

80515

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

RECEIVED

AUG 05 2016

S. Jackson Kimball, Master in Equity for York County SC Court of Appeals

Appellate Case No. 2016-000451

William G. Tucker, Respondent,

v.

Connie Lynn Batey, Appellant.

MOTION TO DISMISS APPEAL

Pursuant to Rule 240, S.C.A.C.R., the Respondent, by his counsel herein, moves this Court for a dismissal of the Appeal, on the grounds stated below.

BACKGROUND

1. This case was tried without a jury on December 16, 2015. Both the Respondent, William G. Tucker, and the Appellant, Connie Lynn Batey, testified at the trial. Exhibits were entered into evidence, and counsel made legal arguments. The trial involved a disputed foreclosure of a mortgage.
2. By Order filed January 4, 2016, the Court made findings of fact and conclusions of law. As set forth in the Order, the Court ruled in favor of the Respondent. A true and correct copy of the Order is attached hereto as Exhibit A, and incorporated herein by reference.

3. Appellant filed a Motion to Alter or Amend pursuant to Rule 59(e). By a Form 4 Order filed February 9, the Court made a minor factual correction, but otherwise found no basis to reconsider or amend the Order. A true and correct copy of the Form 4 Order is attached hereto as Exhibit B and incorporated herein by reference.
4. The Court filed an Order of Foreclosure and Sale on January 15, 2016, which ordered the sale of the property at public auction. After the publication on March 7, 2016, the Respondent was as the high bidder.
5. On April 11, 2016, a Master's Deed was filed transferring ownership of the property to Respondent.
6. Appellant filed her Notice of Appeal on February 29, 2016. On March 3, 2016, counsel for Appellant requested a transcript from a court reporter seeking a transcription of the audio recording of the December 16, 2015 trial (which resulted in the order that is Exhibit A hereto). A true and correct copy of the letter from counsel is attached hereto as Exhibit C, and incorporated herein by reference.
7. On July 20, 2016, Appellant filed a Motion for Extension of Time or to File Outside Time. Therein, Appellant reports that a transcript cannot be made because of technical difficulties with the recording of the trial. Appellant contends that the appeal may be presented without a transcript. Respondent disagrees, and moves to dismiss the appeal due to the lack of a transcript.

LEGAL ARGUMENT

8. In *Hamilton v. Greyhound Lines E.*, 281 S.C. 442, 444, 316 S.E.2d 368, 369 (1984), the Court held that the appealing party had the burden of providing a sufficient record so that the appellate court can make an intelligent review. *See* Rule 207(a)(1),

SCACR, (“unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below”) *Cf.*, Rule 210(c), SCACR (record on appeal shall include all matter designated by any party).

9. Because important testimony was presented at trial and legal arguments were made to the Court, it would be impossible for an appellate court to make an intelligent review of the case without a transcript. *See, Germain v. Nichol*, 278 S.C.508 299 S.E.2d 335(1983) (affirming exception on appeal because “Appellant does not present this Court with any of the trial testimony” and stating that “Appellant has the burden of providing this Court with a sufficient record upon which this Court can make its decision”); *Helms Realty, Inc. v. Gibson-Wall Co.*, 363 S.C. 334, 339 611 S.E.2d 485, 487 (2005) (same). *See also, McGinnis v. Gustafson*, 978 F.2d 1199 (10th Cir. 1992) (“As this case illustrates, failure to file the required transcript involves more than non-compliance with some useful but nonessential procedural admonition of primarily administrative focus. It raises an effective barrier to informed, substantive appellate review”).
10. Here, a transcript is particularly necessary for appellate review. In the Order being appealed, the January 4, 2016 Order, the Court expressly found: “I have also considered the credibility of the witnesses in reaching these findings.” Also, exhibits were admitted into evidence, but without a transcript the appellate court cannot evaluate the context, the interpretations of the parties, or even the parties’ positions with respect to the exhibits. Indeed, the appellate court would be in the dark and have to surmise the context, interpretations and understandings of the parties, and the parties’ positions. Moreover, the Court expressly based its ruling, in part, on equitable

grounds. On page 5 of the Order, the Court states: “viewing the entire record, I find and conclude that it would be inequitable to extinguish Defendant’s obligation to pay the debt secured by the note and mortgage held by Plaintiff.” The Order continues: “It is apparent from the entire record that there was never any original intent by either party that Defendant not pay the debt secured by the note and mortgage.” It also held that the Statement given by the Respondent “was the result of stress” and a “threat” by Appellant. It is impossible for an appellate court to review such findings without a transcript.

