

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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APPEAL FROM CHESTER COUNTY

SC SUPREME COURT

Court of Common Pleas

Brian Gibbons, Circuit Court Judge

SUPREME COURT NUMBER: 2015-002318

Court of Appeals Number 2015-001036

Circuit Case Number 2015-CP-12-0179

Robert H. Breakfield, Esquire as
attorney-in-fact for John D.
Hinson, John C. Hinson,
Jerry Hinson, Kathy Huffstickle,
Robert H. 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.,

Respondents,

v.

Mell Woods,

Appellant.

RULE 240(e), SCACR *RETURN* to Motion

filed by Respondent on December 29, 2015.

1. In the respondent attorney's motion to dismiss Mr. Brackett complains about appellant representing himself; the respondent motion should be denied because all persons in South Carolina have the statutory right to represent themselves, Washington v. Washington, 308 S.C. 549, 419 S.E.2d 779 (1992), and South Carolina Statute § 40-5-80; also appellant has a first amendment right to petition the government, including the judicial branch.

2. Another of Mr. Brackett's complaints is that petitioner does not read pleadings before signing pleadings as required by Rule 11(a), SCRCF; nothing could further from the truth, petitioner draws his own pleadings, and then signs the pleading. But it is Brackett himself, who does not read, and has even stooped to turning in and filing a motion in the Supreme Court of South Carolina which contains a fully false statement, on page 13 of the motion at hand is the statement near the bottom of the page which asserts: "(this document was not included in the Petitioner's Appendix, so it is attached hereto as Exhibit B.)" this is untrue; the document Brackett is referring to is in the Appendix, and is shown on the Bates Machine numbered pages as pages 113, 114, 115, 116, and 117; and has been on the Court's website for nearly 30 days, for everyone to see. So, it is Brackett who does not read, but does fabricate, because Brackett is always trying to make it appear that petitioner has left something out, or is trying to hide something.

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3. In the present appeal, Res Judicata does not exist because:

(a) *extrinsic fraud*, repeat extrinsic fraud has been employed by Brackett and Breakfield, both licensed attorneys, to obtain the results they wanted; the covering up, and the hiding of a pending partition action between the same parties for a part of the exact same land (except for leaving out Mell Woods) has been and continues to be a fraud upon the circuit court, the probate court, the magistrate court, the Court of Appeals, and now even as much as the Supreme Court of South Carolina.

4. All of the cases that Mr. Brackett is now complaining about could have been over long ago, and never filed if Brackett and Breakfield had the decency to inform any of the courts or even to have informed Mell Woods of another action pending in the same jurisdiction concerning the very same parties, and the simple device of a 12(b)(8) motion could have been utilized to combine all of the cases into the pending partition action, concerning the same land. Such conduct is certainly not being candid with a tribunal, and licensed attorneys are required to be candid under the bar rules.

BR

5. The court order shown on page 91 of the Appendix is an ex parte order. Petitioner had no input whatsoever concerning the order, which was signed after the motion was on file six hours and then signed by the judge without any hearing, and without complying with Rule 6(d) SCRPC.

As to ex parte orders in general, the following from Herring v. Retail Credit Co., 266 S.C. 455, 224 S.E.2d 663 (1976) is furnished:

"We take this opportunity to advise the Bench and Bar of the disfavor with which we regard ex parte orders and the stringent standards of necessity we demand of their issuance on review. Not only do such orders deprive the Court of adequate records on appeal but they deny to those deprived an opportunity to be heard in matters which affect them. In an adversary system, ex parte orders are reserved for those rare instances where there is no adverse interest or where exigent circumstances clearly require that action be taken before there is time for a full hearing. In the latter instance a full hearing shall take place as soon as possible. Retail Credit Company had an adverse interest in contesting respondents request. There is no showing of exigent circumstances upon the record requiring the issuance of an ex parte order."

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6. In addition, and contrary to what Mr. Brackett is now telling the Supreme Court, the Court of Appeals did not Rule that appellant could not claim adverse possession, but only that appellant could not "tack" to make the required 10 years; since the Ruling by the Court of Appeals, twenty-four months ago, appellant has completed the required ten years, on his own and without the need to tack to the title of anyone else, the date of the completion of appellant's ten years adverse possession was May 08, 2015, the affidavit of petitioner addressing the length of time (ten years) that petitioner has been in adverse possession of the property in question is attached; the Ruling of the Court of Appeals is on page 41 of the Appendix.

