would be entitled to receive a deed; and it can not be maintained that a failure to pay the whole to vendor in his lifetime will defeat the right of purchaser to retain possession. The payment of balance to vendor's heirs will be sufficient, even though they be minors. His Honor was in error in the particulars complained of in exception seven, and this exception is sustained."

Judgment reversed and new trial granted.

defendant assigns error on the fact that the magistrate failed to rule that these proceedings involve title to land.

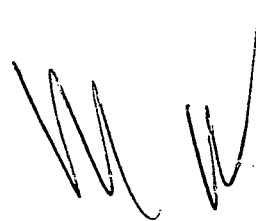
5. In addition, defendant continues to plead:

South Carolina Statute § 15-67-20:

A plaintiff is limited to one, AND ONLY ONE action for "recovery" of real property. SC § 15-67-20 is a statute of repose, or statute of limitation in regard to land suits. A defendant under South Carolina law is not required to have to continually defend attacks on a land title. A plaintiff only gets ONE chance and in this case an "Application" for a "Notice to Quit Premises" is a new case and is not allowed under South Carolina law, and is in fact a guise to try and defeat defendant's common law right to a jury trial.

Defendant assigns error on the failure of the magistrate to dismiss these proceedings pursuant SC § 15-67-20.

This 15 day of April, 2015.



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Mell Woods

P.O. Box 2603  
Lancaster, SC 29721

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**Certificate of Service:**

**State of South Carolina**

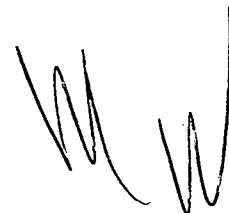
**In the Magistrate Court**

**Rossville District**

**Assigned Case Number 2014CV1210400037**

Mell Woods, hereby certifies that he has served the moving parties with a copy of the within and foregoing *NOTICE OF APPEAL* by placing copies of the same in the U.S. Mail postage prepaid addressed to the counsel of Record for the parties, to wit:

Moses, Koon and Brackett  
C/O B. Michael Brackett  
P.O. Box 100261  
Columbia, SC 29202



4-15-15

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Mell Woods

P.O. Box 2603  
Lancaster, SC 29721

-5-

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Chester County  
Court of Common Pleas  
Brian M. Gibbons, Circuit Court Judge

RECEIVED

DEC 29 2015

S.C. Supreme Court

Supreme Court Case No. 2015-002318

Robert H. Breakfield, as attorney in fact for John D. Hinson,  
John C. Hinson, Jerry Hinson, Kathy Huffstickle, Robert H. Hinson,  
Darrell W. Hinson, Lois Hinson, Tina Jones, George Stanford  
as Personal Representative of the Estate of Linda Stanford,  
William L. Hinson, Elaine H. Hensley, and  
William C. Hinson, Jr. . . . . Respondent,

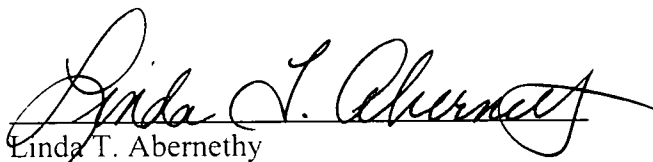
v.

Mell Woods . . . . . Petitioner.

Certificate of Service

I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett, Esquire, attorney for the Respondent in the above-captioned matter, do hereby certify that I have served the pro se Petitioner, Mell Woods, with a copy of Respondent's Motion to Dismiss Petitioner's Petition for Writ of Certiorari/Appeal; Motion to Stay Normal Appeal Process; and Motion for Sanctions by U. S. mail, postage prepaid and return address clearly indicated on said envelope, on this 29th day of December, 2015 at the following address:

Mell Woods  
P. O. Box 2603  
Lancaster, SC 29721

  
Linda T. Abernethy