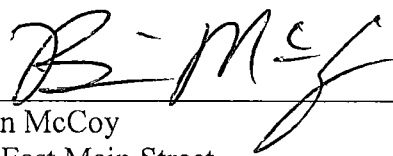
11. Without a transcript the appellate courts cannot determine if issues were preserved or waived by not being raised at trial, *See, Zaman v. S.C. Bd. of Med. Exam’rs*, 305 S.C. 281, 285 408 S.E.2d 213 (1991) (the record must show the issue was raised in the trial court); *Weston v. Kim’s Dollar Store*, 385 S.C. 520, 538, 584 S.E.2d 769, 779 (Ct. App. 2009), *aff’d and remanded*, 399 S.C. 303, 731 S.E.2d 864 (2012) (declining to address an argument because the court was not able to discern whether the appellant raised to the circuit court the issues on appeal).
12. In addition, the lack of a transcript deprives the Respondent the opportunity, if necessary, to have the decision affirmed on an additional sustaining ground. *See, I’On, LLC v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000) (the party who prevailed in the lower court may urge the appellate court to affirm the lower court’s ruling for reasons that appear in the record other than the reason relied upon by the lower court).
13. Because live testimony was given in this case, it is distinguishable from summary judgment appeals, which may be able to be decided without a transcript of the legal

arguments at the summary judgment hearing. In, *Woodson v. DLI Properties, LLC*, 406 S.C. 517, 753 S.E.2d 428, 433 (2014), the Court held that because the circuit court's reasoning was clear from the order granting summary judgment, and all of the evidentiary materials were provided to the court of appeals, a meaningful appellate review was possible without a transcript of the hearing. However, in that case, the Court expressly noted that summary judgment is decided on a written record, e.g. depositions, discovery, affidavits, and other evidentiary material provided by the parties, and that appellate courts apply the same standard as the trial court. *Id.* at 433. Moreover, in *Woodson* the Respondents conceded that the Record on appeal included all supporting documents containing the facts and legal arguments on which the circuit court relied. *Id.* at FN 7. In contrast, here the appellate courts can never have the evidence relied upon by the lower court. Unlike summary judgment, live testimony was given and exhibits were admitted through live testimony. So not only is the evidentiary testimony missing, but also the exhibits can only be reviewed in a vacuum without any context or explanation. An appellate review cannot occur under such circumstances.

The basis of the Motion is the within-cited rules, authorities, and exhibits.

WHEREFORE, the Respondent herein moves that this Court be dismissed, as set out above, pursuant to Rule 240, S.C.A.C.R.

August 2, 2016



Brian McCoy
378 East Main Street
Rock Hill, SC 29730
803-366-2280
Attorney for Respondent

Other Counsel of Record:

cc: John Martin Foster
P.O. Box 106
Rock Hill, SC 29731
803-324-8100
Attorney for Appellant

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-46- 950

WILLIAM G. TUCKER,
Plaintiff,

vs.

CONNIE LYNN BATEY,
Defendant.

ORDER

FILED-RECEIVED
2016 JAN -4 AM 10:23
DAVID K. SKIDGON
C.C.P. & GS
YORK COUNTY, SC

This matter came before the Court on December 16, 2015, for a trial. Representing the parties at the trial were Brian S. McCoy for Plaintiff, and J. Martin Foster for Defendant. Also present were the parties. Both sides presented testimony and exhibits, and counsel for the parties presented briefs for the Court's consideration. Based on the testimony, exhibits, and arguments of counsel, I make the following findings of fact and conclusions of law.

