

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-35-10

Catherine Lyons,

2016 NOV 21 PM 12:10

Gregory Lyons, Maxine B.  
Jeanette B. Gilchrist,

RECEIVED

CLERK OF COURT  
MCCORMICK COUNTY, SC

DEC 28 2016

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by: Wm. Thurmond Bishop

Attorney for :  Plaintiff  
or  
 Defendant  
 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 (format order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : Order dismissing claims of Plaintiff and granting judgment to Defendant, Gregory Lyons.

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)
		\$N/A
		\$
		\$

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.

*Curtis B. Clark*  
Circuit Court Judge *Special Receiver*

2099  
Judge Code

November 21, 2016  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this day of \_\_\_\_\_, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Anne Marie Hempy  
PO Box 805  
Abbeville, SC 29620  
ATTORNEY(S) FOR THE PLAINTIFF(S)

Wm. Thurmond Bishop  
200 E. Pinckney Street  
Abbeville, SC 29620  
ATTORNEY(S) FOR THE DEFENDANT(S)  
*Amberance*  
CLERK OF COURT  
*Assisaut*

**Court Reporter:** None

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF MCCORMICK ) ELEVENTH JUDICIAL CIRCUIT

2016 NOV 21 11:15 AM  
CLERK OF COURT  
MCCORMICK COUNTY, SC

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DEC 28 2016

**SC Court of Appeals**

Catherine Lyons, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Gregory Lyons, Maxine B. )  
Parker, and Jeanette B. )  
Gilchrist, )  
 )  
Defendants. )  
\_\_\_\_\_ )

ORDER

C.A. NO: 2014-CP-35-10

CGC  
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This action is brought to set aside a deed from Plaintiff to Defendant, Gregory Lyons, for fraud based on his alleged forgery of Plaintiff's signature on a deed to him (deed dated August 31, 2009, and recorded in the Office of the Clerk of Court for McCormick County on September 26, 2009, in Deed Book 207 at Page 61) and to set aside a fraudulently prepared and executed transfer of personal property. This action is also brought on conversion, seeking actual and punitive damages along with attorney's fees and costs.

This action was referred to me with the consent of the parties by Order of Reference dated May 15, 2015, with the right to enter a final judgment, and I held a hearing on July 16, 2015, in Greenwood, South Carolina. Present at the hearing were Plaintiff and her attorney, Anne Marie Hempy, along with the Defendant, Gregory Lyons, and his attorney Wm. Thurmond Bishop. Also present were John Erick Sward, attorney; David Anderson; and Eugene Lyons. The Defendants, Maxine B. Parker and Jeanette B. Gilchrist, were not present.

Plaintiff testified that she discovered that a special warranty deed dated August 31, 2006, had been executed with her name on it as grantor, conveying her interest in 35.1 acres in McCormick County and her interest in one acre in McCormick County to the Defendant, Gregory Lyons. She discovered this when in 2013 she was preparing a will that would have devised this property to all of her children. Plaintiff testified that she did not execute this deed as the signature on the deed was not hers. She stated she reported this transfer to the local police and called her son, Gregory, requesting that he transfer the land back to her, which he did not do, and as a result she commenced this action. Plaintiff submitted into evidence her Illinois state identification card, comparing it to her signature on the purported deed and pointed out to the court several differences. Also testifying for Plaintiff was her son, Eugene Lyons, who resides in Virginia who testified that his mother was capable and knowledgeable and would never have conveyed her interest just to the Defendant, Gregory Lyons, since she had four children.

