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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

DEC 20 2016

S.C. SUPREME COURT

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

JUDGE EDGAR DICKSON , 1st Circuit

CASE # 2009-CP-18-2200

RENE McMASTERS.....Respondent

Vs.

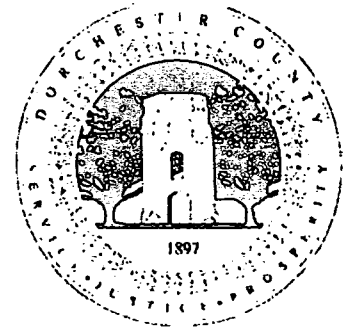
HOWARD W. CHARPIA and JODY E. CHARPIA.....^{Petitioners.}~~Appellants~~

APPENDIX

Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , 29485
843-873-0976

Attorney Frank M. Cisa , for Respondent

DORCHESTER COUNTY CLERK OF COURT
Cheryl Graham, Clerk of Court
5200 East Jim Bilton Blvd.
St. George, SC 29477



December 6, 2016

H. Wayne Charpia
1450 Jahnz Ave.
Summerville, SC 29485

Re: Rene' McMasters vs. Charpia Residential, LLC
Case No: 2002-CP-18-00932

Rene McMasters vs. H Wayne Charpia, et al.
Case No: 2009-CP-18-2200

FILED-RECORDED
2016 DEC -6 PM 1:10
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Mr. Charpia:

Pursuant to your request, please let this letter confirm that there are no pending Writ of Executions in the above-referenced cases.

Sincerely yours,

Cheryl Graham
Clerk of Court



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 15, 2016

Howard W. Charpia
1450 Jahnz Ave.
Summerville SC 29485

Re: Rene McMasters v. H. Wayne Charpia
Appellate Case No. 2013-002311

Dear Mr. Charpia:

The Court received your correspondence dated November 25, 2016. As you know from phone conversations with my staff, the next step for review of your appeal is the filing of a petition for writ of certiorari with the Supreme Court, as provided by Rule 242 of the South Carolina Appellate Court Rules (SCACR). If no petition is filed, we will send the remittitur as required by Rule 221(b), SCAR. We do not have a copy of an "execution" as requested, so we are returning your \$5.00 check to you. Finally, it is our Court policy to provide the trial judge a copy of our opinions. We hope this letter satisfactorily addresses your concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jody E. Charpia".

CLERK

cc: Jody E. Charpia
Frank M. Cisa, Esquire

To: South Carolina Court of Appeals 11-25-16
1220 Senate Street
Columbia, SC 29201

Re: Howard W. Charpia
1450 Jahnz Ave.
Summerville, SC 29485

Re: Appellate case # 2013-002311
McMasters v. Charpia

RECEIVED

NOV. 28 2016

Ms. Jenny Kitchings,

SC Court of Appeals

Hope all is well . I have been entailed in this legal journey since 2002 and as the State Constitution clearly dictates , we shall not be denied the equal protection of the laws.

As we know , this is not true in South Carolina when a Pro Se litigant has to navigate thru the legal system. I did not pen nor create any of the laws or rules of this judicial system , I only pray that the people with power ; the Attorney's , the Judge's and the people that are sworn to abide by these rules would only attempt to enforce correctly.

I recently received the opinion from the appellate Court and find that they have made a huge mistake in their ruling (s) . *see attached*

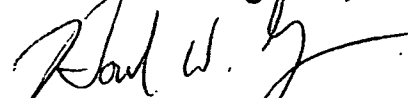
" We find the judgment underlying the foreclosure was not void because Rene McMasters sought to enforce it within the 10 year statutory period " See S.C. Code 15-39-30 Executions

May I please have a copy of the " execution " or document
Rene McMasters sought to enforce the judgment within the ten year
period , in which the Court rendered it's opinion upon .

Why was Judge Edgar W. Dickson copied with the opinion and
not the lower Court ?

I have enclosed a check for \$ 5.00 to cover the cost of copies,
if it is more , please inform me and I will send more . With an
"execution" it should be only a few copies.

With kind regards,



Howard W. Charpia
843-873-0976

quarterback@sc.rr.com

Cc: Governor Nikki Haley
Dorchester County Clerk of Court
Attorney Frank Cisa

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Rene McMasters now known as Rene McMasters
Ronaghan, Respondent,

v.

H. Wayne Charpia a/k/a Howard W. Charpia and Jody E.
Charpia, Appellants.

Appellate Case No. 2013-002311

Appeal From Dorchester County
Edgar W. Dickson, Circuit Court Judge

Unpublished Opinion No. 2016-UP-423
Submitted September 1, 2016 – Filed October 5, 2016

AFFIRMED

Howard W. Charpia and Jody E. Charpia, of
Summerville, pro se.

Frank M. Cisa, of The Law Firm of Cisa & Dodds, LLP,
of Mt. Pleasant, for Respondent.

PER CURIAM: Howard W. Charpia and Jody E. Charpia (the Charpias) appeal the denial of their motions to reconsider the granting of a foreclosure of a judgment lien and to vacate or void the compulsory order of reference. The Charpias argue

CHARPIA'S ARGUMENT WAS "DUE PROCESS"⁴

(1) the judgment underlying the foreclosure is void because ten years has expired without execution of the judgment and (2) the circuit court lacked jurisdiction and violated the Due Process Clause because the Charpias were not properly notified of the hearings. We affirm.¹

1. We find the judgment underlying the foreclosure was not void because Rene McMasters Ronaghan sought to enforce it within the ten-year statutory period. *See* S.C. Code Ann. § 15-39-30 (2005) ("Executions may issue upon final judgments or decrees at any time within ten years from the date of the original entry thereof and shall have active energy during such period, without any renewal or renewals thereof . . ."); *Linda Mc Co., Inc. v. Shore*, 390 S.C. 543, 554, 703 S.E.2d 499, 505 (2010) ("[W]hen a party has complied with the applicable statutes . . . and is merely waiting on a court's order regarding execution and levy, the ten[-]year limitation found in section 15-39-30 is extended to when the court finally issues an order."); *id.* at 555, 703 S.E.2d at 505 ("[I]f a party takes action to enforce a judgment within the ten-year statutory period of active energy, the resulting order will be effective even if issued after the ten-year period has expired.").

2. We find the circuit court properly exercised jurisdiction. *See Milgroom v. McDaniel*, 308 S.C. 5, 8-9, 416 S.E.2d 626, 627-28 (1992) (finding the master-in-equity properly returned the matter to the circuit court because of a potential conflict and the circuit court "reached [its] own findings only after conducting an independent hearing and review of the record"). Additionally, the circuit court did not violate the Charpias' due process rights. Although the Charpias were not properly notified of the January 9, 2013 hearing, the circuit court had already held a July 30, 2012 hearing on the foreclosure action that the Charpias attended, and it issued a thorough order granting foreclosure. *See Murdock v. Murdock*, 338 S.C. 322, 334, 526 S.E.2d 241, 248 (Ct. App. 1999) ("It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have *a day in court, or opportunity to be heard*, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights." (emphasis added) (quoting *Webster v. Clanton*, 259 S.C. 387, 391, 192 S.E.2d 214, 216 (1972))). Further, the January 9, 2013 hearing consisted primarily of discussion about whether the Charpias received notice, and the circuit court's order did not indicate it considered anything presented at the hearing. Thus, we find the circuit court did not err in denying the Charpias' motion to reconsider. *See* Rule 59(f), SCRCF ("The motion [to alter or amend the judgment] may in the

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

discretion of the court be determined on briefs filed by the parties without oral argument.").

AFFIRMED.

WILLIAMS, THOMAS, and GEATHERS, JJ., concur.

The South Carolina Court of Appeals

Rene McMasters now known as Rene McMasters
Ronaghan, Respondent,

v.

H. Wayne Charpia a/k/a Howard W. Charpia and Jody E.
Charpia, Appellants.

Appellate Case No. 2013-002311

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

A. BRUCE WILLIAMS *fl B W* _____ J.

PAULA H. THOMAS *Paula H. Thomas* _____ J.

JOHN D. FEATHERS *John D. Feathers* _____ J.

Columbia, South Carolina

cc:
Howard W. Charpia
Jody E. Charpia
Frank M. Cisa, Esquire

FILED

November 17, 2016

REC 11-22-16
HWC

SECTION 18-9-130. Effect of notice of appeal on execution of judgment; sale of defendant's property; appeal in civil action involving signatory of Master Settlement Agreement.

(A)(1) A notice of appeal from a judgment directing the payment of money does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grants a stay of execution. If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment or:

(a) twenty-five million dollars, whichever is less, for a business entity that employs more than fifty persons and has gross revenues exceeding five million dollars for the previous tax year; or

(b) one million dollars, whichever is less, for all other entities or individuals.

(2) A plaintiff may not enforce a sale of property after a notice of appeal is filed without giving an undertaking of bond to the defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgment, conditioned to pay all damages the defendant may sustain by reason of the sale in case the judgment is reversed. The plaintiff in such a case may not proceed with a sale of defendant's property if the defendant enters into an undertaking, with good sureties, in double the appraised value of the property or the amount of the judgment, to pay the judgment with legal interest and all costs and damages the plaintiff may sustain by reason of the appeal or to produce the property levied on and submit to the sale if the judgment is confirmed.

(B)(1) The appeal of a judgment awarding relief in a civil action, under any legal theory, involving a signatory of the Master Settlement Agreement, as defined in Section 11-47-20(e), or a successor to or affiliate of a signatory to the agreement, automatically stays the execution of that judgment.

(2) The stay described in this subsection is effective upon the filing of the notice of appeal and during the entire course of appellate review of the judgment.

HISTORY: 1962 Code Section 7-412; 1952 Code Section 7-412; 1942 Code Section 782; 1932 Code Section 782; Civ. P. '22 Section 647; Civ. P. '12 Section 385; Civ. P. '02 Section 346; 1870 (14) 360; 1873 (15) 501; 2004 Act No. 216, Section 2, eff April 26, 2004; 2011 Act No. 52, Section 6, eff January 1, 2012.

1



RULE 62**STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT**

(a) Automatic Stay; Exceptions--Injunctions, Receivership, and Accountings. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, or a judgment or order directing an accounting, shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

(c) Injunction Pending Appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay Upon Appeal. When an appeal is taken, a party, by giving a supersedeas bond, may obtain a stay subject to the exceptions contained in subdivision (a) of this rule and the South Carolina Appellate Court Rules. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the supersedeas as the case may be. The stay is effective when the supersedeas bond is approved by the court.

(e) Stay in Favor of the State or Agency Thereof. When an appeal is taken by the State or an officer or agency thereof or by direction of any department of the Government of the State and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

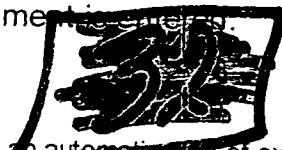
(f) Stay According to Statute. The provisions of this Rule 62 shall be considered as cumulative to and not superseding the right of any party to a stay of execution accorded by statute; except that the time limits and provision for supersedeas bond provided by this Rule 62 shall apply in all proceedings for stay of execution or order of supersedeas.

(g) Power of Appellate Court Not Limited. The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered. An application for such relief should first be made to the trial court under Rule 62(c) or (d), but when such application is not practicable it may first be made to an appellate court or a judge or justice thereof.

(h) Stay of Judgment as to Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

2

Note:



The Supreme Court of South Carolina

Rene McMasters
v.
Charpia Residential
Dorchester County
2002-CP-18-0932
Plaintiff
Defendant

FILED-RECORDED
2002 JUN 10 11:23 AM
CLERK OF COURT
DORCHESTER COUNTY

Ruby M. Byrd,
v.
Palmetto Traditional Homes, LLC,
Dorchester County
2006-CP-18-1628R
Plaintiff,
Defendant.

Sherwin Williams Company,
v.
Martin A. Giorgi d/b/a Excellence Painting,
Dorchester County
2008-CP-18-1771
Plaintiff,
Defendant.

City of Charleston, Dorchester
Council of Governments,
v.
Wachovia National Bank,
Dorchester County
2007-CP-18-0336
Plaintiff,
Defendant.

D. R. Horton, Inc.,
v.
Carolina Drywall, Inc.,
Dorchester County
2007-CP-18-1805
Plaintiff,
Defendant.

3

33

[REDACTED]
[REDACTED]

v. Plaintiff,
Defendant.

Dorchester County
[REDACTED]

[REDACTED]
[REDACTED]

v. Plaintiff,
Defendant.

Dorchester County
[REDACTED]

[REDACTED]
[REDACTED]

v. Plaintiff,
Defendant.

Dorchester County
[REDACTED]

[REDACTED]
[REDACTED]

v. Plaintiff,
Defendant.

Dorchester County
[REDACTED]

ORDER

The above matters are pending in Dorchester County. The Honorable Diane S. Goodstein, Chief Judge for Administrative Purposes, has recused herself and cannot act as Chief Judge for Administrative Purposes to administer these cases. Therefore,

IT IS ORDERED that the Honorable Perry M. Buckner be assigned as Chief Judge for Administrative Purposes in the First Judicial Circuit for the sole purpose of

administering these cases and preparing them for trial.

IT IS SO ORDERED.

IT IS SO ORDERED

S/Jean Hoefler Toal

JUNE 9 2008
JUN 8, 2008
Columbia, South Carolina

Jean Hoefler Toal
Chief Justice

3

33

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DORCHESTER) COURT OF COMMON PLEAS
No. 2009 CP 18 2200

3

4 RENE McMASTERS)
5 Plaintiff)

6 versus) TRANSCRIPT OF RECORD
7)

8 H. WAYNE CHARPIA,)
9 also known as HOWARD W.)
10 CHARPIA, and JODY)
11 CHARPIA)

12 Defendants)

13 St. George, South Carolina

14 July 30, 2012

15 B E F O R E:

16 HONORABLE EDGAR DICKSON, Presiding Judge

17 A P P E A R A N C E S:

18 For the Plaintiff: FRANK CISA, Esq.

19 For the Defendants: MR. CHARPIA appearing Pro Se

20 Reporter Present: HARRY DOT WALKER

21

22

23 HARRIET P. BENNETT
24 Reporter, S.C. Court Administration
46 Regency Oaks Drive
25 Summerville, S.C. 29485

4

1 (The within matter came before the Court for
2 hearing on July 30, 2012)

3 THE COURT: All right, Ms. Harry Dot, this is
4 Case Number 2009 CP 18 2200. Rene McMasters, now known
5 as Rene McMasters Ronaham, Plaintiff, versus H. Wayne
6 Charpia, also known as Howard W., and Jody Charpia,
7 Defendants.