BACKGROUND

This is an action for foreclosure of Plaintiff's mortgage on Defendant's residence. Plaintiff also asserts a claim for a declaratory judgment that the note, mortgage, and underlying debt have not been satisfied. Defendant asserts that the debt secured by the mortgage has been satisfied in full, and further asserts a counterclaim against Plaintiff pursuant to S.C. Code Ann. § 29-3-310 *et seq.* for damages for failure to satisfy the mortgage upon demand.

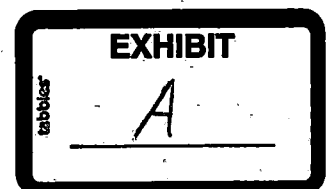
FINDINGS OF FACT

The following are findings of fact, recited in narrative format, which I find based on all the evidence, and after consideration of any applicable burden of proof. I have also considered the credibility of the witnesses in reaching these findings.

In March or April of 2009, Plaintiff, who was then approximately 75 years old and recently widowed, met the Defendant on an online dating website called "PlentyofFish.com." Plaintiff is legally blind, and lives in an independent living section of a retirement community in Charlotte. He is a retired school counselor from the Charlotte-Mecklenburg school system.

Defendant is approximately twenty-two years younger than Plaintiff, and was working as a flight attendant at the time she met Plaintiff online. She had been married six times prior to 'meeting' Plaintiff.

M
#1



In the Summer of 2009, Defendant travelled to Charlotte, and the parties met in person. Thereafter, the two began dating. During this time, Plaintiff purchased gifts for Defendant, including two cars. Defendant rented an apartment in Charlotte, but wanted to move from the apartment because she felt unsafe. As a result, she looked for a house, and Plaintiff assisted in that effort.

In April, 2011, Plaintiff purchased a home in Lake Wylie, South Carolina, for a price of \$235,000.00. Title to the house was taken in Defendant's name, and Defendant executed and delivered to Plaintiff a Note and Mortgage in the amount of \$225,000.00. Plaintiff thereby immediately conferred upon Defendant a gift of \$10,000 equity in the property. Defendant made approximately seven payments toward the Note and Mortgage, the last being in January, 2012. Plaintiff expressly allowed Defendant to miss payments.

On May 23, 2012, Plaintiff executed a document titled "Statement of Mortgage Paid in Full" ("Statement"). The document states that "the Mortgage on [the Property titled to Defendant] is hereby paid in full with no other monies due to satisfy this debt." A copy of the document was sent to Defendant by email. The original was never delivered to Defendant, and has never been recorded on the public record. Both parties acknowledged at trial that no consideration or promises were given by Defendant for the document. The debt secured by the note and mortgage remains unpaid.

The impetus for Plaintiff giving the Statement is better understood from two email "chains" between the parties. It is obvious that their relationship had deteriorated, and that the offer to satisfy the debt was gratuitous effort on Plaintiff's part to salvage the relationship. Defendant began seeing other men, and Plaintiff ended the relationship in September, 2013. As a result, the original Statement was never delivered or recorded.

By letter dated January 20, 2015, Plaintiff sent Defendant a "Notice of Default" accelerating the balance due on the Note and Mortgage, and demanding payment of the balance due in the amount of \$220,573.13. Payment was not made, and Plaintiff commenced this action.

CONCLUSIONS OF LAW

Based on the findings of fact herein, I make the following conclusions of law.

I. Plaintiff's claim.

In this case, Defendant relies upon the Statement to extinguish her debt, and satisfy the note and mortgage securing the debt. It is undisputed that Plaintiff did not complete his promise by cancelling the note, and satisfying the mortgage.

