Townes at Pelham Owners' Association, Inc.,
Respondent,

v.

Donna Boyd, Bank of America, N.A. by Assignment
From Mortgage Electronic Registration Systems,
Defendants,

And

Donna Boyd, Third Party Plaintiff

v.

Eric Hedrick, in his Individual and Official Capacity as
Owner or President of Cornerstone Realty, Inc. and
Cornerstone Realty, Inc., Third Party Defendants,

Of whom Donna Boyd is the Appellant

Appellate Case No. 2014-000701

The Honorable Charles B. Simmons, Jr.
Greenville County
Trial Court Case No. 2102CP2303686

PETITION FOR REHEARING FROM ORDER DISMISSING APPEAL

Appellant, Donna Boyd hereby petitions for a rehearing from the decision of the Court, filed June 8, 2016, for the following reasons:

The Court's decision is void for the lack of Due Process, in violation of the United States Constitution, Fourteenth Amendment. The due process requirement has not been met. The United Supreme Court held that due process is violated "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934). The Appellant asserts that the Court's decision to dismiss her appeal is not rooted in the fundamental rules of fairness but obvious and overt prejudice.

Since the inception of this case, the Appellant asserts that she has been treated and subjected to the utmost contempt and disdain by this Court and lower courts. First, the Appellant asserts that when she was brought before the Honorable Judge Charles B. Simmons on January 10, 2014, she was not provided sufficient notice of hearing as

required under the law of due process. Further, the Appellant asserts that when she met with counsel on December 30, 2013, to get an update on the case, it was at that time she was told to appear in court on January 10, 2014. Prior to meeting with counsel, the Appellant had received no notice of the hearing held on January 10, 2014. Further, she was told by counsel that he had met with Judge Simmons and Attorney J. Chris Brown and that Judge Simmons made it clear that he would not consider her third party complaint against the Plaintiff and that her property would be foreclosed upon. Further, she was presented with a Settlement Offer from the Respondent Attorney and told by counsel that the HOA would be willing to settle for even less than was stipulated in the offer if she accepted.

Further, the Appellant was told by counsel that the court would not litigate her case. Even before the so called hearing held on January 10, 2014, Judge Simmons had already decided that the Appellant did not deserve nor have any rights to the protections guaranteed under the constitution, specifically, the Fourteenth Amendment, the right to Due Process. And that he was going to decide against the Appellant and foreclose upon her property. So, the hearing held on January 10, 2014, was only a mere pretence to show that the Judge followed the rules of procedure and that his decision was rooted in the rule of law. Procedural due process has to do with the manner in which the trial is conducted. Further, procedural fairness dictates that in the conduct of judicial inquiry certain fundamental rules of fairness must be observed. Moreover, procedural due process forbids the disregard of those rules, and is not satisfied though the result is just, if the hearing is unfair.

It's interesting to note that when the Appellant appeared on January 10, 2014, the first question asked by Judge Simmons when he sat on the bench was if the parties had reached settlement, and it was only after the Appellant refused to settle with the Homeowners' Association did the lower court feign to litigate this matter. Prior to the hearing held on January 10, 2014, the Appellant had appeared before Honorable Judge Charles B. Simmons on June 27, 2011, and treated with the utmost contempt and disrespect. At one point in the hearing, the Appellant questioned counsel's line of questioning and was threatened by Judge Simmons that he would send her to jail. Also, Judge Simmons did allow former HOA attorney, David Wilson to use his courtroom as bully pulpit to constantly harass and threaten the Appellant.

The Appellant, a disabled veteran is an American citizen who honorably served her country. Thus, the Appellant is afforded the same constitutional protections as all other Americans. Unfortunately, this Court and the lower courts don't appear to share that sentiment. The Appellant has been relentlessly harassed by attorneys and Judge Simmons since 2010. Case in point, a default judgment in the amount of $6,699.36 was entered against the Appellant on December 10, 2010 without her knowledge as the Appellant was served by publication. This publication was taped to the side of her mailbox on October 15, 2010, long after the default judgment hearing had transpired. Additionally, in the hearing held on January 10, 2014, Third Party Defendant Eric Hedrick admitted that the assessments and fees that were demanded by him, including the Default Judgment in the amount of $6,699.36, secured against the Appellant on December 15, 2010, were not

approved by a court of law. (R. p. 37, lines 3-25, p.38, lines 1-25, p. 39, lines 1-25, p. 40, lines 1-6), (R. p. 159, Civil Judgment). After Third Party Defendant Hedrick admitted that the default judgment had not been approved by a court of law, Judge Simmons determined that the Plaintiff's calculations resulted in double recovery. **Please bear in mind that Judge Charles B. Simmons is the one who would have approved the default judgment and he only threw out the default judgment when it was discovered by the Appellant that the default judgment it was invalid.**

The Appellant asserts that lower court colluded with the Respondent Attorney when it knowingly allowed the Respondent Attorney to pursue a frivolous cause of action against her. The Honorable Charles B. Simmons knew that the lis pendens filed on June 5, 2012, and served upon the Appellant on November 14, 2012 was invalid. But chose to pursue this frivolous and fraudulent action against her anyway, in a relentless effort to help all attorneys involved reach their objective.