7. As appellant has previously pointed out, there now pends in the Chester County Court of Common Pleas, a partition action, concerning the same land in question which was filed during year 2008, which was well before any of the subsequent litigations which Mr. Brackett is now complaining about; appellant should have been made a party to the partition action, since everyone was well aware that appellant claimed part of the land which is the subject of the partition action, Number 2008-CP-12-00475; appellant has now applied to be a party within forty-five days of finding out about the pending partition action, with a copy of the motion shown in the

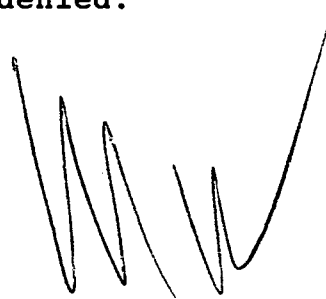
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Appendix, pages 160-164, and a copy of the Court Order which proves the partition action still pends on pages 152, 153, and 154 of the Appendix.

Conclusion

It is clear that the jurisdiction of this case is fully within the pending partition action, and none of the parties have the right to go to another court, the magistrate court in this instance, and try to have anyone evicted when the partition case is still pending. Appellant respectfully asks that this case be remanded and adjudicated in the partition action, and that the respondent's motions be denied.

Respectfully submitted,
this 08 day of January, 2016.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

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;

SOUTH CAROLINA SUPREME COURT

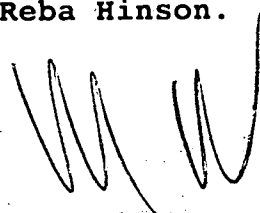
Case Number: 2015-002318

AFFIDAVIT

After being first being duly sworn, MELL WOODS, affiant herein makes the following statements under oath, and upon the personal knowledge of affiant:

In regard to the land now in dispute, and fully described in the attached Land Sales Agreement, dated May 07, 2005, Mell Woods has been in adverse possession of the described land for more than ten years; on the day that the contract with Mrs. Hinson was signed, Mell Woods showed the contract to John C. Hinson, and at various other times during the summer of 2005, to most of the other Hinsons involved in the present litigation to convey the message that Mell Woods had purchased the property from Mrs. Hinson after the property was surveyed and labeled as the property of Mrs. Reba Hinson.

Further, affiant saith not.



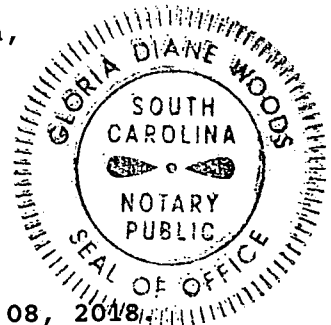
Mell Woods

Mell Woods, appeared before me, Gloria Woods, a Notary Public for the State of South Carolina, and was first deposed, after which Mell Woods did swear to the above and foregoing affidavit;

Sworn to and subscribed before me this 08 day of January, 2016.



Gloria Diane Woods, Commission expires January 08, 2018



CHESTER COUNTY, SOUTH CAROLINA

Date: May 07, 2005# 2005

LAND SALES AGREEMENT between REBA P. HINSON and MELL WOODS

Total amount of Contract	\$28,530.00
Credit for prior payment (minus)	3,804.00
due May 06#, 2011 extra payment for land . . .	19,020.00
\$5.00 consideration for this new contract	5.00

\$24,731.00
Remains

To date Mell Woods has paid in \$3,804.00 ground rent on the property described in this contract. He, (mell Woods) bought the building sitting on my land from Bobby Gardner. Mell Woods can move the building if he wants to. The rent contract was \$951.90 per year. The rental contract for the ten years is now modified; credit against the contract price, in the amount of \$3,804.00 is allowed, and it is now agreed that Mell Woods is buying the land where building is, instead of renting the land. (1537 Hinton Road)

PROMISES BY MELL WOODS

Mell Woods owes Reba P. Hinson the following money:
\$951.00 times ten = \$9,510.00, plus double the amount paid-in \$19,020.00, as a final payment, total of \$28,535.00 for the land. Mell Woods can move the building off if he wants to. Mell Woods has 90 days after May 06, 2011 to finish paying the \$28,535.00 to either Reba P. Hinson her heirs, or assigns. If the total amount is not paid within 90 days all unpaid amounts will start earning 8% per year interest, after August 06, 2011.