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Defendant, Gregory Lyons, testified that he was very close to his great uncle who owned this property and who by will left a one-third interest in same to the Plaintiff. He testified that he helped in maintaining this property, paying taxes on same, and was the only child of the Plaintiff who showed an interest in this property and who showed any interest in his great uncle. He further testified that when his mother had a stroke in 2007, he was living in Phoenix, Arizona, and he moved in with her in Chicago, Illinois, to look after her. After his mother got back on her feet, he moved to Florida and took her with him so that he could continue to

look after her. When she appeared to fully recover, she subsequently moved back to her home in Chicago. He further testified that it was his mother's idea to deed or transfer her interest in this property to him and asked him to get this accomplished. As a result, he contacted Erick Sward, attorney in McCormick, to prepare a deed for his mother to execute and told Mr. Sward to forward the deed to David Anderson, a friend of this Defendant's family in Chicago, who would coordinate the execution of same with the notary. This Defendant testified that he never saw the deed until it had been executed, recorded, and mailed to him by his attorney.

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Erick Sward, being duly sworn, testified that he is a lawyer in McCormick and had done work before for the Defendant. Gregory Lyons, and testified that this Defendant phoned him about preparing a deed for his mother to execute, deeding him her interest in this property. Mr. Sward testified that he communicated later with the Plaintiff and this Defendant in a three-way telephone call. He was told during that conversation that David Anderson would coordinate receiving the deed, delivering it to the Plaintiff, having it executed, and returning the completed deed back to Mr. Sward. Mr. Sward further testified that he performed a title examination on the property and prepared the deed with instructions numbering on same where different parties needed to sign and sent it to Mr. Anderson. Thereafter he received the executed deed back from Mr. Anderson, after which he recorded the deed and mailed it to the Defendant, Gregory Lyons.

The deed in question and exhibited to the court is a properly executed deed which meets the requirements in this state to make it recordable and it was



recorded. It shows a signature of the Grantor, the signature of two witnesses, and an acknowledgment executed by a notary public. David Anderson testified that he saw the Plaintiff execute the deed, saw the notary execute the acknowledgment, and saw William Giles execute the deed as a witness and Mr. Anderson testified that he signed the deed also as a witness.

In rebuttal, Plaintiff's attorney introduced into evidence a letter from the notary, Dorothy Floyd, to the attorney for the Defendant Lyons who stated that she saw Plaintiff sign the deed and she acknowledged the signature of the Plaintiff in her acknowledgment, but she states that no one else was present when the Plaintiff executed the deed. Her statement in the letter that she saw Plaintiff execute the deed negates forgery of Plaintiff's signature as alleged in her Complaint.

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The Complaint does not seek to set the deed aside as an improperly or uncompleted document. If, for the sake of argument, this contention is raised in the Complaint, since the deed does not have a probate where the notary takes the oath of a witness, the other two witnesses could have witnessed the deed outside the presence of the notary.

Forgery is not a tort, but forgery is fraudulent conduct. The Complaint seeks to set aside the deed and the legal basis to do so is rescission, which is equitable relief. The burden was on the Plaintiff to show that the Plaintiff was induced by fraud and deceit to execute this document. From the testimony presented, it appears that the Plaintiff had a stroke after the date the deed in question was executed which could account for some difference in her

handwriting. However, the signature of Plaintiff on her affidavit seeking summary judgment executed shortly before the hearing, which had been introduced in evidence, is very consistent with the signature on the deed. Also, from Plaintiff's testimony she did not appear mentally alert, not being able to recognize the last name of her own attorney. The court is of the belief that she either did not remember executing the deed or pressure was placed on her by one or more of her other children to bring this action, but the signature is hers.

# 5  
The court concludes that the signature on the deed is that of the Plaintiff, and she fails to meet her burden of proof to rescind the deed. The same applies to the executed transfer of personal property. Since the court is of the belief that the signature on the deed is valid, the Defendant, Gregory Lyons, has not converted any of the Plaintiff's property and she fails to meet her burden of proof on conversion. Attorney's fees and costs to Plaintiff are denied.

**IT IS SO ORDERED.**

  
Curtis G. Clark,  
Special Referee

Greenwood, South Carolina  
November 28, 2016



P.O. Box 805 | Abbeville, South Carolina 29620

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**SC Court of Appeals**

The Honorable Clerk Jenny Abbott Kitchings  
SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211



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