Now, this Honorable Court is doing the same by deciding that issues submitted before the Court were not preserved in the record. The Appellant asserts that her issues were not readily presented to the Court because she was not afforded due process as prescribed by law. Further, the Appellant asserts that it is virtually impossible to get any issues on the record if the purpose of the hearing is to help only one side of the law to achieve its aims, and totally ignore the fair administration of justice. The Appellant finds it interesting that since the inception and throughout the appeal process there was not one mention of "issue preservation." This Court allowed the Respondent Attorney to submit one frivolous motion after another.

The Respondent, Townes at Pelham Owners' Association, Inc. failed to file its initial brief and designation of matter on November 8, 2014, and on October 28, 2014, moved for a (30) thirty day continuance to file its brief and designation of matter in the above referenced matter. The Appellant noted that the Respondent asserted in its October 28, 2014, motion for a continuance that it had elected to associate other counsel to assist with the filing of its brief and that other counsel had requested more than three weeks to prepare its initial brief and designation of matter.

However, on December 1, 2014, the Respondent submitted another motion for continuance but this time moved for a (90) day continuance. The Respondent asserted in its motion that Lakewood Loan Servicing, LLC (Foreclosure Plaintiff) holds the superior lien against the property owned by the Appellant and that Lakeview Loan Servicing filed a foreclosure action involving the Appellant's property on August 22, 2014. Moreover the Respondent asserted in its motion that the Foreclosure Plaintiff had requested a judgment of foreclosure and, if granted by the Court, said judgment will eliminate any legal or equitable interest that the Appellant had in the subject property and eliminate the Appellant's standing to have appellate case decided before this Court.

On October 28, 2014, the Respondent filed a motion asserting that it had elected to associate other counsel but never did. But, instead the Respondent delayed the filing of its brief and then asked for an additional (90) days, hoping that the circuit court would

grant the Foreclosure Plaintiff's judgment of foreclosure so that the Respondent would not be held to account for the frivolous and fraudulent actions against the Appellant. The Respondent also submitted a motion for "Judicial Economy". This Court allowed the Respondent (8) eight months to submit its brief and designation of matter, and when finally compelled to submit its brief, absolutely nothing was filed. The Appellant had requested that former Chief Justice Few recuse himself because the Appellant knew that his close ties with the Respondent precluded him from reviewing this matter objectively and ensuring that justice was meted out fairly. The former Chief Justice made the unilateral decision not to recuse, so, the Appellant is not at all surprised by this Court's decision. This Court allowed the Respondent to waste taxpayers' dollars and court resources. All the way to the wire the Respondent fought the submission of the Appellant's appeal. And when the Respondent could not delay any longer, he then claimed that his client had ran out of financial resources and thus would not submit his initial brief or designation of matter.

The Appellant followed all of the rules and asserts that had she demonstrated such a wanton disregard for the law, court rules or the court's time, she would have been severely sanctioned and her appeal summarily dismissed. The Appellant incurred great expenses to prepare her brief and did submit her brief on November 2, 2015. Respondent did not submit a brief or designation of matter. This alone should raise suspicion to the Court. If the lower court's decision to foreclose upon the Appellant's property was rooted in law, the Respondent should not have had any problem whatsoever in defending the lower court's decision.

Since the inception of this matter, the Appellant has been denied her constitutional right to DUE PROCESS, and the Appellant asks that this Court disregard any biases it may have against the Appellant and afford her the constitutional protections afforded to all American citizens. For the foregoing reasons, the Appellant respectfully ask that this Honorable Court reconsider its decision to dismiss this appeal.

Respectfully,

Donna Boyd
Pro Se
P.O. Box 1168
Mauldin S.C. 29662

June 23, 2016

June 23, 2016

VIA FACSIMILE AND PERSONAL DELIVERY
Fax No. (803) 734-1839

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: Townes at Pelham v. Donna Boyd
Appellate Case No. 2014-000701

Dear Ms. Kitchings:

I have faxed one copy and ~~personally served~~ mailed to the South Carolina Court of Appeals on June 24, 2016, one original and six copies of PETITION FOR REHEARING FROM ORDER DISMISSING APPEAL, and Proof of Service for the above-referenced matter, as well as a money order in the amount of $25.00 to cover the motion fee. Please file the original documents and clock and return the copy to me in the self-addressed envelope provided.

Respectfully,

Donna Boyd
Pro Se

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Circuit Court Judge

Case No. 2014-000701

Townes at Pelham Owners' Association, Inc.

Respondent,

v.

Donna Boyd,

Appellant.

PROOF OF SERVICE

I certify that I have served one true copy and six copies of the PETITION FOR REHEARING FROM ORDER DISMISSING APPEAL for the above referenced action by ~~personal delivery~~ USPS to the South Carolina Court of Appeals at 1015 Sumter Street, Columbia, South Carolina, 29201 and by placing a copy in the United States mail, on Thursday, June 23, 2016, to the Respondent, J. Chris Brown, 505 W. Butler Road, Greenville, South Carolina 29607.

June 24, 2016

s/ Donna Boyd
Donna Boyd
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29662

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Fax

To: SC Court of Appeals

From: Donna Boyd

Fax: 803.734.1839

Pages: 6 Pages 1 cover = 7

Phone:

Date: 6/23/2016

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