8 This is a foreclosure of a judgment. Is that cor-
9 rect?

10 MR. CISA: That's correct, Your Honor.

11 THE COURT: All right, and, Mr. Cisa, before we
12 go forward, I just will note that the Supreme Court
13 has a rule about mortgage foreclosure actions, so
14 this is not a mortgage foreclosure? It's a judgment
15 foreclosure?

16 MR. CISA: That's correct, Your Honor.

17 THE COURT: Okay.

18 MR. CISA: And I'm familiar with Chief Justice
19 Toal's Order, and I'm familiar with her memorandum to
20 Judges and Clerks that specifically talks about fore-
21 closure interventions which begins when the mortgagor
22 is served and only applies in my view to mortgage
23 foreclosure actions.

24 This is a foreclosure of a judgment, so I will submit
25 to the Court that there is no intervention.

1 THE COURT: And I actually pulled the Administra-
2 tive Order just to be on the safe side, and it says
3 it is applicable to mortgage foreclosure actions.

4 MR. CISA: Yes, sir.

5 THE COURT: All right. Now, we are here to go
6 through with the foreclosure action.

7 Mr. Charpia, I think you have filed a number of
8 motions. Is that correct?

9 MR. CHARPIA: Yes, sir.

10 THE COURT: Okay, sir. Which motions do we have
11 so I can address them?

12 MR. CHARPIA: First off, I'm not here -- I don't
13 know why I'm here today because I haven't been noti-
14 fied properly.

15 THE COURT: Okay.

16 MR. CHARPIA: Mr. Cisa sent me a letter of May
17 24, 2012, Case Number 2009 2200.

18 Dear Mr. Charpia, the above case appears on the
19 trial roster for a term commencing on July 30, 2012,
20 in Dorchester County. This case is currently listed
21 as number two on the trial roster. It, therefore,
22 in all likelihood will be reached on Monday, July 30,
23 2012. The docket meeting is scheduled to commence at
24 ten o'clock A.M.

25 You will need to be present for the trial of the

1 above case.

2 I wasn't properly notified through Mr. Cisa's
3 letter. It doesn't state exactly why we're here today.

4 I have a notice from the Clerk's Office the trials
5 will begin after the roster meeting.

6 It does not specifically say I'm here for a fore-
7 closure or am I here to hear my motions, am I here
8 to hear the motion to compell by the Clerk of Court's
9 scheduling on the Internet? Why am I here today?

10 THE COURT: You are here for the trial of the
11 foreclosure action.

12 MR. CHARPIA: Okay. I'm here for that.

13 THE COURT: We're going forward with it.

14 MR. CHARPIA: Is this a violation of my due pro-
15 cess . .

16 THE COURT: No, sir, not at all. This case has
17 been going on since 2009.

18 MR. CHARPIA: Since 2002, sir.

19 THE COURT: That's even more reason.

20 MR. CHARPIA: Yes, sir.

21 THE COURT: Okay?

22 MR. CHARPIA: Now, Number two, my attorney -- I'd
23 like to get a continuance until my attorney can come
24 up to active status and represent me in a proper way.

25 THE COURT: Who is your attorney?

C O P Y

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DORCHESTER) COURT OF COMMON PLEAS
3) No. 2009 CP 18 2200

4 RENE McMASTERS)

5 Plaintiff)

6 versus)

TRANSCRIPT OF RECORD

7)
8 H. WAYNE CHARPIA,
also known as HOWARD)
9 W. CHARPIA, and)
JODY CHARPIA)

10 Defendants)

11 St. George, South Carolina

12 January 9, 2013

13
14 B E F O R E :

15 HONORABLE EDGAR DICKSON, Presiding Judge

16
17 A P P E A R A N C E S :

18 For the Plaintiff: FRANK CISA, ESQ.

19 For the Defendants: No Appearance

20 Reporter Present: HARRY DOT WALKER

21
22
23 HARRIET P. BENNETT
24 Reporter, S. C. Court Administration
46 Regency Oaks Drive
25 Summerville, S. C. 29485

5

13

1 (The within matter came before the Court on January 9,
2 2013)

3 THE COURT: All right, what have we got next?

4 CLERK: McMasters versus Wayne Charpia.

5 THE COURT: All right. Ms. Harry Dot, this is Case
6 2009 CP 18 2200, and this is a Motion -- let's see.

7 This is a Motion to reconsider and a Motion to set
8 aside a judgment.

9 MR. CISA: I do not see Mr. Charpia here.

10 THE COURT: I don't see him either. Will somebody
11 go out in the hall and call Mr. Charpia?

12 (Brief pause)

13 THE COURT: Madam Clerk, to your knowledge did Mr.
14 Charpia receive notice of this?

15 CLERK: Yes, sir, I noticed him.

16 THE COURT: I'm going to swear you in, if you don't
17 mind.

18 (Clerk sworn by the Court)

19 THE COURT: The title of this case is Rene McMasters
20 as Plaintiff versus H. Wayne Charpia and Jody Charpia,
21 Defendants. It is Case Number 2009 CP 18 2200.

22 Okay, Madam Clerk, you are charged with sending out
23 these notices?

24 CLERK: Yes, sir.

25 THE COURT: And you say you sent notice of this hearing

5

104

SEE EXHIBIT
2

1 to Mr. Charpia on what date?
2 CLERK: December 6th of 2012 and January 7 of 2013.
3 THE COURT: And the dates didn't change?
4 CLERK: No, sir.
5 THE COURT: And you used an E-mail address?
6 CLERK: Yes, sir.
7 THE COURT: And that was an E-mail address he pro-
8 vided you with?
9 CLERK: Yes.
10 THE COURT: Is there a way to confirm whether or not
11 he received it?
12 CLERK: Well, nothing bounced back.
13 THE COURT: Nothing bounced back?
14 CLERK: No, sir.
15 THE COURT: Okay, and you had contacted him that way
16 before?
17 CLERK: Yes.
18 THE COURT: And he has responded?
19 CLERK: Yes, sir, he has.
20 THE COURT: Okay. All right. We were scheduled to
21 have a hearing at two o'clock, and it's now two O seven.
22 Mr. Cisa?
23 MR. CISA: Your Honor, I would ask that you deny the
24 Motions.
25 I have been in contact by E-mail with Mr. Charpia for

1 the past two months, trying to resolve the case.

2 THE COURT: Okay.

3 MR. CISA: But I haven't been able to get to the
4 finish line on that.

5 I actually can't find a copy of the Motion to recon-
6 sider in my file.

7 THE COURT: I have it right here if you want it.

8 MR. CISA: Well, I would just request of the Court
9 -- I know I don't have it and he didn't serve it on me.

10 THE COURT: He didn't serve it on you?

11 MR. CISA: I don't have it in my file and he didn't
12 serve it that I can recall. I don't know what it says.

13 I don't think that he did, and I would request that
14 you deny the Motion for reconsideration.

15 He has filed a lot of Motions, Judge, and one of the
16 Motions was to void or vacate the Order because there was
17 no personal jurisdiction -- personal or subject matter
18 jurisdiction.

19 THE COURT: Yes.

20 MR. CISA: This is an action for foreclosure of a
21 judgment lien against a piece of property located in
22 Dorchester County. But I haven't heard anything from him
23 concerning the Motions, and I would request that the
24 Court deny the Motions.

25 THE COURT: Is there anything else you want to add?

1 MR. CISA: Mr. Charpia is a resident of Dorchester
2 County, as is Mrs. Charpia.

3 THE COURT: Right. I haven't heard anything from him
4 concerning these motions.

5 MR. CISA: We do have an existing judgment, and we
6 are not denying he has a right to legal counsel, although
7 Mr. Charpia didn't raise that issue at a previous hearing.

8 THE COURT: I believe he was asked if he wanted legal
9 counsel again.

10 MR. CISA: Yes, sir, probably so. He has already
11 been through a number of lawyers, and this, that and the
12 other.

I LAWYERS

13 THE COURT: Mr. Cisa, before you go any further, ..

14 MR. CISA: Yes, sir.

15 THE COURT: I am going to grant your Motion.

16 MR. CISA: Thank you, Judge.

17 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

18
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21
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24
25
*NO JUDGMENT
IN THIS CASE*

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

THOMAS M. TOGGAS and
KATHRYN TOGGAS,

Plaintiffs,

v.

RRR, INC. d/b/a Maximum Resort Rentals,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-07-2016

ORDER GRANTING PLAINTIFFS'
MOTION FOR JUDGMENT ON THE
PLEADINGS
AND
DENYING DEFENDANT'S MOTION TO
DISMISS

FILED
JAN 14 2015
CLERK OF COURT

This declaratory judgment action is before the court on two motions: (1) Plaintiffs' motion for judgment on the pleadings, or in the alternative for summary judgment, and (2) Defendant's motion to dismiss. The parties submitted briefs in support and in opposition to the motions in advance of the hearing. The court has considered the memoranda and other documents submitted and the oral arguments of counsel presented at the December 9, 2014 hearing, and hereby grants Plaintiffs' motion and denies Defendant's motion as discussed more fully below.

PROCEDURAL BACKGROUND

This is a declaratory judgment action seeking an order by the court that a judgment entered against Plaintiffs on July 24, 2003 (the "Judgment"), has expired and has no active energy. Plaintiffs moved for judgment on the pleadings pursuant to Rule 12(c) or, in the alternative, for summary judgment pursuant to Rule 56 SCRPC, alleging that pursuant to S.C. Code Ann. § 15-39-30 the judgment was extinguished as a matter of law and had no further "active energy" as of July 24, 2013. Defendant moved to dismiss the declaratory judgment action based upon two arguments: (1) Plaintiffs lacked standing to bring the action due to the Plaintiffs' personal bankruptcy filings in which the Plaintiffs were both granted discharges, and (2) this court should decline to hear the

13 6

Certified - A True Copy

Jerri Ann Rosoneau - Clerk of Court
Beaufort County, SC - Melissa Kilby

matter because a court in Washington, D.C. has already ruled on the issue in a preliminary order in a proceeding in that jurisdiction.

FINDING OF FACTS

The court finds that the material facts relevant to Plaintiffs' and Defendant's motions are as follows:

- (1) The subject Judgment was entered on July 24, 2003;
- (2) July 24, 2013 was ten years after the entry of the Judgment;
- (3) There are no pending efforts in South Carolina to execute on the Judgment;
- (4) July 24, 2013 passed almost a year and half ago;
- (5) Both of the Plaintiffs have received discharges in their separate bankruptcy proceedings;
- (6) The bankruptcy trustee has no property interest in this declaratory judgment action.

Defendant raised and argued facts relating to the merits of the underlying judgment. None of those facts are material or relevant in any way to the lifespan of a judgment under South Carolina law.

CONCLUSIONS OF LAW

Plaintiffs are entitled to a judgment on the pleadings (Rule 12(c)) or, in the alternative, summary judgment (Rule 56) because, pursuant to S.C. Code Ann. § 15-39-30, the judgment was extinguished and had no further "active energy" on July 24, 2013.

- I. Any execution upon the judgment had "active energy" for ten years from the date the judgment was entered and expired as a matter of law on July 24, 2013.

The time period within which to execute upon a South Carolina judgment is controlled by S.C. Code Ann. §§ 15-39-20 and 15-39-30 (2005). Section 15-39-30 states as follows:

Issuance of executions; effective period.

Executions may issue upon final judgments or decrees at any time

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within ten years from the date of the original entry thereof and shall have active energy during such period, without any renewal or renewals thereof, and this whether any return may or may not have been made during such period on such executions.

According to the plain language of § 15-39-30, executions therefore have “active energy” for ten years after the date of the original entry of the judgment.

South Carolina courts have repeatedly held that a judgment is extinguished after the expiration of ten years from the date of entry. *See Hardee v. Lynch*, 46 S.E.2d 179, 183 (S.C. 1948) (noting that the effect of the 1946 Act repealing prior law on judgment executions, including the right to extend judgments beyond ten years, was to “utterly extinguish a judgment after the expiration of ten years from the date of entry”) (*emphasis added*); *See also Home Port Rentals, Inc. v. Moore*, 632 S.E.2d 862, 863 (S.C. 2006) (stating S.C. Supreme Court has “consistently held that under [§ 15-39-30], a judgment becomes stale and a judgment lien is extinguished after ten years.”)

As soon as a judgment becomes ten years old, the holder loses his or her status as a judgment creditor. *See Carr v. Guerard*, 616 S.Ed.2d 429, 430 (S.C. 2005). Even if an action is brought to enforce the judgment before the time expires, the judgment extinguishes if the ten-year period expires before the action is tried. *See Garrison v. Owens*, 189 S.E.2d 31, 33 (S.C. 1972) (holding judgment lien on real estate is absolutely extinguished after expiration of ten years from date of entry, and bringing action to enforce judgment lien will not preserve it beyond time fixed by statute if such time expires before action is tried). The only “narrow” exception to this rule is if the judgment creditor has completed all of its efforts under the South Carolina execution and Supplementary Proceedings, (S.C. Code Ann. §§ 15-39-310 – 15-39-490) processes prior to the ten-year expiration date and is awaiting the issuance of an execution order by the court. *See Linda Mc Co., Inc.*, 703 S.E.2d at 505. The South Carolina Supreme Court’s decision

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in *Linda Mc Co., Inc.* expressly reversed *Garrison* to the extent the holding in *Garrison* was inconsistent with *Linda Mc Co., Inc.*

In the present case, the South Carolina Judgment was entered on July 24, 2003. Therefore, on July 24, 2013 the South Carolina Judgment became utterly extinguished as a matter of law. Because the South Carolina Judgment is extinguished as a matter of law, Plaintiffs no longer owe any debts to RRR and RRR is no longer a judgment creditor of Plaintiffs.