OM
#2

Consideration is required to support a promise. A gratuitous promise or a donative promise is not enforceable. *See, e.g., Black v. Gettys*, 238 S.C. 167, 186, 119 S.E. 2d 660, 669 (1961). In *Black*, plaintiff signed a sealed instrument, for which she received no consideration, to transfer shares of stock to a trust for the benefit of her children. The court found the instrument to be a "mere gratuitous promise." It stated:

Generally, where a contract is entirely voluntary or without consideration, or is in effect and substance a mere gift, even though one for the conveyance of land, it will not be specifically enforced, for equity will not compel a party to be generous. *Id.*

"[A] gift to be operative must be executed and must take effect immediately and irrevocably, for the obvious reason that if anything remains to be done the title to the property does not pass" *Lynch v. Lynch*, 201 S.C. 130, 137, 21 S.E.2d 569, 572(1942). "Thus, mere intention to give without delivery is unavailing; the intention must be executed by a complete and unconditional delivery." *Id.*

The giving of an engagement ring is analogous to the present fact situation. Unless the facts of a particular case establish otherwise, an engagement ring is given as a gift with no consideration except the expectation of future marriage. If the marriage does not occur, the donor is entitled to a return of the ring. Giving an engagement ring is impliedly conditioned upon the marriage taking place. *See Campbell v. Lynch*, 398 S.C. 12, 726 S.E. 2d 221 (Ct. App. 2012). In *Campbell*, the Court held that "[u]ntil the condition [of marriage] underlying the gift is fulfilled, the attempted gift is unenforceable and must be returned to the donor upon the donor's request." 398 S.C. at 20, 726 S.E. 2d at 225. This holding controls irrespective of "fault" for the break-up. 398 S.C. at 21, 726 S.E. 2d at 226. In the present case, there are no facts that would alter the operation of this rule, and I so conclude.

To the extent it may be inferred from Defendant's Answer and Counterclaim that the payments made on the debt to Plaintiff support the promise to satisfy the debt, such assertion is unavailing. South Carolina recognizes the old English rule called the "Rule in Pinnel's case" ("Rule"), and that remains the law of this State. The Rule holds that payment of less than the full amount of a liquidated debt cannot satisfy the full debt, even if the parties agree that such lesser payment will satisfy the debt entirely. *See Ex Parte Zeigler*, 83 S.C. 78 (1909) (holding that the rule of Pinnel's case "is firmly established in this state"), *aff'd* 88 S.C. 168 (1911); and, *Riggs v. Home Mut. Fire Protection Ass'n*, 61 S.C. 448, 39 S.E. 2d 614 (1901) (regarding the Rule in Pinnel's case, Court held "in this state it has been expressly recognized in several cases . . . and

DM
13

must still be recognized by us.”).

In both *Zeigler* and *Riggs*, the Court recognizes that the application of the Rule may be limited based on the facts of a particular case, or recognized exceptions to its application. However, in the present case, other than the Statement itself, Defendant has presented no evidence that would mitigate the application of the Rule, and I find no such facts. The debt is clearly a liquidated claim, and I conclude that the Rule applies.

In this case, Plaintiff's unilateral promise, unsupported by consideration from Defendant, required additional action before it would have been completed, namely cancellation of the note and filing a satisfaction of the mortgage. Based on the foregoing discussion of applicable law, Defendant cannot rely on Plaintiff's uncompleted and gratuitous promise.

II. Defendant's defenses and counterclaim.

A. Illegality of contract.

Defendant alleges illegality of contract as a complete defense to Plaintiff's claims. Even assuming that the Complaint may be construed to allege a contract that would be illegal as a matter of public policy, there was no evidence offered by either party at trial to support such allegations, and the defense fails as a matter of law.

B. Waiver.

Defendant asserts the equitable doctrine of waiver as a defense to Plaintiff's foreclosure claim. "A waiver is a voluntary and intentional abandonment or relinquishment of a known right." *Janasik v. Fariway Oaks Villas Horizontal Property Regime*, 307 S.C. 339, 344, 415 S.E.2d 384, 387 (1992); *see, also, Parker v. Parker*, 313 S.C. 482, 443 S.E.2d 388 (1994). It is not necessary that a party asserting waiver be prejudiced in his position, as ". . . waiver does not necessarily imply that the party asserting waiver has been misled to his prejudice or into an altered position." *Janasik, supra*, 307 S.C. at 344, 415 S.E.2d at 388.