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DESCRIPTION OF LAND:

The land sold today is shown on the plat of Phillip G. Smith, a registered surveyor, and dated May 13, 2002 -- reference is made to the Smith plat which shows lands of Reba P. Hinson;

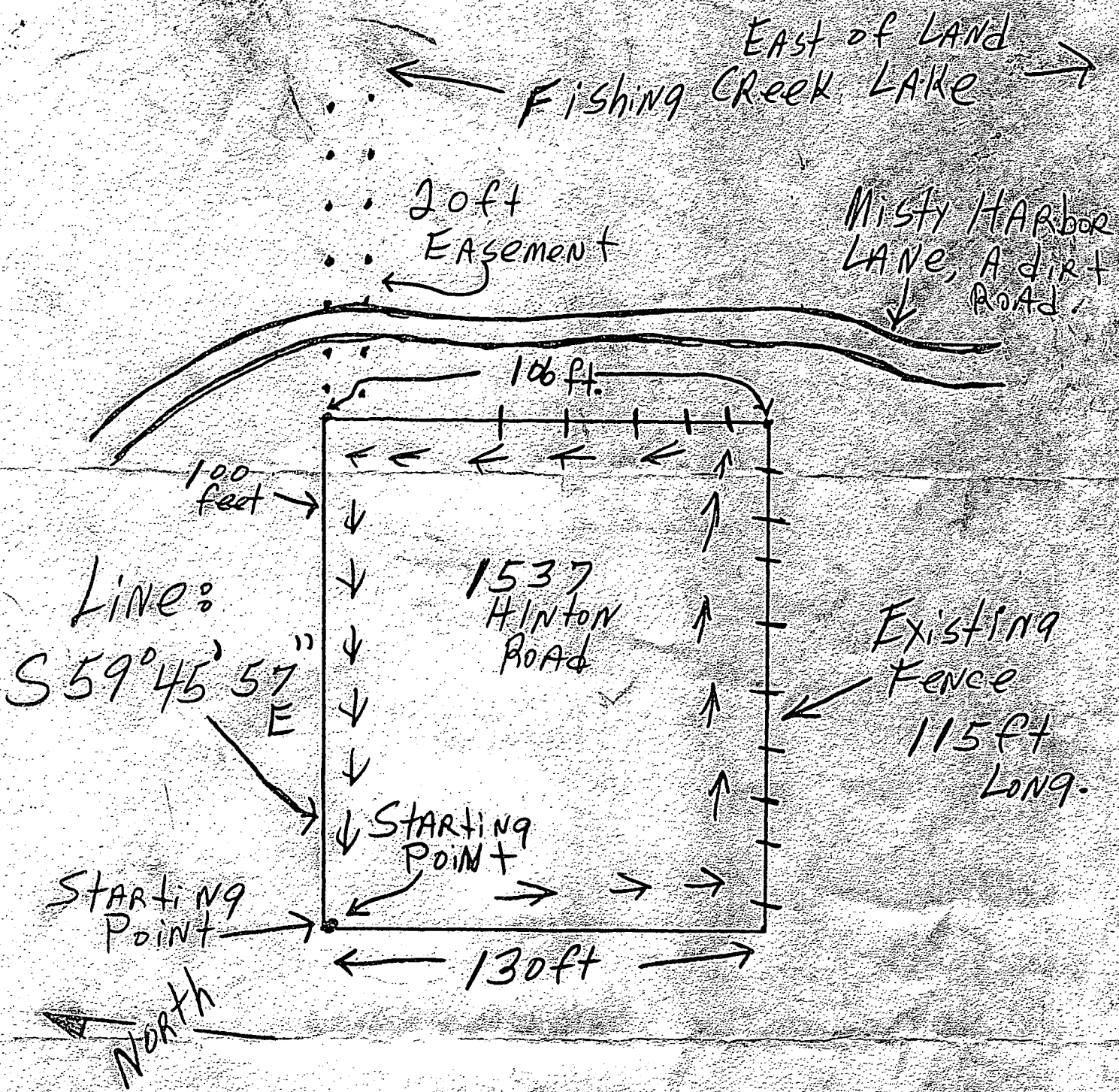
Starting at the dividing line between Tract #2, and Tract #3 at the junction of the line S 59° 45' 57" E and the EAST side of Hinton Road, then turning South for appx 130 feet alongside the East side of Hinton Road to an existing wood fence, then turn east toward Fishing Creek Lake, and go down the existing wood fence appx 115 feet, then turn North along the other existing wood fence and go appx ~~###~~ 106 feet until intersecting with the dividing LINE S 59° 45' 57" E on the plat of Phillip Smith, and Jack Smith Surveying Company, and last go WEST back toward Hinton Road by going along the S 59° 45' 57" E line for appx 100 feet to arrive at the starting place.