II. The “narrow” holding in *Linda Mc Co., Inc. v. Shore*, 703 S.E.2d 499, 505 (S.C. 2010) does not extend the life of the Judgment here or change the analysis in section I, above.

In *Linda Mc Co.* the South Carolina Supreme Court created a “narrow” exception to the bright line rule regarding the utter extinguishment of a judgment after ten years. The Court stated in dictum that § 15-39-30 is not a statute of limitations, but operated like a statute of limitations *under the facts of that case*. The court further held that “when a party has complied with the applicable statutes, as [judgment creditor] did in this case, and is *merely waiting on a court’s order* regarding execution and levy, the ten-year limitation found in § 15-39-30 is extended to when the court finally issues an order.” *Id. (emphasis added)*. The Court further stated: “[w]e want to stress that this is a narrow holding limited to facts similar to those at issue in this case.” *Id. (emphasis added)*.¹

The facts of *Linda Mc Co.* bear no resemblance to the facts in this case. In *Linda Mc Co.* the judgment creditor had completed all collection efforts (including participating in a hearing before the master in equity) prior to the ten-year expiration of the judgment under § 15-39-30.

¹ *Linda Mc Co.* later states “if a party takes action to enforce a judgment within the ten-year statutory period of *active energy*, the resulting order will be effective even if issued after the ten-year period has expired.” *Id.* Although this statement appears to be more expansive than the “narrow holding,” it clearly relates back to the holding and would only apply in those instances involving facts similar to *Linda Mc Co.*, i.e., where the parties are merely waiting on the execution order when the ten-year statutory period expires. To apply a broader interpretation to this subsequent language would render meaningless the Court’s effort to “stress” how “narrow” the holding is.

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JULY 30, 2012 HEARING

The only act that remained to be done on the date of the ten-year expiration was the issuance of the order by the court. The court then issued its order to execute and levy on assets of the judgment debtor one day after the ten year period had run. Under those limited facts, the Supreme Court held that the ten-year deadline should be extended. "To hold otherwise would put those trying to enforce their judgments at the mercy of the court system to conclude the matter within the ten-year period." *Id.*

Here, Defendant has not complied with any of the applicable statutes in South Carolina to collect on its judgment. It is undisputed that there are no collection efforts pending in South Carolina. It is further undisputed that there has been no hearing on Supplementary Proceedings, and the parties are not awaiting an execution order from any court. And, perhaps most significantly, the Court in *Linda Mc Co.* extended the ten-year deadline by one day, whereas Defendant here seeks an indefinite extension because the ten-year deadline passed approximately one and a half years ago and the parties are not currently awaiting an order on collection.

Defendant argued that the ten-year expiration date should be extended because Plaintiffs have delayed Defendant's collection efforts. In support of this argument, Defendant accused Plaintiffs of filing meritless appeals on the underlying judgment. This is misleading and irrelevant. The underlying judgment resulted from a jury trial conducted in the Plaintiffs' absence. Plaintiffs argued that they did not receive notice of the jury trial, but the circuit judge denied their post-trial motions on that basis. Plaintiffs appealed the verdict. Although Plaintiffs' appeals were ultimately denied by the Court of Appeals and the Supreme Court, there is nothing in the record to suggest that the appeals were "meritless" or improper as implied by Defendant's argument. In any event, as set forth below, the Plaintiffs' appeals did not prevent Defendant from immediately pursuing collection of the judgment.

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Moreover, the ten-year period that a judgment has active energy in South Carolina is not tolled by appeal(s). See *Wells ex rel. A.C. Sutton & Sons, Inc. v. Sutton*, 382 S.E.2d 14, 16 (Cl. App. 1989) (denying an appeal seeking to toll the ten-year life of a judgment due to the judgment debtor's appeals). The South Carolina Court of Appeals in *Wells* set forth its analysis for denying the appeal and the state's public policy as follows:

In affirming the trial court, this court emphasizes it does not condone efforts by judgment debtors to secrete assets to avoid payment of judgments. Likewise, *this court does not criticize appropriate use of the appellate process to obtain review of orders or decisions issued by the circuit court.* The reason for our holding is simply our recognition of the public policy of this State as expressed in the statutes to limit the life of judgments to ten years. *A judgment creditor should recognize this policy and proceed expeditiously to conclude his efforts to collect his judgment within the ten year period.*

Id. (emphasis added).

In fact, Defendant has never instituted any collection efforts in South Carolina on the judgment despite its right to do so 10 days after the jury verdict was entered as a judgment on July 24, 2003. See *Rule 62(a) SCRPC*. Defendant could have initiated efforts to collect on the judgment as early as August 3, 2003 but chose not to do so. Had Defendant initiated judgment collection efforts in August 2003, Plaintiffs would have had to post a *supersedeas* bond to stay those execution proceedings during their appeals. See *Rule 62(d) SCRPC*. Instead, Plaintiff took no action and, therefore, failed to proceed expeditiously to conclude its efforts to collect its judgment within the ten-year period. *Wells ex rel. A.C. Sutton & Sons* demonstrates that Defendant cannot complain now that the judgment has expired when it failed to pursue its rights during the appeals, which did not toll the ten-year life span of Plaintiff's judgment.

Defendant is currently pursuing a fraudulent transfer action in the District Court for the District of Columbia.² However, RRR is not actively trying to execute upon the South Carolina judgment in South Carolina, which is necessary to trigger the “narrow” exception to the statute created by the Supreme Court in *Linda Mc Co.*

Therefore, pursuant to § 15-39-30 the judgment expired on July 24, 2013 and there is no basis upon which Defendant can argue that the “active energy” of the judgment has been extended.

III. The respective bankruptcy filings of the Plaintiffs have been discharged and otherwise have no impact on this declaratory judgment action.

Defendant argued that Plaintiffs lack standing to bring this declaratory judgment action in South Carolina. The court disagrees. First, as set forth in the Findings of Fact, both of the Plaintiffs have received discharge orders in their respective bankruptcy proceedings. Second, the trustee has confirmed in writing that he claims no property interest in this declaratory judgment action. Third, even if the Plaintiffs had not obtained discharges and the bankruptcy trustee not disclaimed any interest in this action, this declaratory judgment action is not an asset or property interest of the Plaintiffs’ bankruptcy estates. In fact, the “interest” at stake in this declaratory judgment is the interest of a creditor (the Defendant) and not the bankruptcy debtors (Plaintiffs). In contrast, each of the cases cited by Defendant deals with situations where the debtor has a property interest in the underlying action or cause of action. Here, Plaintiffs seek merely to receive a declaratory judgment as to whether Defendant’s claim against them is valid.

Therefore, Defendant’s argument in support of its motion to dismiss that the Plaintiffs lack standing to bring this declaratory judgment in South Carolina lacks merit and is hereby rejected.

² A fraudulent transfer action pending in D.C. is not an execution proceeding that would trigger the “narrow” exception under *Linda Mc Co.*

6 • [Signature]

IV. An interim order issued by a judge in Washington D.C. has no impact on this court's decision on whether a South Carolina judgment has been extinguished as a matter of law.

Defendant argues that this court should decline to hear the declaratory judgment action because a judge in Washington D.C. has already decided the issue against the Plaintiffs. Defendant asks this court to use its discretion to decline to hear the declaratory judgment action and defer to the Washington, D.C. court on this matter of South Carolina law.

Plaintiffs assert that this court, rather than a Washington D.C. judge, should determine whether, under South Carolina law, a South Carolina judgment has expired as a matter of law. This court agrees. The order issued by the Washington D.C. judge was an interim order ruling on Plaintiffs' motion to dismiss in the Defendant's fraudulent conveyance action against them. That decision is not binding upon this Court, nor does Defendant make that argument. Therefore, this Court will not defer to the Washington, D.C. judge's interim ruling on the issue presented.

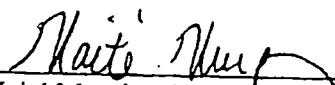
THEREFORE, IT IS HEREBY ORDERED THAT the Plaintiffs' motion for judgment on the pleadings, or in the alternative for summary judgment, is hereby granted.

IT IS HEREBY FURTHER ORDERED THAT Defendant's motion to dismiss is hereby denied.

IT IS HEREBY FURTHER ORDERED THAT, pursuant to S.C. Code Ann. § 15-39-30, the Judgment was extinguished and had no further "active energy" on July 24, 2013, and the Beaufort County Clerk of Court is directed to mark the Judgment expired and extinguished in the Judgment Roll of Beaufort County.

IT IS SO ORDERED.

January 26, 2015
St. George, South Carolina


Maité Murphy, Presiding Circuit Court Judge

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ORIGINAL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

Rene McMasters now known as Rene McMasters Ronaghan, Respondent,
v.
H. Wayne Charpia a/k/a Howard W. Charpia and Jody E. Charpia,
Appellants.

RECORD ON APPEAL

Howard W. Charpia ,
1450 Jahnz Ave.
Summerville , SC 29485
843-873-0976

Jody Charpia

Frank M. Cisa
858 Lowcountry Blvd. Ste 101
Mt. Pleasant, SC 29464

For Respondent

7

RECEIVED

SEP 25 2014

SC Court of Appeals

Master v. Charpia, 2009-CP-18-2200, Motion to Reconsider/Motion to Set Aside Judgment

Thursday, January 10, 2013 4:35 PM

From:

"Dickson, Edgar W. Law Clerk (Andrew C. Evans)" <edicksonlc@sccourts.org> Add sender to Contacts

To:

"charpia13@bellsouth.net" <charpia13@bellsouth.net>, "frank@cisadodds.com" <frank@cisadodds.com>

Cc:

"Dickson, Edgar W. Secretary (Peggy Smith)" <edicksonsc@sccourts.org>, "Becky Stevens

(BStevens@dorchestercounty.net)" <BStevens@dorchestercounty.net>, "Ayer, Carolyn L."

<cayer@dorchestercounty.net>

Gentlemen,

It has come to the Court's attention that Mr. Charpia contends that he was not notified of the hearing that took place yesterday, January 9, 2013 in Dorchester County.

The Court would like to apologize for this oversight.

It appearing that this matter is currently before the South Carolina Court of Appeals, the Court feels it no longer has the jurisdiction to hear Motions in the case. However, the Court wishes to make a ruling on Mr. Charpia's two Motions without any further argument.

The Court has taken both Motions under consideration and has consulted the Court file as well as arguments of the parties, written submissions, and its own notes from the prior hearing. The Court has found nothing therein raising grounds to alter or set aside the judgment. As such, both Motions are hereby denied.

Mr. Cisa, Judge Dickson asks that you prepare an Order and send a copy to Mr. Charpia. Please sent us a hard copy via US Mail with a self-addressed return envelope.

Thank you. Kind regards,

Drew Evans

Andrew C. Evans

Law Clerk, Hon. Edgar Warren Dickson

First Judicial Circuit

P. O. Box 1949

Orangeburg, S. C. 29116

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**RE: FW: FW: New Civil Action
2009-CP-18-2200**

Thursday, January 10, 2013 2:38 PM

From:

"Carolyn Ayer" <CAyer@dorchestercounty.net> [Add sender to Contacts](#)

To:

"HWayne CHARPIA" charpia13@bellsouth.net

Cc: frank@cisadodds.com, "Becky Stevens" <BStevens@dorchestercounty.net>

Wayne,

After checking, it seems we had a technical error your email was entered under your name instead of your name as pro se, and that seems to be why you didn't get notice after checking with IT Dept. I will talk to Judge Dickson and get back to you.

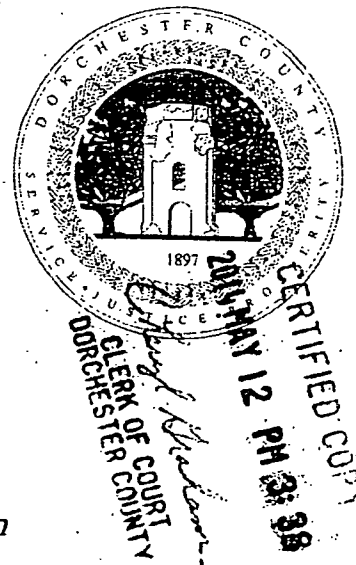
Carolyn Ayer
Deputy/Civil Court Coordinator
Dorchester County
5200 East Jim Bilton Blvd.
St. George, S.C. 29477

cayer@dorchestercounty.net

9

2

DORCHESTER COUNTY CLERK OF COURT
Cheryl Graham, Clerk of Court
5200 East Jim Bilton Blvd.
St. George, SC 29477



*Case No. 2009CP1802200
McMasters vs. Charpia
Motion: Motion for Reconsideration*

This is to acknowledge that the Clerk of Court Coordinator did not notify the defendant Jody Charpia of the hearing on January 9, 2013 on the above captioned case.

May 12, 2014

Carolyn Ayer
Carolyn Ayer, Civil Court
Coordinator
Dorchester County

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CISA & DODDS, LLP
ATTORNEYS AND COUNSELORS AT LAW

858 Lowcountry Boulevard, Suite 101
Mt. Pleasant, South Carolina 29464
Telephone (843) 881-6530 Fax (843) 881-5433

FRANK M. CISA
JOHN J. DODDS, III
ROBERT S. DODDS

frank@cisadodds.com
john@cisadodds.com
robert@cisadodds.com

May 24, 2012

H. Wayne Charpia
1450 Jahnz Ave.
Summerville, SC 29485

RE: Rene' McMasters, now known as Rene McMasters Ronaghan v. H. Wayne Charpia, et al
Case No.: 2009-CP-18-2200
Our file: 09-084

Dear Mr. Charpia:

The above case appears on the trial roster for a term commencing on Monday, July 30, 2012 in Dorchester County. This case is currently listed as case number #2 on the trial roster and therefore it will in all likelihood be reached on Monday, July 30, 2012. The docket meeting is scheduled to commence at 10:00a.m. You will need to be present for the trial of the above case.