While it could be asserted that Plaintiff waived his right to collect the debt from Defendant by executing the Statement, any such waiver, like a gratuitous gift, was not completed, as he did not complete the actions necessary to complete the abandonment of his rights. Further, while Defendant need not necessarily have been prejudiced by Plaintiff's decision to enforce his note and mortgage, the presence or absence of prejudice is a proper consideration in the application the equitable doctrine of waiver. *See Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 647 S.E.2d 249 (Ct.App. 2007).

In view of the facts of this case, I conclude that the absence of prejudice to Defendant is a

AM
4

proper consideration in determining whether Plaintiff has abandoned his right to collect on the note and mortgage. At trial, Defendant presented no evidence of prejudice or hardship imposed on her by remaining liable for a debt to Plaintiff that she voluntarily incurred. Thus, I conclude that under the facts of this case, the doctrine of waiver is not available as a defense to the debt.

C. Duty of good faith.

Even assuming that a breach of the implied duty of good faith and fair dealing is available to Defendant as a separate defense, the testimony and exhibits contain no evidence of the breach of any such duty, and none could be reasonably inferred. Thus, any such defense fails as a matter of law.

D. Counterclaim for satisfaction of mortgage.

The findings of fact and conclusions of law already set forth herein sustain the viability of the note and mortgage given by Defendant. Thus, Plaintiff retains the right to maintain his cause of action for foreclosure of the mortgage on Defendant's property. It follows that Defendant is not entitled to the relief sought in her counterclaim for satisfaction of the mortgage, and damages pursuant to S.C. Code Ann. § 29-3-310, *et seq.*

Therefore, Defendant's counterclaim must be denied.

E. Equity.

Plaintiff's action is one in equity, and Defendant asserts an equitable defense. The facts of this case present a situation where finding an equitable resolution of the underlying dispute is particularly appropriate. Viewing the entire record, I find and conclude that it would be inequitable to extinguish Defendant's obligation to pay the debt secured by the note and mortgage held by Plaintiff.

It is apparent from the entire record that there was never any original intent by either party that Defendant not pay the debt secured by the note and mortgage. It is also apparent that the Statement given by Plaintiff was the result of stress generated by the deterioration in the parties' relationship, and Defendant's threat to end it and see other men.

While Defendant's imposition upon Plaintiff may not rise to the legal standard of undue influence or duress, it is clear from all the circumstances that Plaintiff's execution of the Statement was the culmination of his attempts to preserve his relationship with Defendant. Plaintiff's attempts proved to be futile, and Defendant has presented no evidence to explain or mitigate these inferences drawn from the facts and circumstances of the case.

It has long been the rule in this state that "[c]ourts have the inherent power to do all



things reasonably necessary to insure that just results are reached to the fullest extent possible.” *Jones v. Leagan*, 384 S.C. 1, 19, 681 S.E.2d 6, 16 (Ct.App.2009); and, *Ex parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct.App. 1983). “The decision to grant equitable relief is in the discretion of the trial judge.” *First Union National Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct.App. 1998). This includes the ability to apply or fashion an equitable remedy where circumstances make such action appropriate. *See, e.g., Ingram v. Kasey's Associates*, 340 S.C. 98, 531 S.E.2d 287 (2000); *Jones v. Leagan*, 384 S.C. 1, 681 S.E.2d 6 (Ct.App. 2009); *Laughon v. O'Braitis*, 360 S.C. 520, 602 S.E.2d 108 (Ct.App. 2004); *Ex parte Dibble, supra*.

In my judgment, the facts of this case support the exercise of the court's inherent power. Even if the execution and delivery of the Statement would, as a matter of law, operate to satisfy Defendant's debt to Plaintiff, it would be manifestly inequitable to impose such a result under the facts of this case. Thus, Plaintiff should, in equity, be granted the right to complete foreclosure of his note and mortgage.

