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APR 07 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-1566

RUSSELL THOMPSON,)
)
Plaintiff(s),)
v.)
ALECIA GREEN,)
)
Defendant(s).)

ORDER TO DISMISS

FILED
2016 APR -1 AM 10:56
JULIE J. ARMSTRONG
CLERK OF COURT

The within action was filed by the Plaintiff, pro se, who is appealing a bond that was required to be posted by him pursuant to an Order of the Honorable Jennifer B. McCoy, Charleston County Magistrate, dated March 21, 2016, requiring him to post a \$50,000.00 Bond to avoid being ejected from his family home.

Defendant's attorney, Barry I. Baker filed a Motion to Dismiss this Appeal based on §15-67-620 and §15-67-640 of the Code of Laws of South Carolina, 1976 as amended.

The record shows a Notice of Hearing was mailed March 29, 2016 to the Plaintiff, Russell Thompson (Hereinafter Thompson) and Process Server, John Gamble personally served Thompson as evidenced by the Affidavit of Service filed with the Clerk's office.

I held a hearing in this matter Friday, April 1, 2016 at 10:00 a.m. Barry I. Baker appeared on behalf of the Defendant; Plaintiff did not appear.

I have reviewed the pleadings in the within case, as well as the pleadings in Case No.: 2014-CP-10-7751, and pleadings in a prior appeal from an Order of Judge Jennifer B. McCoy, Case No.: 2016-CP-10-970. I have also reviewed the return filed by Judge McCoy.

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T.L.B.

A review of the record shows without question that litigation has been ongoing between members of the Thompson family over the disposition of 65 Drake Street since 2014. Mikell R. Scarborough, Master in Equity for Charleston County has held several hearings and issued Orders in case No. 2014-CP-10-7751, both approving a sale of 65 Drake Street to a 3rd party and also an Order requiring Thompson to vacate the subject property on two separate occasions. Thompson has not vacated the property.

Judge Jennifer B. McCoy issued a Judgment of Ejectment on February 22, 2016. Thompson appealed the judgment to the Circuit Court; and the Honorable R. Markley Dennis affirmed said judgment by Order of March 1, 2016. Thompson then filed an appeal with the South Carolina Court of Appeals on March 11, 2016.

On March 21, 2016, Judge Jennifer McCoy issued an Order requiring Thompson to post a \$50,000.00 bond to stay her Order of Ejectment of February 22, 2016. This present appeal then followed.

I FIND Thompson is not appealing the amount of the bond; instead, Thompson is appealing the right of Judge McCoy to set a bond.

I FIND that §15-67-620 and §15-67-640 of the Code of Laws of South Carolina, 1976 as amended, authorizes Judge McCoy to set an appeal bond.

I FIND that pursuant to §15-67-620 and §15-67-640 of the Code of Laws of South Carolina, 1976 as amended, a bond must be posted within five (5) days of the issuance of the Order before an appeal can be filed.


I FIND that Judge McCoy's Order gave Thompson until March 28, 2016 to post bond, which he did not do. The filing of a bond is a condition precedent to filing an appeal.

I FIND Thompson failed to post a bond and therefore had no right to file an appeal,
it is therefore;

ORDERED ADJUDGED AND DECREED that Judge Jennifer B. McCoy's Order
of March 21, 2016 requiring Plaintiff to post a bond is affirmed; it is further

ORDERED ADJUDGED AND DECREED that the within action is hereby
dismissed.

IT IS SO ORDERED!



THOMAS L. HUGHSTON, JR.
CHARLESTON COUNTY CIRCUIT COURT JUDGE
Proceeding

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Charleston, South Carolina
April 4, 2016.