With kindest regards, I am

Very truly yours,



Frank M. Cisa

FMC/alp

cc: Rene McMasters Ronaghan

NOT ON ROSTER

REC. 5-26-12

11



From: HWayne CHARPIA [charpia13@bellsouth.net]
Sent: Thursday, October 17, 2013 12:00 PM
To: wendy.young@cmmcmachine.com
Subject: Fw: 2009-CP-18-2200 Hearing 1-9-13

make me a copy...please

----- Forwarded Message -----

From: Carolyn Ayer <CAyer@dorchestercounty.net>
To: HWayne CHARPIA <charpia13@bellsouth.net>
Sent: Thursday, October 17, 2013 10:40 AM
Subject: RE: 2009-CP-18-2200 Hearing 1-9-13

Wayne,
Morning,
I have dozens of emails from you also.

The email I forwarded to you from Drew, Judges Clerk states that I did not send you an email and you were not listed as pro se defendant and that is the reason you were not noticed. If we don't enter you as pro se then you will not get a notice. You have always been listed as pro se on every case you have, but it does not generate on every case unless we enter it correctly.

The Dorchester County IT Department is what I am referring to; I think this should clarify what you are asking for: It has come to the Court's attention that Mr. Charpia contends that he was not notified of the hearing that took place yesterday, January 9, 2013 in Dorchester County. The Court would like to apologize for this oversight.

Wayne, we have been over this several times now. The Court has continuously acknowledged that it did not send you notice of the hearing. I am at a loss as to why we are revisiting this issue.

Carolyn Ayer
Deputy/Civil Court Coordinator
Dorchester County
5200 East Jim Bilton Blvd.
St. George, S.C. 29477.
cayer@dorchestercounty.net

From: HWayne CHARPIA [mailto:charpia13@bellsouth.net]
Sent: Thursday, October 17, 2013 6:04 AM
To: Carolyn Ayer
Subject: 2009-CP-18-2200 Hearing 1-9-13

Carolyn,

Morning. Transcript of January 9, 2013, Court addresses Madam Clerk. Was this Cheryl or you? Clerk states that she sent me notice on December 6, 2012; may I please have a copy of this E-mail? Also, may I have a copy of the E-mail Clerk sent me on January 7, 2013 for notice of this hearing?

E-mail from you on January 10, 2013 states "after checking with IT Dept", what & where is the IT Dept.? Whom did you speak with on this in the IT Dept.? I have dozens of E-mails from the Clerk's office over the years and ALL read the same:

charpia13@bellsouth.net

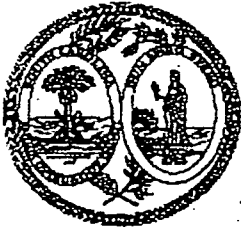
I don't have an E-mail with "my name as pro se", never had.

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NOTICE OF CASE SCHEDULING

May 23, 2012



Case 2009CP1802200 - Rene McMasters VS H Wayne Charpia,
defendant, et al has been added to the following Court Roster:

Roster ID: 117 - Non Jury Trial Roster, July 30, 2012 Hon . Edgar
Dickson, Presiding

This case has been assigned as priority 2 of 19 cases scheduled for the court period of
7/30/2012 through 7/30/2012

NOT ON ROSTER

Attorneys: Non Jury Roster Meeting July 30, 2012 10:00 a.m. trials will begin immediately
after roster meeting. Roster can be found at www.sccourts.org . Hon. Edgar Dickson
Presiding, Dorchester County Courthouse 5200 East Jim Bilton Blvd., St. George, S.C. 29477
if your case has settled please notify cayer@dorchestercounty.net

Thank you,
s/Diane S. Goodstein, Chief Adm. Judge
Carolyn Ayer
Civil Court Coordinator
Dorchester County
843-823-0108

2012 MAY 24 AM 11:38
CLERK OF COURT
DORCHESTER COUNTY

| Mail Notice To: |
|---|
| H Wayne Charpia 1450 Jahnz Ave. Summerville, SC 29485 |

| Court Info: |
|---|
| Common Pleas 5200 E. Jim Bilton Blvd. St. George, SC 29477-9477 |

If you have any questions regarding the scheduling of this case, please contact the courts at:
1-843-563-0108

Respectfully,

PO Box 234
29477

Carolyn Ayer
Civil Court Coordinator

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**Dorchester County First Judicial Circuit - Roster Details
Motions, July 30, 2012, Hon. Edgar Dickson, Presiding**

| Court/Agency | | Common Pleas | | Judge | Dickson | Roster.Id | 109 | | | | |
|------------------------|---|--------------|-------|--|--|-----------------|--|----------------------|---|---|----------------------|
| Roster.Type | | Motions | | Roster.Begin.Date | 07/30/2012 | Roster.End.Date | 07/30/2012 | | | | |
| Number of motions = 18 | | | | | | | | | | | |
| Scheduled | # | Time | hr:mn | Description | Filing Party | Filed Date | Case | Case Sub Type | Plaintiff Attorney | Defendant Attorney | Notes |
| 07/30/2012 | 1 | 9:30 AM | 0:15 | Amended Motion to Compel | Carmen Hutto-PLT | 07/19/2012 | 2011CP1802529 Carmen Hutto , plaintiff, et al VS Casey G Carver | Wrongful Death 360 | David Wesley Whittington (843) 821-9700 | R Bruce Wallace (843) 577-9440 | Completed-07/30/2012 |
| 07/30/2012 | 2 | 9:30 AM | 0:15 | Notice of Motion & Motion for order of reference | Eleanor Reynolds-PLT | 03/12/2012 | 2010CP1802603 Eleanor Reynolds VS George W Middleton defendant et al | Foreclosure 420 | Gregory Hyland (843) 871-7765 Andrew Shepherd (843) 871-7765 | Arithia Cherry Hayes Randal Webb Charpia (843) 261-7026 Carol Liggins Kenya Hamilton Hayes George Hayes Ralph Clayton | Completed-07/30/2012 |
| 07/30/2012 | 3 | 9:30 AM | 0:15 | Motion for Order of Refer to Master | First Federal Savings And Loan Association Of Charleston-PLT | 11/22/2011 | 2011CP1801268 First Federal Savings And Loan Association Of Charleston VS Russell C Davis , defendant, et al | Foreclosure 420 | Kristen Nichols Voyer ((84) 3) -577-x2026 | Tammy C Davis Russell C Davis | Completed-07/30/2012 |
| 07/30/2012 | 4 | 10:00 AM | 0:15 | Notice of Motion and Motion of In/Default | William D Waltz DEF | 03/19/2012 | 2011CP1800466 Tommy J Dangerfield VS William D Waltz | Personal Injury 350 | David Wesley Whittington (843) 821-9700 | William D Waltz John L McDonald Jr (843) 577-2026 | Completed-08/01/2012 |
| 07/30/2012 | 5 | 2:00 PM | 0:15 | Def DC School Dist. 2 Motion to Dismiss/Alternately | Dorchester County School District 2-DEF | 10/26/2011 | 2011CP1801727 Mary Rita Watson VS Dorchester County School District 2 , defendant, et al | Breach of Cont 140 | Gregg E. Meyers (843) 720-8714 | Hugh Willcox Buyck (843) 377-1400 Gordon Wade Cooper (843) 577-4435 Elizabeth Palmer ((84) 3) -266-x8166 | Completed-07/30/2012 |
| 07/30/2012 | 6 | 2:00 PM | 0:15 | Def Luther Carl Knights Motion to Dismiss/Alternative Motion | Sheriff Dorchester County-DEF | 11/16/2011 | 2011CP1801727 Mary Rita Watson VS Dorchester County School District 2 , defendant, et al | Breach of Cont 140 | Gregg E. Meyers (843) 720-8714 | Hugh Willcox Buyck (843) 377-1400 Gordon Wade Cooper (843) 577-4435 Elizabeth Palmer ((84) 3) -266-x8166 | Completed-07/30/2012 |
| 07/30/2012 | 7 | 2:00 PM | 0:15 | Notice of Motion for Temporary Restraining Order | William Blazer-PLT | 06/16/2011 | 2011CP1801233 William Blazer VS Jody Vavra Bentley | Contract/Other 199 | Margie A Pizarro (843) 285-7100 | Russell A. DeMott (843) 695-0830 Jody Vavra Bentley | Completed-04/30/2012 |
| 07/30/2012 | 8 | 2:00 PM | 0:15 | Motion for Protective Order/Affidavit | | 05/17/2012 | 2011CP1801632 Amber Nicole Thompkins plaintiff, et al VS Dorchester County School District 2 , defendant, et al | Personal Injury 350 | David Butter Yarborough Jr (843) 972-0150 | Alice F Paylor (843) 266-8105 James A Stuckey Jr (843) 577-9323 | Completed-06/22/2012 |
| 07/30/2012 | 9 | 2:00 PM | 0:15 | Motion to reopen the Record of a PCR Hearing | Louis Sheppard-PLT | 09/08/2011 | 2010CP1802042 Louis Sheppard VS South Carolina State Of | Post Convict Rel 500 | Charles Thomas Brooks (803) 418-5708 | Robert Comey (843) 734-5178 | Completed-07/30/2012 |

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**Dorchester County First Judicial Circuit - Roster Details
Motions, July 30, 2012, Hon. Edgar Dickson, Presiding**

| | | | | | |
|---------------------|---------------------|--------------------------|-------------------|------------------------|-------------------|
| Court Agency | Common Pleas | Judge | Dickson | Roster Id | 109 |
| Roster Type | Motions | Roster Begin Date | 07/30/2012 | Roster End Date | 07/30/2012 |

Number of motions = 18

| Scheduled | # | Time | hr:mn | Description | Filing Party | Filed Date | Case | Case Sub Type | Plaintiff Attorney | Defendant Attorney | Notes |
|------------|----|---------|-------|---|----------------------------------|------------|--|----------------------|---|---|----------------------|
| 07/30/2012 | 10 | 2:00 PM | 0:15 | Motion for Substitution of Counsel | Michael Dever-DEF | 02/24/2012 | 2011CP1800508 514 Jump Amusements Llc VS Sarah Rangel defendant, et al | Debt Collections 110 | Paul B. Ferrara III (843) 569-5511 | Michael Dever (843) 224-1503 Sarah Rangel (843) 224-1503 | Completed-07/30/2012 |
| 07/30/2012 | 11 | 2:00 PM | 0:15 | Motion to Dismiss/Answer | Us Bank National Association-DEF | 03/08/2012 | 2010CP1802777 Marva A HardeeThomas , plaintiff, et al VS Us Bank National Association. | Real Prop/Other 499 | Marva A HardeeThomas (843) 553-6363 | Mark S. Wierman (704) 338-6000 | Completed-07/30/2012 |
| 07/30/2012 | 12 | 2:00 PM | 0:15 | Motion/Damages | Beaulah Bryant PLT | 02/23/2012 | 2011CP1800906 Beaulah Bryant VS Carl L Felder Sr | Personal Injury 350 | Matthew Douglas (843) 821-9700 | Carl L Felder Sr | Completed-07/30/2012 |
| 07/30/2012 | 13 | 3:00 PM | 0:15 | Motion for Reconsider | Michael Dever-DEF | 02/24/2012 | 2011CP1800508 514 Jump Amusements Llc VS Sarah Rangel , defendant, et al | Debt Collections 110 | Paul B. Ferrara III (843) 569-5511 | Michael Dever (843) 224-1503 Sarah Rangel (843) 224-1503 | Completed-07/30/2012 |
| 07/30/2012 | 14 | 3:00 PM | 0:15 | Motion for Dismissal | Michael Dever-DEF | 02/24/2012 | 2011CP1800508 514 Jump Amusements Llc VS Sarah Rangel defendant, et al | Debt Collections 110 | Paul B. Ferrara III (843) 569-5511 | Michael Dever (843) 224-1503 Sarah Rangel (843) 224-1503 | Completed-07/30/2012 |
| 07/30/2012 | 15 | 3:00 PM | 0:15 | Motion/Dismiss of defendant Christiane E McNeal | Christiane E McNeal-DEF | 05/16/2012 | 2012CP1800895 Taunya Lou Stephens Jeter , plaintiff, et al VS Department Of Corrections South Carolina , defendant, et al | Wrongful Death 360 | C. Carter Elliott Jr. (843) 546-0650 | James Edward Scott IV (843) 577-4000 Michael C. Tanner (803) 245-9153 James C. Parham Jr. (803) 749-8555 Randolph L. Lee (919) 439-2221 Jonathan Hopkins Dunlap ((80) 3) - 446- x5606 Donald Jay Davis Jr. (843) 577-4000 David H. Batten (919) 439-2221 | Completed-07/26/2012 |
| 07/30/2012 | 16 | 3:00 PM | 0:15 | Motion to Dismiss/Answer to Amended Complaint | Trident Medical Center, LLC-DEF | 05/14/2012 | 2012CP1800895 Taunya Lou Stephens Jeter , plaintiff, et al VS Department Of Corrections South Carolina , defendant, et al | Wrongful Death 360 | C. Carter Elliott Jr. (843) 546-0650 | James Edward Scott IV (843) 577-4000 Michael C. Tanner (803) 245-9153 James C. Parham Jr. (803) 749-8555 Randolph L. Lee (919) 439-2221 Jonathan Hopkins | Completed-07/26/2012 |

14

15

**Dorchester County First Judicial Circuit - Roster Details
Motions, July 30, 2012, Hon. Edgar Dickson, Presiding**

| | | | | | |
|---------------------|--------------|--------------------------|------------|------------------------|------------|
| Court Agency | Common Pleas | Judge | Dickson | Roster Id | 109 |
| Roster Type | Motions | Roster Begin Date | 07/30/2012 | Roster End Date | 07/30/2012 |

Number of motions = 18

| Scheduled | # | Time | hr:mn | Description | Filing Party | Filed Date | Case | Case Sub Type | Plaintiff Attorney | Defendant Attorney | Notes | |
|------------|----|---------|-------|-----------------------------|-----------------------|------------|---|-------------------|---|---|--|----------------------|
| 07/30/2012 | 17 | 3:00 PM | 0:15 | Motion for Summary Judgment | AAA Plumbing LLC -DEF | 02/09/2012 | 2011CP1801400. John Philip Garber, plaintiff, et al VS Keystone Builders Resource Group, defendant, et al | Constructions 100 | Ivon Keith McCarty (843) 793-1272 | Dunlap, ((803) 344-4466 x5606 Donald Jay Davis Jr. (843) 577-4000 David H Batten (919) 439-2221 | Patrick T. Morrissey (843) 577-2026 S Ross Shealy J David Banner (843) 669-8787 David Starr Cobb (843) 576-2803 Edward Glenn Elliott (843) 669-8787 Roopal Ruparelia Samuels (803) 779-3080 | Completed-07/12/2012 |
| 07/30/2012 | 18 | 3:00 PM | 0:15 | Motion/Quash deposition | Thomas Quinn-DEF | 06/27/2012 | 2009CP1802698 Boyle Plantation Ho Assn Inc VS Thomas Quinn, defendant, et al | Relief 820 | Peter Brandt Shelbourne (843) 871-2210 Melanie Anne Maas ((84) 3) 871-2210 | George Hamlin O'Kelley III (843) 856-4488 | Completed-07/09/2012 | |

14



STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
RENE MCMASTERS now known)
as RENE MCMASTERS)
RONAGHAN)

Plaintiff,

H. WAYNE CHARPIA a/k/a)
HOWARD W. CHARPIA)
and JODY E. CHARPIA)

Defendants.