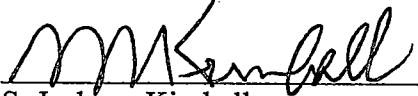
ORDER OF THE COURT

Based on the findings of fact and conclusions of law herein, it is ordered as follows:

1. Plaintiff is granted judgment against the Defendant for foreclosure of the mortgage on Defendant's property.
2. The amount of the mortgage debt, and any attorney fees and costs, shall be determined by a supplemental hearing to be held at the earliest practicable date.
3. The subject property will be sold at the earliest available sale date in accordance with applicable statutes and practice.
4. The Court will issue such further orders as are necessary to complete the foreclosure process.
5. Defendant's counterclaim is dismissed with prejudice.

AND IT IS SO ORDERED.

December 30, 2015


S. Jackson Kimball
Master in Equity for York County

#6

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP4600950

William G Tucker

Connie Lynn Batey

FILED-RECEIVED
2016 FEB -9 PM 2:27
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	<input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

This matter came before me on February 8, 2016, upon Defendant's motion pursuant to Rule 59(e), SCRPC, asking the Court to alter or amend the Court's Order filed January 4, 2016. Representing the parties were: Brian S. McCoy for Plaintiff; and, John Martin Foster for Defendant.

The purpose of Rule 59(e), SCRPC, to alter or amend the judgment, is to request the trial judge to "... reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992) (Citations omitted). A party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment, but was not. See *Johnson v. Sonoco Products Co.*, 381 S.C. 172, 672 S.E.2d 567 (2009); and, *Poch v. Bayshore Concrete Products/South Carolina, Inc.*, 386 S.C. 13, 686 S.E.2d 689 (Ct. App. 2009).

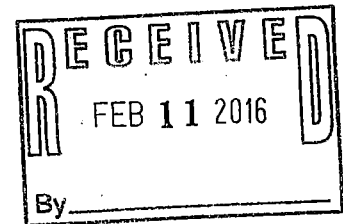
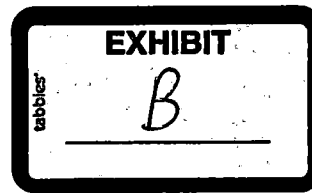
In her motion, Defendant seeks to have the court correct a factual error in the prior order, as well as reconsider the ultimate ruling in the order. As to the factual correction, it appears that Plaintiff was not "recently widowed" when he "met" Defendant online as stated in the order, and I misunderstood Plaintiff's testimony in this regard. The order should be corrected to reflect that Plaintiff's wife did not die until about a year after he "met" Defendant. Rather, she was confined to institutional care for advanced Alzheimer's disease at the time, which led to her death.

Secondly, Defendant challenges the analysis of the court undergirding the granting of Plaintiff's relief of foreclosure. As to that objection, upon reviewing the record presented, and considering the arguments of counsel, I find no matter presented that was not addressed expressly, or by clear implication, in the prior order. I further find no basis for reconsideration or amendment of the ruling rendered in the prior order.

Therefore, it is ordered that Plaintiff's/Defendant's Motion pursuant to Rule 59(e), SCRPC, be granted in part, as indicated above, and denied in part.

AND IT IS SO ORDERED.

APR
1



ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

MM Senell
Master-in-Equity

3063

2/8/2016

Judge Code

Date

For Clerk of Court Office Use Only

2/9/16

2/9/16

This judgment was entered on 2/9/16, and a copy mailed first class or placed in the appropriate attorney's box on 2/9/16 to attorneys of record or to parties (when appearing pro se) as follows:

Brian Scott McCoy 378 E. Main St. Rock Hill, SC 29730

John Martin Foster PO Box 106 Rock Hill, SC 29731-6106

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

JOHN MARTIN FOSTER

Attorney at law

The Guardian Building	PO Box 106	803 324 8100
223 East Main Street Suite 520	Rock Hill SC	803 324 8109 Fax
Rock Hill South Carolina 29730	29731-6106	jmfoster@comporium.net

March 3, 2016

Ms. Shirley Dallas
Huseby.com
P.O. Box 2711 CRS
Rock Hill, S.C. 29732

Re: Connie Lynn Batey, Appellant,
v. William G. Tucker, Respondent
Case No.: 2015-CP-46-00950

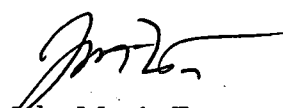
Dear Shirley:

On December 16, 2015, a hearing was held in the above-referenced case before Judge S. Jackson Kimball, III in the Office of the Master in Equity for York County, South Carolina.