All of the described land is coming out of Tract #2 as shown on the May 13, 2002 plat of Phillip Smith. In addition Mell Woods, and assigns, is granted a 20ft. easement to Fishing Creek Lake along the South Side of the extension of line S 59° 45' 57" E. SEE THE ATTACHED DRAWING ON PAGE TWO of this contract for illustration purposes; if there is any variation between the drawing and the above word description, then the words control over the drawing.

Mell Woods is to get the above lot surveyed at his own expense. Mell Woods is hereby put in possession of the described lands as a buyer, and debtor. Mell Woods is no longer a tenant of Reba P. Hinson. The description from the plat, and attached drawing is everything needed for this agreement to sell the land. Mell woods can move the building if he wants to. It is the further condition of this agreement that once the sum promised is paid-in, Mell Woods, or assigns, is the fee-simple owner of the described property without restriction. Any of the eight % interest which may accrue after Aug. 06, 2011 will be due in a lump sum the following Jan 15, 15, any interest not paid on time will incur a one time late fee of fifty dollars. Accrued interest may be collected by court action, with the limitation of four hundred dollars attorney fee per collection. This contract is a sealed instrument. This contract can be assigned to others by either party, or assigns. Mell Woods will have a deed and plat prepared. Reba P. Hinson will sign, and then keep the deed until the money promised has been paid-in.

Reba P. Hinson
SELLER

Mell Woods
BUYER



HINTON ROAD, PAVED

ALL LAND COMES OUT OF TRACT #2, PHILLIP G. SMITH PLAT. TOTAL LAND AREA, LESS THAN ONE HALF ACRE. NOT TO SCALE.

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

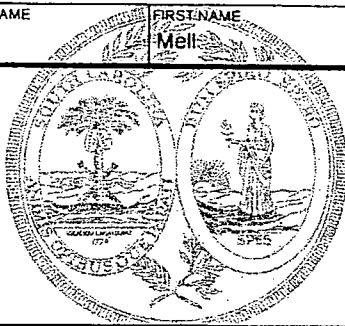
9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME: Woods
 FIRST NAME: Mell
 MIDDLE NAME, SUFFIX:

Certified True and Correct Copy
 SC Secretary of State's Office



SC Secretary of State
 File ID: 111229-1557344
 Lapse Date: 12/29/2041

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. MISCELLANEOUS:

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME: FIRST NAME: MIDDLE NAME: SUFFIX:

11c. MAILING ADDRESS: CITY: STATE: POSTAL CODE: COUNTRY:

11d. TAX ID #: SSN OR EIN: ADD'L INFO RE ORGANIZATION DEBTOR: DO NOT PROVIDE

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID #, if any: NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME: FIRST NAME: MIDDLE NAME: SUFFIX:

12c. MAILING ADDRESS: CITY: STATE: POSTAL CODE: COUNTRY:

13. This FINANCING STATEMENT covers timber to be cut or as-extracted collateral, or is filed as a fixture filing.

14. Description of real estate:
 Part of the land shown on the land plat contained in Plat Cabinet D, Slide 174, page 3B, (Tract #2), Official Records of Chester County, South Carolina; AND ALSO fully described in the attached contract, bearing date of May 07, 2005.
 - SEE ATTACHED CONTRACT -

16. Additional collateral description:
 All funds held by Debtor, Mell Woods, in all Founders Federal Accounts, Lancaster, SC, or any successor Bank to Founders Federal.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):
 Reba P. Hinson
 1414 Catawba River Road
 Fort Lawn, South Carolina 29714

17. Check only if applicable and check only one box.
 Debtor is a Trust or Trustee acting with respect to property held in trust or Decedent's Estate

18. Check only if applicable and check only one box.
 Debtor is a TRANSMITTING UTILITY
 Filed in connection with a Manufactured-Home Transaction — effective 30 years
 Filed in connection with a Public-Finance Transaction — effective 30 years

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CERTIFICATE OF SERVICE

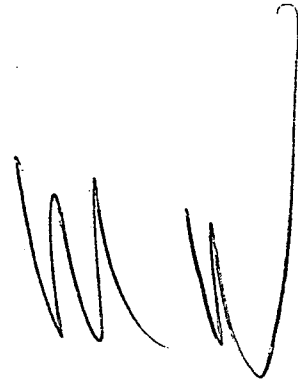
I hereby certify that I have served the respondents
with a true copy of the within and foregoing

RULE 240(e), SCACR RETURN TO Motion

by placing a copy of the same in the U.S. Mail with postage
prepaid addressed to:

Moses and Brackett, PC
c/o B. Michael Brackett
P.O. Box 100261
Columbia, SC 29202

This 08 day of January, 2016.



Mell Woods

P.O. Box 2603
Lancaster, SC 29721

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