FILED COPY
APR 28 PM 4:36
IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
CASE NO.: 2009-CP-18-2200

April 28, 2010

ORDER GRANTING COMPULSORY
ORDER OF REFERENCE

APR 28 PM 3:36
CLERK OF COURT
DORCHESTER COUNTY

The above case came before me on March 23, 2010 in Dorchester County, pursuant to the Plaintiff's Motion for a Compulsory Order of Reference. Present at the hearing was the attorney for the Plaintiff, Frank M. Cisa, and the Defendant, H. Wayne Charpia.

After careful consideration of the pleadings filed herein and the arguments of Plaintiff's attorney and the Defendant, I find that this action is properly referred to the Master-in-Equity in accordance to Rule 71, SCRPC.

This action was commenced on August 10, 2009. The Plaintiff seeks foreclosure of a judgment lien which attached to certain real estate located in Dorchester County. Rule 71 SCRPC states in part that "actions to foreclose liens shall be tried by the Court, and shall ordinarily be referred to a master pursuant to Rule 53."

The Plaintiff in this action seeks to foreclose a judgment lien which is properly referable to the Master-in-Equity for Dorchester County. In addition, this action is currently pending on the non jury docket for Dorchester County.

15

#1072
[Signature]



Based upon the foregoing it is hereby;

ORDERED, that the above captioned action is hereby referred to the Master-in-Equity for
Dorchester County for purposes of conducting a hearing, making findings of facts and
conclusions of law and to render a final decree with direct appeal to the South Carolina Court of
Appeals in accordance with Section 14-11-85 Code of Laws of South Carolina, 1976, as
amended.

AND IT IS SO ORDERED!



Edgar Warren Dickson, Presiding Judge
First Judicial Circuit

This 27th day of April, 2010

Orangeburg, S.C.

NEVER HEARD BY
MASTER

16



1 County. I'm going to order that the case be heard by the
2 Master-In-Equity, unless -- unless he, for some reason,
3 believes that he has some conflict and should not hear
4 that.

5 At which time, if y'all cannot agree on a special
6 referee, I will appoint someone to be the special referee.
7 But assuming he has no conflict, this case is going to be
8 referred to the Master-In-Equity, and he's going to hear
9 it.

MARCH 23, 2010

10 MR. CHARPIA: Yes, sir.

11 THE COURT: Okay. Thank you, sir.

12 MR. CISA: Thank you, Your Honor.

13 THE COURT: And Mr. Cisa, if you'd prepare me that
14 order --

15 MR. CISA: Yes, sir.

16 THE COURT: -- I'll be happy to sign it.

17 MR. CISA: I will. Judge, if I prepare the order, I
18 mail it to your Orangeburg office, correct?

19 THE COURT: Yes, sir.

20 MR. CISA: Do you return the order to me and then I
21 file it with the Clerk? Some judges will -- will try to
22 get it to the Clerk themselves, but most judges send them
23 back to ---

24 THE COURT: Yeah. I will probably send it back to you
25 ---

17

12

To: Dorchester County Clerk of Court
Judge Edgar Dickson
Judge Diane Goodstein
5200 East Jim Bilton Blvd.
St. George , SC 29477

8-28-14

From: Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , SC 29485

Re: Case # 2009-CP-18-2200
McMasters v. Charpia

CERTIFIED COPY
RECORDED
2014 AUG 29 PM 2:13
2014 AUG 29 PM 2:05
Clerk of Court
DORCHESTER COUNTY
DORCHESTER COUNTY

Court ,

An Order Granting Compulsory Order of Reference

was signed by Judge Dickson on April 29 , 2010 ; referring this action to the Master-in- Equity for purposes of conducting a hearing , making findings of facts and conclusions of law and to *render a final decree* with direct appeal to the Supreme Court.

Once the Judge issues a ruling disposing of the case , " his jurisdiction of the matter , except for the correction of clerical errors , ends . (Barnett v. Piedmont Shirt Corp., 230 S.C.)

This matter / action has never been heard by the Master to render a final decree . Said Order relieves the Judge and the Court of its subject matter jurisdiction.

18

13

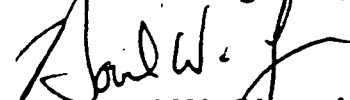
Said Order of Foreclosure and Sale dated October 29 , 2012 and judgment is "void". Void under Rule 60 (b)(4) encompasses judgments from Courts which failed to provide proper due process , or judgments from Courts which lacked subject matter jurisdiction .

This judgment lost its active energy on August 5 , 2014 ; ten years. Said judgment being a statue of repose and a statute of repose destroys any previously existing rights so that the cause of action no longer exists.

Also , Howard W. Charpia , was never given proper notice on the grounds before the Court to be argued and /or addressed , thus violating his due process for hearings of July 30 , 2012 and January 9, 2013 .

The Defendant (s) pray that this Court look into this matter and dismiss case # 2009-CP-18-2200 . This case has no judgment against Howard W. Charpia and Jody E. Charpia .

With kind regards,


Howard W. Charpia
quarterback@sc.rr.com

CC = FRANK M. CISA

19



Dorchester County Sheriff's Office
L C KNIGHT, SHERIFF
100 Sears Street
St. George, South Carolina 29477

JULY 24 11:25 AM

State of South Carolina
County Of Dorchester

Case Number: 2002CP18-932

Plaintiff: RENE McMASTERS

- VS -

Defendant: CHARPIA RESIDENTIAL, LLC & HOWARD W CHARPIA

AFFIDAVIT OF EXECUTION

Clerk of Court:

EXECUTION "NULLA BONA". I hereby certify that after diligent search I have been unable to locate any property in the name of the defendant on which to levy and I request that you please NULLA BONA on the above stated file as of this date.

JUDGEMENT INFORMATION:

Judgement Amount: \$191,600.00
Interest: \$133,097.87
Sheriffs Comm: \$13,756.38
Judgement Total: \$338,454.25

Amount Collected: \$0.00
Ending Balance: \$338,454.25

NULLA BONA
5-19-2010
L. C. Knight Sheriff

Nulla Bona was issued for the reason indicated below:

- (1) Could not locate defendant
- (2) No Attachable Property
- (3) Under Bankruptcy
- (4) Lien(s)
- (5) Other (Specified)
- (6) Pending title research
- (7) Pending Property research
- (8) Pending fees received
- (9) Mortgage

See Attorney Cisa Nulla Bona

Notary Statement

SWORN to before me on this the 19th day of May, 2010.

Peggy M. Quinn
Notary Public For The State of South Carolina

My Commission Expires 03/03/2019

Joseph Blake Walters

20

23

1

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS
RENE' MCMASTERS

JUDGMENT IN A CIVIL CASE
2002CP1800932

CHARPIA RESIDENTIAL, LLC
AND HOWARD W. CHARPIA, IND.

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE

- ~~XXXXX~~ JURY VERDICT. THIS ACTION CAME BEFORE THE COURT FOR A TRIAL 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.
- ACTION DISMISSED (CHECK REASON): () RULE 12b, SCRPC; () RULE 41a SCRPC (VOL NONSUIT); () RULE 43k, 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

FILED-RECORDED
2004 AUG -5 AM 9:46
CLERK OF COURT
DORCHESTER COUNTY
SOUTH CAROLINA

IT IS ORDERED AND ADJUDGED: () See Attached order; () Statement of Judgment by the court. WE THE JURY FIND FOR THE PLF. AGAINST THE DEFENDANT FOR BREACH OF CONTRACT IN THE AMOUNT OF \$3,400.00 ACTUAL DAMAGES, IMPLIED WARRANTY OF HABITABILITY IN THE AMOUNT OF \$100.00, AND NEGLIGENCE IN THE AMOUNT OF \$188,100.00.

DATED AT ST. GEORGE, S.C. THIS 4TH DAY OF AUGUST, 2004.


HON. ROGER M. YOUNG
PRESIDING JUDGE

THIS JUDGMENT WAS ENTERED ON THE 5TH DAY OF AUGUST, 2004
AND A COPY WAS MAILED FIRST CLASS THIS 5TH DAY OF AUGUST
2004 TO ATTORNEY OF RECORD OR TO PARTIES WHEN APPEARING PRO SE
AS FOLLOWS:
FRANK CISA

WAYNE CHARPIA, PRO SE

21

24

2004 AUG 5 9 52

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 RENE McMASTERS)
 Plaintiff,)
 Vs.)
 HOWARD W. CHARPIA and)
 JODY E. CHARPIA)
 Defendants,)

COMMON PLEAS
 1ST JUDICIAL CIRCUIT
 CASE # 2009-CP-18-2200

MOTION TO DISQUALIFY

CERTIFIED COPY
 2012 OCT 23 AM 11:30
Christina Williams
 CLERK OF COURT
 DORCHESTER COUNTY

TO THIS COURT AND THE ABOVE-NAMED PLAINTIFF

PLEASE be advised that the Defendants will move before this Court for the disqualification of Judge Edgar W. Dickson in the above-named case. Judge Dickson has shown a bias and prejudicial attitude in his proceedings against the said Defendants. If a party believes that a judge should recuse, but has not, the party can file a Motion for disqualification under Section 455, and the judge's denial of this Motion can be appealed. Defendant, Howard W. Charpia made a verbal Motion on July 30, 2012 for Judge Dickson to recuse and Judge Dickson denied said motion.

Judge Dickson has "abused his discretion" in several proceedings with the Defendants. Pursuant to Canon 3 (E)(1)(a) of Rule 501, SCACR, a Judge should disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned.

22

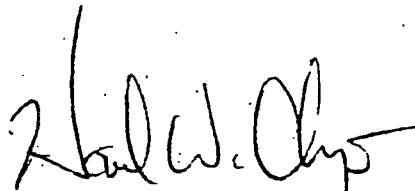
Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement , only the appearance of partiality.

(Liljeberg v. Health Services Corp. 486 U.S. 1988)

The Court has stated that "it is important that the litigant not actually receive justice , but that he believes that he has received justice. (Pfizer Inc. v. Lord 456 F.2d)

Judge Dickson has failed to follow statutory rules and laws in his proceedings with the Defendants.

THE DEFENDANTS pray that this Court look into this matter and grant the Defendants their motion for disqualification of Judge Dickson. And that all Orders signed by Judge Dickson against the Defendants be void and vacated.



Howard W, Charpia , et al
1450 Jahnz Ave.
Summerville, SC 29485
873-0976

cc: Attorney Frank M. Cisa

23



THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

SEP 25 2014

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

SC Court of Appeals

EDGAR W. DICKSON, FIRST CIRCUIT

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

PROOF OF SERVICE

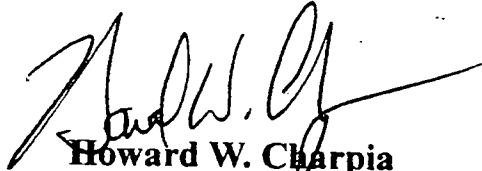
I, Howard W. Charpia, hereby certify that the RECORD ON APPEAL contains all material proposed to be included by any of the parties and not any other material and that I mailed the Record on Appeal to :

Attorney Frank M. Cisa
858 Lowcountry Blvd. Suite 101
Mt. Pleasant, SC 29464

South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Dated mailed 9-24, 2014

FWC



Howard W. Charpia
1450 Jahnz Ave.
Summerville, SC 29485

24

9-24-14

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS**

EDGAR W. DICKSON , First Circuit

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

V.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

FINAL BRIEF

**“Motion to Reconsider” and “Motion to Vacate”
Appellant # 2013-002311**

**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville, SC 29485
843-873-0976**

Attorney Frank M. Cisa , for respondent

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| Facts..... | 2 , 3 |
| Conclusion..... | 3 , 4 |

TABLE OF AUTHORITIES

- Home Port rentals , Inc. v. Roger Moore , 369 S.C 493 # 26182
- The Linda McCompany, Inc. v James G. Shore SC Opinion # 26878
- Linda LaRosa v. Debra Johnston , Court of Appeals South Carolina # 2735
- Barnett v. Piedmont Shirt Corp , 230 S.C. 34 , 38, 94 S.E. 2d 1, 3
- Cheraw & C.R. Co. v. Marshall , 40 S.C. 59 , 63
- Hardee v. Lynch , 212 S.C. 6 , 46 SE 2d 179 (1948)
- Garrison v. Owens , 258 S.C. 442 (1972)
- Webster v. Clanton , 259 S.C. 387 , 391 (1972) Supreme Court
- Moore v. Moore , 376 S.C. 467 , 657 S.E. 2d 743 (2008)
- Cameron & Barkley Co. v. SC Procurement Panel , 317 S.C.
- Dept. Social Services v. Holden , 319 S.C. 72, 78) (1995)
- Ballenger v. SC Dep't of Health and Env'tl. Control , 331 S.C)
- Tyron Federal Savings v. Phelps , 307 S.C. 361) (1992)
- Rule 59 , SCRCF

27

903 E L 499
15-39-30
2014-CP-07-204

STATEMENT OF THE ISSUES

1. Judgment rendered August 5 , 2004 is extinguished and has lost its active energy.
1. Did the Court violate the Appellant's "due process" and the "due process clause" ?