I am requesting that you provide me with a transcript of the proceedings. I agree to pay the per page charge for this transcript.

Thank you for your assistance in this matter.

Sincerely Yours,



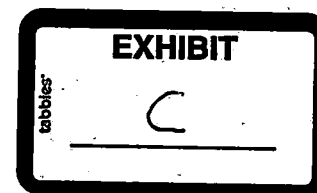
John Martin Foster

jmf/ens

Cc: The Honorable Jenny Abbott Kitchings
Clerk, of the South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29201-3726

S.C. Court Administration
1015 Sumter Street, Suite 200
Columbia, S.C. 29201

Brian S. McCoy
McCoy Law Firm, LLC
378 East Main Street
Rock Hill, S. C. 29730
Attorney for Respondent
(803) 366-2280



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

AUG 05 2016

SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Master in Equity for York County

Appellate Case No. 2016-000451

William G. Tucker,

Respondent,

v.

Connie Lynn Batey,

Appellant.

PROOF OF SERVICE

I certify that I have served the Motion to Dismiss on the following counsel or person of record:

John Martin Foster
P.O. Box 106
Rock Hill, SC 29731
803-324-8100
Attorney for Appellant

By depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

August 2, 2016



Brian McCoy
378 East Main Street
Rock Hill, SC 29730
803-366-2280
Attorney for Respondent

McCoy Law Firm, LLC

378 E. Main Street
Rock Hill, South Carolina 29730
TEL. (803) 366-2280
FAX (803) 366-0643
bmccoy@mccoylawfirm.com

RECEIVED

AUG 05 2016

SC Court of Appeals

August 2, 2016

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: William G. Tucker vs. Connie Lynn Batey
Case No.: 2016-000451

Dear Ms. Kitchings:

In accordance with the Rule 240, S.C.A.C.R., enclosed herewith please find the original and seven (7) copies of the Respondent's Motion to Dismiss Appeal, together with the Proof of Service for the same in the above reference case. I also enclose out check for the Motion fee of \$25.00.

By copy of this letter, I am serving the attorney for the Appellant with copies of the said Motion, as evidenced by the Proof of Service.

Please return the extra filed copy to my office in the enclosed self-addressed, stamped envelope.

Very Truly Yours,

McCOY LAW FIRM, LLC


Brian S. McCoy

BSM:mep
Enclosures

CC: John Martin Foster, Esq.

P

US POSTAGE & FEES PAID
2 LB PRIORITY MAIL RATE
ZONE 2 NO SURCHARGE
COMMERCIAL BASE PRICING

062S0008603454
FROM 29730



stamps.com

08/02/2016

PRIORITY MAIL 2-DAY™

McCoy Law Firm, LLC
378 East Main Street
Rock Hill SC 29730

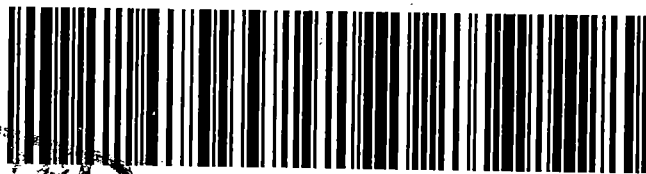
0024

B012

SHIP TO: The Honorabale Jenny Abbott Kitchings
Clerk Of South Carolina Court Of Appeals
PO Box 11629
Columbia SC 29211-1629



USPS TRACKING #



9405 5118 9956 3040 8924 99

RECEIVED
AUG 07 2016
SC Court of Appeals