

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

FOR THE ELEVENTH JUDICIAL CIRCUIT

JP Morgan Chase Bank, National Association, :
Successor by Merger to Chase Home Finance, :
LLC s/b/m to Chase Manhattan Mortgage :
Corporation, :

Plaintiff, :
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v. :

Demetric Hayes, :
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: :

Defendant.

Case No. 2010-CP-32-00669

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

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FILED

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MAY 18 2016

SC Court of Appeals

MOTION TO VACATE SALE

COMES NOW, the Defendant Demetric Hayes, *Pro Se*, and for his Motion to Vacate Sale states the following:

1. On or about February 2010, Chase Home Finance, LLC s/b/m to Chase Manhattan Mortgage Corporation (hereinafter "Chase Home Finance") filed its complaint for foreclosure of 232 Edinfield Court, Gaston, South Carolina, 29053 (hereinafter "property").
2. Said complaint for foreclosure was never served upon the Defendant. (see affidavit of non service filed 10 March 2010). An alleged affidavit of service which didn't appear into the case file until sometime in 2012 was filed claiming that officer Hite of Lexington County Sheriff Department served a woman whom wasn't the Defendant. The Defendant whom is a man was never served.

3. With property being free of a mortgage and liens (see Record of Deeds Office) Defendant deeded said property to the Heart to Heart Trust in the care of Carla Marshall, Trustee. Said deed was duly recorded on September 29, 2011 in Deed Book 15084, Page 107

4. The Plaintiff, claiming to be the successor in interest for Chase Home Finance LLC, scheduled and notice a hearing for March 12, 2012. Yet on 16 May 2012, the Plaintiff filed for a Motion and Order to Substitute Plaintiff and no hearing was requested by the Plaintiff.

Defendant had no knowledge and never received notice of this motion in order to contest the action. Therefore, Defendant was denied due process.

5. That hearing was the first notice to the Defendant of the foreclosure judgment.

6. Since that time, the Defendant has challenged the foreclosure judgment on a number of legal grounds, including but not limited to: Failure of to rebut affidavits from Defendant; Failure to receive notice; Failure to notify the Department of Veteran Affairs of mortgage; Failure to be allowed to cross examine the witness; Failure to introduce newly discovered evidence; incorrect or false information on the original affidavit with the complaint. In addition, Defendant sought to have the case removed to federal court due to the diversity of parties and a question of federal law.

7. This case was presented to a Special Referee Albert J. Dooley Jr, who upheld the original judgment and granted an order of sale of the property. Defendant filed a motion for removal of special referee Dooley due to conflict of interest. Special Referee Dooley should have recused himself due to the fact they formed a partnership law firm in 1984, Dooley, Dooley, Spence, Parker and Hipp with Judge James O. Spence who recused himself from the case. Also, Special Referee Dooley's law firm has handled and closed countless of residential purchases and refinancing transactions for lenders to include Chase and its successors/ affiliates.

8. Defendant made Special Referee Dooley aware that he sold the property in 2011 and does not own the property a final order granting the sale of property was entered August 4, 2015.

9. Defendant and other parties of interest in the property monitored the Court see of the date of when the property would be placed for sale by the Court.

10. Defendant and other parties of interest were told the property would be up for sale on September 8, 2015, but noticed it was not listed on the foreclosure sale list. Ms. Marshall who is true the owner of the property attended the sale and bided on the property that she lawfully owns because, Mr. Dooley opened up a bid on property that wasn't on the foreclosure list. Ms. Marshall won the bid and Mr. Dooley asked her to step out side of the courtroom and congratulated her. Ms. Marshall asked Mr. Dooley why her property up for sale was when she owns the property free and clear with no liens or mortgage and she possesses the title which she shows Mr. Dooley. Ms. Marshall also asks Mr. Dooley, if my property was in foreclosure then why is it not on the list. Mr. Dooley tells Ms. Marshall that there is a special judge's list which is different from the public's list. Ms. Marshall asked Mr. Dooley for the paperwork associated with her winning the bid, Mr. Dooley refused to give Ms. Marshall any paperwork.

11. Defendant and other parties of interest were told the property would be up for sale on November 2, 2015. Said property was not listed on the list again, however, the Special Referee placed the property up for bid as the auctioneer; he then bided on the property and then brought the property for his own unjust enrichment, all while being the presiding judge over the case.

12. Special Referee executed an Assignment Deed, deeding the property to the Secretary of Veteran Affairs.


13. Defendant avers that the original judgment is erroneous due to the failure to serve Defendant and a number of errors in the original foreclosure proceeding.

14. Defendant avers that the sale of the property should be vacated as that the property had no liens nor did the property have a mortgage when he deeded the property to the Heart to Heart Trust.

15. Defendant avers that the sale of the property should be vacated as to the irregularities involving notice and conduct of sale.

WHEREFORE, the Defendant respectfully moves that Honorable Court to vacate the sale of 232 Edinfield Court Gaston, South Carolina, 29053 and to enter an order declaring said sale by the Special Referee on behalf to be void.

Respectfully Submitted,
DEMETRIC HAYES

A handwritten signature in black ink, appearing to read "Demetric Hayes", written over a horizontal line.

Demetric Hayes, a man
232 Edinfield Court
Gaston, SC 29053
803-796-6100
Defendant

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

FOR THE ELEVENTH JUDICIAL CIRCUIT

**JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION SUCCESSOR BY
MERGER TO CHASE HOME FINANCE
LLC S/B/M TO CHASE MANHATTAN
MORTGAGE CORPORATION**

Plaintiff,

v.

DEMETRIC HAYES

Defendant.

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

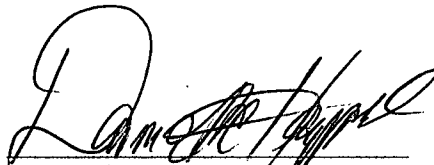
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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2015, a copy of the foregoing Motion to Vacate Sale was mailed, postage prepaid, to the following:

James Y. Becker, Esquire
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, 22nd Floor
Columbia, South Carolina 29201
Telephone: (803) 779-3080
Fax: (803) 765-1243



Demetric Hayes, a man
232 Edinfield Court
Gaston, SC 29053
803-796-6100
Defendant