STATEMENT OF THE CASE

The judgment rendered against Charpia Residential LLC and Howard W. Charpia on August 5 , 2004 has lost its active energy , case # 2002-CP-18-932 , i.e ten years .

There is no judgment in this case # 2009-CP-18-2200 . The Defendants in this case are Howard W. Charpia and Jody E. Charpia .

This judgment falls within Section 15-39-30 , which is a statute of repose. A statute of repose is an absolute time limit beyond which liability no longer exists and is not tolled for any reason . *Id at 404 , 438 S.E. 2d at 243*

Execution is the only process to enforce a judgment . (Cheraw & C.R Co. V. Marshall , 40 S.C . 59, 63, 18 S.E. 247 , 249 (1893)

A Compulsory Order of Reference was signed by Judge Edgar Dickson On April 27, 2010 referring this matter to the Master-In-Equity for the purposes of conducting a hearing, making findings of facts and conclusions of law and to render a final decree with direct appeal to the South Carolina Court of Appeals in accordance with Section 14-11-85.

This hearing has *never* been held.

Once the Judge issues a ruling disposing of the case, his jurisdiction of the matter, except for the correction of merely clerical errors, ends.

(Barnett v. Piedmont Shirt Corp, 230 S.C. 34, 38, 94 S.E. 2d 1, 3)

The Defendants were not properly notified of the hearings on July 30, 2012 and January 9, 2013.

FACTS

1. Judgment rendered on August 5, 2004. (page 24 / record on appeal)
2. Compulsory Order of Reference signed on April 27, 2010. (page 10,11)
3. There has never been a hearing by the Master-in-Equity. (page 12)
4. Improper notice for an Order of Foreclosure Sale on July 30, 2012 (pages 5, 6) (subject matter or grounds of argument)
5. Defendant (Appellant) was not listed for hearing on roster for July 30, 2012. (pages 7, 8, 9)

6. Improper notice for hearing of January 9 , 2013 . (pages 1, 2, 3, 4)
7. Perjury by Clerk on January 9 , 2013 (page 14 lines 13-25) and (page 15 lines 1-19) Defendants never notified of hearing 1-9-13 .
8. January 9 , 2013 hearing was for a “foreclosure of a judgment lien”. (page 16 lines 20-24)
9. *Execution is the only process to enforce a judgment* . (Cheraw & C.R Co. V. Marshall , 40 S.C . 59, 63, 18 S.E. 247 , 249 .
10. Case *never* heard by Master-in-Equity per AFFIRMED order by the Appellant Court . (pages 21 , 22 no. 1)
11. A “nulla bona” was issued on May 19 , 2010 . (page 23)
12. Judge Edgar Dickson was a Defendant in a civil action brought by the Appellant in 2012 , case # 2012-CP-18-2380 .
13. Motion to Disqualify Judge Dickson filed on October 12 , 2012 . (pages 25 , 26) *Motion never heard* .

CONCLUSION

This judgment rendered on August 5 , 2004 has lost its “active energy “ and is extinguished . A judgment lien is purely statutory , its duration as fixed by the legislature may not be prolonged by the Courts . (Garrison , 258 , S.C at 446-47 , 189 S.E. 2d at 33)

Judgment falls within Section 15-39-30 , a statute of repose . A statute of repose is an absolute time limit beyond which liability no longer exists and is not tolled for any reason . (Id at 404 , 438 S.E. 2d at 243)

South Carolina Courts will not permit a litigant to bypass the ten-year limitation on executions by styling an action as something other than an action to execute . (Garrison v. Owens , 258 S.C. 442,445, 189 SE 2d 31,32)

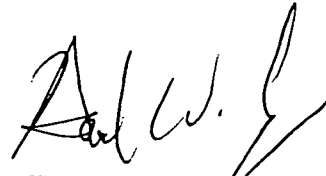
South Carolina Courts have consistently held that a judgment is utterly extinguished ten years from date of entry . (Hardee v. Lynch , 212 S.C 6 , 46 S.E. 2d 179 1948)

Appellant was not properly notified for the hearing on July 30 , 2012 .
It is an error of law for the Court to decide a case on a ground not before it.
(Griffin v. Capital Cash , 310 S.C. 288 , 294 , 423 S.E. 2d 143 , 147)

Procedural “due process” requires notice and the opportunity to be heard at a meaningful time and a meaningful manner . (Cameron & Barkley v SC Procurement Panel , 317 S.C)

If a Judge permits an ex parte attachment , i.e seizure of real estate without giving you notice of a hearing in a State Court proceeding , this is a deprivation of property without “ due process “ , violating the 5th and 14th Amendment.

WHEREFORE , the Appellants pray that they may be heard on this matter and pray that this Court void and /or reverse all Orders in case # 2009-CP-18-2200 . Said judgment has lost its “active energy “ and is extinguished .



**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville , SC 29485
843-873-0976
quarterback@sc.rr.com**

32

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

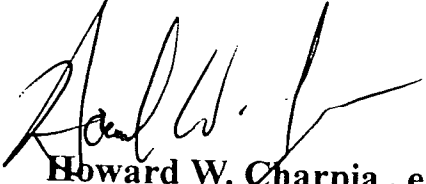
RENE McMASTERS (RONAGHAN).....Respondent

vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

CERTIFICATION

I, Howard W. Charpia , hereby state that to the best of my knowledge ,
the FINAL BRIEF , complies with Rule 211 (b) .



Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , SC 29485

33

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

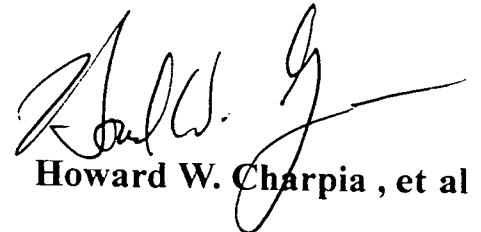
PROOF OF SERVICE

I , Howard W. Charpia , hereby certify that I mailed the FINAL BRIEF
to:

Attorney Frank M. Cisa
858 Lowcountry Blvd.
Suite 101
Mt. Pleasant ,SC 29464

SC Court of Appeals
1015 Sumter Street
Columbia , SC 29201

Date mailed 10-14 , 2014


Howard W. Charpia , et al

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS**

EDGAR W. DICKSON , First Circuit

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

V.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

INITIAL BRIEF

**“Motion to Reconsider” and “Motion to Vacate”
Appellant # 2013-002311**

**Howard W. Charpia
Jody E. Charpia
1450 Jahnz Ave.
Summerville, SC 29485
843-873-0976**

Attorney Frank M. Cisa , for respondent

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**1. The Court erred in violating the Appellant’s rights of due process
and the due process clause.**

Conclusion.....4

TABLE OF AUTHORITIES

Webster v. Clanton , 259 S.C. 387 , 391 (1972) Supreme Court

Moore v. Moore , 376 S.C. 467 , 657 S.E. 2d 743 (2008)

Cameron & Barkley Co. v. SC Procurement Panel , 317 S.C.

Dept. Social Services v. Holden , 319 S.C. 72, 78) (1995)

Ballenger v. SC Dep't of Health and Env'tl. Control , 331 S.C)

Tyron Federal Savings v. Phelps , 307 S.C. 361) (1992)

STATEMENT OF THE ISSUES

1. Did the Court violate the Appellant's "due process" and the "due process clause" ?
2. Did the Court follow the SCRCP and the rules of the legislature ?
3. Did the Court violate Canon 3 of the Code of Judicial Conduct ?

STATEMENT OF THE CASE

Howard W. Charpia and Jody E. Charpia (Appellants) are the Defendants in this case # 2009-CP-18-2200 . The Respondent , McMasters , seeks to foreclose on a judgment lien against a piece of property located in Dorchester County. The judgment is against Howard W. Charpia only and *not* against Jody E. Charpia . Jody E. Charpia owns one-half interest in said property.

Howard W. Charpia made a "Motion to Reconsider" and Jody E. Charpia made a "Motion To Vacate" with Dorchester County in December 2012. A hearing was held on January 9 , 2013 in Dorchester County with Judge Edgar Dickson presiding for these two (2) motions .

The Appellants *were not notified* of this hearing .

FACTS

The Appellants were never notified of the hearing on January 9, 2013.

Procedural “due process” requires notice and the opportunity to be heard .
(Cameron & Barkley Co. v. SC Procurement Panel , 317 S.C.)

The Clerk of Court was sworn in at this hearing and testified that Howard W. Charpia (Appellant) was E-mailed for the hearing of 1-9-13 . The Court did not ask the Clerk for a copy of said E-mail to verify notice. On January 10 ,2013 , the Clerk of Court E-mailed Howard W. Charpia stating that the Clerk’s office had a technical error and that they *did not* send the Appellants notice of this hearing . (exhibit 1)

The Appellant , Howard W. Charpia , received an E-mail from Judge Dickson’s law clerk (Drew Evans) on January 10 , 2013 apologizing for the oversight of not notifying the Appellants. (exhibit 2)

“Due Process” requires notice and the opportunity to be heard at a meaningful time and a meaningful manner .
(Dept. Social Services v. Holden , 319 S.C. 72, 78) (1995)

The Court reversed a decision where it found substantial prejudice from *lack of notice* and when a party receives inadequate notice , he must demonstrate prejudice resulting from the insufficient notice.
(Ballenger v. SC Dep’t of Health and Env’tl. Control , 331 S.C)

ARGUMENTS

It is fundamental that no judgment or order affecting the rights of a party to the causes shall be made or rendered without notice to the party whose rights are to be affected.

(Tyron Federal Savings v. Phelps , 307 S.C. 361) (1992)

It is a fundamental doctrine of the Law that a party whose personal rights are to be affected by a personal judgment must have his day in Court , or the opportunity to be heard , and that without due notice and an opportunity to be heard , a Court has no jurisdiction to adjudicate such personal rights.

(Moore v. Moore . 376 S.C. 467 , 657 S.E. 2d 743 2008)

The requirements of “due process” not only include notice , but also an opportunity to be heard in a meaningful way and judicial review.

(Grannis v. Ordean , 234 S.C. 1914)

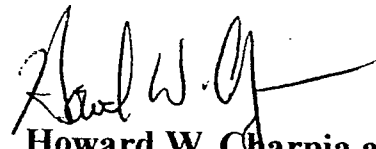
CONCLUSION

The Appellants , Howard W. Charpia and Jody E. Charpia were *never notified* of said hearing of January 9, 2013 . (exhibits 1, 2, 3)

Judge Dickson's Order is incomplete and ambiguous , it sets forth neither findings of fact *nor* conclusions of Law and it fails to set forth the Court's reasoning for it's ruling.

The Court did not comply with the Rule that these issues should be decided with a full and complete record .

WHEREFORE , the Appellants pray this Court reverse the decision of Judge Dickson's order and grant them a new trial .


Howard W. Charpia and
Jody E. Charpia

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

vs.

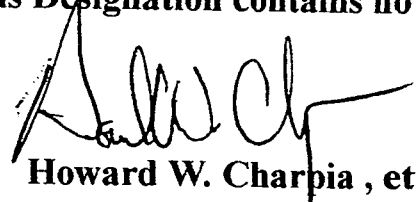
HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL

Appellants propose the following be included in the RECORD ON APPEAL :

1. Orders signed by Judge Dickson , dated October 29 , 2012 .
2. Exhibits 1, 2, 3 from Dorchester County Clerk of Court .
3. Transcript of hearing from January 9 , 2013 . (6 pages)

We , the Appellants , hereby certify that this Designation contains no matter
Which is irrelevant to this Appeal.



Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , SC 29485

2013-002311

42

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT JUDGE

CASE # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN)RESPONDENT

VS.

HOWARD W. CHARPIA and JODY E. CHARPIA.....APPELLANTS

PROOF OF SERVICE

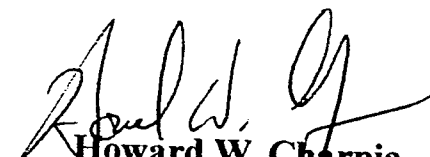
I , Howard W. Charpia , et al ; hereby certify that I mailed the "INITIAL BRIEF" to :

Attorney Frank M. Cisa
858 Lowcountry Blvd Suite 101
Mt. Pleasant, SC 29464

South Carolina Court of Appeals
1015 Sumter Street
Columbia , SC 29201

Date mailed 6-20 , 2014

"Motion To Reconsider"
"Motion to Vacate"


Howard W. Charpia , ET AL
quarterback@sc.rr.com

43



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 28, 2014

To:

Mr. Frank M. Cisa, Esquire
858 Lowcountry Blvd.
Ste. 101
Mt. Pleasant SC 29464

Re: Rene McMasters v. H. Wayne Charpia
Appellate Case No. 2013-002311

Dear Counsel:

Please be advised our records indicate that you have not served and filed a respondent's final brief, which was due on October 14, 2014. Therefore, the appellant's final brief and the record on appeal are accepted as filed and this matter will be considered without the respondent's brief.

10-17-14
FILED
Final Brief
6-22-14
Supplemental Record
Filed

Very truly yours,

44

V. Claire Allen, Deputy

CLERK

cc: Howard W. Charpia
Jody E. Charpia

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

JUDGE EDGAR DICKSON , 1st Circuit

CASE # 2009-CP-18-2200

RENE McMASTERS.....Respondent

Vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

PETITION / MOTION FOR REHEARING

Howard W. Charpia , et al
1450 Jahnz Ave.
Summerville , 29485
843-873-0976

Attorney Frank M. Cisa , for Respondent

45

AUTHORITIES

- Thomas M. Toggas and Kathryn Toggas v. RRR , Inc
Case # 2014-CP-18-2016..... pages 13 - 20
- Linda Mc Co., Inc. v. Shore , 390 S.C. 543 , 554 , 703 S.E. 2d 499 505
(2010)
- GLASSCOCK , Inc V. US FIDELITY & GUAR., 348 S.C. 76 (Ct. App. (2001)
- I'ON LLC V. TOWN OF MT. PLEASANT , 338 S.C. 406 , 422 S.E. 2D
716 , 724 (2000)
- Green v. Ford Opinion # 2016-UP-279 Appellant case # 2014-002730....pages
10,11
- Deutsche Bank v. Morrow Opinion # 2016-UP-264 App. Case # 2014-002381
Pages....7,8,9
- Rule 62 SCRPC (a) (d).....page 32
- Section 18-9-130 (a) (1) SC Code of Laws.....page 31
- Home Port Rentals v. Moore Opinion # 261182*

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~~46~~

MEMORANDUM

PER CURIAM , states : The Charpias argue

- (1) The judgment underlying the foreclosure is void because 10 years has expired without execution of the judgment .

The issue of a / the judgment being void was not presented to the trial Court before this Appeal . This issue was not presented at the hearing of January 9 , 2013 ; which initiated this Appeal .

This issue was not presented to the Appellate Court in the Initial Brief , the Designation of Matter , the Final Brief nor the Respondent's Brief (s) .

An issue cannot be raised for the first time on Appeal , but must have been raised to and ruled upon by the trial Judge to be preserved for appellate review . *Deutsche Bank v. Morrow* , appellant case # 2014-002381 (2016) see pages7 , 8 , 9

It is axiomatic that an issue cannot be raised for the first time on appeal , but must have been raised to and ruled upon by the trial Court to be preserved For appellate review. *Green v. Ford* , appellant case # 2014-002730 (2016) see page.....10 , 11

An issue not argued in the brief (s) is deemed abandoned and will not be considered by the appellate Court. *GLASSCOCK , Inc V. US FIDELITY & GUAR.* , 348 S.C. 76 (Ct. App. (2001)

As Appellant did not present this argument to the trial Court , they are not properly before the Appellant Court . *I'On LLC v. Town of Mt. Pleasant* , 338 S.C. 406, 422 S.E. 2d 716 (2000)

There is *no* judgment lien within case # 2009-CP-18-2200 , said judgment is / was rendered in case # 2002-CP-18-932 , against Howard W. Charpia and Charpia Residential LLC on August 5 , 2004. See page.....12

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Respondent should have filed their action under case # 2002-CP-18-932.

Should the Appellant Court entertain said judgment against Howard W. Charpia and Charpia Residentials LLC being *active or void*.

The Appellant Court refers to Linda McCompany v. Shore and SC Code 15-39-30 in their PER CURIAM .

Execution is the only process to enforce the judgment and the right to execute on a judgment does not constitute a cause of action . Execution is not initiated by bringing an action . *Home Port Rentals v. Moore Opinion # 261182*

The Court's Order of Foreclosure and Sale and the Respondent's action to foreclose on a judgment lien is not an "execution " on the judgment.

In Linda McCompany , the Court created a "narrow' exception to the bright line rule regarding extinguishment of a judgment after 10 years. The Court stated that 15-39-30 is not a statute of limitations , but operated like one *under the facts of that case*.

In this case and Appeal , 15-39-30 is a statute of repose.

Here , in this Appeal and Case ; the Respondent (Plaintiff) has not complied with the applicable statutes in South Carolina to collect on its Judgment . It is undisputed that there were no collection efforts pending.

See Toggas v. RRR, Inc pages.....13 - 20

The Respondent received an Order from Judge James C. Williams dated February 6, 2006 to execute on said property to satisfy the judgment.

See attached Order pages.....21

The Respondent has made no effort to execute by Order of February 6, 2006.

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The parties had a trial on July 30 , 2012 during a non-jury term in St. George , SC . And the Court found in favor of the Respondent (Plaintiff) .

The Court ordered the property to be sold by the Clerk of Court .

The Respondent (Plaintiff) received an Order of Foreclosure and Sale dated October 29 , 2012 from the hearing of July 30, 2012 .

See attached Order.....pages 22 - 23

The Respondent has made no effort to execute by order of October 29, 2012 .

The Respondent and Court had a Judicial Sale in May 2009 in which McMasters (Respondent) was the high bidder at the Sheriff's sale.

McMasters nor her Attorney (Cisa) consummated this sale.

The Sheriff had an upset bid sale in June 2009 . Masters did not consummate this sale .

McMasters and her Attorney (Cisa) cancelled this sale without a cogent reason (s). See attached page.....24

The decision and findings in Linda McCompany v. Shore was that the only act remained to be done was the issuance of an Order by the Court .

In this case , the Respondent had received two Orders and *has not* acted to execute on said Orders . See Toggas v. RRR, Inc pages....13 - 26

Respondent's Attorney (Cisa) filed a WRIT OF EXECUTION on 9-2-04.
See Writ pages.....25 - 26

A NULLA BONA was issued on 9-28-04 .
See attached.....page 27

Respondent's Attorney filed another WRIT OF EXECUTION on 8-29-08.
See attached....pages 28 - 29

A NULLA BONA was issued on 5-19-10 . Page 30

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Respondent failed to act on said executions .

The Appellant's (Defendant) appeal did not prevent McMasters from immediately pursuing collection of the judgment.

The 10 year period that a judgment has active energy in South Carolina is not tolled by Appeal. Wells ex. rel. AC Sutton & Sons v. Sutton, 382 SE 2d Court of Appeals 1989 .

Pursuant to Section 18-9-130 (a)(1) and (2) , an Appeal does not stay an execution . page 31

Pursuant to Rule 62 (d) , this statute clearly defines that an Appeal does not "stay" an execution unless a supersedeas bond is posted or given . page 32

South Carolina Courts will not permit a litigant to bypass the 10 year limitation on "executions" by styling an action as something other than an action to execute . *Garrison v. Owens* , 258 S.C.442 S.E. 2d 31, 33 (1972)

McMasters cannot complain now that the judgment has expired when she failed to pursue her rights during the Appeals , which *did not toll* the 10 year span of the judgment. See *Toggas v. RRR, Inc.* pages 13 - 20 .

(2) We find the Circuit Court properly exercised jurisdiction .

Chief Justice Jean Toal signed an Order on June 9 , 2008 ; transferring the case to Judge Perry M. Buckner . All hearings and Orders since this date are null and void . See attached Order pages 33 , 34 , 35

The Appellant (Defendant) challenged jurisdiction at the hearing of July 30 , 2012 with Judge Edgar Dickson in Dorchester County.

50

+

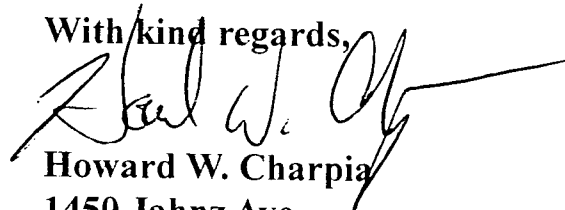
Wherefore , as the Respondent has not acted upon the state's applicable statutes to execute on said property *and* *Toggas v. RRR , Inc* dated January 26 , 2015 sets new precedence on judgments *and* 15-39-30 being a "statute of repose" *and* Rule 62 , SCRCF *and* SC Code 18-9-130 , in which an Appeal does not toll an execution *and* Chief Justice Jean Toal's order transferring said case to Judge Buckner for jurisdiction *and* the essential element of "laches" is an unreasonable delay by the Respondent in acting on the applicable statutes to execute which is an equitable defense .

51

8

The Appellant , Howard W. Charpia , prays that this Court reverse and remand this back to the lower Court , Common Pleas ; for the parties to address the extinguishment of said judgment pursuant to the Rules and Statutes and South Carolina and new precedence of Toggas v. RRR , Inc .
(case # 2014-CP-07-2016)

With kind regards,



Howard W. Charpia
1450 Jahnz Ave.
Summerville , SC 29485
quarterback@sc.rr.com
843-873-0976

cc: Attorney Frank M. Cisa

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Deutsche Bank National Trust Company as Trustee for
First Franklin Mortgage Loan Trust 2006-FFI Pass-
Through Certificates, Series 2006-FFI, Respondent,

v.

Dora S. Morrow, Ray Martin, and Lease and Rental
Management Corp. d/b/a Auto Use and Auto Loan, a
Massachusetts Corporation, Southern New Hampshire
Bank and Trust Company, a New Hampshire Bank, and
Edman Hackworth, Defendants.

Edman Hackworth, 3rd Party Plaintiff,

v.

John Morrow, 3rd Party Defendant.

John Morrow and Dora Morrow, 3rd Party Plaintiffs,

Of Whom John Morrow and Dora Morrow are the
Appellants,

v.

Edman Hackworth and Debbie Hackworth, 3rd Party
Defendants,

Of Whom Edman Hackworth is a Respondent.

Appellate Case No. 2014-002381

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Ⓢ

Appeal From Greenville County
Charles B. Simmons, Jr., Master-in-Equity

Unpublished Opinion No. 2016-UP-264
Submitted February 1, 2016 – Filed June 8, 2016

AFFIRMED

David Richard Price, Jr., of David R. Price, Jr., P.A., of
Greenville, for Appellants.

Daniel Quigley Orvin and Matthew Tillman, both of
Womble Carlyle Sandridge & Rice, LLP, of Charleston,
for Respondent Deutsche Bank National Trust Company
as Trustee for First Franklin Mortgage Loan Trust 2006-
FFI Pass-Through Certificates, Series 2006-FFI.

Thomas Elihue Dudley, III, of Kenison Dudley &
Crawford, LLC, of Greenville, for Respondent Edman
Hackworth.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998)
("[A]n issue cannot be raised for the first time on appeal, but must have been raised
to and ruled upon by the trial judge to be preserved for appellate review."); *Mize v.*
Blue Ridge Ry. Co., 219 S.C. 119, 129-30, 64 S.E.2d 253, 258 (1951) (finding if an
appellant does not raise an issue at trial, but the trial judge addresses it, it is still not
preserved for appeal because it was not raised by the appellant); *Johnson v. Sonoco*
Prods. Co., 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be
raised for the first time in a motion to reconsider.").

54



AFFIRMED.¹

HUFF, A.C.J., and KONDUROS and GEATHERS, JJ., concur.

55

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

9

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Adriane Green, individually and as personal
representative of the estate of Adonous Green, Deceased,
Respondent,

v.

John Doe, James Cleveland, and James I. Ford, III, aka
"Big Ford," Defendants,

Of whom James I. Ford, III, aka "Big Ford" is the
Appellant.

Appellate Case No. 2014-002730

Appeal From Berkeley County
Kristi Lea Harrington, Circuit Court Judge

Unpublished Opinion No. 2016-UP-279
Submitted March 1, 2016 – Filed June 8, 2016

AFFIRMED

W. Dean Murphy, III, of Charleston, for Appellant.

Samuel K. Allen, of Clore Law Group, LLC, of
Charleston, for Respondent.

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10

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial [court] to be preserved for appellate review."); *Herron v. Century BMW*, 395 S.C. 461, 465, 719 S.E.2d 640, 642 (2011) ("Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide [appellate courts] with a platform for meaningful appellate review." (quoting *Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006))); *Scott v. Porter*, 340 S.C. 158, 169, 530 S.E.2d 389, 394 (Ct. App. 2000) (questioning whether a party's argument that the evidence presented was insufficient to support the damages awarded is preserved where the record on appeal does not include a directed verdict motion); *Chapman v. Upstate RV & Marine*, 364 S.C. 82, 88, 610 S.E.2d 852, 856 (Ct. App. 2005) (finding a party's argument that there was insufficient evidence to support the damages awarded was not preserved where the party filed a directed verdict motion only challenging causation); *Herron*, 395 S.C. at 465, 719 S.E.2d at 642 ("Constitutional arguments are no exception to the preservation rules, and if not raised to the trial court, the issues are deemed waived on appeal.").

AFFIRMED.¹

HUFF, A.C.J., and SHORT and THOMAS, JJ., concur.

57

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



1

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS
RENE' MCMASTERS

JUDGMENT IN A CIVIL CASE
2002CP1800932

CHARPIA RESIDENTIAL, LLC
AND HOWARD W. CHARPIA, IND.

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE

- () ~~XXXXX~~ JURY VERDICT. THIS ACTION CAME BEFORE THE COURT FOR A TRIAL 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.
- () ACTION DISMISSED (CHECK REASON): () RULE 12b, SCRPC; () RULE 41a SCRPC (VOL NONSUIT); () RULE 43k, 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

FILED - RECORDED
2004 AUG -5 AM 9:46
CLERK OF COURT
DORCHESTER COUNTY

IT IS ORDERED AND ADJUDGED: () See Attached order; () Statement of Judgment by the court. WE THE JURY FIND FOR THE PLF. AGAINST THE DEFENDANT FOR BREACH OF CONTRACT IN THE AMOUNT OF \$3,400.00 ACTUAL DAMAGES, IMPLIED WARRANTY OF HABITABILITY IN THE AMOUNT OF \$100.00, AND NEGLIGENCE IN THE AMOUNT OF \$188,100.00.

DATED AT ST. GEORGE, S.C. THIS 4TH DAY OF AUGUST, 2004.


HON. ROGER M. YOUNG
PRESIDING JUDGE

THIS JUDGMENT WAS ENTERED ON THE 5TH DAY OF AUGUST, 2004
AND A COPY WAS MAILED FIRST CLASS THIS 5TH DAY OF AUGUST
2004 TO ATTORNEY OF RECORD OR TO PARTIES WHEN APPEARING PRO SE
AS FOLLOWS:

FRANK CISA

WAYNE CHARPIA, PRO SE

58 

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 RENE MCMASTERS now known)
 as RENE MCMASTERS)
 RONAGHAN)
)
 Plaintiff,)
)
)
)
 H. WAYNE CHARPIA a/k/a)
 HOWARD W. CHARPIA)
 and JODY E. CHARPIA)
)
 Defendants.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FIRST JUDICIAL CIRCUIT
 CASE NO.: 2009-CP-18-2200

ORDER OF FORECLOSURE AND SALE

CERTIFIED COPY
 2012 NOV 27 AM 10:56
 Clerk of Court
 DORCHESTER COUNTY

This action was brought by Rene McMasters, now known as Rene McMasters Ronaghan, against the Defendants for the purpose of foreclosing a judgment lien relative to real estate located in Dorchester County, South Carolina.

An Order Granting a Compulsory Order of Reference was issued by me on April 27, 2010 and filed in the Clerk's office on April 28, 2010. The Defendant, H. Wayne Charpia, appealed the Order Granting Compulsory Order of Reference to the Court of Appeals. By order filed on October 11, 2011, the Court of Appeals affirmed the Compulsory Order of Reference. Thereafter, the matter was referred to the Honorable Maite Murphy, Master-in-Equity for Dorchester County. By Order dated April 10, 2012, Maite Murphy recused herself from hearing this matter and the action was remanded to the Circuit Court.

The case came before me for trial on July 30, 2012 during a non jury term of court in St. George, SC.

2ND ORDER TO COLLECT

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of the RMC for Dorchester County in Plat Cabinet A, slide 173. The Property has the location, dimensions, and butts and bounds shown on the plat. Lot 22-B being the southern half of Lot 22, which said Lot 22 is found on a plat made by Woodrow W. Leland, R.L.S. dated May 24, 1956, and recorded in the RMC Office for Dorchester County in Plat Book 11 at page 200.

SUBJECT to any covenants, conditions, restrictions, and easements now of record and to the lien of current year real property taxes.

TMS# 145-13-02-011

AND IT IS SO ORDERED!



Edgar Warren Dickson
Circuit Court Judge of First Judicial Circuit

Orangeburg, South Carolina
October 29, 2012.

60

~~Page 01 of 01~~



CERTIFIED COPY
FORM 4

2012 NOV 27 AM 10:55

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

IN A CIVIL CASE

CASE NO. 2009-CP-18-2200

RENE MCMASTERS now known as
MCMASTERS RONAGHAN

CLERK OF COURT
DORCHESTER COUNTY
CHARPIA a/k/a HOWARD W.
CHARPIA and JODY E. CHARPIA

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Frank M. Cisa

Attorney for : Plaintiff Defendant
or
 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.
- 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.

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.

61

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 02-CP-18-932

RENE McMASTERS,)
)
Plaintiff,)

WRIT OF EXECUTION

vs.)
)
CHARPIA RESIDENTIAL, LLC)
and, HOWARD W. CHARPIA,)
individually,)
)
Defendants.)

TO: DORCHESTER COUNTY SHERIFF

Judgment was rendered against the Defendant, Howard W. Charpia, in the above action in the Court of Common Pleas for Dorchester County between René' McMasters, Plaintiff, and Howard W. Charpia, Defendant, in favor of said Plaintiff in the amount of One Hundred Ninety-One Thousand Six Hundred 00/100 (\$191,600.00) Dollars, which Judgment was filed in the Clerk of Court's Office for Dorchester County on August 5, 2004 and bears interest at 12 % per annum thereafter. Interest accrues of and from August 5, 2004 in the amount of \$62.99 per day.

YOU ARE THEREFORE DIRECTED to satisfy the said judgment out of the personal property of the judgment debtors within your county and if sufficient personal property cannot be found, then out of the real property in your county belonging to such judgment debtors on the day when the said judgment was docketed in your county, or at any time thereafter and duly return this execution, according to law, to the Clerk of Court of Common Pleas for the County of Dorchester.

Page ~~2~~ ~~25~~ 62

WITNESS Cheryl Graham, as Clerk of said Court, at Dorchester, South Carolina, this

2 day of September, 2004.

CISA & DODDS, LLP

FCM

Frank M. Cisa
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 881-3700
Attorney for the Plaintiff

September 1, 2004

ATTEST:

Cheryl Graham
CLERK OF COURT FOR DORCHESTER COUNTY

CANCELLED
By
RESPONDENT

63

~~Page 6~~

26

Dorchester County Sheriff's Office
Ray Nash, Sheriff
100 Sears Street
St. George, South Carolina 29477

State of South Carolina
County Of Dorchester

Case Number: 2002CP18-932

Plaintiff: RENE McMASTERS

- VS -

Defendant: CHARPIA RESIDENTIAL, LLC & HOWARD W CHARPIA

AFFIDAVIT OF EXECUTION

Clerk of Court:

EXECUTION "NULLA BONA". I hereby certify that after diligent search I have been unable to locate any property in the name of the defendant on which to levy and I request that you please NULLA BONA on the above stated file as of this date.

JUDGEMENT INFORMATION:

Judgement Amount: \$191,600.00
Interest: \$3,401.46
Sheriffs Comm: \$5,974.58
Judgement Total: \$200,976.04

Amount Collected: \$0.00
Ending Balance: \$200,976.04

NULLA BONA
09-28-04
Ray Nash, Sheriff

Nulla Bona was issued for the reason indicated below:

- (1) Could not locate defendant
- (2) No Attachable Property
- (3) Under Bankruptcy
- (4) Lien(s)
- (5) Other (Specified)
- (6) Pending title research
- (7) Pending Property research
- (8) Pending fees received
- (9) Mortgage

Nulla Bona per Attorney - under appeal

Notary Statement

SWORN to before me on this the 28th day of September, 2004.

Pepper M. Judy
Notary Public For The State of South Carolina

My Commission Expires 03/24/2009

Joseph Blake Weather

29 64

#2

8-29-08

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 02-CP-18-932

RENE McMASTERS,)
)
Plaintiff,)

vs.)

WRIT OF EXECUTION

CHARPIA RESIDENTIAL, LLC)
and, HOWARD W. CHARPIA,)
Individually,)
)
Defendants.)

TO: THE DORCHESTER COUNTY SHERIFF

Judgment was rendered against the Defendant, Howard W. Charpia, in the above action in the Court of Common Pleas for Dorchester County between Rene' McMasters, Plaintiff, and Howard W. Charpia, Defendant, in favor of said Plaintiff in the amount of One Hundred Ninety-One Thousand Six Hundred 00/100 (\$191,600.00) Dollars, which Judgment was filed in the Clerk of Court's Office for Dorchester County on August 5, 2004 and bears interest at 12 % per annum thereafter. Interest accrues of and from August 5, 2004 in the amount of \$62.99 per day.

YOU ARE THEREFORE DIRECTED to satisfy the said judgment out of the personal property of the judgment debtors within your county and if sufficient personal property cannot be found, then out of the real property in your county belonging to such judgment debtors on the day when the said judgment was docketed in your county, or at any time thereafter and duly return this execution, according to law, to the Clerk of Court of Common Pleas for the County of Dorchester.

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65

WITNESS Cheryl Graham, as Clerk of said Court, at Dorchester, South Carolina, this

29 day of August, 2008.

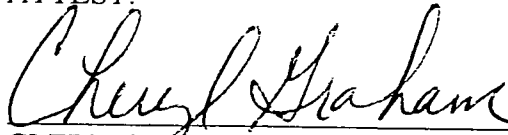
CISA & DODDS, LLP



Frank M. Cisa
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(843) 881-3700
Attorney for the Plaintiff

August 29, 2008

ATTEST:



CLERK OF COURT FOR DORCHESTER COUNTY

66



AUG. 6, 2009

CISA & DODDS, LLP
ATTORNEYS AND COUNSELORS AT LAW
858 Lowcountry Boulevard, Suite 101
Mt. Pleasant, South Carolina 29464
Telephone (843) 881-6530 Fax (843) 881-5433

FRANK M. CISA
JOHN J. DODDS, III
ROBERT S. DODDS

frank@cisadodds.com
john@cisadodds.com
robert@cisadodds.com

August 4, 2009

Dorchester County Sheriff's Office
Attn: Lt. Weathers
100 Sears Street
St. George, SC 29477

RE: Rene' McMasters vs. Charpia Residential, LLC and Howard W. Charpia
Case No.: 02-CP-18-932
Our file: 03-460

67
2009 AUG - 6 AM 10:19
DORCHESTER COUNTY
SHERIFF'S OFFICE
COMMUNICATIONS SECTION

Dear Lt. Weathers:

I would appreciate you cancelling the Sheriff's sale relative to H. Wayne Charpia's property located 1450 Jahnz Avenue, Summerville, SC, as I have decided that I am going to foreclose the judgment lien and request the Master-in-Equity to sell the property. Since Mr. Charpia conveyed out half of his interest in the property, I think this is be the best way proceed.

I greatly appreciate all your help and assistance.

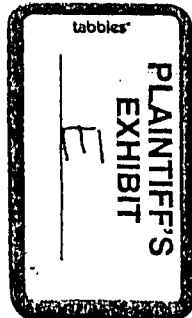
With kindest regards, I am

Very truly yours,


Frank M. Cisa

FMC/alp

RESPONDENT CANCELLED SALE
NOT BY COURT ORDER!



Dorchester County Sheriff's Office

L C KNIGHT, SHERIFF

100 Sears Street

St. George, South Carolina 29477

State of South Carolina
County Of Dorchester

Case Number: 2002CP18-932

Plaintiff: RENE McMASTERS

- VS -

Defendant: CHARPIA RESIDENTIAL,LLC & HOWARD W CHARPIA

AFFIDAVIT OF EXECUTION

Clerk of Court:

EXECUTION "NULLA BONA". I hereby certify that after diligent search I have been unable to locate any property in the name of the defendant on which to levy and I request that you please NULLA BONA on the above stated file as of this date.

JUDGEMENT INFORMATION:

| | |
|-------------------|--------------|
| Judgement Amount: | \$191,600.00 |
| Interest: | \$133,097.87 |
| Sheriffs Comm: | \$13,756.38 |
| Judgement Total: | \$338,454.25 |
| Amount Collected: | \$0.00 |
| Ending Balance: | \$338,454.25 |

NULLA BONA
5-19-2010
L. C. Knight Sheriff

Nulla Bona was issued for the reason indicated below:

- (1) Could not locate defendant
- (2) No Attachable Property
- (3) Under Bankruptcy
- (4) Lien(s)
- (5) Other (Specified) *per attorney Cisa Nulla Bona*
- (6) Pending title research
- (7) Pending Property research
- (8) Pending fees received
- (9) Mortgage

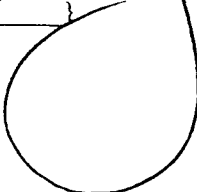
Notary Statement

SWORN to before me on this the 19th day of May, 2010.

Peggy M. Glenn
Notary Public For The State of South Carolina

My Commission Expires 03/03/2019

Joseph Blake Weather



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Vertical stamp on the right side of the page, partially legible as 'RECORDED'.

MAY 4, 2009
JUNE 3, 2009
SALES

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

EDGAR W. DICKSON , FIRST CIRCUIT

Case # 2009-CP-18-2200

RENE McMASTERS (RONAGHAN).....Respondent

vs.

HOWARD W. CHARPIA and JODY E. CHARPIA.....Appellants

PROOF OF SERVICE

I, Howard W. Charpia , hereby certify that I mailed the Motion /
Petition for Rehearing to :

SC Court of Appeals
1220 Senate Street
Columbia , SC 29201

Attorney Frank M. Cisa
858 Lowcountry Blvd. Suite 101
Mt. Pleasant, SC 29464

Date mailed 10-24, 2016

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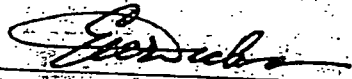
Howard W. Charpia
Howard W. Charpia

M.A. Cisa
10-27-16 *AWC*

Based upon the foregoing it is hereby;

ORDERED, that the above captioned action is hereby referred to the Master-in-Equity for
Dorchester County for purposes of conducting a hearing, making findings of facts and
conclusions of law and to render a final decree with direct appeal to the South Carolina Court of
Appeals in accordance with Section 14-11-85 Code of Laws of South Carolina, 1976, as
amended.

AND IT IS SO ORDERED!



Edgar Warren Dickson, Presiding Judge
First Judicial Circuit

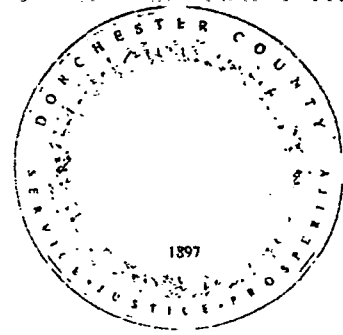
This 27th day of April, 2010

Orangeburg, S.C.

1st ORDER to EXECUTE

70

DORCHESTER COUNTY CLERK OF COURT
Cheryl Graham, Clerk of Court
5200 East Jim Bilton Blvd.
St. George, SC 29477



September 16, 2015

Wayne Charpia
1450 Jahnz Ave.
Summerville, S.C. 29485-____

2009CP1802200
McMasters vs. Charpia

Mr. Charpia,

In response to your request for a statement for the Clerk of Court stating that Plaintiff's counsel did not file a "Motion for a Foreclosure hearing", I have reviewed the file and the file does not reflect a "Motion for a Foreclosure Hearing" having been filed by Plaintiff's Attorney.

Best Regards,

Carolyn Ayer
Civil Court Coordinator
Dorchester County

✓ NO MOTION FILED BY RESPONDENT
RULE 7 B 1 SCRPC

✓ NO FILING FEE PAID

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